



CELEBRATING
55 YEARS

nerej

Connecticut construction projects may incur increased costs with new permit requirements

April 15, 2009 - Connecticut

Most construction sites in the state are currently covered under the General Permit for the Discharge of Stormwater and Dewatering Wastewaters Associated with Construction Activities (commonly called the Construction Stormwater General Permit). This permit regulates sediment and erosion controls on construction sites to protect downstream properties, rivers, wetlands and lakes from pollution by stormwater runoff. The Connecticut Department of Environmental Protection (DEP) has drafted revisions to the existing permit that change how Connecticut reviews stormwater and sediment controls for construction. If enacted, these new regulations could increase permit compliance costs, and possibly add one to three months to the construction schedule for most major projects in Connecticut. Public and private owners should be aware of these changes in planning the scheduling and financing of their projects.

The Existing Process

Under the current construction review process for most projects, sediment and erosion controls are regulated at the local level: inland wetlands, zoning or planning approvals. A Construction Stormwater Permit typically requires that a registration form be submitted to the DEP at least 30 days prior to the start of construction along with a fee; usually \$250-\$500 depending upon whether it's a municipal or private project. In some cases, this permit registration is done simultaneously with construction document preparation, but frequently private projects are ready to start clearing and grubbing right after local approvals. The DEP reviews the sediment and erosion control plans to verify that they are consistent with the 2002 CT Soil Erosion and Sedimentation Control Guidelines. DEP can require revisions, but typically do not because of earlier local review. Projects that are registered with the DEP are automatically approved if there are no comments. DEP inspectors may visit sites during construction, but their ability to do so is limited by available manpower. Connecticut municipalities may inspect construction sites for permit compliance, or may require third-party inspection as part of the site plan approval conditions. State projects, such as ConnDOT road projects, are reviewed by the DEP, and may have inspection built into the project budget.

The Proposed Process

DEP is proposing a new permit process to provide greater review of registrations and more inspection during construction. Some key features of the new draft process include:

- * Longer Timeframes: a 30 day review may now become a 60-90 day review
- * Reviewing Agency Changes: local soil and water conservation districts would now review the S&EC plans, not DEP staff. There are five conservation districts in CT with 1-2 staff per district office capable of reviewing the permit applications. These districts might have to add staff in order to handle the increased workload.
- * Stormwater Review: conservation districts would look at stormwater management system and

treatment Best Management Practices (BMPs), not just sediment and erosion controls. Guidance Documents stress using Low Impact Development BMPs (vegetated swales, rain gardens, porous pavement, etc.) versus oil separators, underground detention pipes and detention basins. This will likely impact how much of the site is available for use and development.

* Potential Redesign: additional stormwater review by a new agency could potentially conflict with site plans that municipal agencies have already approved and require redesign for modification of approvals.

* New Fee Schedule: has not yet been established, but is anticipated that fees will increase.

* Additional Inspection: conservation districts are required to inspect sites, not the DEP. Enforcement authority is not yet clearly defined. There will also be new inspection and testing requirements for owners during construction; including turbidity testing and monthly reports to the DEP.

Summary

Clean water in the state's wetlands, streams and rivers is important to everyone, and having good erosion controls on construction sites is necessary to protect those natural resources. The proposed Construction Stormwater Permit will be a significant change from the existing system that will impact the review time, construction schedule, permit costs and overall project costs for many municipal and private owners. The DRAFT Construction Stormwater General Permit is currently being circulated, and is anticipated to take effect in October 2010.

Terry Gallagher, PE is a project manager and civil engineer at Tighe & Bond, Shelton, Conn.

New England Real Estate Journal - 17 Accord Park Drive #207, Norwell MA 02061 - (781) 878-4540