



## STATE OF CONNECTICUT

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### **VIA ELECTRONIC MAIL**

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Re: Draft General Permit for the Discharge of Stormwater from Construction Activities (General Permit)

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

#### ***Section 2 Authorization Under This General Permit***

##### ***2.1.1 Allowable non-stormwater discharges***

- *Potable water including uncontaminated water line or fire hydrant flushing*

The Council notes that the draft "Comprehensive General Permit for Discharges to Surface Water and Ground Water" dated September 2024, included "*Hydrant flushing*" as an eligible activity proposed under that draft general permit. Since hydrant flushing might be unrelated to a construction activity, the Council suggests that DEEP clarify which general permit would authorize such an activity and under what conditions.

##### ***2.2.1 Limitations of Coverage***

###### ***2.2.1.1 Prohibited discharges***

The Council suggests that discharges to impaired waters in excess of any specific load allocation or requirement established by the applicable Total Maximum Daily Load (TMDL) be added to the list of prohibited discharges (see section 5.1.5).

The Council also suggests that "measures" be added to the end of the following sentence: "*discharges from dewatering activities, including discharges from dewatering of trenches and excavations, are prohibited unless managed by appropriate control measures*" since the term "control measures" is defined in Section 11 – Definitions. The Council also suggests that "appropriate" be revised to "approved" since appropriate is subjective.

##### ***2.2.5 Aquifer Protection Areas***

*Such construction activity, if it is located within an aquifer protection area as mapped under Section 22a-354b of the General Statutes, must comply with regulations adopted pursuant to Section 22a-354i of the General Statutes. Please refer to the Appendix C for guidance. For any construction activity regulated pursuant to the Aquifer Protection Regulations in Sections 22a-*

*354i-8(c) and 9(b) of the Regulations of Connecticut State Agencies, the Stormwater Pollution Control Plan (“SPCP”) must provide sufficient information to assure that stormwater discharge generated from the construction activity is (i) managed in a manner so as to prevent pollution of groundwater, and (ii) complies with all the requirements of this general permit.*

The Council supports DEEP’s efforts to protect drinking water sources from being adversely impacted by the discharge of stormwater from construction activities. The Council suggests the addition of municipal groundwater overlays, public drinking water supply watersheds, Class GA/GAA groundwaters and Class A/AA surface waters, which are areas designated for use as potential or current drinking water sources without treatment, as areas that warrant additional protection from stormwater discharges generated from construction activities that could pollute groundwater. The Council suggests that Permittees, including locally approvable projects less than five acres, be required to review and adhere to the Connecticut Department of Public Health’s (DPH) “General Construction Best Management Practices for Sites within a Public Drinking Water Supply Area”<sup>1</sup> guidance document.

#### **2.2.10 Cold Water Stream Habitat**

*Unless otherwise authorized in writing by the Commissioner, a Permittee shall maintain a one hundred (100) foot buffer of undisturbed soil and well-established vegetation between any construction activity and any stream, river, or tributary that is included within a cold water stream habitat ...”*

The Council strongly supports the provision in this section that would establish a 100-foot buffer of undisturbed soil and well-established vegetation adjacent to cold water streams. The Council suggests that a similar provision be included in the General Permit to better protect vernal pools. The area within 100-feet of a vernal pool, referred to as the vernal pool envelope, is considered essential for the survival and reproduction of vernal pool-dependent species, particularly amphibians, as it provides breeding habitat and foraging grounds.

#### **2.2.13 Certification Requirements for Registrants and other Individuals**

##### **2.2.13.1 Review**

*a. all registration information provided in accordance with Section 3.3.2 of this general permit.*

The Council questions if this subsection should reference section 3.3, which applies to “Registration Requirements” rather than subsection 3.3.2 which only applies to “Registrants for New Locally Approvable Projects.”

