



## NEW YORK CITY SOIL AND WATER CONSERVATION DISTRICT

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14 March 2014

Steve Watts  
NYSDEC  
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### **RE: Draft SPDES Permit to New York City (SPDES# NY-0287890)**

Dear Mr. Watts:

We are submitting the below comments on the draft State Pollutant Discharge Elimination System Discharge Permit for the City of New York (NYS MS4 Permit). The New York City Soil & Water Conservation District is a political subdivision of the State government charged with assisting New Yorkers and local decision makers in making wise use of soil, water and related resources in the City of New York.

First and foremost, we are unclear as to how this permit, which covers multiple 303(d) listed NYC waterbodies, some with CSOs, will be coordinated with various efforts underway, including but not limited to the Long Term Control Plan for CSOs, the Floatables Reduction Program and the Total Maximum Daily Load program. Some of the water segments listed in the Appendix 2 of the draft permit already have a TMDL (i.e., western portion of the Long Island Sound [MW2.6, LIS portion 1] for nitrogen) or are slated for TMDL development (e.g., Grassmere, Arbutus and Wolfes Lakes [MW1.2, SI P1039, P1051, & P1053] for phosphorus and Raritan Bay [MW1.2, portion 1] for pathogens) according to the Draft 2014 Section 303(d) List. Yet the draft permit does not explicitly explain how these ongoing programs will be integrated into the permit or coordinated in terms of enforcement.

We are also concerned that the permit focuses on activities or best management practices without framing how they relate to water quality improvement. While the permit requires the SWMP plan to include measurable goals for each of the best management practices (page 12), there are no explicit requirements that these goals be framed in terms of water quality improvements. Without guidance on how the goals relate to water quality, the City can satisfy the requirements of the permit with actions which may or may not lead to reduction in pollutant loads. For example, the Annual Report requirements under Construction Site Stormwater Runoff Control (page 28) lists outcomes of activities, such as the number of SWPPPs reviewed; number and types of enforcement actions; percent of active construction sites inspected once, etc. While these activities are necessary and reporting on them useful, how they impact water quality is unclear.

We agree with the DEC's approach in not being prescriptive with the permit and allowing the City to develop how it manages the stormwater. Nonetheless, we would like to see more explicit encouragement and perhaps incentives for the use of green infrastructure beyond referencing the New York State Stormwater Management Design

Manual. With the new Mayor and the new Commissioner, we are not clear on the level of their commitment to green infrastructure. While we are confident that the City's green infrastructure programs will move forward, we would like to ensure that the City will actually expand and enhance the programs. A stronger language on green infrastructure will help send the message that the State is firmly behind the City's commitment to green infrastructure.

Some parts of the draft permit seem inadequate for the ultra urban environment of New York City. Under Industrial and Commercial Stormwater Sources (page 21), the City is to inventory all industrial and commercial sites that could discharge POCs. We would like to know whether the aggregated effects of smaller establishments should also be considered. While each establishment may not contribute a significant pollutant load, if multiple commercial entities are concentrated in a relatively small area, they may collectively constitute a pollutant source. For instance, there are neighborhoods with many small scale automotive repair shops.

Likewise, the minimum acreage of one acre for construction site does not seem adequate for the City, where many construction sites are far below one acre. Before applying the statewide threshold of one acre, we would like to see evidence that such a threshold is adequate in New York City. There are also neighborhoods with several small construction projects concentrated in a relatively small area. We would like to know whether the aggregate effects of multiple construction projects warrants consideration.

Finally we have some questions and comments on specific language in the draft permit.

*Section H.1.1.iii.(2) Industrial and Commercial Stormwater Sources (on page 21)*  
What is the definition of "significant POC"?

*Section IV.A. Public Education and Outreach (on page 12)*

The goal of public education should be changed behavior. While it is difficult to measure, behavior change is the only truly meaningful outcome. The more conventional and common goals, such as the number of posters distributed, number of students taught, do not necessarily tell us whether the water quality is improving.

*Section IV.A.5. "... disposal of used oil and toxic materials." (on page 13)*

The educational and public information activities should not be limited to used oil and toxic materials. Such activities should also include proper management and disposal of pet wastes, pharmaceuticals, household cleaners, and other substances of concern.

*IV.B.4.a.i & ii* "...for stormwater or if requested by the public, **or** presentation of the draft annual report may be done on the internet." (on pages 13-14)

The draft annual report should be presented both at a meeting **AND** on the internet.

*IV.B.4.b.* "...the draft annual report at an open meeting **or** on a web site ..." (on page 14)

The public notice on the annual report presentation should be given at an open meeting **AND** on a web site.

*Section M.4.a. Annual Reporting/Public Education and Outreach*

There are many organizations – community based organizations, environmental groups, educational institutions, etc. – that are engaged in public education on stormwater and water quality. The permit should require the DEP to develop a database of the educational organizations with relevant programs and include their program delivery as part of the annual report. DEP can develop materials, particularly for professional development, and assist these organizations in content development. However, for the education program to be effective, partnerships with those who are educating on the ground are the key.

Thank you again for the opportunity to submit our comments. We look forward to meaningful involvement in this process as we move ahead.

Sincerely,

A handwritten signature in black ink, appearing to be 'Shino Tanikawa', written in a cursive style.

Shino Tanikawa  
District Manager

cc: Emily Lloyd, Commissioner, NYC DEP  
Venetia Lannon, Regional Director, NYS DEC Region 2  
Angela Licata, Deputy Commissioner, NYC DEP  
Joan Leary Matthews, US EPA Region 2  
Jeff Gratz, US EPA Region 2