

## **Introduction**

Construction General Permit (CGP) 3-9020 (2006) is available for permitting stormwater discharges from construction activities involving one or more acres of earth disturbance where permittees take steps to prevent erosion and control sediment discharge from the construction site.

Permitting requirements are based upon the risk of having eroded soil leaving the site in stormwater runoff. The risk depends upon the nature of the construction site (soils, slopes, etc.) as well as of the proposed construction activities (the use of phasing, rapid stabilization of disturbed soils). There are two categories of risk that qualify for use of CGP 9020: Low Risk and Moderate Risk. Projects that pose a special risk to water quality are not eligible for this permit, and must be covered by an Individual Discharge Permit.

## **Evaluating the 1-acre Threshold - Common Plans of Development**

The 1 acre threshold includes all disturbance associated with the entire planned project from the effective date of the CGP (September 13, 2006) forward. Therefore, smaller projects within a larger common plan of development that will have 1 or more acres of disturbance may require a permit, even if the smaller project has less than 1 acre of disturbance. A Common Plan of Development is defined by the CGP as, “A plan for a development that is to be completed in phases or stages when such phases or stages require a common state or local permit related to the regulation of land use, the discharge or wastewater or the discharge to surface waters or groundwater, or a development designed with shared common infrastructure.” If the entire development has not been planned in detail, the best estimate for disturbance should be made.

Additional development of a parcel that follows completion of the original common plan components shall be considered as separate from the original common plan for the purposes of evaluating whether 1 or more acres of land will be disturbed. For example, a house lot is completed in a subdivision that requires a construction stormwater permit. The house owner then plans to install a pool with a total disturbance of less than 1 acre. Since the pool construction follows the completion of the original common plan components for this parcel, it is not considered part of the common plan of development and does not require a permit since it involves less than 1 acre of disturbance. If the pool were added to the common plan during the construction of the house, it would be considered part of the common plan since it would be developed concurrently with the house.

## **How to Determine the Risk Category for Your Project**

In order to determine the risk of a proposed project, you must complete the questions in Appendix A of the permit. This procedure involves answering a series of Yes or No questions related to site conditions and construction plans. Accurate completion of Appendix A will determine whether the project is Low Risk, Moderate Risk, or requires an Individual Discharge Permit.

## Independent Projects within a Common Plan of Development

When answering the questions in Appendix A for individual components of larger common plans of development (e.g. residential subdivision lots), you may consider only the work associated with the individual component, provided it is an Independent Project. CGP 9020 defines Independent Projects as those that meet one or more of the following criteria:

1. Each phase is constructed separately, with no construction of phases occurring simultaneously.
2. Phases do not share a common landowner or a common principal operator.
3. One of the phases is a support activity outside of the common plan of development (e.g. spoil disposal area or fill material source).

For example, consider a residential subdivision. The original developer plans to build the roads and common infrastructure and sell lots to individuals to complete construction of houses on their own. The original developer would permit the roads and infrastructure, answering the Appendix A questions with regard to these activities only. A separate application would then be filed by each individual lot owner, with Appendix A reflecting the conditions for their independent house construction.

For phases of larger common plans of development that are not independent, the answers to the Appendix A questions must reflect the entire development. For example, an applicant decides to permit each phase of a three-phase project under separate NOIs. However, the phases will overlap in time and will all be built by the same operator. Since the phases are not independent, the answers to Appendix A for each separate NOI application must reflect all of the three phases (i.e. the Appendix A answers would be the same for each application).

## Application Process for Low Risk Projects

For projects which qualify as Low Risk based on the completed Appendix A questions, applicants must certify that the applicable practices contained in the *Low Risk Site Handbook for Erosion Prevention and Sediment Control* will be implemented. This certification is included in the Notice of Intent form. To file a complete application, submit the following materials:

1. A complete Notice of Intent (NOI) form, including a completed Appendix A. The NOI must show when the application was posted at the office of the municipalities where the project will take place.
1. A check for payment of the processing fee. Checks should be made payable to 'State of Vermont'. Effective July 1, 2010, the fee is \$36 for Low Risk projects.

Upon receipt of a complete and accurate NOI application and fee, the required 10-day public comment period will begin. If no comments are received, the authorization will be issued on the first business day following the public comment period. Permittees will receive the authorized NOI form and a copy of the *Low Risk Site Handbook for Erosion Prevention and Sediment Control*.

## Application Process for Moderate Risk Projects

For projects which qualify as Moderate Risk based on the completed Appendix A questions, applicants must submit a site-specific Erosion Prevention and Sediment Control (EPSC) Plan. The EPSC Plan must conform to the *Vermont Standards and Specifications for Erosion Prevention and Sediment Control*, and in many cases will require the expertise of a consultant conversant with these concepts.

To file a complete application for a Moderate Risk Project, submit the following materials:

2. A complete Notice of Intent (NOI) form, including a completed Appendix A. The NOI must show when the application was posted at the office of the municipalities where the project will take place.
3. A check for payment of the processing fee. Checks should be made payable to 'State of Vermont'. Effective July 1, 2010, the fee is \$300 for Moderate Risk projects.
4. A site-specific EPSC Plan.
5. Completed EPSC Plan Summary Sheets.

Applicants are encouraged to submit their applications **sixty days** prior to the anticipated start date.

Upon receipt of a complete and accurate NOI application and fee, the required 10-day public comment period will begin. If no comments are received, the authorization will be issued once the EPSC Plan is reviewed by technical staff for conformance with the standards and the permit. Permittees will then receive the authorized NOI form and a manual of forms for the On-Site Plan Coordinator to maintain project compliance.

For further information on this or other stormwater permits, visit the Stormwater Section website at: [www.vtwaterquality.org/stormwater.htm](http://www.vtwaterquality.org/stormwater.htm). All permits, forms, and technical support materials are available on this website.

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