

Overview of NYS DEC's MS4 Permit GP-0-24-001 (2024 to 2029)

Provisions most applicable to Nassau County North Shore MS4 municipalities

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Version dated January 3, 2024

Background to this Permit

- 2010 – lawsuit against DEC on 2010 permit
- 2014 – lawsuit against EPA seeking changes to regs
- 2015 – new permit issued but unchanged as litigation was still in process
- 2016 – EPA settles lawsuit & proposed a Phase II Remand Rule
- 2016 – DEC proposed new permit. Over 2,000 comments. DEC did not adopt the proposed permit
- Jan. 12, 2022- DEC proposed this new permit. Again, many comments.
- Dec. 13, 2023, DEC released this permit, effective Jan. 3, 2024.



The New Permit



- 162 pages long (at the time, the draft was more than 100 pages longer than any of our five neighboring states).
- Fact sheet alone is 55 pages.
- 5-year permit (1/3/24 to 1/2/29)
- Previous permits gave great latitude to MS4s – this one is much more prescriptive.

Phase II Remand Rule



Since 2003, EPA has required that MS4 Operators must achieve the Maximum Extent Practicable (MEP) standard.



EPA views the MEP as an iterative process –i.e. evolving and adapting to current conditions.



The permit's terms and conditions “must be expressed in clear, specific, and measurable terms”.

General Overview

- Each MS4 Operator must electronically submit a Notice of Intent (NOI) within 45 days of January 3, 2024.
- Many specific plans need to be prepared & updated annually
- Annual Report + Interim Progress Certifications
 - Annual reporting period now runs from January 3 to January 2 and Annual Reports are due April 1.
 - Interim Progress certifications report periods run from January 3 to June 30 and due October 1, and from July 1 to January 2 and are due by April 1.
- Mapping requirements expanded
- Many deadlines imposed
- Much more emphasis on:
 - Illicit discharge detections and elimination
 - Good housekeeping practices
- Several new types of training required
- All reports will now be submitted electronically

New Plans & Programs Required

- Enforcement Response Plan
- Monitoring Locations Inspection & Sampling Program
- Illicit Discharge Track Down Program
- Illicit Discharge Elimination Program
- Construction Oversight Program
- Post-Construction SWP Inspection & Maintenance Program
- Municipal Facility Program
- Municipal Facility-Specific Stormwater Pollution Prevention Plans
- Municipal Operations Program
- Catch Basin Inspection Program



Trainings Required

- Illicit discharge inspection and sampling
- Illicit discharge track-down procedures
- Illicit discharge elimination procedures
- Construction oversight procedures
- Erosion and sediment control
- Municipal operations procedures
- Municipal facilities procedures
- Post-Construction SWP inspection and maintenance



Getting into the Details

- The Permit requirements fall into these sections:
 - Stormwater Management Program (SWMP)
 - Recordkeeping & Reporting
 - Minimum Control Measures
 - Enhanced Requirements for Impaired Waters
 - Watershed Improvement Strategy Requirements for TMDL Implementation

SWMP Requirements

- Each MS4 must designate a Stormwater Program Coordinator.
- Within 6 months the current SWMP plan must be made available.
- SWMP Plans must be updated annually by April 1st.
- Comprehensive map must be developed and update annually
- Within 6 months develop & implement an Enforcement Response Plan. Enforcement must be tracked.
- If the MS4 Operator is relying on other entities to assist with the SWMP, there must be an agreement in place with specified terms. Irrespective of this, the MS4 Operator is responsible for compliance.



SWMP Requirements

- MAPPING has 3 phases:
 - Within 6 months – MS4 outfalls, inter-connections, preliminary storm-sewershed boundaries, and MS4 infrastructure (including type, conveyance description, direction of flow, culvert crossings, and stormwater structures).
 - Within 3 years – monitoring locations with associated prioritization, focus areas, publicly owned / operated post-construction SMPs, municipal facilities with associated prioritization.
 - Within 5 years – conveyance systems, stormwater structures, private post-construction stormwater mgt. practices, etc.

