



# **FACT SHEET**

**For**

**NEW YORK STATE  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

**SPDES GENERAL PERMIT  
FOR STORMWATER DISCHARGES**

from

**MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4s)**

Permit No. GP-0-08-002

Issued Pursuant to Article 17, Titles 7, 8 and Article 70  
of the Environmental Conservation Law

April, 2008

**New York State Department of Environmental Conservation  
SPDES General Permit for Stormwater Discharges from  
Municipal Separate Storm Sewer Systems (MS4s) (GP-0-08-002)**

FACT SHEET

The New York State Department of Environmental Conservation (NYSDEC) issued the SPDES General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4s) (GP-0-08-002) in April, 2008. This permit will be effective on May 1, 2008. This permit replaces the SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s) (GP-02-02) and has been revised to increase clarity of the NYSDEC's expectations of permittees.

The permit is required by United States Environmental Protection Agency (USEPA) regulation 40 CFR Part 122 to meet a Federal Clean Water Act requirement to control discharges of municipal stormwater. The basic structure of the permit and, except for the watershed improvement strategies, permit requirements are similar to permit requirements that apply to municipalities nationwide under the Clean Water Act. The watershed improvement strategies address lakes, reservoirs and embayments where the waters do not meet water quality standards by including additional requirements to reduce pollutant discharges to these waters.

The SPDES General Permit for Stormwater Discharges from MS4s (GP-0-08-002) is a 2 year permit that covers new and existing discharges of stormwater to waters of the United States from MS4s as defined in 40 CFR 122.26(b)(16).

Certain stormwater discharges from a point source are unlawful, unless authorized by a National Pollutant Discharge Elimination System (NPDES) permit or by a state permit program. New York's State Pollutant Discharge Elimination System (SPDES) is a NPDES-approved program with permits issued in accordance with the Environmental Conservation Law (ECL). Municipalities with separate storm sewers in urbanized or additionally designated areas must obtain permit coverage through an individual MS4 SPDES permit that addresses the stormwater discharges, under the SPDES General Permit for Stormwater Discharges from MS4s (GP-0-08-002), or obtain a waiver from coverage.

This general permit has changed compared to the previous general permit. A few of the changes have increased the number of pages of the permit. The following additional information included is expected to be helpful for the MS4s:

- The permit format has changed to include minimum control measures (MCMs) for both traditional land use control MS4s (cities, towns, villages) and traditional non-land use control / non-traditional MS4s (county, state, and federal MS4s - prisons, hospitals, transportation, office buildings, etc). This was done to provide clarification and to have in place MCMs that more appropriately target the non-land use control / non-traditional MS4s. Additional MCMs have also been identified for MS4s within TMDL watersheds;
- Selected items required for annual reporting have been included with each of the MCMs. There are required reporting elements for permittees developing their stormwater management programs (SWMPs) (newly regulated permittees - MS4s not permitted under GP-02-02) and for permittees implementing their SWMPs (permittees continuing coverage - MS4s permitted under GP-02-02). The information reported on should be the MCMs that all permittees are required to meet (Part VII for traditional land use control MS4s or Part VIII for traditional non-land use control MS4s and non-traditional MS4s) and the additional Best Management Practices (BMPs) (Part IX) that permittees subject to the watershed improvement strategies are required to meet; and

- Definitions were taken from footnotes and incorporated into a stand-alone section. Appendices with a list of the impaired stream segments subject to the permit requirements, and maps of the TMDL watersheds have been added to the permit. The impaired stream segment list includes impaired waters for which TMDLs have been established, for which existing controls such as permits are expected to resolve the impairment, and those needing a TMDL.

### **Additional Designations**

There are some additional areas requiring MS4 permits, resulting from application of Criterion 1 of the New York State Department of Environmental Conservation FINAL Designation Criteria for Identifying Regulated Municipal Separate Storm Sewer Systems (MS4s).

Criterion 1 designates additional areas as requiring MS4 permits as follows:

- Criterion 1: MS4s discharging to waters for which an EPA-approved TMDL required reduction of a pollutant associated with stormwater beyond what can be achieved with existing programs (and the area is not already covered under automatic designation as UA).

Because EPA has approved several TMDLs and is expected to approve one more before the permit is issued, additional areas where MS4 permits are required in accordance with criterion 1 are as follows:

Southold (T)  
 East Hampton (T)  
 Shelter Island (T)  
 Greenport (V)  
 Dering Harbor (V)

### **Permit Coverage**

- Coverage for permittees authorized under GP-02-02 (continuing permittees) will be automatically continued when this permit is renewed.
- MS4s not authorized under GP-02-02 (newly regulated permittees) must file an NOI if they are required to gain coverage under this general permit. MS4s newly authorized under this general permit by August 1, 2008, will have 3 years from the effective date of the permit to develop their SWMP and commence implementation. A three year time frame was chosen instead of a 5-year time frame because guidance and assistance documents are available that were not available at the time of the original phase II permit issuance. Department and partnering agency staff are familiar with the program and its requirements.

