

## NYC Stormwater Construction Permit

### Intro

The City's Municipal Separate Stormwater Sewer System (MS4) Construction Permitting Program will affect covered development projects in the MS4 area. Covered development projects are construction projects that disturb one (1) or more acres of soil and either:

Discharges to a New York City owned or operated separate storm sewer system

Or

Are located on NYC owned or operated sites that drain by overland flow to waters of New York State.

Two permits are available under the program: the Stormwater Construction Permit and the Stormwater Maintenance Permit.

### Grandfathering

Covered development projects that received coverage under the New York State Department of Environmental Conservation Construction General Permit (GP-0-15-002) prior to June 1, 2019 do not need to apply for a permit from DEP. Receiving coverage means having a letter of acknowledgment of notice of intent for coverage under the New York State Department of Environmental Conservation (NYSDEC) construction general permit (CGP) issued by NYSDEC before June 1, 2019.

### Stormwater Construction Permit

All covered development projects in the MS4 area must obtain a Stormwater Construction Permit from DEP. To obtain a Stormwater Construction permit, applicants must complete an on-line application and a Stormwater Pollution Prevention Plan (SWPPP). SWPPPs must be uploaded for review and approval by DEP. The SWPPP is almost the same as it was for coverage under the NYSDEC CGP.

### Important NYC SWPPP Requirements for the Stormwater Construction Permit Application

Like the NYSDEC SWPPP, projects will still be required to provide:

- ✓ Delineation of SWPPP implementation responsibilities for each part of the site
- ✓ Existing data that describes Stormwater runoff

A NYC SWPPP may also require:

- ✓ No-Net Increase Analysis
- ✓ List of required NYC Permits
- ✓ Project area slope

### No- Net Increase Requirements

All waterbodies designated as impaired in Appendix 2 of the MS4 Permit issued to the City of New York by NYSDEC, are subject to No-Net Increase Requirements. These segments, listed in in the New York City Stormwater Design Manual (the manual) are impaired for phosphorous, nitrogen, floatables and/ or

pathogens. Chapter 3 of the manual gives details of how each pollutant of concern needs to be addressed in the SWPPP and provides a link to the No-Net Increase Calculator (<https://www1.nyc.gov/assets/dep/downloads/pdf/water/stormwater/ms4/nni-calculator.xlsx>) that addresses nitrogen loads.

### **Important Requirements**

- Linear projects require only erosion and sediment control to meet the permit requirements as long as the project surface is restored to the same surface type
- A Stormwater Construction Permit must be obtained before construction may begin
- A Stormwater Construction Permit is a required item for NYC Department of Buildings review in the MS4 Area
- Routine Maintenance is not considered a covered development project, it does not require a Stormwater Construction Permit
- Projects that include post construction stormwater management practices will have to file for a Stormwater Maintenance Permit (See Stormwater Maintenance Permit Fact Sheet)
- Projects that do not require post construction stormwater management practices, still need to complete a Notice of Termination on the SWPTS.

### **FAQs:**

#### **How do I make sure the project is located in the MS4 Area?**

Use the interactive MS4 map and MS4 Rules for guidance. For further verification, please fill out a Records Request Form from DEP BWSO and comment that you are looking to see if your project is in the MS4 area. (<https://www1.nyc.gov/site/dep/about/request-records.page>)

#### **Do I still have to get coverage under NYSDEC Construction General Permit after I receive my MS4 SWPPP Acceptance Form?**

Yes, after you have received the MS4 SWPPP Acceptance form, you will still need to fill out a NYSDEC Notice of Intent (NOI) and get coverage under the NYS Construction General Permit. When filing for coverage, the MS4 SWPPP Acceptance Form must be attached to the paper NOI or uploaded with the digital application.

#### **How do I apply for the NYC DEP Stormwater Construction Permit?**

Go to our Stormwater Permitting and Tracking System (SWPTS) portal at <https://deppermits.microsoftcrmpartals.com>, also check out the Stormwater Permitting and Tracking System User's Manual at <https://www1.nyc.gov/site/dep/water/construction-post-construction-program-ms4.page>.

#### **What is the soil disturbance threshold for the Stormwater Construction Permit?**

The current soil disturbance threshold that requires a Stormwater Construction Permit is one (1) acre. Any project that will result in the disturbance of one or more acres of soil must get a Stormwater Construction Permit. Soil disturbance includes, but is not limited to activities such as land contour work, clearing, grading, excavation, demolition, construction, reconstruction, new development, redevelopment, creation or replacement of impervious surface, stockpiling activities or placement of fill.