NOTE THAT ADDITIONAL MAPPING REQUIREMENTS & DEADLINES APPLY TO IMPAIRED WATERS.





SWMP Requirements

- **ENFORCEMENT RESPONSE PLAN**
 - Within 6 months develop and implement an enforcement response plan.
 - The plan must describe how the MS4 Operator will use:
 - Verbal warnings
 - Written notices
 - Citations (and associated fines)
 - Stop work orders
 - Withholding of plan approvals or other authorizations
 - Additional measures
 - Enforcement responses
 - Enforcement tracking

MCM #1 – Public Education

- Within 3 years:
 - ID & document focus areas.
 - ID & document target audiences and associated pollutant-generating activities for residents, commercial business owners, institutions, construction developers and designers, industrial owners and staff, & MS4 municipal staff.
 - ID education and outreach topics & how the topics will reduce the potential for pollutants to be generated by each target audience.
 - For each target audience, at least one educational message is required during the 5-year period.

MCM #1 – Public Education

- Within 6 months - make information related to the prevention of illicit discharges available to municipal employees, businesses, and the public and document the completion of this requirement.
- Once during the 5 years (and every 5 years thereafter)- ID and document the following methods used: printed materials, electronic materials, mass media, workshops or focus groups, displays in public areas, and social media.
- Annually by April 1st review and update focus areas, target audiences, and/or education and outreach topics and document the completion of this requirement in the SWMP Plan.

MCM #2 – Public Involvement and Participation

- The public must have the opportunity for public involvements in the development, review & implementation of the SWMP Plan.
- Within 6 months – ID a local point of contact to receive and respond to public concerns on stormwater management and compliance with permit conditions.
- Annually –
 - inform the public of the opportunity to participate in the development & implementation of the SWMP and how they can become involved.
 - Provide an opportunity to review and comment on the SWMP and the Draft Annual Report. They must be able to ask questions and submit comments.
 - Include a summary of comments received on the SWMP and Draft Annual Report.
- Within 30 days of receipt of public comment, update the SWMP as appropriate.



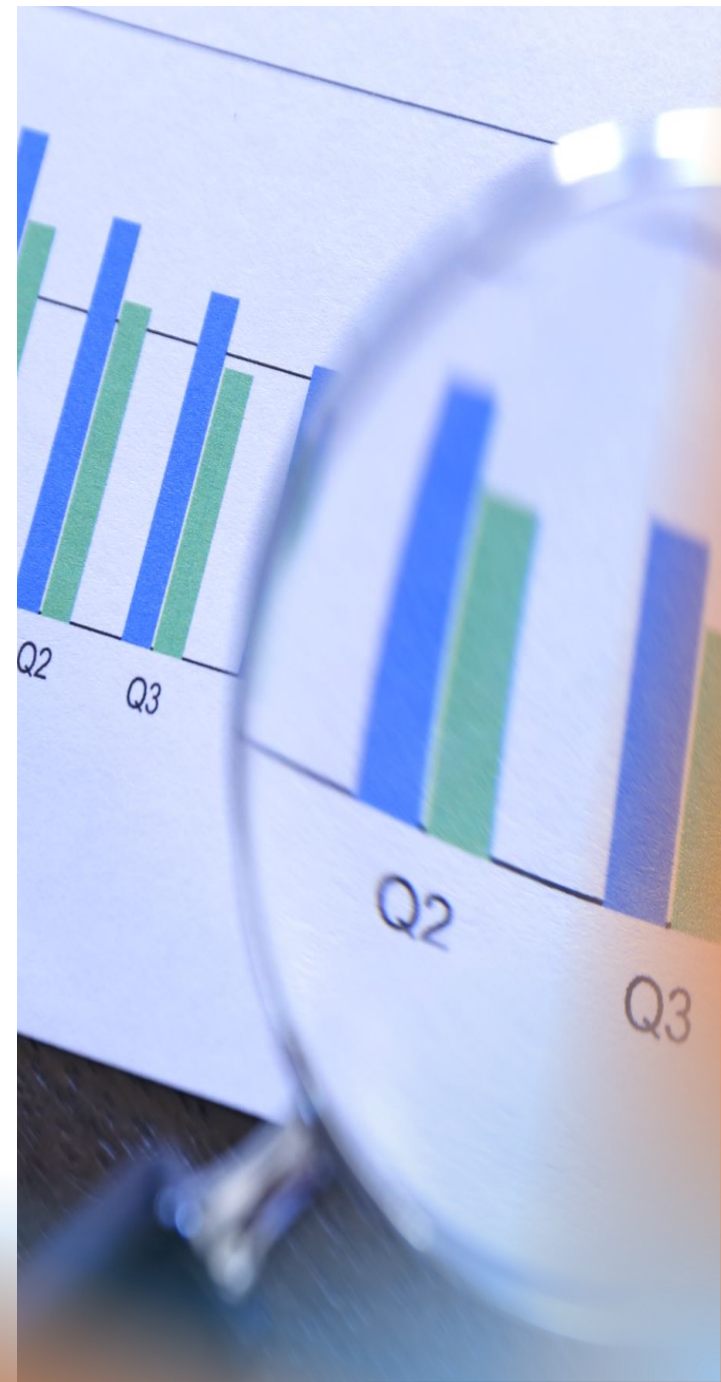
MCM #3 – Illicit Discharge Detection and Elimination

