



FACT SHEET

For

**NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
SPDES PERMIT
for
STORMWATER DISCHARGES
from
Municipal Separate Storm Sewer Systems
of
New York City**

Permit No. NY-0287890

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

July 31, 2015

INTRODUCTION

The New York State Department of Environmental Conservation (NYSDEC) has issued the State Pollutant Discharge Elimination System (SPDES) permit for Stormwater discharges from Municipal Separate Storm Sewer Systems (MS4s) Owned or Operated by the City of New York (NYC), NY-0287890. This permit becomes effective on August 1, 2015. This permit was initiated by the NYSDEC to address stormwater discharges from NYC's MS4s. The SPDES Permits for NYCDEP's Waste Water Treatment Plants (WWTP SPDES permits) currently include the MS4 requirements. The WWTP SPDES permits are currently being modified pursuant to 6 NYCRR 621.13. Upon the effective date of this permit, MS4 requirements contained in the WWTP SPDES permits are superseded by the requirements contained in this permit.

BACKGROUND

NYC is considered a large MS4 subject to the Phase I stormwater permitting requirements specified in the Clean Water Act. The requirements in the Code of Federal Regulations, 40 CFR §122.26(d), for large MS4 discharges formed the basis of the requirements in this permit. In addition, the following sources were consulted in drafting this permit:

1. NYSDEC SPDES General Permit for Stormwater Discharges from MS4s (GP-0-10-002, dated May 2010 and modified October 2011 and GP-015-003, dated May 2015 and modified July 15, 2015);
2. MS4 Improvement Guide (EPA Publication 833-R-10-001), April 2010;
3. Individual MS4 permit programs from other Phase I MS4s such as Philadelphia, Los Angeles, Chicago, Houston, and District of Columbia.

PERMIT COVERAGE AND LIMITATIONS

This permit authorizes the stormwater discharges from NYC, as a large MS4, currently existing within the jurisdictional boundaries of NYC (urbanized area), and limited to those MS4 outfalls owned by NYC, provided all of the eligibility provisions are met. The intent of this permit is to manage urban sources of stormwater runoff to protect overall water quality and improve water quality in impaired waters. The provisions in this permit acknowledge current and future planned improvements as part of NYC's Combined Sewer Overflow (CSO) Long Term Control Plan (LTCP) process and the impact of non-MS4 sources and planned controls for those sources.

This permit requires measures that will ensure that NYC adopts specific practices that will control the various sources of pollutants and their means of entry into the MS4, reducing pollution system-wide to the maximum extent practicable (MEP) with the goal of attainment of water quality standards. Under this permit, NYC is required to develop a Stormwater Management Program (SWMP) Plan that addresses public education and participation, illicit discharges, construction sites, post construction stormwater management practices and its own (municipal) facilities and operations similar to the controls required for every small MS4 under the SPDES General Permit for Stormwater from Municipal Separate Storm Sewer Systems (MS4 General Permit). In addition, the permit requires an industrial user and industrial source control program, as required by the Phase I regulations, and a program to control floatable and settleable trash and debris. Part IV of the permit contains prescriptive requirements as to the SWMP contents that represent the technology based effluent limits. The requirements found in Part II of the permit include further control measures for impaired waters that constitute the water quality based effluent limits. Attainment of water quality standards in waters to which NYC MS4s discharge will require an iterative approach consistent with Section 402(p)(3)(b) of the Clean Water Act, and the permit will operate in conjunction with other efforts such as CSO LTCPs.

The following provides a brief summary of the major components of the permit requirements:

Jurisdictional Authority & Communication

The permit defines the jurisdictional authority, responsibilities and roles of NYC in managing stormwater within the jurisdictional boundaries of NYC. The following areas are regulated under the permit, which ultimately discharge to MS4 outfalls owned by NYC: NYC-owned storm sewers; High Level Storm Sewers (with the exception of facilities that are sited near High Level Storm Sewers but discharge to combined sewers) and Bluebelts; construction activities covered under a general SPDES permit; industrial stormwater facilities/areas. The permit also regulates NYC municipal operations and facilities that drain by overland flow (direct drainage) to surface waters of New York State. NYC is not required to administer and monitor the construction and industrial stormwater facilities/areas, permitted under general SPDES permits, for: 1) facilities and operations that drain directly into surface waters of New York State through pipes or open channel conveyances, which are not NYC owned or operated separate storm sewers; and 2) facilities and operations, which are not NYC municipal facilities and operations, that drain by overland flow to surface waters of New York State. The NYSDEC will continue to regulate facilities covered under a SPDES individual permit, SPDES general permitted non-traditional MS4s and concentrated animal feeding operation (CAFO) facilities/areas that discharge directly and wholly to waters of New York State, including those that discharge through NYC's MS4.