*2.2.13.3 Such registrant and any other individual or individuals responsible for preparing the registration certifies to the following statement: “I hereby certify that I am making this certification in connection with a registration under such general permit, submitted to the Commissioner by [INSERT NAME OF REGISTRANT] for an activity located at [INSERT ADDRESS OF PROJECT OR ACTIVITY] and that all terms and conditions of the general permit are being met for all discharges which have been initiated and such activity is eligible for authorization under such permit.*

The Council suggests that the name of the General Permit be specified rather than “such general permit”<sup>2</sup> and that the phrases “are being met” and “which have been initiated” be revised to “which will be met” and “which will be initiated” if the required certification would also apply to new discharges.

#### **2.2.15 Stormwater Pollution Control Plan Review and Certification by a District for Locally Approvable Projects**

##### **2.2.15.1 Plan Review Certification**

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<sup>1</sup> [https://portal.ct.gov/-/media/Departments-and-Agencies/DPH/dph/drinking\\_water/pdf/BMPFactSheetpdf.pdf](https://portal.ct.gov/-/media/Departments-and-Agencies/DPH/dph/drinking_water/pdf/BMPFactSheetpdf.pdf)

<sup>2</sup> This suggestion would also be applicable to subsection 2.2.13.3.

*The Plan Review Certification must be signed by an authorized representative of the District. Information on the District review process is outlined in the Memorandum of Agreement provided in Appendix E. In cases where the District is unable to complete the review of the SPCP within the time limits specified in the Memorandum of Agreement in Appendix E, a notice to that effect signed by an authorized representative of the District may be submitted in lieu of the certification.*

The Council questions if DEEP or some other entity would undertake the review of the SPCP if a “*District is unable to complete the review of the SPCP within the time limits specified.*” The Council suggests that the General Permit clarify what action would need to be taken to ensure that the SPCP is reviewed in cases where the District is unable to complete the review within the time frame specified, such as certification by a Professional Engineer or Landscape Architect or approval by DEEP (see section 2.2.14)

### **2.2.17 Plan Review and Certification for Projects Conducted by State Agencies**

*2.2.17.6 Construction activities conducted by a state agency under this subparagraph shall be submitted in accordance with the requirements in Sections 3.3.*

The Council suggest that this sentence be revised to include “A description of the construction activities...” or “The registration for the construction activities...” or similar language.

### **2.2.18 Solar Arrays**

*For constructions activities associated with the development of a Solar Array that is categorized as Locally Exempt, as defined in Section 11 of this general permit, the Registrant shall also comply with the requirements in Appendix I.*

The Council suggests that this section be refined to include all construction activities associated with the development of a Solar Array subject to the requirements of the General Permit and not just those categorized as “Locally Exempt”. Locally approvable projects could include solar facilities with a capacity of almost one megawatt<sup>3</sup> that, based on the Council’s analysis of ground-mounted solar projects, could impact a site of approximately five acres or more per megawatt of capacity.

### **2.5.3 Locally Approvable Small Construction Activity**

*No registration or SPCP review is required for Small Construction Locally Approvable Projects that will disturb an area equal to or greater than one (1) and less than five (5) acres, regardless of phasing, provided a land-use commission of the municipality (i.e. planning/zoning, wetland, conservation, etc.) reviews and issues a written approval of the proposed erosion and sediment Control Measures, pursuant to the requirements of Section 22a-329 of the Connecticut General Statutes.*

### **2.5.4 Authorization to Discharge for New Permittees**

#### *a. Standard Authorization Timelines:*

*i. For Locally Approvable Projects: sixty (60) days after submission of a complete registration form.*

The Council notes that “*no registration or SPCP review is required for Small Construction Locally Approvable Projects that will disturb an area equal to or greater than one (1) and less than five (5) acres*”; however, the definition for “*Locally Approvable Projects*”, listed in Section 11, does not include an acreage threshold. The Council suggests that the General Permit clarify if authorization to discharge by the General Permit for new permittees applies only to *Locally Approvable Projects* with an area greater than five acres.<sup>4</sup>

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<sup>3</sup> The jurisdiction of the Connecticut Siting Council, per Connecticut General Statutes (CGS) 16-50k, and the definition of “facility”, pursuant to CGS 16-50 i (a), includes any electric generating or storage facility with a generating capacity of one megawatt of electricity or more that utilizes renewable energy sources.

