Storm Water Permits at Construction Sites

August 2004

For more information:


NPDES General Permit for Storm Water Discharges from Construction Activities - Fact Sheet can be found at: http://www.epa.gov/npdes/pubs/cgp2003_fs.pdf


Federal Register, August 4, 2003 (68 FR 45817) - Final Reissuance of the NPDES Storm Water Construction General Permit for the Commonwealth of Massachusetts and Indian Country in Massachusetts.

Boston Water and Sewer Commission’s Regulations Governing the Use of Sanitary and Combined Sewers and Storm Drains, the Requirements for Site Plans and information concerning Drainage Discharge Permits can be obtained by contacting the Engineering Customer Services Division of the Commission at (617) 989-7000, or at http://www.bwsc.org.

For additional copies of this brochure, contact

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This brochure by the Boston Water and Sewer Commission is based on the fact sheet “Storm Water Permits at Construction Sites” dated July 1995 prepared by New England Interstate Water Pollution Control Commission (NEIWPCC) with funding provided through a grant from EPA-New England (CP001748).
Storm water runoff is precipitation (rain or snow melt) that cannot be absorbed by the soil and, instead, washes off the surface of the land. As stormwater flows over a construction site, it picks up pollutants that may be transported into nearby surface waters by the runoff and can impair sport and commercial fishing, restrict swimming, and affect the navigability of many of our nation’s waters. Preventing soil erosion and sedimentation is an important responsibility at all construction sites.

In addition to the environmental impact, uncontrolled erosion can have a significant financial impact on a construction project. It can cost money and time to repair gullies, replace vegetation, clean sediment-clogged storm drains, replace poorly installed best management practices (BMPs) and mitigate damage to other people’s property or to natural resources.

To address storm water runoff, Congress directed the U.S. Environmental Protection Agency (EPA) to develop a federal program to regulate certain high priority storm water discharges. One such high priority source of pollutant loading is construction activity. EPA requires permits for storm water discharges from “large construction activities” as defined at 40 CFR 122.26(b)(14)(x) including clearing, grading, and excavation activities that result in the disturbance of equal to or greater than five (5) acres of total land area but is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than five acres. Also, effective July 1, 2003 EPA now requires permits for storm water discharges from “small construction activities” as defined at 40 CFR 122.26(b)(15) including clearing, grading, and excavating activities that result in the disturbance of equal to or greater than one (1) acre and less than five (5) acres or will disturb less than one (1) acre of total land area but is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than one (1) acre or less than five (5) acres.

**What is Storm Water?**

Storm water runoff is precipitation (rain or snow melt) that cannot be absorbed by the soil and, instead, washes off the surface of the land. As stormwater flows over a construction site, it picks up pollutants that may be transported into nearby surface waters by the runoff and can impair sport and commercial fishing, restrict swimming, and affect the navigability of many of our nation’s waters. Preventing soil erosion and sedimentation is an important responsibility at all construction sites.

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**History of Storm Water Regulations**

To address storm water runoff, Congress directed the U.S. Environmental Protection Agency (EPA) to develop a federal program to regulate certain high priority storm water discharges. One such high priority source of pollutant loading is construction activity. EPA requires permits for storm water discharges from “large construction activities” as defined at 40 CFR 122.26(b)(14)(x) including clearing, grading, and excavation activities that result in the disturbance of equal to or greater than five (5) acres of total land area but is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than five acres. Also, effective July 1, 2003 EPA now requires permits for storm water discharges from “small construction activities” as defined at 40 CFR 122.26(b)(15) including clearing, grading, and excavating activities that result in the disturbance of equal to or greater than one (1) acre and less than five (5) acres or will disturb less than one (1) acre of total land area but is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than one (1) acre or less than five (5) acres.

**Do I Need a Storm Water Permit?**

How do you determine if you need a storm water discharge permit for your construction activity? First, examine the planned activity. If you answer “yes” to all of the following questions, you will need a storm water permit for your construction activity.

- Is the total site one (1) acre or more?
- Is the total planned disturbance one (1) acre or more?
- Is the storm water conveyed through a pipe, ditch, or swale?
- Is the storm water discharged to waters of the United States (river, pond, brook, stream [perennial or intermittent], or wetland) or to a Municipal Separate Storm Sewer (storm drain)?

In short, if a construction activity (clearing, grading, or excavation) disturbs one (1) acre or more and has a point source discharge of storm water to waters of the United States, it needs a storm water discharge permit.

Don’t confuse the EPA storm water discharge permit with other federal, state, or local programs or permits. You will still need a permit from EPA, or a delegated state, for a storm water discharge even if you have a valid Clean Water Act (CARS) SSW permit from the U.S. Army Corps of Engineers. You may also need approval from state or local agencies (conservation commissions, soil and erosion control agencies (conservation commissions, soil and erosion control agencies or districts) to discharge to, or perform construction activities near, a watercourse, wetland, floodplain, or a Municipal Storm Sewer (storm drain).

In Boston, authorization from the Boston Water and Sewer Commission is required for construction of a new or reactivated service connection to the water, sewer or drainage system. The BWSC also requires a Drainage Discharge Permit for the discharge of construction site dewatering to the Commission’s sewer or storm drain system.

**What To Do If You Need a Permit**

If you need a permit, the simplest thing to do is seek coverage under the existing general permit for storm water discharges from construction activities. For Massachusetts, it can be found in the July 1, 2003 Federal Register (68 FR 39087) and August 4, 2003 Federal Register (68 FR 45917). A general permit means “What you see is what you get.” To get coverage under the general permit, all you have to do is:

- Determine if you are eligible.
- Make sure you understand and are willing to comply with the conditions of the general permit.
- Develop a storm water pollution prevention plan prior to submitting the Notice of Intent to EPA. (Retain the pollution prevention plan on site and submit a copy to BWSC. You don’t have to submit it to EPA.)
- Submit a Notice of Intent to EPA with a copy sent to BWSC at least 2 days prior to the intended construction activity (clearing, grading, or grubbing).

Compliance with the general permit means that you have a pollution prevention plan which addresses all the permit requirements, that you maintain the plan on site, log all inspections and results, and update the plan as necessary. When you have achieved final stabilization at the site, submit a Notice of Termination for the construction activity. The final product should be reviewed to determine if a post-consumption permit is required.

**Other Permits**

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**Who Should Apply for a Permit?**

The owner, developer, or general contractor can apply for the permit. All parties with day-to-day responsibility for site operations should submit a Notice of Intent as co-permittees following the initial permit application.