



**2017 NYC Municipal Separate Storm
Sewer Permit Progress Report:
Public Comments and Responses**

SPDES Permit No. NY-0287890
Effective Date of Permit: August 1, 2015

August 1, 2017

Background:

On August 1, 2015, the Department of Environmental Conservation (DEC) issued a comprehensive stormwater permit to the City. The permit includes robust requirements that significantly expand the City's obligations to reduce pollutants discharging to and from the Municipal Separate Storm Sewer System (MS4). There are 14 City agencies with substantial obligations under the new MS4 permit, and the Department of Environmental Protection (DEP) is responsible for coordinating the efforts of those agencies with respect to all matters relating to the permit's requirements. The City's MS4 permit requires the development by August 1, 2018 of a Stormwater Management Program (SWMP) Plan, the goal of which will be to reduce pollution that reaches waterbodies through the MS4.

As required by the MS4 permit, the City made available to the public on May 8, 2017, the 2017 Progress Report on the development of the SWMP. On May 16, the City hosted a public meeting to present the Progress Report to all interested stakeholders. The 2017 Progress Report was open for comments through June 5, 2017. The City received comments orally at the public meeting and in writing, and has prepared the following responses.

City Responses to Comments on the MS4 Progress Report

Questions and Comments Received at the May 16 Public Meeting

Comment: Will the DEP portion of the MS4 map be completed by 2018?

Response: DEP has completed drainage area delineations for a little more than half of the known DEP-owned MS4 outfalls. DEP is continuing to delineate drainage areas for DEP-owned MS4 outfalls and anticipates completing this work by the submission of the preliminary map in August 2018.

Comment: 311 is inadequate for reporting discharges from outfalls to waterways. Additionally, the 311 mobile application should allow the public to make reports using GPS coordinates.

Response: Noted. The City is exploring ways to improve the process for reporting through 311 discharges from outfalls; this includes a pilot project to install signs at MS4 outfalls. By providing identifying numbers for MS4 outfalls, the City will make it easier for the public to report the location of the outfall to 311. There are no plans at this time to modify the 311 mobile application. Despite the challenges in reporting discharges from outfalls, 311 is still the best way to connect with the City on many MS4-related issues.

Comment: DEP should develop outreach about what citizens can do and how they can supplement monitoring/enforcement. Regarding the Citizen Water Quality Testing Program, how are data compared with what we collect? How can we engage the community groups to become more involved?

Response: DEP agrees that citizen water quality monitoring programs are important aspects of citizen involvement and could supplement the monitoring programs established for regulatory compliance purposes. Accordingly, DEP obtained the citizen water quality monitoring data for several waterbodies where LTCs are developed, conducted comparisons and shared the results with multiple stakeholders including SWIM. However, monitoring data from outside groups may or may not follow DEP and EPA-approved sampling procedures/guidelines. DEP will continue to evaluate whether and how it might be able to engage/utilize community groups. Some considerations include the feasibility of those groups' adopting standard protocols to match our current programs to ensure the data obtained are comparable and can be scientifically evaluated.

Comment: Newtown Creek sampling showed off the chart levels of, fecal coliform. What is DEP doing to investigate for illegal connections?

Response: DEP has active Illicit Discharge Detection and Elimination (IDDE) investigations in different receiving waterbodies, including Newtown Creek. In Newtown Creek, DEP is currently conducting source tracking via dye testing to confirm potential illicit connections. DEP will follow up with appropriate enforcement and coordinate with DEC as necessary.

Comment: What is the City doing to institute laws and regulations to reduce plastic waste at the source, such as plastic bag bans? How has the City highlighted the pollution of bags, plastic, bottles, etc.? When will we see some of the laws reflecting this and more public outreach?

Response: The City is pursuing several policies and programs that seek to reduce waste at the source. These include both legislative and regulatory approaches as well as public education and outreach approaches.

The City is in the process of banning expanded polystyrene foam. Following a [May 12, 2017 determination by DSNY](#) that expanded polystyrene foam could not be recycled in a manner that is economically feasible or environmentally effective for New York City, the City plans to institute a ban starting November 13, 2017.

The City has also attempted to reduce plastic bag waste by imposing a fee on all carryout merchandise bags. Local Law 63, passed by the City in 2016, would have imposed a fee of at least five cents on all carryout merchandise bags. In February 2017, however, New York State suspended the NYC Carryout Bag Law and established a one-year moratorium on establishing new carryout bag fees in New York City. NY State is establishing a task force to develop a uniform State plan for addressing the plastic bag problem. The task force includes appointees from the State Senate and State Assembly, as well as local governments and other stakeholders. By the end of 2017, this Task Force will conclude with a report and proposed legislation.

The City also has several public education and outreach programs that seek to raise awareness and change behaviors. These include the B.Y.O. campaign, Zero Waste programs, Talk Trash NY campaign, and the Clean Streets = Clean Beaches campaign. Most recently, DEP initiated a “Don’t Trash Our Waters campaign” in collaboration with the Department of Sanitation, which was kicked off at Coney Island Creek and will be expanded to Bronx River Watershed this summer.

Comment: Will there be a re-evaluation of fines for an environmental violation so that they are more effective?

Response: The City has not yet decided on whether the MS4 program will include a revision of fines for environmental violations, but will consider this issue during SWMP development.

Comment: How is DEP catching one time offenders dumping paint/oil into catch basins?

Response: The response from DEP depends on how the complaint is received. If the complaint is submitted anonymously, DEP will send staff to investigate, and if DEP staff are able to connect a suspect to the illicit discharge, a violation is issued. If someone willing to give his or her name submits the complaint, and DEP does not witness the individual or company dumping into a catch basin, then DEP would require the person who witnessed the act to testify at the Environmental Control Board (ECB) to hold the offender accountable.

