

## Issues for Stormwater Permits Review Process

This document frames the issues for the permit review process associated with the stormwater general permits for MS4s and construction activities. Interested parties who submitted timely comments on the draft general permits for MS4s and construction activities are invited to participate in monthly meetings on the issues, commencing July 2008 and concluding on or before July 2009. Each session will be facilitated and will include a brief presentation by NYSDEC on each issue, followed by solicitation of views and information on the positive aspects of existing requirements and opportunities to improve on those requirements, including explicit suggestions for changes to the permits, standards or department processes. Discussion of options will follow solicitation of views and suggestions.

Instructions: Please contact Barbara Horton at (518) 402-8111 or [bjhorton@gw.dec.state.ny.us](mailto:bjhorton@gw.dec.state.ny.us) one week before any meeting you intend to attend to notify the Department of your desire to participate in that meeting. Knowing who will attend and how many people will attend will allow us to prepare building security and the room for those people.

Directions are available at: <http://www.dec.ny.gov/about/244.html>

Copies of the permits and associated documents are available at:

<http://www.dec.ny.gov/chemical/8468.html>

Under the "Construction Stormwater Permit and Forms" and the "MS4 Permit and Forms" links.

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|----------------|---|
| 1. Issue:      | LOW IMPACT DEVELOPMENT, GREEN INFRASTRUCTURE,<br>SMART GROWTH |
| Meeting Date:  | July 17, 2008   |
| Meeting Time:  | 10:30 - 3:30. One hour lunch.                                 |
| Meeting Place: | 625 Broadway, Public Assembly Room 129<br>Albany, NY 12233    |

Low Impact Development (LID), also known as Better Site Design, Environmental Site Design or Green Infrastructure, has been offered as one way to address problems caused by stormwater associated with construction activities.

The New York State Stormwater Management Design Manual, as referenced in and incorporated into the April 2008 stormwater general permits, contains designs for LID practices in the form of Rain Gardens, Permeable Pavement, Cisterns, Green Roofs and Planters for redevelopment projects (Chapter 9). Some of the LID practices are also included in design examples as hydrologic source control for the enhanced phosphorus removal standards (Chapter 10), which are also referenced and incorporated in the April 2008 stormwater general permits. The conditions of the minimum measure five (Post-Construction Stormwater Management) in the MS4 permit encourage the use of LID concepts to address construction stormwater on a site

level and smart growth to address the impacts of stormwater on a watershed or municipal level. The department has also published a Better Site Design document, which may be used by MS4s to determine equivalence to “NYS Stormwater Management Design Manual” requirements.

This discussion will focus on how New York State stormwater general permits, as well as incorporated and referenced documents, can be modified to promote the application of LID concepts in site design and Smart Growth in local planning.

2. Issue:                   **INTRA-MUNICIPAL COORDINATION, INTER-MUNICIPAL AGREEMENTS, CROSS JURISDICTIONAL REGIONAL AND WATERSHED STORMWATER MANAGEMENT PROGRAMS**

Meeting Date:           August 12, 2008  
Meeting Time:           10:30 - 3:30. One hour lunch.  
Meeting Place:          625 Broadway, Public Assembly Room 129  
                                  Albany, NY 12233

There are varied types of coordination that are in the MS4 permit, including inter-municipal and intra-municipal coordination. Examples of inter-municipal coordination could include MS4s forming a regional stormwater entity, purchasing shared equipment, using the same GIS system, etc.. The MS4 permit requires agencies within an MS4 to work together, as well as facilitates working with other MS4s, in order to achieve compliance with the permit requirements. Also, the Department included a sample inter-municipal agreement for implementation of stormwater programs as an appendix to the response to public comments. Finally, there are several examples of cross-jurisdictional programs practiced in some areas of New York State.

This discussion will focus on how MS4s are currently coordinating on intra- and inter-municipal levels, as well as comments/suggestions on how to improve coordination overall.

3. Issue:                   **RETROFITS FOR IMPAIRED WATERS**  
Meeting Date:           September 15, 2008  
Meeting Time:           10:30 - 3:30. One hour lunch.  
Meeting Place:          625 Broadway, Public Assembly Room 129  
                                  Albany, NY 12233

The April, 2008 MS4 permit requires MS4s to submit approvable retrofit plans and schedules. The Center for Watershed Protection has published guidance on retrofit projects entitled “Urban Stormwater Retrofit Projects”, which can be used as a resource to prepare such plans and schedules.

This discussion will focus on how retrofit requirements are best included in the MS4 permit.

4. Issue: PUBLIC PARTICIPATION  
Meeting Date: October 23, 2008  
Meeting Time: 10:30 - 3:30. One hour lunch.  
Meeting Place: 625 Broadway, Public Assembly Room 129  
Albany, NY 12233

The stormwater general permits for MS4s and construction activities require submission to the Department of a Notice of Intent (NOI), and also the creation of a Stormwater Management Program Plan (SWMP plan) and annual reports for MS4s and a Stormwater Pollution Prevention Plan (SWPPP) for construction activities. The MS4 permit requires that MS4s provide opportunity for, at a minimum, public participation in the annual report and SWMP preparation and submission of stormwater complaints. The construction stormwater permit NOI requires a summary of the information contained in the SWPPP and is also available to the public for review upon request.

This discussion will focus on providing equitable public access to the authorization process, permit documents and input into development and DEC review of stormwater requirements, while preserving the efficiencies of the general permitting process.

5. Issue: NUMERIC EFFLUENT LIMITATIONS  
Meeting Date: November 14, 2008  
Meeting Time: 10:30 - 3:30. One hour lunch.  
Meeting Place: 625 Broadway, Public Assembly Room 129  
Albany, NY 12233

The April, 2008 stormwater general permits do not contain numeric effluent limitations, but do include prescriptive best management practice (BMP) requirements. Those prescriptive requirements are the New York State Standards for Erosion and Sediment Control and New York State Stormwater Management Design Manual, referenced and incorporated into the general permits, as well as within the explicit permit requirements.

