

## **GENERAL PERMIT FOR THE DISCHARGE OF STORMWATER AND DEWATERING WASTEWATERS FROM CONSTRUCTION ACTIVITIES**

### **FACT SHEET FINAL 2020 MODIFICATIONS**

#### **General Permit Background:**

The DEEP first issued the General Permit for the Discharge of Stormwater and Dewatering Wastewaters from Construction Activities (general permit) on October 1, 1992. The general permit has been reissued, with and without modifications, several times since then. The purpose of the general permit is to protect waters of the state from erosion and sedimentation in stormwater runoff from construction activities as well as the potential pollutants that may be present in the post-construction stormwater discharges from the finished site. The general permit authorizes construction activities that disturb a total of one acre or more. For activities that disturb between one and five acres, a general permit registration is not required if the activity is reviewed and approved by a local land-use commission such as a planning and zoning, wetlands or a conservation commission. The erosion and sedimentation control regulations developed by all Connecticut municipalities pursuant to the Connecticut Soil Erosion and Sediment Control Act (CGS sections 22a-325 through 22a-329) provide the assurance that these small construction activities will be in compliance with the general permit.

Under the current general permit, construction projects disturbing five acres or more that are required to receive municipal approval are considered to be Locally Approvable and must submit a registration to the DEEP and have a Qualified Professional Engineer or Qualified Soil Erosion and Sediment Control Professional (qualified professional) prepare a Stormwater Pollution Control Plan (Plan) that addresses the construction erosion and sediment control and post-construction measures required in the general permit. The Plan must also be reviewed and certified by a qualified professional or one of the five Soil Conservation Districts (District) for compliance with the general permit. This Plan is also submitted with the registration. Construction projects disturbing more than one acre that are not reviewed and approved by a local land-use commission are considered to be Locally Exempt and must submit a registration to the DEEP along with a Plan prepared by a qualified professional for Department review. Contractors active on all permitted sites must sign a certification that they are familiar with and will follow the general permit and the Plan for the site. A Plan Implementation Inspection by a District or qualified professional is required at the beginning of construction and routine site inspections by a qualified inspector are also required weekly during construction. The general permit includes provisions to follow the Connecticut Guidelines for Soil Erosion and Sediment Control. Once the construction activity is completed and the site is fully stabilized, the permittee submits a Notice of Termination to terminate their general permit coverage.

A Notice of Tentative Decision was published in statewide newspapers on December 31, 2019 and January 2, 2020 to reissue a modified general permit. This proposed reissuance for the general permit contains modifications to the provisions of the current general permit enumerated above. Substantive changes are summarized below.

**Solar Arrays:**

The proposed modifications contain several conditions applicable solely to larger solar array projects. These locally exempt projects differ from traditional construction projects as characterized by potentially a very large amount of contiguous disturbed area at any given time and the provision that sites generating one megawatt or more are not subject to municipal land-use commission review and enforcement, but are instead reviewed by the Connecticut Siting Council as a public utility project. The proposed permit includes a separate appendix that specifies additional or alternate permit requirements for locally exempt solar array projects. These requirements include: measures specifying how effective impervious cover and the Water Quality Volume are determined for the project; dimensions, height and spacing considerations for the solar panels; additional measures to address varying degrees of slope steepness; provisions for delineating and maintaining setbacks and buffers adjacent to any wetland or watercourse; a requirement for the permittee to conduct a pre-construction meeting with District staff and the qualified professional that designed the project; routine site inspections will be conducted by a qualified professional in addition to a qualified inspector whose qualifications are included in the registration; inspection reports will be certified for truth and accuracy by the qualified professional; all inspection findings and other reporting will be submitted to DEEP electronically; Districts will shall perform Plan Implementation Inspections at the start of each phase of construction; the permittee will ensure that District staff conduct the post-construction inspection and final stabilization inspection and certify as such on the Notice of Termination upon completion of the project; and the permittee must submit a letter of credit to ensure that, upon the potential failure of the project to comply with the permit and Plan, there are adequate funds to complete and stabilize the site. A template for this letter of credit is provided in a separate appendix.