<sup>4</sup> The Council also suggests clarifying the provisions of subsection 3.2.1.2 that references the registration fee for new “*Locally Approvable Projects*”, and subsection 3.3.2 *Registrants for New Locally Approvable Projects*.

### **Section 3 Registration Requirements**

#### **3.1 Who Must File a Registration**

*A registration form is not required for an Emergency Construction Activity (Section 2.5.2) or “Small Construction Locally Approvable Activities” (Section 2.5.3).*

The Council acknowledges that it would be impractical to require a registration for emergency discharges; however, the Council questions if DEEP would be made aware of such short-term emergency discharges or if such short-term emergency discharges would be considered a “bypass”. Since this General Permit “authorizes” such short-term emergency discharges rather than making such discharges exempt, the Council suggests that the individual/agency responsible for a short-term emergency discharge notify DEEP consistent with the provisions of subsection 8.18.3.2. Because natural events, such as extreme rain events and flooding, can create unanticipated discharges, the Council recommends that a provision be added to the General Permit requiring the individual/agency responsible for the construction site to immediately take all reasonable measures to minimize the impacts from such emergency discharges.

#### **3.3.2 Registrants for New Locally Approvable Projects**

*3.3.2.2 Include all of the information that may be required pursuant to Section 2.2, “Requirements for Authorization” of the general permit regarding compliance and/or consistency with the Coastal Management Act, NDDB Determination Letter, Discharges to Impaired Waters and TMDL requirements, Endangered and Threatened Species, and Aquifer Protection Areas. Failure to include these components of the application may result in the rejection of the Registration.*

#### **3.3.3 Registrants for New Locally Exempt Projects**

*3.3.3.2 Include all of the additional information that may be required pursuant to Section 2.2 of the general permit, “Requirements of Authorization”, regarding compliance and/or consistency with the Coastal Management Act, NDDB Determination Letter, Discharges to Impaired Waters including TMDL requirements, Endangered and Threatened Species, Fisheries Consultation, Historic Preservation Review, Solar Array provisions, and Aquifer Protection.*

The Council questions why the information requirements for the two subsections noted above are different, and more specifically, why the “*Fisheries Consultation*” and “*Solar Array provisions*” are not required for Locally Approvable Projects. The Council also questions if the “*NDDB Determination Letter*” is identified within the provisions of Section 2.2. The Council suggests that the General Permit address the discrepancy with the “*additional information*” requirements specified in subsections 3.3.2 and 3.3.3.

### **3.4 Contents of Registration**

#### **3.4.1 Registration Form**

*3.4.1.3 Physical address or description of the site for which the registration is filed. If the site does not have a mailing address, provide the nearest crossroads, mile markers, or permanent structures to identify the location.*

The Council suggests that the registration requirements also include the latitude and longitude of the site if it does not have a mailing address, or if the mailing address is assigned to a large parcel and it is unclear where the project site would be located.

*3.4.1.7 A brief description of the construction activity, including, but not limited to:*

*c iv. Indication or documentation to determine if the construction activity is located within an aquifer protection area (see Appendix C) as mapped under Section 22a-354b of the Connecticut General Statutes. If the site is partially or wholly in an aquifer protection area, provide a copy of correspondence with the local water company demonstrating that the construction activity will comply with regulations adopted pursuant to Section 22a-354i of the Connecticut General Statutes.*

The Council supports the provision of this subsection to provide appropriate notice to the local water company for a site that is partially or wholly in an aquifer protection area. The Council suggests that this section also include notification requirements for sites that are located partially or wholly within a public drinking water supply watershed since the provisions of sections 3.8.1.1 c and 3.10.1.1 b iii both require the submittal of the registration information to the local water company. The Council also suggests that the General Permit reference the DPH's Public Water Supply Watershed Map Viewer.<sup>5</sup>

*e. For construction activities within one hundred (100) feet of any stream, river, or tributary that is included within a Cold Water Stream Habitat, as may be authorized by the Commissioner pursuant to Section 2.2.10 of this general permit, a completed Fisheries Consultation Form or documentation of official interagency coordination between the Fisheries Division and other state agency staff. An email is not considered official coordination.*

The Council questions why a completed Fisheries Consultation Form or documentation of official interagency coordination with DEEP's Fisheries Division is only required for state agency actions. The Council notes that there could be locally approvable projects or locally exempt projects for a Permittee other than a state agency that could adversely impact a cold water stream habitat. The Council suggests that the General Permit include provisions for consultation with DEEP's Fisheries Division for all projects, authorized by this General Permit, that could adversely impact cold water stream habitat.