Comment: Since the Green Infrastructure Grant Program will now be eligible in MS4 areas, why not require that all properties participate in the program? The City should pass legislation requiring that all existing properties take the City’s funding in order to ensure that all private properties will be retrofitted with green infrastructure.

Response: Under the Green Infrastructure Grant Program, the City does not provide funds for legally mandated actions under local, state, or federal law, and/or associated with administrative

permit conditions or terms of settlement agreements. In other words, if the City were to require that existing properties retrofit with green infrastructure, it could not provide funding for the design and construction of the GI. Such a mandate, with no financial support, would be significantly challenging for many property owners around New York City. As a result, the City will continue to develop private incentive programs and conduct extensive outreach to encourage New Yorkers to participate in the optional programs.

Comment: What is the status of the Adopt-a-Catch Basin Program?

Response: The of the Adopt-a-Catch Basin pilot program was launched in 2016 in the Brooklyn neighborhoods of Canarsie, Gowanus, Prospect-Lefferts Gardens, and Sunset Park where catch basins that are clogged with garbage and other debris prevent adequate storm water collection, flooding areas nearby and forming small ponds that impede cars, bicyclists, and pedestrians. The effort is intended to curb localized flooding after heavy rainstorms as well as to help prevent floatables, such as bottles and other debris from entering into waterways. DEP provides training, as well as gloves and garbage bags, to participating organizations that agree to maintain storm drains in their neighborhoods, and also enrolls participants in an early alert system to inform them of upcoming weather events that may cause flooding.. The City is still exploring expanding the program to other neighborhoods.

Comment: There should be graphics in the public meeting presentations that enable viewers to understand the difference between what is required for private and public business/homeowners per provision of the MS4 Permit.

Response: Noted. The City will consider using more graphics to clarify responsibilities for private businesses/homeowners impacted by the MS4 Permit. The City will also use graphics will be used in presentations and in the final Stormwater Management Program (SWMP).

Comment: How transparent will we be about monitoring/reporting in the next 3-4 years?

Response: In accordance with the MS4 Permit, the City will release an annual report each year. The report will be available online and public meetings will be held each year to discuss the content of the annual report. People will be able to submit questions, comments and concerns on the report to MS4@dep.nyc.gov. If the question is specifically referring to stormwater monitoring, then in accordance with the MS4 Permit, DEP will provide results of the information collected and analyzed as part of the Monitoring and Assessment Program. The results will be included in future MS4 Annual Reports.

Comment: Will High Level Storm Sewers (HLSS) be part of MS4? Are there sewer separation projects in process?

Response: High Level Storm Sewers (HLSS) that ultimately discharge to waters of New York State through MS4 outfalls owned or operated by the City are considered part of the MS4 and are covered by the permit. HLSS are one strategy for alleviating pressure on the combined sewer system and limiting combined sewer overflows. Since HLSS require a separate pipe and outlet to

a waterbody, this strategy is only cost-effective for developments near the water's edge. Some select areas are receiving new HLSS.

Submitted June 1, 2017 by Marni Majorelle from Alive Structures:

Comment: Please include the MS4 in the Green Infrastructure Grant Program as soon as possible.

Response: The current Green Infrastructure Grant Program is now available citywide, in both the MS4 and combined sewer areas of the city. Through the NYC Department of Environmental Protection, in coordination with the NYC Law Department and the NYC Office of Management and Budget, the City is also developing new private incentive programs for green infrastructure implementation. As these programs are still in development, please visit www.nyc.gov/greeninfrastructure to sign up for the green infrastructure listserv to receive updates as they become available.

Comment: Other cities are creating storm water policies, green infrastructure incentives, and mandates that are more effective than NYC's. [The comment included an attachment with examples.]

Response: The City has formed positive relationships with many of the cities on this list to share best practices for incentivizing green infrastructure on private property. For example, DEP staff has visited Philadelphia, spoken with grant staff and grant recipients, reviewed grant documents such as contracts and applications, and visited constructed projects. This sharing has gone both ways and Philadelphia has modeled portions of its grant program on the current New York City Green Infrastructure Grant. During the development of the new private incentive program referenced in the response above, the City has hosted roundtable discussions with property owners and green infrastructure contractors to gather critical feedback. Additionally, DEP has completed stormwater surveys with approximately 30 municipalities (including all of those listed, with the exceptions of France and Switzerland) to learn more about their stormwater programs, including how they implement and incentivize green infrastructure programs, and will be publishing the summary of these surveys by the end of this year. Furthermore, the program the City is developing in accordance with the MS4 Permit for Post-Construction Stormwater Management will require green infrastructure and related measures for certain new construction and reconstruction projects. DEP has held several workshops in collaboration with Urban Green Council and REBNY including the development community and their technical engineering companies to discuss what would be the appropriate lot size threshold for NYC by taking into account water quality, cost, local size conditions, impervious surface coverage, total lot area managed, number of affected public/private properties and other relevant factors.

Submitted June 2, 2017 by Ira Gersenhorn:

Comment: This MS4 Progress Report is from NYC DEP. Should there be a separate MS4 Progress report from every city agency or does this report involve all city agencies?

Response: There are 14 City agencies with substantial obligations under the MS4 permit. Pursuant to Executive Order No. 429 of 2014 and Section 1403 of the New York City Charter, as recently revised by Local Law 97 of 2017, the Department of Environmental Protection (DEP) is responsible for coordinating the efforts of those agencies with respect to all matters relating to the permit's requirements. As a result, the 2017 Progress Report is produced by DEP and reports on the work of all of the city agencies with permit obligations.