Legal Authority

The permit requires that NYC develop and maintain the authority to carry out all aspects of its SWMP, including requiring the control of pollutants flowing into the MS4, having access to inspect sources of pollutant discharges, and being able to compel compliance and issue citations in the event of violations. Legal authority will be required for construction site runoff control, post-construction/permanent runoff control, industrial and commercial inspections, and illicit discharge detection and elimination programs.

Enforcement Measures & Tracking

The permit requires that NYC develop an escalating enforcement policy that clearly describes the action to be taken for common violations. The policy must describe the procedures to ensure compliance with local ordinances and standards, including the sanctions and enforcement mechanisms that will be used to ensure compliance.

Stormwater Management Program (SWMP) Plan

The permit contains the requirements for a SWMP that when implemented as prescribed in the permit will reduce stormwater pollutants to the MEP and allows NYC some flexibility in selection of the management practices that will be used to meet the requirements. The permit requires that NYC develop a SWMP plan that describes how it will meet the requirements of the permit. The SWMP plan is a consolidation of all of NYC's relevant ordinances or other regulatory requirements, a description of all programs and procedures (including standard forms to be used for reports and inspections) that will be implemented and enforced to comply with this permit and to document the selection, design, and implementation of all stormwater control measures. NYC is required to submit its SWMP plan to NYSDEC for approval within three years of the effective date of this permit. The permit requires that the SWMP plan describe priorities for implementing the required elements in the following areas:

Public Education & Outreach – The permit requires that NYC develop an education/outreach program tailored and targeted to specific water quality issues of concern within NYC's jurisdictional boundaries. In addition, NYC must develop a process to assess how well its program is changing public awareness and behaviors and determine what changes are necessary to maximize the effectiveness of its public education program.

Public Involvement/Participation – The permit requires that NYC develop and implement a public involvement/participation program that provides the opportunity for the public to participate in the development, implementation, review and major revision of the SWMP.

Illicit Discharge Detection & Elimination (IDDE) and Mapping – The permit requires that NYC develop, implement and enforce an IDDE program. To the extent existing programs do not satisfy the requirements of this program, NYC is required to include appropriate modifications or additions in the SWMP plan. This program must include the following:

- A storm sewer system drainage area map, showing the location of NYC owned or operated MS4 outfalls discharging to surface waters of the State;
- An ordinance, or other regulatory mechanism that prohibits (to the extent allowable under State or local law) illicit discharges and certain non-storm water discharges into the MS4, and appropriate enforcement procedures and actions;
- A plan to detect and eliminate unauthorized non-stormwater discharges, including illegal dumping, into the MS4;
- A plan to ensure staff performing IDDE tasks are adequately trained;
- The education of public employees, businesses, and the general public about the hazards associated with illegal discharges and improper disposal of waste; and
- The determination of appropriate best management practices (BMPs) and measurable goals to ensure that illicit discharges are not discharged through the MS4.

Construction Site Stormwater Runoff Control – The permit requires that NYC develop, implement, and enforce a program to reduce pollutants in stormwater runoff to its MS4 from construction activities. To meet this permit requirement, NYC will need to:

- Adopt an ordinance or other regulatory mechanism requiring the implementation of measures to control water runoff, construction materials and debris, and erosion and sediment from construction sites;
- Develop written procedures for site plan review of construction plans that consider potential water quality impacts;
- Develop written procedures for site inspection and enforcement of control measures;
- Develop sanctions to ensure compliance;
- Develop procedures for the receipt and consideration of complaints and other information submitted by the public;
- Develop and maintain an inventory of active construction sites within its jurisdiction;
- Conduct a study to determine the appropriate soil disturbance threshold for triggering the applicability of the construction site program; and
- Select and assess appropriate construction BMPs and measurable goals to ensure the reduction of Pollutants of Concern (POCs).

Post Construction Stormwater Management – The permit requires that NYC develop, implement and enforce a program to reduce pollutants in post construction runoff to its MS4 from new development and redevelopment projects. To meet this permit requirement, NYC will need to:

- Develop and implement strategies which include a combination of structural and/or nonstructural BMPs;
- Develop an ordinance or other regulatory mechanism requiring the implementation of post-construction runoff controls to the extent allowable under State or local law;
- Develop and maintain an inventory of post-construction stormwater management practices within its jurisdiction;
- Develop written procedures for Stormwater Pollution Prevention Plan (SWPPP) reviews and inspections to ensure that all projects that are subject to post-construction stormwater management requirements comply with the SPDES General Permit for Stormwater Associated with Construction Activity;
- Ensure adequate long-term operation and maintenance of stormwater management practices by trained individuals, including inspections to ensure practices are performing properly; and
- Conduct a study to determine the appropriate soil disturbance threshold for triggering the applicability of post construction stormwater management requirements at new development and redevelopment sites considering water quality improvements, compliance costs, local site conditions, number of affected public and private properties, type of development/zoning, total area managed, impervious surface coverage and other relevant factors.