#### **3.4.1.8 Stormwater discharge information**

*a. Name and waterbody ID of receiving stream(s), watershed(s), or waterbody(s) to which the construction activity discharges and indication of whether or not a receiving stream is listed as an impaired water with or without a TMDL, including identification of the impairment in the most recent State of Connecticut Integrated Water Quality Report or identification of the receiving stream as a high quality water in the Connecticut Water Quality Standards.*

The Council suggests that the watershed be identified in addition to the receiving stream(s) and waterbody(ies) since the enumeration of these three items should not be in the alternative.

#### **3.5 Notice of Change**

- *Changes to the disturbed area on the site that reduces the distance to impaired waters, High Quality waters, cold water habitat, or aquifer protection areas from those in the original SPCP. For increases of the disturbed area, see Section 3.6.*
- *Changes to engineered or non-engineered construction or post-construction Control Measures that have the potential to increase the rate or volume of stormwater discharged.*

The Council notes that the changes identified above could impact impaired waters, High Quality Waters, cold water habitat, or aquifer protection areas and/or the rate or volume of stormwater discharged, and such changes might require revisions to the approved SPCP. While subsection 5.2.6.1 specifies conditions that might require changes to the SPCP and subsection 5.2.6.2 includes a provision for certification of any such changes to the SPCP, it is unclear if the changes noted above would trigger the requirements of section

5.2.6. The Council suggests that section 3.5 include a reference to those subsections.

#### **3.8.1 Additional Registration & Plan Notifications**

*3.8.1.1 No later than five (5) days after submitting a registration to the Commissioner, the Permittee shall provide the following additional notifications:*

*b. For discharges authorized by this general permit to a DOT separate storm sewer system, a copy of the registration and all attachments thereto shall also be submitted to the DOT upon request.*

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<sup>5</sup> <https://maps.ct.gov/portal/apps/experiencebuilder/experience/?id=1a8bf90b37b24affaeb41a41d71c9417>

The Council supports the provision of this subsection to require a copy of the registration and SPCP to also be submitted to the Connecticut Department of Transportation (DOT) upon request, but it is unclear how the DOT would know to request the information. The Council suggests that the General Permit include a requirement for the registrant to notify the DOT when seeking authorization to discharge stormwater and other allowable discharges, authorized by this General Permit, to a DOT separate storm sewer system. The Council also suggests that contact information or a website be referenced to assist registrants contact the appropriate department/office at the DOT.

### ***3.10 Availability of Registration and Stormwater Pollution Control Plan***

#### ***3.10.1 Registration Availability***

##### ***3.10.1.1 Availability by the Permittee***

*b. A completed registration shall be provided to the following persons immediately upon request:*

*i. The municipal planning commission, zoning commission and/or inland wetlands agency, or its respective enforcement officer or designated agent.*

*ii. If the stormwater discharges through a municipal separate storm sewer system, the municipal operator of the system.*

The Council supports the provisions of this subsection that requires a copy of the registration be submitted to the municipal land use agencies/staff and the municipal operator of a municipal separate storm sewer system (MS4) upon request. The Council suggests that the General Permit include a requirement for the registrant to notify the municipal land use agencies/staff and the operator of a MS4 when seeking authorization to discharge stormwater and other allowable discharges, authorized by this General Permit, within the municipality (i) and to a MS4 (ii).