### **Shared Annual Reporting**

- Shared annual reporting (one annual report for multiple permittees) facilitates inter-municipal cooperation and is allowed by the permit. The shared annual reports must include:
  - information about the shared activities performed, procedures and policies adopted by all MS4s and any other information that's applicable to all of the MS4s working together;
  - information about the individual activities performed, procedures and policies for each individual MS4 (ie the number of plans reviewed by an MS4);
  - each MS4 is required to complete a municipal compliance certification (MCC) form
  - MS4s working together need to state shared activities on each participating MS4s

- MCC form, sign the certification stating that they are in fact working together, and verify that the information presented in the shared annual report is correct;
- submit all signed MCCs of participating MS4s with the shared annual report.

### **Additions and clarifications to specific MCMs**

- MCM 1
  - need to determine pollutants of concern in water bodies the MS4 discharges to, if not done so already;
  - allows for incorporated / integrated education and outreach, training, etc. reporting in MCM 1; and
  - clarified that for traditional non-land use control MS4s and non-traditional MS4s their “public” is staff, visitors, contractors, students, or other individuals, depending on the type MS4;
  
- MCM 2
  - 30 day public comment period on the annual report is not required;
  - allows for annual report to be presented on a readily accessible website;
  - traditional non-land use control (County) MS4s are required to present their annual report at a public meeting; and
  - non-traditional MS4s are not required to present the annual report at a public meeting;
  
- MCM 3
  - all permittees are required to:
    - determine preliminary storm sewer shed boundaries;
    - map their storm sewer system, where economically feasible, in accordance with available *State* and EPA guidance;
    - field verify their outfall locations;
    - conduct outfall reconnaissance inventory (ORI) for a minimum of 20% of the outfalls a year; and
    - mapping of new outfalls as they are constructed or discovered;
  
  - *Regulatory Mechanism:*
    - Traditional land use control MS4s - require certification by the attorney representing the MS4 that laws, ordinances or mechanisms be equivalent to “NYS DEC Model Local Law to Prohibit Illicit Discharges, Activities and Connections to Separate Storm Sewer Systems”;
    - Non-traditional MS4s - require MS4s to incorporate prohibitions of illicit discharges and enforcement against illicit dischargers into requests for proposals, standard contract or other language, policies, procedures or other mechanisms available to the MS4s; and
    - Traditional non-land use control MS4s - required to prohibit illicit discharges and enforce against illicit dischargers using county health department laws or other mechanisms available to them.
  
- MCM 4 & 5
  - *Regulatory Mechanism*
    - Traditional land use control MS4s - require gap analysis or certification by an attorney representing the MS4 that laws, ordinances or mechanisms be certified as equivalent to “NYS DEC Sample Local Laws for Stormwater Management and

- Erosion and Sediment Control”;
- Non-traditional MS4s / Traditional non-land use control MS4s:
  - require MS4s to incorporate policies, procedures and requirements they develop into requests for proposals, standard contract or other language, existing policies, existing procedures or other mechanisms available to the MS4s; and
  - requirements for control of waste, SWPPP review procedures, site inspection / enforcement were removed because those MS4s are the permittee for construction projects, they will not be performing compliance review of their own plans. Those requirements will be covered when the MS4s gain coverage under the construction general permit for their project(s);
- MCM 4
  - require that all SWPPPs be reviewed;
  - require MS4s to establish and maintain an inventory of active construction sites; and
- MCM 5
  - require MS4s to establish and maintain an inventory of post-construction stormwater management practices; and
- MCM 6
  - require MS4s to self assessments of municipal operations, if not already done so;
  - determine the operations actually in the urbanized area;
  - to determine potential pollutant sources; and
  - to determine if pollutants are POCs to the waterbodies that the MS4 discharges to.

### **Watershed Improvement Strategies**

There are also additional requirements for MS4s in watersheds where the reasonable potential to violate water quality standards has been judged to require additional controls. The Watersheds are the East of Hudson Watershed, the Onondaga Lake Watershed, the Greenwood Lake Watershed, the Oyster Bay Watershed, the Peconic Pathogen Watershed and the Peconic Nitrogen Watershed.

In accordance with 6NYCRR 750-1.11(5) and (9) and 40 CFR 122.44(d), SPDES permits must address discharges with the reasonable potential to cause or contribute to an in-stream excursion above the allowable ambient concentration of standards and guidance values set forth or calculated in accordance with 6NYCRR Part 700 to 706. Permits for discharge with such a reasonable potential must include requirements to enhance pollutant reductions.