**Definitions:**

The method of determining design storms has been updated to specify the use of NOAA Atlas 14, Volume 10, Version 2 rather than the older NWS Technical Paper #40. The definition of “Effective Impervious Cover” has been modified to specify that impervious surfaces must be “hydraulically connected” to a water or wetland. A definition is now included for “Final stabilization”. References to MS4s have been modified to include the DOT MS4. The definition of “Nephelometric Turbidity Unit” has been deleted. The definition of “Grab sample” has been deleted. A definition has been added for “Soil scientist”. The definition of “SIC code” has been deleted. The definitions for “qualified professional” now specify that they must remain in good standing with the Department of Consumer Protection. A definition is now provided for “solar array”.

**Requirements for Authorization:**

Locally exempt projects conducted by state agencies (e.g. DAS, DOT) may utilize a qualified professional for their Plan review rather than submitting the Plan to DEEP for review as with other locally exempt projects. The agency(ies) will develop a list of qualified professionals

utilizing a process to be agreed upon by the agency(ies) and DEEP. The qualified professional reviewing and certifying the Plan must then be one of the parties included on that list. A new section has been added for Cold Water Stream Habitat. A new section has been added to require solar array projects to follow the new Solar Array Appendix. Under a new section for “Other Requirements for Authorization”, the permittee will be required to conduct a pre-construction meeting and site walk with all site contractors and subcontractors along with the designing qualified professional. Also, the designing qualified professional will conduct the Plan Implementation Inspection(s) and submit the report(s) to DEEP. The permittee will be required to provide evidence of any financial assurance that has been required by the town in which the project is located. DOT and other state agencies will have separate provisions for the preconstruction meeting and inspections.

**Registration:**

For all projects submitting a new registration, the permittee will be required to submit an electronic copy of their Plan with the registration. Existing permittees will have 120 days following the effective date of the permit to submit their re-registration or Notice of Termination. For locally exempt projects, the effective date of authorization will become 60 days for projects under 15 acres (formerly 20 acres) and 90 days for projects over 15 acres. All registrations and Plans will be submitted electronically without the option for a paper submittal. All registrations and Plans will be electronically available for public review. The public review period will increase from 15 to 30 days consistent with federal guidelines. For re-registrants who originally registered after August 1, 2019, a new registration fee is not required. No new registrations will be allowed under this permit after October 1, 2025.

**Stormwater Control Measures:**

Along with minor clarifications for various control measures, a new subsection has been included to refer control measures for solar array projects to the appropriate appendix. A new provision has been added to require a double row of erosion control barriers in areas with slopes greater than 8% or within 50 feet of a wetland or waters.

**Site Inspections:**

Plan Implementation Inspections will now be done at the beginning of construction activity and at the beginning of each phase of construction. As stated in Requirements for Authorization, Plan Implementation Inspections will be conducted by the designing qualified professional, a qualified inspector, and by the appropriate District (for locally exempt projects including solar arrays). An inspection checklist for both Plan Implementation Inspections and Routine Inspections will become a part of the Plan. Plan Implementation Inspections for projects conducted by state agencies may be performed by a qualified professional on the list approved by the commissioner pursuant to Section 3(b)(12)(B). For Routine Inspections, the Plan will identify the qualified inspector conducting the inspections and include their qualifications. Solar farms have alternate requirements from those listed above. If an inspection identifies any violations of the general permit that may result in the discharge of pollutants, it must be reported to DEEP.

**Keeping Plans Current:**

The permittee will be required to notify DEEP if the amount of disturbed area increases from the amount specified in the registration. Any revisions of the Plan must be developed in coordination with the designing qualified professional to ensure compliance with the general permit. After registration, any increase in disturbed area or changes in the Plan that may result in an increase in the amount or potential pollutants in the discharge will require a new registration for the site.

**Monitoring Requirements:**

Monthly turbidity discharge monitoring will no longer be required.