##### ***3.10.1.2 Availability by the Commissioner***

*The Commissioner shall post on the DEEP website a list of registrations submitted. SPCPs shall be posted electronically, or a link to such plans provided, with the corresponding registration. On or before thirty (30) days from the date such registration is accessible to the public through posting by the commissioner, members of the public may review and comment on a registration and/or SPCP.*

The Council suggests that the General Permit include a provision to require a response to all substantive comments submitted regarding a registration and/or SPCP.

#### ***3.11.2 Rejection or Denial***

*The Commissioner may reject or deny without prejudice a registration if it is determined that it does not satisfy the registration requirements in Section 3 of this general permit, or if more than seven (7) days have elapsed since the Commissioner requested the Permittee submit additional information to determine eligibility for permit coverage for authorization to discharge under this general permit.*

The Council suggests that the timeline for the provision of additional information be consistent with the requirements identified in section ***3.8 Additional Information***, which states “...A response to the Commissioner’s request for additional information shall be submitted to the Department within fifteen (15) days of the Commissioner’s request.”

#### ***4.2 Termination Requirements***

##### ***4.2.1 The dates when:***

- A description of the post-construction activities at the site.*

The Council suggests that the phrase “*a description of the post-construction activities at the site*” be placed within section 4.2 since a description of post-construction activities is not specific to a date.

## **Section 5 Conditions of this General Permit**

### **5.1.1 Structures and Dredging in Coastal and Tidal Areas**

*Any person or municipality who discharges stormwater into coastal tidal waters for which a permit is required under Section 22a-361 of the Connecticut General Statutes (structures and dredging) or Section 22a-32 of the Connecticut General Statutes (Tidal Wetlands Act), shall obtain such permit(s) from the Commissioner.*

The Council suggests that the General Permit specify when the permits, specified above, should be obtained.

### **5.2.1 Development and Required Elements of the Plan**

*5.2.1.2 The SPCP shall, at a minimum, take into account and include the following items:*

#### *c. Site Description*

The Council suggests that the site description requirements include other information that could impact the quantity and quality of the stormwater discharges including, but not limited to, the presence of a subsurface sewage disposal system, whether the site is a brownfield site, etc. The Council also suggests that information regarding the distance in feet from the proposed construction activity to wetlands, vernal pools (if present), and surface waters be added to the provision to provide the “*extent of the wetland acreage on the site.*”

#### *d. Site plan drawings indicating:*

The Council suggests that information regarding the extent of existing vegetation be added to the site plan requirements to depict “*areas which will be vegetated following construction,*” and that vernal pools; flood hazard areas; and public and private water supply wells, within an appropriate distance of the construction site, be added to the site plan requirements to depict “*surface waters, impaired waters (identifying those with and without a TMDL), high quality waters, inland wetlands, tidal wetlands, fresh-tidal wetlands.*”

#### **5.2.2.3 Maintenance of Vegetation**

*To prevent erosion and soil compaction during construction activities, temporary or permanent vegetation or other ground cover shall be maintained at all times in all areas of the site, except those undergoing active disturbance. All new temporary and permanent vegetation shall consist of native plant species. With respect to such vegetation, the Permittee shall not use chemical fertilization, herbicides, or pesticides except as necessary to establish such vegetation in accordance with the manufacturers label.*

The Council supports the provision to ensure all new temporary and permanent vegetation be native plant species. Since the Monarch butterfly has been listed as “Proposed Threatened” by the United States Fish and Wildlife Service, the Council suggests a provision be added that encourages the use of pollinator friendly seed-mixes and plants, such as milkweed<sup>6</sup>, as replacement vegetation when feasible. The Council also suggests that the provision that addresses the use of chemical pesticides and herbicides be expanded to encourage integrated pest management practices<sup>7</sup> and that the application of chemical pesticides and herbicides also comply with applicable laws, regulations, and program requirements, as administered by DEEP’s Pesticide Management Program, and not just the “*manufacturers label.*”

#### **5.2.2.5 Wetland Protection**

*Where site disturbance occurs within fifty (50) feet upgradient of a wetland, wetlands, or waters a double row of sediment barriers (e.g. hay bales, silt fence, wattles, etc.) shall be installed in accordance with the Guidelines between the disturbed area and any such downgradient wetland, wetlands or waters.*

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<sup>6</sup> Common milkweed is not recommended in areas where cattle, sheep, goats and horses might graze.