Pollution Prevention/Good Housekeeping for Municipal Operations – The permit requires that NYC develop and implement a pollution prevention/good housekeeping program for municipal operations and facilities to ensure that such operations and facilities are not a significant source of pollutants. To meet this requirement, NYC will need to:

- Prepare a prioritized inventory of municipal operations and facilities with initial prioritization into high, medium and low categories on the basis of potential for water quality impact;
- Assess all municipal operations and facilities at specified frequencies based on their potential for water quality impacts;
- Implement management practices, policies and procedures to reduce or prevent the discharge of pollutants from its municipal operations and facilities;
- Ensure that all municipally owned or operated facilities or operations discharging stormwater associated with industrial activity have coverage under the MSGP or this MS4 permit;

- Incorporate runoff reduction techniques and green infrastructure during planned municipal upgrades, if feasible and cost-effective;
- Assure that flood management projects assess the impacts on water quality of receiving waters and evaluate existing structural flood control devices to determine if retrofitting the device to provide additional pollutant removal from stormwater is feasible; and
- Implement retrofits, where determined to be feasible and cost-effective, during major maintenance or rehabilitation of flood management projects.

Industrial Stormwater Sources – The permit requires development of an inspection plan to assess whether unpermitted private industrial and commercial facilities require MSGP coverage, as well as maintain an inventory of facilities and make necessary referrals to NYSDEC. This permit also requires NYC, through adequately trained staff, to conduct inspections and appropriate enforcement of covered MSGP facilities. To meet this permit requirement, NYC will need to:

- Adopt an ordinance or other regulatory mechanism providing NYC with the authority to require the implementation of proper control measures at applicable industrial and commercial sites;
- Develop written procedures for site inspection and enforcement of control measures;
- Ensure that staff conducting inspections is adequately trained;
- Develop sanctions to ensure compliance;
- Develop procedures for tracking inspections; and
- Develop a plan to inspect and assess unpermitted industrial and commercial facilities that have the potential to generate significant contributions of POCs to impaired waters.

Control of Floatable and Settleable Trash and Debris – The permit requires NYC’s stormwater program to target and control floatable and settleable trash and debris. To meet this permit requirement, NYC will be required to first develop a methodology to determine baseline load and identify the best available control technologies that can be implemented within NYC. NYC must also evaluate its existing programs and determine how/if they should be modified to meet the objective of minimizing the discharge of floatable materials from its separate storm sewer system. Once the methodology is approved, NYC will have two years to commence the study to determine the baseline load. During the interim NYC is required to implement existing catch basin programs and implement a floatable and settleable trash and debris reduction media campaign to further educate the public on trash and debris control issues. The permit allows NYC to prioritize waterbodies and drainage areas and consider the relative impacts with non-MS4 sources and planned controls for those sources.

Water Quality Based Effluent Limits – The permit includes additional controls for impaired waters where more stringent controls are necessary:

Impaired Waters without TMDLs - The permit does not authorize new discharges of pollutants causing existing water quality impairments so that reductions achieved through the required pollution control measures are not negated by new development. To meet this requirement, NYC will need to develop a program, in addition to the requirements specified above, that ensures no net increase of POCs to impaired waters resulting from non-negligible land use changes.

Impaired Waters with Approved LTCPs – Where information indicates that a CSO LTCP is not expected to result in compliance with applicable water quality standards and stormwater from the MS4 is identified as a significant contributor to the water quality impairment, the permit requires NYC to develop, as part of the SWMP, additional or customized BMPs for each control measure that addresses the POCs causing the impairment identified in the CSO LTCP.

Monitoring & Assessment of Controls – The permit requires NYC to develop a Monitoring & Assessment Program within 3 years. The permit allows NYC to utilize or expand on existing programs or propose new methods to assess the effectiveness of its SWMP provided that they meet the following objectives:

- Assess compliance with the permit;
- Measure the effectiveness of the SWMP;
- Characterize and assess the quality of discharges at representative MS4 outfalls;
- Identify sources of specific pollutants;
- Detect and eliminate illicit discharges; and
- Evaluate long term trends

Recordkeeping/Reporting – The permit specifies record keeping requirements and reporting to demonstrate compliance with the terms and conditions of the permit. The permit includes a compliance schedule for program development such that the SWMP is fully developed within three years of the effective date of the permit. The permit also includes reporting requirements for the remaining permit term to demonstrate that the stormwater management program is being implemented and is effective in achieving the goal of minimizing the discharge of pollutants from the MS4 to the MEP. The permit also requires that NYC develop a tracking system to track the information required in the permit, as well as the information required to be reported in the annual report.

