



Legislation Text

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Res. No. 651

Resolution calling upon the New York State Department of Environmental Conservation to strengthen the draft Phase II State Pollutant Discharge Elimination System General Permit for Stormwater Discharges from Construction Activity, Permit No. GP-02-01.

By Council Members Gennaro, Baez, Brewer, Felder, Gerson, Jackson, Liu, Lopez, Nelson, Sanders, Serrano and Weprin

Whereas, New York City's drinking water supply is a critical resource for eight million New York City residents, approximately one million residents of Westchester County, and a multitude of others who work in and visit the City; and

Whereas, Stormwater is the largest source of pollutants that enters New York City's water supply; and

Whereas, Polluted stormwater runoff from construction sites may include sediment and other pollutants, such as heavy metals, oil, gasoline, pesticides, solvents, asphalt and acids that are transported to and ultimately discharged into local rivers, streams and reservoirs without treatment; and

Whereas, According to the United States Environmental Protection Agency (EPA), studies have shown that the amount of sediment transported by stormwater runoff from construction sites with no controls is significantly greater than from sites with controls; and

Whereas, Phase II of the National Pollutant Discharge Elimination System Stormwater Program covers small construction activities disturbing between one and five acres of land, with consideration for smaller sites under certain conditions; and

Whereas, Pursuant to Section 402 of the federal Clean Water Act and Parts 122 and 123 of Title 40 of the Code of Federal Regulations (CFR), individual states may establish their own stormwater permit program, so long as the program meets the established requirements of the EPA; and

Whereas, The EPA has authorized the New York State Department of Environmental Conservation (DEC) to establish its own stormwater permit program; and

Whereas, The DEC implements New York State's program to control polluted stormwater runoff pursuant to Article 70 and Titles 7 and 8 of Article 17 of the Environmental Conservation Law; and

Whereas, The DEC issued its draft Phase II State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activity, Permit No. GP-02-01 ("Draft Construction Permit"), on September 18, 2002; and

Whereas, A general permit issued pursuant to Parts 122 and 123 of Title 40 of the CFR is not specifically tailored to an individual discharger, but authorizes a category of discharges within a geographic area; and

Whereas, The Draft Construction Permit, when finalized ("Construction Permit"), will apply to stormwater runoff from construction activities in all of New York State, including the watersheds of New York City's reservoirs; and

Whereas, The provisions contained in the Draft Construction Permit are insufficient to adequately protect New York City's drinking water supply from polluted stormwater runoff; and

Whereas, The Construction Permit should not delegate the DEC's enforcement authority to local governments, but, rather, should strengthen the DEC's authority by adding provisions to the Construction Permit authorizing the agency to issue "stop work" orders in instances of significant noncompliance; and

Whereas, The Construction Permit should greatly limit construction activities on steep slopes and on clay soils since erosion and sediment from construction sites can be detrimental to bodies of water; and

Whereas, The Construction Permit should require that, wherever possible, applicants implement better site design principles that can reduce the impact of construction projects; and

Whereas, The Construction Permit should include strict standards for applicants to follow, rather than merely encouraging applicants to conform to DEC standards; and

Whereas, The Construction Permit should include language that makes clear that Stormwater Pollution Prevention Plans (SWPPPs) must be fully engineered plans that provide very specific details with respect to stormwater controls, including construction phasing, natural resource protection and re-vegetation, that would be implemented both during and after construction; and

Whereas, The Construction Permit should clearly state the pollution reduction goals that SWPPPs must be designed to achieve and identify specific criteria for the removal of total suspended sediments and total phosphorus from construction site stormwater flows, both during and after construction; and

Whereas, The Construction Permit should set forth clear standards that compel compliance with applicable total maximum daily loads and State water quality standards; and

Whereas, The Construction Permit should clearly require that every SWPPP include post-construction stormwater treatment practices; and

Whereas, The Construction Permit should clearly require that all SWPPPs include provisions for inspections, record-keeping, maintenance and stabilization and that such requirements apply to both erosion and sediment control and stormwater management measures in all SWPPPs; and

Whereas, The Construction Permit should require the treatment of a sufficient volume of runoff from heavy precipitation events and impose permanent stormwater controls that are designed to handle such events; and

Whereas, The Construction Permit should include provisions to protect wetlands, lakes, streams and their associated buffer areas; and

Whereas, The Construction Permit should include provisions that require stormwater treatment and control structures to be maintained by their owners so as to retain their designed pollutant removal efficiencies, to be designed to survive major storms and to be situated so that regular maintenance is facilitated; and

Whereas, The Construction Permit should make clear that enforceable controls on polluted runoff will become effective at the initiation of a construction disturbance, rather than when a polluted stormwater discharge occurs; and

Whereas, The Construction Permit should retain the requirement contained in the current General Permit that self-inspections be conducted every seven days, as opposed to every fourteen days, since an enormous amount of construction disturbance can occur over a fourteen-day period, and should also require that such inspections be conducted prior to anticipated storm events and after all rain events; and

Whereas, The Construction Permit should retain the requirement that all self-inspection reports be prepared by a qualified professional whose report certifies, under penalty of law, whether site violations were identified and, if so, the steps necessary to correct those violations, or that the site is in full compliance; and

Whereas, The Construction Permit should ensure that SWPPPs and weekly self-inspection reports are readily available to the public upon request; and

Whereas, The Construction Permit should retain the requirement contained in the current General Permit that any construction site be limited to five acres of disturbed and unstabilized soils at any one time to reduce sediment loadings to wetlands and watercourses by limiting exposed soils and facilitating the onsite capture of eroded soils and sediments; and

Whereas, The Construction Permit should require that, for construction projects in the watersheds that feed the City's reservoirs, all information maintained under the Permit be made readily available to the New York City Department of Environmental Protection (DEP) and all information submitted to the DEC be simultaneously submitted to the DEP; and

Whereas, The above amendments to the Draft Construction Permit are necessary to effectively and comprehensively protect against polluted stormwater runoff from new construction activity in the watersheds that feed the City's reservoirs; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Department of Environmental Conservation to strengthen the draft Phase II State Pollutant Discharge Elimination System General Permit for Stormwater Discharges from Construction Activity, Permit No. GP-02-01.

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