<sup>7</sup> <https://portal.ct.gov/deep/pesticides/integrated-pest-management/integrated-pest-management>

The Council supports the provision to install double rows of sediment barriers upgradient of wetlands and waters of the state. The Council suggests that this section be expanded to encourage the use of a 100-foot vegetated buffer between the construction activity and any “wetland, wetlands, or waters.” As noted in DEEP’s Tidal Wetlands Guidance Document<sup>8</sup>, “buffers that are 100 feet or greater in width provide the best protection for water quality by moderating temperature changes and improving control of erosion, sediment and pollution and provide the widest range of wildlife values.”

#### *5.2.2.9 Post-Construction Performance Standards*

*The SPCP shall include a narrative description and drawings of measures that will be installed during the construction process to minimize the discharge of pollutants in stormwater discharges that will occur after construction operations have been completed. Permittees are encouraged to consider the potential need for future resiliency measures to minimize impacts from stormwater discharges from major storm events such as hurricanes, storm surge, extreme/heavy precipitation, and flooding events.*

The Council strongly supports the provision in this section to encourage consideration of “future resiliency measures”, and the Council suggests that the General Permit include one or more references on the design and implementation of resiliency measures to provide guidance for Permittees.

#### *5.2.2.10 Post-Construction Control Measures*

##### *b. Suspended Solids and Floatables Removal*

*“A goal of 80 percent removal of the annual sediment load from the stormwater discharge shall be used in designing and installing such stormwater Control Measures.”*

The Council notes that Appendix I includes a provision that the “minimum sediment load reduction of ninety percent (90%) shall be achieved before such discharges enter or are received by a wetland or waters.” The Council suggests that the percent set forth in section 5.2.2.10 be increased from 80 percent to 90 percent to be consistent with the language/provision in Appendix I.

#### *5.2.2.11 Other Controls*

*The following additional controls shall be implemented:*

##### *a. Waste Disposal*

*Best management practices shall be implemented to minimize the discharge of litter, debris, building materials, hardened concrete waste, or similar materials to waters of the State. A narrative of these practices shall be provided in the SPCP. In addition, the dumping of liquid wastes in storm sewers is prohibited.*

To prevent the runoff of pollutants from litter, debris, building materials, etc., the Council suggests that the General Permit specify that waste storage containers, such as dumpsters, be covered and leak proof to prevent runoff of stormwater from coming into contact with solid or liquid waste.

##### *b. Washout Areas*

*Washout of applicators, containers, vehicles and equipment for concrete, paint and other materials shall be conducted in a designated washout area. There shall be no surface discharge of washout wastewater from this area. Such a washout shall be conducted:*

- outside of any buffers and at least fifty (50) feet from any stream, wetland or other sensitive resource.*

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<sup>8</sup> [https://portal.ct.gov/-/media/deep/coastal-resources/tidal\\_wetlands/tw\\_guidance.pdf](https://portal.ct.gov/-/media/deep/coastal-resources/tidal_wetlands/tw_guidance.pdf)

The Council suggests that the distance between any washout area and any “*stream, wetland or sensitive resource*” be increased to 100 feet, where feasible, especially if the washout area is upgradient from the aforementioned environmental resources.

*e. Storage of Chemicals, Petroleum Products, and Other Potential Pollutant Sources*

“*...For liquid pollutants, including, but not limited to, paints and solvents, containment shall be if meets the requirements for chemical and petroleum storage in the previous paragraph.*

The Council notes that there might be a word(s) missing in the phrase “*containment shall be if...*”

*f. Emergency Spill Response*

*Spills of oil, grease, or other harmful chemicals must immediately be cleaned by the removal of and containment of contaminated soil or emergency spill kit. An emergency spill kit, or alternative proprietary device, must be present and accessible on site for emergency removal of oil, grease, or chemical spills.*

The Council suggests that the phone number to report a spill to DEEP be included in this section of the General Permit - (Emergency Response Unit, 860-424-3338 or toll free 1-866-DEP-SPIL (1-866-337-7745), 24 hours/day).