**Reporting and Record Keeping Requirements:**

Separate subsections for “record keeping” and “reporting” are now included in this section. This section specifies the use of inspection checklists and states that any modifications of the Plan will be documented and kept as part of the Plan. There is also a requirement that all reporting of inspections, Plan modifications or other reporting to DEEP is to be conducted using the NetDMR reporting tool. The procedures for using this electronic reporting system are outlined in this section.

**Duty to Correct or Report Violations:**

Upon learning of a violation of the general permit by failure to follow the Plan or by adverse impacts to wetlands or waterbodies, the permittee must cease construction activity and correct and mitigate the violation before construction may begin again. The violation must be reported immediately to DEEP and a report submitted electronically within five days.

**Notice of Termination:**

At the completion of a construction project, the site must have achieved final stabilization for one full growing season (April to October) before a Notice of Termination can be issued. For projects conducted by a state agency, the Post-Construction Inspection can be conducted by a qualified professional on the qualified professional list approved by DEEP in accordance with Section 3(b)(12). The provisions for Post-Construction Inspections and Final Stabilization Inspections have been moved to Section 5(b)(4).

**Appendix A – Endangered Species:**

The requirement to contact the Wildlife Division if a construction activity is within ¼ mile of a shaded area of the NDDDB map has been modified. Since the maps now include the ¼ mile limit within the shaded area, the permittee only needs to contact Wildlife if the activity is within a shaded area.

**Appendix E – Memorandum of Agreement between DEEP and the Districts for Locally Approvable Projects**

The previous District MOA has been updated to apply specifically to Locally Approvable projects and the fee schedule for District services in Exhibit 1 has been changed.

**Appendix F – Memorandum of Agreement between DEEP and the Districts for Locally Exempt Projects**

A new appendix has been added to address how Districts will conduct inspections and reviews for solar arrays and other locally exempt projects.

### **Appendix I – Stormwater Management at Solar Array Construction Projects**

A new appendix has been added to address requirements for construction of solar arrays.

### **Appendix J – CTDEEP Financial Assurance Irrevocable Letter of Credit**

A new appendix has been added to provide a template for a letter of credit for construction of solar arrays.

### **List of Substantive Permit Modifications:**

The following describes specific changes or additions proposed in the modified general permit. Items that are being newly added to the permit are designated as **NEW**. Items that are changes to existing language or format from the current permit are designated as **MODIFIED**. Items that are being removed from the current permit are designated as **DELETED**.

- **SECTION 2 – Definitions**

The following definitions have been added or modified:

- x-year, 25-year, or 100-year 24-hour rainfall event (**MODIFIED**)
- Commissioner (**MODIFIED**)
- Construction activity (**MODIFIED**)
- DOT (**NEW**)
- Designing Qualified Professional (**NEW**)
- Disturbance (**MODIFIED**)
- Effective impervious cover (**MODIFIED**)
- Final Stabilization (**NEW**)
- General Permit (**NEW**)
- Grab Sample (**DELETED**)
- High Quality Waters (**MODIFIED**)
- Locally Exempt (**MODIFIED**)
- Municipal Separate Storm Sewer System or MS4 (**MODIFIED**)
- Nephelometric Turbidity Unit or NTU (**DELETED**)
- Qualified professional engineer (**MODIFIED**)
- Qualified soil erosion and sediment control professional (**MODIFIED**)
- Regulated Municipal Separate Storm Sewer System or Regulated MS4 (**MODIFIED**)
- Soil Scientist (**NEW**)
- Solar array (**NEW**)
- Stormwater Pollution Control Plan (**NEW**)
- Water Quality Standards (**MODIFIED**)
- Waters (**NEW**)
- Wetland (**NEW**)

- **SECTION 3 - Authorization Under This General Permit**

### **Section 3(b) Requirements for Authorization**

The following changes have been made to this section:

- Discharge to Groundwater eliminates reference to 100-year storm (**MODIFIED**)
- Provisions for a protection buffer for Cold Water Stream Habitat (**NEW**)
- Refers solar arrays to Appendix I (**NEW**)
- Plan Review and Certification for Projects Conducted by State Agencies allows these locally exempt projects to be reviewed by a qualified professional rather than DEEP when the qualified professional is on a list approved by the commissioner (**NEW**)
- Lists requirements for authorization that include a pre-construction meeting, contractor certification, Plan Implementation Inspection by the designing qualified professional and evidence of any financial assurance that may have been required of the permittee (**NEW**)
- Preconstruction meetings and Plan Implementation inspections for DOT and other state agencies can be conducted by state employees rather than the qualified professional (**NEW**)
- State agencies do not have to provide evidence of financial assurance (**NEW**)

### **Section 3(c) Registration**

The following changes have been made to this section:

- Registration requirements moved to Section 4 (**MODIFIED**)

### **Section 3(f) Effective Date and Expiration Date of this General Permit**

The following changes have been made to this section:

- Permit is effective at 12:00 a.m. on December 31, 2020 and expires at 11:59 p.m. on December 30, 2025. (**MODIFIED**)

### **Section 3(g) Effective Date of Authorization**

The following changes have been made to this section:

- Clarified submission timelines and modified the authorization date threshold (60 days vs 90 days) for locally exempt sites from 20 acres of disturbance to 15 acres. (**MODIFIED**)

## **• SECTION 4 – Registration Requirements**

### **Section 4(c) Registration Procedure (NEW)**

- For all projects, the Plan will be submitted electronically (**NEW**)
- For locally exempt projects with 1 to 15 acres of disturbed area, registration will be required 60 days before construction starts (**MODIFIED**)
- For locally exempt projects with greater than 15 acres of disturbed area, discharges within 500 feet of a non-fresh/tidal wetland, or discharges to impaired waters, registration will be required 90 days before construction starts (**MODIFIED**)
- Clarified that failure to submit all required elements of the registration is grounds to reject the registration (**MODIFIED**)

- Clarified re-registration process for sites registered under the previous permit (**MODIFIED**)
- Specifies the latest date for new registrations under this permit (**MODIFIED**)

**Section 4(d)(1) (formerly 4(c)(1)) Fees**

- Registration fees have been differentiated and modified based on project size (**MODIFIED**)

**Section 4(d)(2) (formerly 4(c)(2)), Registration Form**

- Optional electronic Plan submission (now mandatory) for locally approvable projects is eliminated (**DELETED**)
- Design certification may be by a landscape architect or professional engineer (**MODIFIED**)

**Section 4(e) (formerly 4(d)), How to Submit a Registration (MODIFIED)**

- Mailing address for registration submission is eliminated (**MODIFIED**)

**Section 4(f) (formerly 4(e)) Availability of Registration and Plan**

The following changes have been made to this section:

- Registrations will be listed and Plans posted electronically on the DEEP website for 30 days for public review. (**MODIFIED**)
- Clarification that Plan submission is not required for re-registrations (**MODIFIED**)

**Section 4(h) (formerly 4(g)) Additional Notification**

The following changes have been made to this section:

- Clarification to require additional notifications within 5 days of registration. (**MODIFIED**)

**Section 4(i) Transition to New General Permit (DELETED)**

**Section 4(j) Latest Date to Submit a Registration Under this General Permit (DELETED)**

• **SECTION 5 – Conditions of this General Permit**

**Section 5(b) Stormwater Pollution Control Plan**

The following provisions are included in this section:

**Section 5(b)(1), Development and Contents of Plan:**

- Inspections section reorganized to specify conditions for Plan Implementation Inspections and Routine Inspections. (**MODIFIED**)
- Monitoring is eliminated. (**DELETED**)
- Refers solar arrays to Appendix I (**NEW**)
- Clarifies separate requirement for inspection checklists (**MODIFIED**)
- Contractor certification is moved to Section 3(b). (**MODIFIED**)

Section 5(b)(2), Stormwater Control Measures:

- Moved definition of “minimize” to Section 2. (**MODIFIED**)
- Requirement for double row of erosion control barriers for slopes greater than 8% (**NEW**)
- Clarification that temporary or permanent vegetation or other vegetation will consist of native species and must be maintained at all times. Also prohibits use of chemical fertilizers, herbicides and pesticides except as necessary to establish vegetation (**MODIFIED**)
- Subsection added requiring double row of erosion control barriers where disturbance is within 50 feet of a wetland or waters. (**NEW**)
- Clarification of possible limitations effecting stormwater retention. (**MODIFIED**)
- Subsection added referring to Cold Water Stream Habitat requirements. (**NEW**)

Section 5(b)(4), Inspection:

- Plan Implementation Inspections are clarified and will be conducted by the designing qualified professional and, for Locally Exempt projects including solar arrays, a District. (**MODIFIED**)
- Clarified requirements for Routine Inspections (**MODIFIED**)
- Allows for inspections for state agency projects to be conducted by a qualified professional on an agency list approved by the commissioner. (**MODIFIED**)
- Added subsections for Post-Construction Inspections and Final Stabilization Inspections (moved from Section 6(a)) (**NEW**)
- Final stabilization must be maintained for one full growing season before a Notice of Termination may be issued. (**MODIFIED**)
- Locally exempt projects will have the Post-Construction Inspection conducted by a qualified profession on the approved list specified in Section 3(b)(12). (**NEW**)

Section 5(b)(5), Keeping Plans Current:

- Permittee must submit a new registration if the disturbed area increases from the amount specified on the registration. (**MODIFIED**)
- Clarifies requirements for re-registrants to update their Plan (**MODIFIED**)
- Permittee must coordinate Plan revisions with the designing qualified professional and retain documentation of any modifications in the Plan. (**NEW**)

Section 5(b)(9), Plan Submittal:

- All Plans are submitted electronically (**MODIFIED**)

**Section 5(c) Monitoring Requirements (DELETED)**

**Section 5(c) (formerly 5(d)) Reporting and Recordkeeping**

The following provisions are included this section:

- Section has been divided in subsections for Record Keeping and Reporting (**MODIFIED**)
- Requirements for inspection reporting are specified. (**NEW**)
- Requirements for Plan modification documentation are specified (**NEW**)



- All reporting will be done electronically through NetDMR (**NEW**)

### **Section 5(f) (formerly 5(g)) Duty to Correct and Report Violations**

The following provisions are included this section:

- Upon identification of a violation, the permittee shall cease all construction activity and immediately take action to correct and mitigate the violation. (**MODIFIED**)
- Violations are to be reported immediately to DEEP and a report filed within 5 days (**MODIFIED**)

### **Section 5(n) Reopener (DELETED)**

- **SECTION 6 – Termination Requirements**

#### **Section 6(a) Notice of Termination**

The following provisions are included this section:

- Sections 6(a)(1) and (2) are moved to Section 5(b)(4) (**DELETED**)

- **Appendix A – Guidance Document for Endangered, Threatened and Special Concern (“Listed”) Species**
  - Screening criteria eliminates the ¼ mile boundary around a shaded area of the NDDDB maps (**MODIFIED**)
  - Initial NDDDB determination is 2 years instead of one (**MODIFIED**)
- **Appendix B – Inland Water Resources Division Fact Sheet – Considering Low Impact Development Principles in Site Design**
  - DEEP contact information is changed (**MODIFIED**)
- **Appendix E –Memorandum of Agreement Between the Connecticut Department of Energy & Environmental Protection and the Conservation Districts for Locally Approvable Projects**
  - Fee schedule is changed (**MODIFIED**)
  - Agreement language updated (**MODIFIED**)
  - Contact information updated (**MODIFIED**)
- **Appendix F –Memorandum of Agreement Between the Connecticut Department of Energy & Environmental Protection and the Conservation Districts for Locally Exempt Projects (NEW)**
- **Appendix I – Stormwater Management at Solar Array Construction Projects (NEW)**
- **Appendix J – CTDEEP Financial Assurance Irrevocable Letter of Credit (NEW)**