



STATE OF CONNECTICUT

COUNCIL ON ENVIRONMENTAL QUALITY

VIA ELECTRONIC MAIL

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Re: National Pollutant Discharge Elimination System (NPDES) General Permit for Discharge of Stormwater Associated with Commercial Activity (General Permit)

The Council on Environmental Quality (Council) provides the following comments regarding DEEP's proposed General Permit.

2.1.1 Allowable Non-stormwater Discharges

In addition to the discharges of stormwater from the eligible activities described above, the following non-stormwater discharges are authorized under this permit provided such non-stormwater discharges do not contribute to a violation of instream water quality standards, and such non-stormwater discharges are documented in the Stormwater Management Plan:

discharges of hydrant flushing water from a municipally owned or operated drinking water distribution system provided best management practices are employed.

The Council notes that the discharge of hydrant flushing water was identified in the draft Comprehensive General Permit for Discharges to Surface Water and Ground Water (Comprehensive GP), under section 2.1. The Council questions if discharges of hydrant flushing are "authorized under this permit" as an allowable non-stormwater discharge, or an eligible activity & discharge under the Comprehensive GP. The Council suggests that DEEP confirm which general permit would authorize the discharge of hydrant flushing water.

2.2.4 Endangered and Threatened Species

"Such activity does not threaten the continued existence of any species listed pursuant to Section 26-306 of the CGS and will not result in the destruction of adverse modification of habitat designated as essential to such species."

The Council supports the protection of endangered and threatened species and their habitat. The Council also supports the protection of all critical habitat for all species. Given that the General Permit might allow for discharges to surface water, the Council encourages DEEP to revise section 2.2.4 to prohibit adverse modification of any critical habitat essential to any species.

2.2.5. Aquifer Protection

Such activity, if it is located within an aquifer protection area as mapped under section 22a-354b of the Connecticut General Statutes, must comply with regulations adopted pursuant to section 22a-354i of the Connecticut General Statutes.

The Council strongly supports the provisions of the General Permit that protect aquifers and suggests that the General Permit also include provisions to protect public drinking water supply watersheds, and any municipal groundwater protection overlay areas including, but not limited to those identified in section 4.3.2 and Appendix B.

2.2.7. Wild and Scenic Rivers Act

Such activity must be consistent with the Wild and Scenic Rivers Act (16 U.S.C. 1271-1287) for those river components and tributaries which have been designated as Wild and Scenic by the United States Congress. Further, such activity must not have a direct and adverse effect on the values for which such river designation was established.

The Council supports this provision and suggests that the word “direct” be removed so that any activity that could have an adverse effect, both direct and indirect, on the values for which such river designation was established, be prohibited.

2.2.11 New or Increased Discharges to High Quality Waters

On or before thirty (30) days prior to the commencement of a new or increased discharge to High Quality Waters from its commercial activity, the permittee must document compliance with the Connecticut Anti-Degradation Implementation Policy in the Water Quality Standards, as amended...

The Council notes that “High Quality Waters” is not defined in the draft General Permit, and suggests that a definition be added that is consistent with or references the Regulations of Connecticut State Agencies (RCSA), Connecticut Water Quality Standards, Section 22a-426-1. Definitions (36).¹

2.2.12 New or Increased Discharges to Impaired Waters

A discharge is not authorized to an impaired waterbody that is listed in the most recent Connecticut Integrated Water Quality Report pursuant to Clean Water Act Section 303(d) and 305(b) unless the permittee provides to the Commissioner the following documentation demonstrating that the discharge is not expected to cause or contribute to an exceedance of the Water Quality Standard(s) that caused the impairment:

The Council notes that discharges to impaired waterbodies would only include those listed in the most recent Connecticut Integrated Water Quality Report. The Council suggests that “impaired waterbodies”, which isn’t defined in the draft General Permit, be replaced with “impaired water(s)”, which is defined in the draft General Permit and would include “any waterbody that does not meet applicable water quality standards, including but not limited to waters listed in categories 5 or 4b on the Connecticut Integrated Report of waters listed pursuant to Clean Water Act section 303(d) and 305(b).”

3.1 Who Must File a Registration

Any person or municipality that initiates, creates, originates, or maintains a discharge authorized by this general permit, pursuant to Section 2, from a site with five (5) or more acres of contiguous impervious surface, shall file a registration form which meets the registration requirements of this section of this general permit.

The Council questions why registration is only required for sites with five or more acres of “contiguous” impervious surface and suggests that the threshold for registration should be based on the projected “Water Quality Volume” that would be discharged to a surface water body or wetland.

¹ https://eregulations.ct.gov/eRegsPortal/Browse/RCSA/Title_22a/Subtitle_22a-426_HTML/#_22a-426-1

3.3.2.3 Stormwater discharge information

d. Name of the separate storm sewer system or immediate surface water body or wetland to which the stormwater conveyance, outfall(s), and/or runoff discharges.