*g. Cold Water Stream Habitat*

*For construction activities within one hundred (100) feet of any stream, river, or tributary that is included within a Cold Water Stream Habitat, as may be authorized by the Commissioner pursuant to Section 2.2.10 of this general permit, any mitigation strategies authorized by the Commissioner must be verified post-construction.*

The Council suggests that this section of the General Permit specify who will undertake verification of the mitigation strategies authorized by the Commissioner for construction activities within a Cold Water Stream Habitat.

**5.2.4 Targeted Request for Public Input - Turbidity Monitoring**

*This general permit requires control measures and best management practices to minimize sediment mobilization and offsite discharge through stormwater. Permittees must implement stormwater treatment, runoff diversion, and soil stabilization techniques. To verify the design assumptions and ensure these control measures and techniques are being installed and maintained properly, CT DEEP is seeking feedback on including turbidity monitoring as a permit requirement. Monitoring data would help evaluate the effectiveness of existing controls and identify areas needing corrective action.*

The Council supports the inclusion of turbidity monitoring as a permit requirement due, in part, to the ease of measure utilizing handheld meters and the benefits of reducing sediment in stormwater discharges. In addition to turbidity’s impact on the environment, the Council would like to emphasize the effects of turbidity on the function of drinking water treatment systems, as regulated by the Safe Drinking Water Act and the Surface Water Treatment Rule. Turbidity data will allow the Permittee and DEEP to quantify the efficacy of control measures and best management practices implemented at construction sites. The Council suggests that the General Permit include turbidity limits, monitoring protocols, and reporting requirements for stormwater outfalls discharging into the waters of the state. Furthermore, the Council recommends the turbidity monitoring be conducted at potential receiving waterbodies prior to the commencement of any soil disturbance, to establish a baseline measure of turbidity at these waterbodies.

**5.2.5.1 Plan Implementation Inspections**

*Prior to commencement of each phase of the construction activity on the site, the Permittee shall contact the designing Qualified Professional and, for Locally Exempt projects including, but not limited to, Solar Arrays subject to Appendix I, the appropriate District to ensure that all required inspections are conducted. For each phase of construction, the site shall be inspected at least once within the first thirty (30) days of*

*construction activity and at least three times, with seven (7) or more days between inspections, within the first ninety (90) days of construction activity to confirm compliance with the general permit and proper initial implementation of all Control Measures designated in the SPCP for each phase of construction.*

The Council suggests that an inspection be required following the installation of “Control Measures”, such as silt fence, prior to the start of construction activities (see section 5.1.6.1). The Council also suggests that additional inspections might be warranted for 1) large sites (e.g. 15+ acres) and/or sites with steep slopes (e.g. +15%), and 2) sites that could adversely impact Impaired Waters, Cold Water Stream Habitat, High Quality Waters, Wild and Scenic Rivers, Public Drinking Water Supply Watersheds, and Aquifer Protection Areas.

#### **5.2.5.2 Routine Inspections**

*c. “...If the Permittee must repeatedly (i.e., three (3) or more times) make the same routine maintenance fixes to the same control at the same location, even if the fix can be completed within the time periods prescribed above, the designing Qualified Professional shall investigate and develop a revised control measure to remedy the failure.”*

The Council is concerned that a control measure could “repeatedly” fail before the designing Qualified Professional is required to investigate and develop a revised control measure to remedy the failure. The Council suggests that if the control measure and the initial “fix” fails, the designing qualified professional should be required to immediately investigate and develop a revised control measure to remedy the failure in accordance with the time periods prescribed in the subsection.

#### **5.2.5.3 Post-Construction Inspection**

*a. For Locally Approvable projects, once all post-construction stormwater measures have been installed in accordance with Section 5.2.2.10 of the general permit, Post-Construction Stormwater Management, and cleaned of any construction sediment or debris, the Permittee shall ensure that the appropriate Conservation District or a Qualified Professional, as appropriate, inspects the site to confirm compliance with the post-construction stormwater management requirements...”*

The Council questions if a specific time period should be specified in this subsection as well as subsections 5.2.5.4 and 5.2.5.5. By specifying a specific time period, (e.g. within 24 months) could help ensure that “Control Measures” are removed promptly when construction activities cease, and the site has been stabilized for an appropriate amount of time.