PUBLIC COMMENT

On February 4, 2014, the NYSDEC made available for public review and comment, the initial draft of the permit. Based on the comments received and the substantive nature of permit changes, the NYSDEC publicly noticed a revised draft permit on March 11, 2015 along with a detailed list of changes made to the initial draft permit. Below is a summary of changes made to the revised draft permit in response to comments received as part of the associated public comment period in 2015. For a summary and detailed response to all comments received on both the initial and revised draft permits please see the Responsiveness Summary document dated July 31, 2015.

LIST OF CHANGES

Part	Summary of change
Cover	Removal of DISCHARGE MONITORING REPORT (DMR) MAILING ADDRESS.
I.A	The first sentence of the second paragraph has been changed to include the appropriate language of the Clean Water Act to clarify that by reducing POCs to the MEP and eliminating all other pollutants, the permit contains controls that will reduce the discharge of all pollutants to the MEP as required by statute.
I.A	Last sentence in second paragraph was moved to last sentence in first paragraph
I.B	The phrase "exempt" was changed to "authorized" as the regulations state that the "non-stormwater discharges" outlined in this section are authorized under this permit, rather than exempt from the need to be covered under a SPDES permit.
II.A	Language in the first paragraph was changed to be consistent with the Clean Water Act requirements.
II.A	A sentence was moved to emphasize the responsibility of the Permittee

Part	Summary of change
II.B.1.b, IV.F.1.d.v, and IV.F.1.g.i	When referring to the NYS Stormwater Management Design Manual, replaced “most current version or its successor” with “January 2015,” which is the currently effective version.
IV	Added language to second paragraph to clarify that the SWMP is expected to be modified and updated in response to the annual assessment of the program. Where program elements are found to be ineffective or in need of improvement, there may be need for further development after completion of the initial plan.
IV.D.4	Language has been added to clarify that the Shoreline Survey, Dry Weather Discharge, and Sentinel Monitoring Programs may be used to satisfy, either in whole or in part, the requirements of the Permittee’s IDDE program. Added abatement procedures for illicit discharges.
IV.D.5	Language has been added requiring the Permittee to report, in the annual report, a schedule for elimination of any illicit discharge detected.
IV.E.1.g.iii, IV.E.1.i.,iii, and IV.F.1.d.iii	When referencing either the “MS4 SWPPP Acceptance Form” or “Notice of Termination,” language has been added such that if these forms change after issuance of this permit, the new forms can be used to meet this requirement.
IV.F.1.d.vii, IV.F.1.f, and IV.G.1.d.v	Revised footnote to define flood management projects to mean projects designed and functioning to capture, detain, or convey overland flow from a large drainage area to prevent downstream flooding associated with a 100-year or greater storm event. This excludes projects, such as installation and maintenance of storm sewers, high level storm sewers, Bluebelt storm sewers, and drainage inlets, and other projects to improve drainage, alleviate localized flooding, or reduce coastal flooding.
IV.F.1.f	Language has been added to require the SWPPPs prepared for major maintenance or rehabilitation of structural flood control devices in flood management projects to incorporate the recommended controls resulting from the facility assessment, if feasible and cost-effective.

Part	Summary of change
IV.F.4	Lot Size Soil Disturbance Threshold Study for Construction and Post-Construction Stormwater Management, has been expanded to include additional parameters that must be considered as part of the study.
IV.G.1.a	“Road salt storage facilities” has been added to the list of municipal operations and facilities.
IV.G.1.d.v	“Cost-effectiveness” has been added to the evaluation for retrofitting flood control devices. Language has also been added to clarify what constitutes consideration of feasibility.
IV.G.1.i	Revised language to provide the permittee with the option of seeking coverage for municipally owned MSGP facilities under the SPDES MSGP or coverage under the NYC MS4 Permit. IV.G.1.i specifies the requirements for those facilities or operations that will be covered under the NYC MS4 permit.
IV.G.2	Reference to “MEP” has been removed and replaced with “cost-effectiveness”. Added “bioswales” and “green streets” to the list of examples.
IV.I.3	Language has been added to clarify the catch basin cleaning program requirements.
IV.L	Ten (10) year record retention has been changed to five (5) years.
IV.O	Reference to New York State Administrative Procedure Act §401, 6 NYCRR 621.11(b)(2), and 6 NYCRR 750-1.16(a) has been added.
IV.O Table 2	Table 2 has been modified to accurately reflect the permit deliverable requirements.
V.H	Added language to clarify that only the principal executive office or ranking elected official, not a duly authorized representative, can sign a permit application.