The Council notes that separate storm sewer systems and wetlands might not be “named” and suggests that the information required for the registration form might also include the latitude and longitude coordinates for the proposed stormwater discharge location.

3.4.3 Permittee Certification and 3.4.4 Preparer Certification

I hereby certify that I am making this certification in connection with a registration under such general Permit, ...

The Council suggests that “such general permit” be replaced in both sections with “National Pollutant Discharge Elimination System (NPDES) General Permit for Discharge of Stormwater Associated with Commercial Activity the first time it is used in the certification language. In addition, the certification language within section 3.4.3 references section 3.7.2 of “this general permit”; however, section 3.7.2 does not exist.

4.1.2 Structures and Dredging in Coastal and Tidal Areas

If the permittee intends to initiate, create, or originate a discharge of stormwater below the coastal jurisdiction line into coastal, tidal, or navigable waters for which a permit is required under the Structures and Dredging Act in accordance with Section 22a-361(a) of the Connecticut General Statutes or into tidal wetlands for which a permit is required under the Tidal Wetlands Act in accordance with Section 22a-32 of the Connecticut General Statutes, the municipality shall obtain such permit(s) from the Commissioner prior to initiating, creating or originating such discharge.

The Council questions if the requirement to obtain the permits noted in the section only applies to “the municipality”. If the permit requirement(s) of the section are applicable to any “permittee”, the Council suggests that the draft General Permit specify whom must obtain the applicable permit(s).

4.2.2.7 Non-stormwater Discharges

The permittee shall provide a description of all known non-stormwater discharges that could occur at the site which have the potential to commingle with stormwater run-off.

The Council suggests that the draft General Permit include additional detail regarding the type of information requested in the “description” of the non-stormwater discharges, such as volume, type of material, solubility, etc.

4.3.1.5 Minimize Exposure

The permittee shall minimize exposure to stormwater of materials identified pursuant to Section 4.2.2.4 of this general permit.

The Council notes that the word “minimize” is vague and potentially unenforceable. As a control measure applicable to all sites for potential pollutant sources, the objective would be to eliminate or prohibit exposure of potential pollutant sources to stormwater. The Council also notes that “minimize” is used in several locations in the draft General Permit, such as: section 4.2.2.4 (b), which includes a requirement for “*materials management practices employed to minimize contact of materials with stormwater runoff.*”; sections 4.3.2.2 and 4.3.2.3, which include a requirement to “*minimize discharge of pollutants to nearby stormwater infrastructure or catch basins*”; and section 4.3.2.5 (d), which includes a requirement to “*minimize overwatering to prevent discharge of water to floor drains, storm drains, stormwater sewer conveyance systems, or catch basins*”. The Council suggests that additional guidance be provided to potential permittees so they might better conform to DEEP’s expectations for compliance with the provisions of the General Permit.

4.3.2.4 Outdoor Storage of Liquid Materials

a. Stationary Storage

Stormwater that may accumulate in a containment area may be discharged only after the permittee conducts testing to confirm that it does not contain any of the relevant pollutants stored therein. For petroleum storage containment areas, visual inspection for a sheen fulfills this requirement. If testing is not conducted or if it indicates the presence of a relevant pollutant, this containment water must be treated and/or disposed of in accordance with local, state, and federal regulations.

The Council notes that the word “relevant” is not specific and relies on the permittee to determine relevancy. The Council suggests that the General Permit include additional language to reference the material being stored, specify certain pollutants of concern, and/or reference the monitoring parameters specified in table 4.1, if applicable.

4.3.2.5 Lawn and Garden Centers

Discharges associated with the excessive watering of plants or floor washing are prohibited under this permit...

The Council notes that “excessive” is vague and suggests that additional guidance be provided to potential permittees so they might better conform to DEEP’s expectations for compliance with the provisions of the General Permit.

a. Floor drains

Permittees shall identify the ultimate discharge location of floor drains in lawn and garden areas and ensure applicable staff are appropriately trained...

The Council notes that “appropriately trained” is vague and might not apply to the identification of the discharge location of floor drains. The Council suggests that the General Permit specify the training that might be required to ensure compliance with the requirements of this section of the General Permit

5.2.2 Five-Day Follow Up Report

Within five (5) days of any notification of noncompliance in accordance with of this permit, the Permittee shall submit a follow-up report within five days of the noncompliance using the Commissioner’s online Noncompliance Follow-up Report Form:

The Council notes that the first sentence might be missing a reference or section number – “*in accordance with [section] of this permit*”.

The Council questions if the General Permit should include provisions for commercial sites located within a floodplain or flood hazard area given the projected increase in sea level and potentially more significant precipitation events.

Thank you for your consideration of the Council’s comments.

Sincerely,



Paul Aresta,
Executive Director