Connecticut Department of
ENERGY &
ENVIRONMENTAL
PROTECTION

Briefing on the Proposed Water Resources Construction General Permit
March 2024

Permit Overview

This general permit is being issued under the authority of and administered by the Department of Energy and Environmental Protection's (DEEP's) Bureau of Water Protection and Land Re-Use, Land & Water Resources Division.

This general permit authorizes various water resource construction activities which require an Inland Wetlands and Watercourses and / or Water Diversion permit. For the purposes of this general permit, authorization under 22a-45a is limited to any proposed regulated activity conducted by any department, agency, or instrumentality of the state, except any local or regional board of education.

This general permit has been designed to make certain efficiencies to the state permitting process for Inland Wetland & Watercourses (state actions) and Water Diversion permits. This general permit does not change or modify federal or municipal permitting requirements.

The current general permit is set to expire on April 2, 2024. The proposed *General Permit for Water Resources Construction Activities* is being reissued and modified.

Authorizing Statutes

Sections 22a-45a and 22a-378a (b) of the Connecticut General Statutes

Recent Changes

Two new categories are being added to the GP:

1. **Minor Activities on State Property** – This category is being created to provide a regulatory mechanism for when a private entity proposes to conduct work in a regulated area on state property. Legal counsel has advised that municipalities do not have regulatory jurisdiction on actions that occur on state property. This issue is prevalent among many of our inland lakes where the state may own the lake bottom and an adjacent property owner may have a right or easement to access the lake.

Key points to this category (1) we have established this category as a maintenance plan as we do not want to create a burden on other units within DEEP. Maintenance plans require a state agency to apply once to DEEP for approval of a statewide plan. Each individual action is then covered under the approved plan. (2) Another important element is a private entity must demonstrate that they have the legal right to encroach onto state land to be covered under this General Permit. This will also assist with limiting the number of encroachments on state land.

There has been extensive coordination with LAM and legal counsel on drafting this category.

2. **Infrastructure Repairs**

This category is being created as a direct result of the changes to the Clean Water Act and the federal 401 regulations. The current Water Resources Construction General Permit has a direct tie into the federal permitting process. Under the current Water Resources Construction GP, state agencies can file with DEEP for an Inland Wetlands permit (there is no review / approval) provided they have received 404 / 401 Water Quality Certification approval from the Army Corps of Engineers under the ACOE Regional General Permit for the State of CT. Recent changes in federal law have not only created a greater divide between state and federal wetlands but also placed limits on our ability to place certain conditions on our 401 WQC approvals.

Under the new Water Resources Construction General Permit we still have some connections to the federal permitting process. However, the proposed GP limits the filing only category to activities that have less than 5,000 square feet of wetland impact.

This new category will alleviate concerns that DOT has regarding timeframes and gives the Department greater flexibility in placing enforceable conditions on authorizations when needed.

Existing Categories

- Thresholds of allowable impacts have been increased slightly in a few existing categories.

- The existing **Public Works** category has been modified to allow for state agencies to upgrade their existing facilities to address climate change and extreme weather events. The Public Works category has been renamed "**Facility Upgrades for Resilience**" and the activities

within the category have been expanded to include, but are not limited to the following;

- Construction of a dry egress pathway for emergency access to an existing facility;
- installation of geotextiles or vegetative buffer strips for slope stabilization;
- elevation of an existing site for the purposes of providing dry floodproofing;
- raising of an existing structure above the base flood elevation;
- improvements to existing stormwater management systems;
- installation of a generator for the purposes of providing emergency backup power.

Application Process

There are three different processes built into this general permit which are described below:

The following categories of this general permit listed below require a written approval from the Commissioner.

1. **Maintenance Plans: Drainage, Beach, Boat Launch, Trail and Minor Activities on State Property.**

   Anyone applying for authorization under a maintenance plan listed in Section 3a (1) – (5) of this general permit shall first submit the request for authorization form with supporting documentation. Regulated activities may occur once the Commissioner has given a written approval of the maintenance plan. A maintenance plan is designed to authorize certain activities described in a plan at multiple facilities or sites. Such maintenance plan shall describe the location of any such facilities, describes in detail maintenance activities to be carried out and typical design specifications and plans for such activities, estimates of the quantities of material to be placed or removed in connection with such maintenance activities, describes procedures for disposal of excess material and solid waste generated in connection with such maintenance activities, and the best management practices to be implemented while conducting such maintenance activities.

2. **Site Specific Activities: Trail Construction, Facility Upgrades for Resilience, Infrastructure Repairs and Conservation Activities**

   Anyone applying for authorization under Section 3a (6), (7), (8) or (9) of this general permit shall first submit the request for authorization form with supporting documentation and then receive written approval from the Commissioner prior to conducting any regulated activity.

3. **Filing only Category – Infrastructure Projects with Interagency Coordination**

   The following categories of this general permit listed below are "filing-only". For those activities eligible for authorization under Section 3(a) (10) of this general permit, where written approval from the commissioner is **not** required, the effective date of authorization of such activity shall be the date the commissioner receives the filing fee, a completed request for authorization for such activity and acknowledgement from the Department that the activity is eligible under this general permit.

Permit Duration

The General Permit for Water Resources Construction Activities will be valid for a period of ten years from the date of issuance.