

**SPDES General Permit for Stormwater Discharges from
Construction Activity (GP-0-10-001) - Requirements for Well
Drilling Activities**

Dated: April 1, 2010

Note: Requirements apply to Well Drilling activities that are consistent with the 1992 Generic Environmental Impact Statement (1992 GEIS) for oil and gas well drilling.

Well Drilling Activities Subject to the SPDES General Permit for Construction Activity

The New York State Department of Environmental Conservation (NYSDEC) is requiring Construction Stormwater General Permit Coverage for Article 23 Drilling Activities (non-high volume hydraulic fractured wells) that are not covered by the Multi-Sector General Permit. Generally, this means that well activities requiring an Article 23 well drilling permits which disturb one or more acres of land must also obtain coverage under the NYSDEC General Permit for Stormwater Discharges associated with Construction Activity (the Construction Stormwater General Permit is available at: <http://www.dec.ny.gov/chemical/43133.html>).

As acknowledged by the existing Final Generic Environmental Impact Statement on the Oil, Gas and Solution Mining Regulatory program, well sites must be properly managed to avoid pollution via stormwater runoff. While this impact has previously been managed through the Article 23 well permitting program, NYSDEC will now require coverage under the SPDES program to implement the recent court decision, in *Natural Resources Defense Council v. United States Environmental Protection Agency*, 526 F.3d 591 (9th Cir. 2008), vacating EPA's 2006 oil and gas construction stormwater regulation. Beginning May 31, 2010, NYSDEC will implement a plan to ensure that all eligible well sites are covered under the Construction Stormwater General Permit.

An owner or operator of a well drilling site should follow the information below to comply with the requirements of the Construction Stormwater General Permit (GP-0-10-001).

1) Develop a Stormwater Pollution Prevention Plan

Prior to any ground disturbing activities the operator must develop a Stormwater Pollution Prevention Plan (SWPPP). A SWPPP includes the following components:

A. Erosion and Sediment Control (E&SC):

The SWPPP shall describe the erosion and sediment control practices that will be used and/or constructed to reduce the pollutants in stormwater discharges and to assure compliance with the terms and conditions of GP-0-10-001. The SWPPP,

along with the basic requirements of E&SC, must show access roads, well pad limits, the location of the runoff and erosion control devices. The SWPPPs (general narrative and site map) must clearly identify the extent of the disturbed areas. The New York Standards and Specifications for Erosion and Sediment Control is available at: <http://www.dec.ny.gov/chemical/29066.html>

B. Post-Construction Stormwater Management Controls:

The driller may also be required to address post construction water quality controls and water quantity controls if they construct permanent access roads or well pads. The current copy of the New York State Stormwater Management Design Manual, which details post construction stormwater control structural practices, is available at: <http://www.dec.ny.gov/chemical/29072.html>. In addition, NYSDEC is expanding the options available for post construction controls by including non-structural practices and vegetative measures that result in the preservation of the natural conditions of the site and runoff reduction. The draft modifications to the Design Manual are available at <http://www.dec.ny.gov/chemical/41392.html>. A SWPPP must include an operation and maintenance plan to be followed by the owner/operator. All post construction practices need to be maintained and kept in operational condition.

2) Submit a Notice of Intent (NOI)

Prepare and submit a completed NOI

(<http://www.dec.ny.gov/chemical/43133.html#Forms>) to the Department at the address below:

NYSDEC, Division of Water
Bureau of Water Permits
625 Broadway, 4th Floor
Albany, NY 12233-3505

Please note that the fee for gaining coverage under the SPDES General Permit for Construction Activity is a one-time fee of \$100 per acre of disturbance and a one-time fee of \$600 per acre for impervious areas. Impervious areas on drill sites are generally paved areas, compacted gravel roads, and gravel well pads. In addition, the permittee will be charged \$100 for each calendar year the site is covered under the permit.

If your SWPPP is prepared in conformance with the State technical standards, construction may commence in 5 days from the receipt of a completed NOI. The SWPPPs that deviate from the State technical standards must allow 60 business days to provide an opportunity for the Department to review the proposed SWPPP.

3) Implement the SWPPP

The operator must implement the SWPPP by installation of the planned practices, keep them in operational condition and follow the required inspection schedule. A written copy of the SWPPP must be kept onsite by the operator to ensure adherence to the plan and to be available for the inspector's review. In addition, the operator must hire a qualified inspector to perform weekly site inspections. The qualified inspector must prepare a weekly inspection report that identifies any corrective actions needed in the implementation of the SWPPP.

4) Permit Termination

The permit may be terminated once construction is complete and the site has achieved final stabilization. Once the site achieves final stabilization the driller must submit a notice of termination (NOT) signed by the owner or operator and a qualified inspector. The NOT form is available at: <http://www.dec.ny.gov/chemical/43133.html#Forms>. In cases where the site is subject to post-construction controls, an enforceable maintenance plan must be prepared as a part of the SWPPP and be implemented by the owner/operator of the site as long as the well pads, access roads, and associated stormwater practices exist.

Sites, where complex conditions are present, including those that may require issuance of an individual permit, will be addressed on a case-by-case basis. If there are any questions, you may seek guidance by emailing your questions to dowinfo@gw.dec.state.ny.us or contact the General Permits Section at the following phone numbers:

- Dave Gasper at 518-402-8114, permit requirements and SWPPP components.
- Toni Cioffi at 518-402-8109, NOI processing.
- Shohreh Karimipour 518-402-8123, general program questions and policy issues.
- For training opportunities on E&SC standards and qualified inspectors please visit <http://www.dec.ny.gov/chemical/8699.html>