



Major Changes in OCRM Permits

*What are the changes
and how will they impact
your development project?*

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It is no secret that development along the South Carolina coast is booming. Opportunities are bringing in developers and contractors who are new to the area as well as causing increased growth in existing companies. Many who are new to or becoming more involved in the development industry are often unaware of the requirements contained in the Permit to Construct issued by the Office of Coastal Resource Management (OCRM).

Under new legislation, enacted September 1, 2006, the regulations governing the OCRM permit have become even more stringent and will have a significant effect on construction projects in South Carolina's coastal counties.

What is the intent of this permit?

The South Carolina OCRM Storm Water Permit is part of the larger National Pollutant Discharge Elimination System (NPDES). In 1987, an amendment to the federal Clean Water Act required the Environmental Protection Agency to regulate storm water discharges. In South Carolina, OCRM has been delegated review and oversight of the new NPDES General Construction Permit.

The main focus of these regulations is to reduce soil erosion and the subsequent sedimentation from entering water bodies of the State. It is estimated that, in South Carolina, these factors are the leading cause of impaired water, accounting for 70 to 90 percent of all polluted water in the State.

Pollutants such as oil and grease, pesticides, fertilizers, and construction waste can be carried in runoff attached to soil particles. Sediment itself screens out sunlight affecting plant and oxygen levels, and reduces water body capacities by filling channels, ponds, reservoirs and by blinding storm drain systems which can lead to flooding and property damage.

These factors may seem minimal when seen through the context of a single site, but, when taken as a whole throughout the State and the coastal counties in particular, the impact is significant.

What are the changes?

The OCRM Permit to construct always contained requirements and best management practices as part of their existing permit program. However, the application of these practices has been upgraded to reflect new materials, technologies and methods of managing storm water runoff. More importantly, the new regulations give the agency a more integrated position in the design and construction of a development. At the same time, they increase the Owner's, Contractor's and Engineer's responsibility and involvement in the agency's efforts to protect the State's water quality.

The following is a short list of the most important changes to the NPDES Construction General Permit, designated under the new title, Phase II:

- Land disturbing activities greater than or equal to one acre must obtain NPDES permit coverage.
- Land disturbing activities of more than one-half acre within one half mile of a receiving water body in the South Carolina Coastal Zone must obtain NPDES permit coverage.
- A Storm Water Pollution Prevention Plan (SWPPP) must be submitted by the Engineer of Record. The new best management practices and construction details must be included in the engineering drawings as part of the permit submittal.
- Permit review requirements and schedules have been defined to minimize review time. For Projects reviewed by the South Carolina Department of Health and Environmental Control (SCDHEC), the Construction General Permit (CGP) is automatically granted twenty days after receiving a complete submittal. If reviewed by a delegated entity such as OCRM, the CGP is automatically granted after seven days. However, the submittal must be technically and administratively complete; otherwise, the submittal is returned for correction, and the process repeated.
- It is now required that prior to any on-site construction, and as a component of the Construction General Permit application, the owner must designate which contractor(s) involved in ground disturbing activities will be named as a co-permittee to the CGP. Contractors or sub-contractors not identified as co-permittee's must be identified and sign the Co-Permittee Agreement nevertheless, indicating that they understand and may be held accountable to DHEC/OCRM for adhering to the Storm Water Pollution Prevention Plan.
- For projects that disturb ten acres or more, a Pre-Construction Conference is now required. It will be mandatory attendance for all contractors involved in land disturbing activities, the co-permittee, and the preparer of the SWPPP.
- An approved, stamped and certified copy of the SWPPP (plan set) , a copy of the permit, the Notice of Intent, and the Construction General Permit must be kept on site and be available for OCRM staff review at all times.

The NPDES Construction General Permit now includes regulations and guidelines pertaining to storm water inspections. These outline frequency of inspection, content, and reporting procedures based on the size and complexity of the project. In general, a report must be filed at least once every seven days, or at least once every fourteen calendar days and within twenty four hours of the end of a storm event of one-half inch or greater. For sites disturbing ten acres or more, monthly reports must be submitted.

The inspections must be conducted by qualified personnel under the following categories:

- For sites disturbing less than two acres, the permittee or his designee may perform the inspections and prepare the reports, provided the preparer of the SWPPP, or someone with an equivalent registration, and explains the inspection requirements to them.
- For sites disturbing greater than two acres the inspector must be DHEC approved through the Construction Site Inspector Certification Course (CEPSI), the preparer of the SWPPP or a person of equivalent registration, or a person under direct supervision of the preparer who has specific experience related to sedimentation and erosion control.

Enforcement actions

- OCRM will now issue a Stop Work Order if work is being performed without a SWPPP or if failure to adhere to the SWPPP causes degradation to adjacent land or water bodies.
- Violations of the Storm Water Permit can result in a civil penalty of \$1,000.00, with each day considered a separate violation.
- If the non-compliance results in land or water degradation, it can be considered a violation of the State Pollution Control Act. This would be considered a misdemeanor criminal penalty with fines not less than \$500.00 per day and not exceeding \$25,000.00 per day and/or not more than two years imprisonment. Civil penalties can also be levied at this level, with fines not to exceed \$10,000.00 a day.

How Will These Changes Impact a Development Project?

The major impact to the developer will come in the form of additional project costs reflecting the time and effort required to install, maintain and monitor the status of the sedimentation and erosion control devices. This will vary based on the project's size, complexity, and location.

As more projects begin under the new NPDES Construction General Permit, there will be a learning curve period for site/utility contractors who are unaware of the permit changes. Care will need to be taken by the project team to plan for and include these costs during the bidding phase of their projects in order to prevent misunderstandings in scope that could result in change orders or project delays.

The best course of action for those involved in the development community will be to educate and align themselves with design professionals who are well informed and have participated in the State's Certified Erosion Prevention and Sedimentation Control Inspection program.



The Purpose of the Certified Erosion Prevention and Sediment Control Inspector Program is to educate field personnel on the proper installation, maintenance, and inspection of erosion prevention and sediment control measures at construction sites.

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