## Would I still have to apply for a MS4 Stormwater Construction Permit if my site only partially drains to an MS4 Area?

The amount of area that currently drains to the MS4 Area would need to be determined by a qualified design professional; if the area is above the disturbance threshold then a stormwater construction permit would be required.

## What should be included in the SWPPP?

For further guidance on SWPPP requirements, please use our SWPPP template on our MS4 Construction Permits page (<https://www1.nyc.gov/site/dep/water/construction-post-construction-program-ms4.page>) and the New York City Stormwater Design Manual, also on the web page.

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## NYC Stormwater Maintenance Permit

### Projects with Post-Construction Practices

All projects on Table 2 of Appendix B in the NYSDEC CGP must include post construction stormwater management practices to address stormwater quality and quantity. In NYC, these projects will need to apply for and maintain a Stormwater Maintenance Permit. A Stormwater Maintenance Permit assures the long term operation and maintenance of stormwater management practices that have been installed as part of a covered development project.

All projects that will be covered by Stormwater Maintenance Permits, must first be covered by Stormwater Construction Permits. Before a Stormwater **Construction** Permit may be issued, applicants must submit a Stormwater Maintenance Easement (<https://www1.nyc.gov/assets/dep/downloads/pdf/water/stormwater/ms4/post-construction-stormwater-maintenance-easement.pdf>). The stormwater maintenance easement will need to be completed, and filed before DEP will be allowed to issue a Stormwater Construction Permit for a project that will be subject to a Stormwater Maintenance Permit.

### Stormwater Maintenance Permit

Stormwater Maintenance Permits are required for projects with post-construction stormwater management practices (SMPs) in the MS4 area. To apply, a qualified professional and a DEP MS4 Inspector must sign off on site stabilization as part of the final inspection. Required permit application documents include as-built plans, sewer certifications, operation & maintenance manuals, and the invert heights of the SMPs. Stormwater Maintenance Permits are required to obtain a Certificate of Occupancy or Letter of Completion from NYCDOB.

From the date DEP issues the permit, owners must submit a yearly certification to DEP confirming that the SMP is operating as designed. Owners must also renew their permit every five years. Renewal requests are due to DEP no less than 30 days prior to the permit expiration date and must include a report certified by a qualified professional that the SMPs are operating as designed. If the SMP has a

structural component, a New York State Licensed Professional Engineer must perform inspections and certifications.

In the Stormwater Permit and Tracking System (SWPTS), the Notice of Termination intake is combined with the Stormwater Maintenance Permit application if the project was identified as having post construction practices when filing for a Stormwater Construction Permit.

### **Filing a Notice of Termination (NOT)**

Before filing an NOT with NYSDEC, you must complete the NOT section on the SWPTS. Once the information is entered and all the appropriate people have signed off on the NOT, DEPs Inspector will make sure all the information is acceptable. If DEP accepts the NOT information, a DEP signed NOT will be generated in SWPTS for downloading and wet signature of the project team for submission to NYSDEC.

If your project does not have post construction practices, you do not have file for a Stormwater Maintenance Permit. You **do** have to file for an NOT through the SWPTS system; once DEP accepts the filed information, a NYSDEC NOT form with DEP signature will be generated in the SWPTS.

### **FAQs:**

#### **How do I get DEP to sign off on my maintenance easement?**

To get DEP signoff, the Stormwater Maintenance Easement template (see MS4 Construction Permit Resources at our [website](#)) must be filled out and mailed to DEP MS4 Construction Permitting, 9<sup>th</sup> floor, 59-17 Junction Blvd., Flushing, NY 11373 for DEP signature. DEP will mail the signed version back to the applicant. The signed document must be filed with the City Register or the Richmond County clerk, before the Stormwater Construction permit may be issued. The applicant must upload a copy of the filed documents with the Permit Initiation.

#### **Why do I have to apply for a Stormwater Maintenance Permit?**

The Stormwater Maintenance Permit is intended to provide for the long term operation and maintenance of stormwater management practices. The permit assures that all property owners maintain their practices protecting the quality of the surface waters in and around New York City.

**For further information, please go to our website:**

<https://www1.nyc.gov/site/dep/water/construction-post-construction-program-ms4.page>

**Contact us by email: [ms4construction@dep.nyc.gov](mailto:ms4construction@dep.nyc.gov)**