



Department of
Environmental
Conservation

FACT SHEET

**For
Proposed Modification
to the**

NEW YORK STATE

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

SPDES GENERAL PERMIT

FOR STORMWATER DISCHARGES

FROM

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

Permit No. GP-0-15-003

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

January 13, 2016

Page left intentionally blank

INTRODUCTION

The NYSDEC has modified the State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (MS4 GP), GP-0-15-003, to address the compliance schedule issue decided in the January 2012 decision of the Westchester County Supreme Court (Supreme Court) in Natural Resources Defense Council, et al., v. New York State Department of Environmental Conservation. The Supreme Court held that NYSDEC failed to specify compliance schedules with respect to effluent limitations and water quality standards. NYSDEC did not appeal the Supreme Court's decision with regard to compliance schedules. Therefore, the January 2012 decision of the Supreme Court is controlling solely on the issue of compliance schedules.

Pursuant to 6 NYCRR 750-1.14 and the January 2012 decision, the compliance schedule requirement in the context of the MS4 GP applies exclusively to any MS4 that is subject to stormwater reduction requirements stated in a Total Maximum Daily Load (TMDL) that has been approved by the United States Environmental Protection Agency (See Part IX of GP-0-15-003). Specifically, the Supreme Court stated in its decision that “[t]he inclusion in the 2010 MS4 Permit of timetables for the submission of [Watershed Improvement Strategies] and achievement of [Pollutant Load Reductions] assumes that some, if not all, of the discharges by MS4s covered thereunder are not in compliance with applicable effluent limitations and water quality standards at the time of authorization, yet all of the dates for compliance provided in the [Watershed Improvement Strategies] and [Pollutant Load Reductions] timetables are more than nine months from the effective date of the permit. Consequently the specification in the permit of compliance schedules was mandatory and the failure to do so was unlawful.”

An advanced notice of proposed permit was published for public review and comment in the Environmental Notice Bulletin (ENB) on July 8, 2015. On September 16, 2015, NYSDEC published in the ENB a draft modification to GP-0-15-003 to formally receive input from the public on the proposed changes. The proposed changes included a semi-annual report for MS4s that are subject to Part IX that identifies the enhanced pollutant-specific best management practices (BMPs) performed in the reporting period. Implementation of those BMPs as prescribed in the general permit demonstrates that progress is being made towards achieving the reduction requirements for compliance with the TMDL.

In response to the draft modification, NYSDEC received eight sets of comments. NYSDEC reviewed the comments and made minor changes to the draft modification to clarify the interim reporting requirements. In addition, changes have been made to the proposed reporting forms to better reflect the permit requirements and to clarify applicability for non-traditional MS4s. The reports do not need to be prepared by an engineer or other professional. To further reduce costs for reporting, covered entities may also elect to file joint reports for each impaired waterbody where the requirements are shared.