In each of the watersheds subject to additional requirements in the draft permit, discharges of stormwater have already caused excursions or have the reasonable potential to cause excursions. In some cases the reasonable potential occurs where the discharge reaches classified waters of the state. In other cases, the reasonable potential occurs further downstream.

However, it is not practical or achievable to set traditional, outfall specific, effluent limitations to control these discharges. There are far too many outfalls and those outfalls’ contributions of pollutants occur primarily during storm events, making the analysis more difficult than it has been for the relatively fewer traditional industrial and municipal steady state discharges.

Instead the permits propose enhanced and consistent pollution controls to apply throughout watersheds where stormwater discharges are identified as having the reasonable potential to cause or contribute to excursions in the stream in which the discharge occurs. These pollution controls are expected to be the necessary first steps toward preventing and eliminating excursions. In the

fullness of time, the success of the controls included in these permits will be evaluated. If they are found to fall short in preventing and eliminating water quality excursions, further enhanced controls will be applied.

#### New York City Watershed East of the Hudson River

In the East of Hudson New York City Watershed the controls proposed are based in large part on recommendations from the Center for Watershed Protection (CWP) report entitled 'Recommendations for Developing an NPDES Phase II Stormwater General Permit for Municipal Separate Storm Sewer Systems in the East of Hudson Watershed'.

The CWP report recognizes that the East of Hudson Watershed is amongst the most sensitive watersheds in New York State that supplies drinking water to millions of people, but at the same time experiences substantial development pressure. Because the needed reductions will be so difficult to attain, and because the conditions that apply in the East of Hudson New York City Watershed are targeted to practices that prevent and reduce phosphorus contributions to the entire watershed. Because protection of drinking water is at the top of the environmental protection hierarchy, the conditions that apply to the East of Hudson Watershed are the most rigorous to be included in the permit.

#### Other Phosphorus Watersheds

The permit also includes requirements for other phosphorus watersheds where protections are to assure fishing and swimming best uses, but not used as a source of drinking water. Each of these watersheds require significant reductions of Phosphorus from stormwater in order to meet water quality standards.

#### Pathogen and Nitrogen Watersheds

Very similar to the permit conditions that apply to Phosphorus watersheds, permit conditions apply to Pathogen and Nitrogen watersheds that have the reasonable potential to exceed established in-stream criteria for pathogens.

Those areas that are subject to those additional tiering requirements are:

### **EAST OF HUDSON WATERSHED IMPROVEMENT STRATEGIES**

#### **PUTNAM COUNTY**

Brewster (V)  
Carmel(T)  
Kent(T)  
Patterson(T)  
Putnam Valley(T)  
Southeast(T)

#### **DUTCHESS COUNTY**

Beekman(T)  
East Fishkill(T)  
Pawling(V)  
Pawling(T)

#### **WESTCHESTER COUNTY**

Bedford(T)  
Cortlandt(T)  
Harrison(T)

Harrison(V)  
Lewisboro(T)  
Mt. Kisco(T)  
Mt. Pleasant  
New Castle(T)  
North Castle(T)  
North Salem(T)  
Pound Ridge(T)  
Somers(T)  
Yorktown(T)

## **ADDITIONAL PHOSPHORUS WATERSHED IMPROVEMENT STRATEGIES**

### **ONONDAGA LAKE WATERSHED**

Camillus(V)  
Camillus(T)  
Cicero(T)  
Clay(T)  
Dewitt(T)  
E. Syracuse(V)  
Geddes(T)  
Lafayette(T)  
Liverpool(V)  
Manlius(T)  
Marcellus(V)  
Marcellus(T)  
N. Syracuse(V)  
Onondaga(T)  
Salina(T)  
Solvay(V)  
Syracuse(C)  
Van Buren(T)

### **GREENWOOD LAKE**

Greenwood Lake(V)  
Warwick(T)

## **PATHOGEN WATERSHED IMPROVEMENT STRATEGIES**

### **OYSTER BAY**

Bayville(V)  
Brookville(V)  
Cove Neck(V)  
Glen Cove(C)  
Lattingtown(V)  
Matinecock(V)  
Mill Neck(V)  
Muttontown(V)  
Old Brookville(V)  
Oyster Bay(V)(T)  
Oyster Bay Cove(V)

Upper Brookville(V)

**PECONIC ESTUARY**

Brookhaven(T)  
Dering Harbor (V)  
East Hampton (T)  
Greenport (V)  
Riverhead(T)  
Shelter Island (T)  
Southampton(T)  
Southampton(V)  
Southold (T)

**NITROGEN WATERSHED IMPROVEMENT STRATEGIES**

**PECONIC ESTUARY**

Brookhaven(T)  
Riverhead(T)  
Southampton(T)