The discussion will focus on the need for and feasibility of numeric effluent limitations.

6. Issue: OTHER IMPAIRED WATERS ISSUES  
Meeting Date: December 12, 2008  
Meeting Time: 10:30 - 3:30. One hour lunch.  
Meeting Place: 625 Broadway, Public Assembly Room 129  
Albany, NY 12233

The April 2008 stormwater general permits for MS4s and construction activities both require additional or enhanced best management practices to reduce pollutant loadings to impaired waters and waters that, although they are not impaired, have the reasonable potential to cause or contribute to an excursion above water quality standards. In each of the watersheds that are subject to the additional requirements in the April 2008 stormwater general permits, discharges of stormwater have already caused or contributed to impairments or have the reasonable potential to cause excursions above water quality standards. The permits apply the following

additional requirements by watershed:

303(d) Segments Listed for Nutrients or Silt and Sediment

Full Stormwater Pollution Prevention Plan for all projects 1 to 5 acres.

Onondaga Lake Lake Watershed

Full stormwater pollution prevention plan for all projects 1 to 5 acres.

Require compliance with Enhanced Phosphorus Removal Standards or equivalent.

Enhanced public education program to describe the sources and impacts of phosphorus.

Develop a watershed based stormwater retrofit program including an approvable plan and schedule for retrofits.

Greenwood Lake Watershed

Full stormwater pollution prevention plan for all projects 1 to 5 acres.

Require compliance with Enhanced Phosphorus Removal Standards or equivalent.

Enhanced public education program to describe the sources and impacts of phosphorus.

Develop a watershed based stormwater retrofit program including an approvable plan and schedule for retrofits.

Onsite wastewater treatment (septic) inspection and, where necessary, maintenance or rehabilitation.

Oyster Bay and Peconic Pathogen Watersheds

Enhanced public education and outreach to describe the sources and impacts of pathogens.

Onsite wastewater treatment (septic) inspection and, where necessary, maintenance or rehabilitation.

Pet waste control.

Goose population management.

Develop a watershed based stormwater retrofit program including an approvable plan and schedule for retrofits.

Peconic Bay Nitrogen Watershed

Enhanced public education and outreach to describe the sources and impacts of Pathogens.

Onsite wastewater treatment (septic) inspection and, where necessary, maintenance or rehabilitation.

Specific turf management requirements.

Develop a watershed based stormwater retrofit program including an approvable plan and schedule for retrofits.

New York City East of Hudson Watershed

Require erosion and sediment controls plans for projects that disturb from 5,000 sq. ft. to 1 acre.

Full stormwater pollution prevention plan for all projects 1 to 5 acres.

Require compliance with Enhanced Phosphorus Removal Standards or equivalent.

Enhanced public education program to describe the sources and impacts of phosphorus.

Develop a watershed based stormwater retrofit program including an approvable plan and schedule for retrofits.

Onsite wastewater treatment (septic) inspection and, where necessary, maintenance or

rehabilitation.  
Map entire storm sewer system.  
Explicit storm sewer system maintenance requirements.  
Specific turf management requirements.  
Leaf and yard waste control requirements.

This discussion will focus on the effectiveness of the existing and the need for additional or enhanced Best Management Practices in impaired or reasonable potential watersheds.

7. Issue: MS4 FUNDING OPTIONS  
Meeting Date: January 15, 2009  
Meeting Time: 10:30 - 3:30. One hour lunch.  
Meeting Place: 625 Broadway, Public Assembly Room 129  
Albany, NY 12233

Numerous comments in the public process were directed at the cost to localities of implementing the MS4 program. The MS4 permit includes provisions that allow for cooperation and collaboration as a means of minimizing the costs of meeting the minimum requirements of the EPA MS4 program (see also the August 12 meeting).

This discussion will focus on issues facing MS4s in implementing the MS4 permit requirements, options to resolve those issues that MS4s can explore and modifications to the MS4 permit that can be made to facilitate utilizing those options.

8. Issue: STEEP SLOPES, HIGH EROSION RISK AREAS, RIPARIAN BUFFERS  
Meeting Date: February 10, 2009  
Meeting Time: 10:30 - 3:30. One hour lunch.  
Meeting Place: 625 Broadway, Public Assembly Room 129  
Albany, NY 12233

Construction activities exceeding threshold acreage tributary to waters of the state classified as AA and AA-s and exceeding 25% slope are ineligible for coverage under the construction stormwater general permit and must obtain coverage under an individual SPDES permit. The increase in erosion potential caused by the project increases the potential for a water quality violation. For such sites, the higher level of oversight associated with an individual permit are applied.

General experience in difficulties with and results of construction on steep slopes, in addition to the Universal Soil Loss Equation (USLE), which is a formula developed by the Soil Conservation Service (now the Natural Resource Conservation Service or NRCS) for use in determining erosion risks, shows increasing erosion risk with slope and dramatically increasing erosion risk at higher slopes, varying slope length, soil erodability and rainfall intensity.

This discussion will focus on the appropriateness of this permit exclusion and the Department processes for determining when increased scrutiny of construction sites are

warranted, including requirements to obtain an individual permit.

9. Issue: REVISIT ISSUES (as needed, may be rescheduled to alternate locations)  
Meeting Dates: March 17, 2009; April 16, 2009; May 13, 2009; June 16, 2009; July 14, 2009  
Meeting Time: 10:30 - 3:30. One hour lunch.  
Meeting Place: 625 Broadway, Public Assembly Room 129  
Albany, NY 12233