### **Section 8 Standard Conditions**

#### **8.24 Correction of Inaccuracies**

*Within fifteen (15) days after the date a permittee becomes aware of a change in any of the information submitted pursuant to this general permit, becomes aware that any such information is inaccurate or misleading, or that any relevant information has been omitted, such permittee shall correct the inaccurate or misleading information or supply the omitted information in writing to the Commissioner. Such information shall be certified in accordance with Section 8.21.4 of this general permit.*

The Council suggests that this section of the General Permit reference the requirements of *Section 3.5 Notice of Change*.

### **Section 11 General Definitions**

The Council suggests that the following words/phrases be added to the “General Definitions”:

- “Best Available Technology Economically Achievable (“BAT”);
- “DOT Qualified Products List”, including a hyperlink<sup>9</sup>;

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<sup>9</sup> <https://portal.ct.gov/dot/-/media/dot/engineering/qpl/ctdot-qualified-product-list.pdf>

- “emergency discharge”;
- “pollutant”;
- “pollutant-generating activities”, and
- “regulated activity” (as used in section 5.1.1).

The Council questions if a state or federal agency would be considered a “*developer*”, which is defined as “*a person who or municipality which is responsible, either solely or partially through contract, for the design and construction of a project site.*” If so, the Council suggests that the definition of “*developer*” be revised to include those entities.

## Appendix A

The Council has the following suggestions for Appendix A:

- define what “significant ground disturbance” means;
- include a hyperlink to DEEP’s EZ-File system<sup>10</sup> in section 2.1;
- include information and a reference for the United States Fish and Wildlife (USFWS) Service Information for Planning and Consultation (IPaC)<sup>11</sup>; and
- include hyperlinks to referenced resources including, but not limited to, critical habitat data and how to find a qualified biologist, which is in the FAQ document on DEEP’s Natural Diversity Data Base website.

## Appendix C

The Council has the following suggestions for Appendix C:

- include protection of drinking water supply sources, such as municipal groundwater overlays, public drinking water supply watersheds, Class GA/GAA groundwaters and Class A/AA surface waters within the overview section since the title of the document is “*Aquifer Protection Areas and Other Groundwater Drinking Supply Areas Guidance Information*”;
- include a hyperlink for the Department of Public Health’s Public Water Supply Mapping Application<sup>12</sup>;
- include a citation for Connecticut General Statutes Sec. 8-3i. **Notice to Department of Public Health and water company re applications, petitions, requests and plans re land within aquifer protection area or watershed of water company**; and
- include or reference the provisions from DPH’s General Construction Best Management Practices for Sites within a Public Drinking Water Supply Area<sup>13</sup> in Section 4.0 *Recommended Measures for Aquifer Protection Areas (APAs)*.

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

Sincerely,



Paul Aresta,  
Executive Director

<sup>10</sup> <https://filings.deep.ct.gov/DEEPPortal/>

<sup>11</sup> <https://ipac.ecosphere.fws.gov/>

<sup>12</sup> <https://maps.ct.gov/portal/apps/experiencebuilder/experience/?id=1a8bf90b37b24affaeb41a41d71c9417&draft=true>

<sup>13</sup> [https://portal.ct.gov/-/media/departments-and-agencies/dph/dph/drinking\\_water/pdf/bmpfactsheetpdf.pdf?rev=cc90ba9f37e1419aa330a624cabf0958&hash=C625CAB379A1D2B12F7E098BED4F6B14](https://portal.ct.gov/-/media/departments-and-agencies/dph/dph/drinking_water/pdf/bmpfactsheetpdf.pdf?rev=cc90ba9f37e1419aa330a624cabf0958&hash=C625CAB379A1D2B12F7E098BED4F6B14)