- **General**

- Within 6 months – establish e-mail address or phone # with recording ability for public to report illicit discharges.
- Within 30 days of an illicit discharge – each report must be documented including nature of discharge, outcomes, enforcement taken, and follow-up taken or needed.
- Within 3 years – develop & maintain an inventory of monitoring locations, MS4 outfalls, inter-connections, and municipal facility intra-connections and prioritize them. This is separate from mapping. Update the inventory prioritization within 30 days when new locations are created or discovered.
- Annually - update the inventory and prioritization.

MCM #3 – Illicit Discharge Detection and Elimination

- **Monitoring Locations Inspection and Sampling Program**
 - Within 2 years - develop and implement the program.
 - Must train new staff before inspecting and existing staff must be trained once a permit term thereafter. Annually update the list of those trained. If monitoring locations or procedures are updated, all staff must be trained prior to inspecting.
 - During dry weather, inspect each location once a permit term and then at least every 5 years. DEC monitoring forms (or equivalent) must be used. Sampling may be done with field test kits or instruments.
 - Program must have provisions:
 - to sample all locations resulting in suspected or obvious illicit discharges.
 - to initiate track-down procedures within time frames for suspected or obvious illicit discharges.
 - To re-inspect within 30 days if there is a physical indicator of intermittent or transitory discharges. If physical indicators persist, initiate track-down procedures.
 - Annually review and update monitoring locations and inspection and monitoring procedures.





MCM #3 – Illicit Discharge Detection and Elimination

- **Illicit Discharge TRACK DOWN Program**
 - Within 2 years – must be developed & implemented
 - Within 24 hours of discovery - track down must be initiated for flowing MS4 monitoring locations with obvious illicit discharges.
 - Within 2 hours of discovery – initiate track down for obvious illicit discharges of sanitary wastewater that could affect bathing areas during the bathing season, or shellfish areas or public water intakes and report to Regional Water Engineer and local health department.
 - Within 5 days of discovery – initiate track down procedures for *suspected illicit discharges*.



MCM #3 – Illicit Discharge Detection and Elimination

- **Illicit Discharge TRACK DOWN Program** (continued)
 - New staff must be trained prior to conducting track-downs. Existing staff must be trained once a permit period and then every 5 years. If procedures are updated, all staff must be trained prior to conducting track-downs.

MCM #3 – Illicit Discharge Detection and Elimination

- **Illicit Discharge ELIMINATION Program**
 - Within 2 years – develop & implement this program including:
 - Provisions for escalating enforcement & tracking
 - Provisions to confirm that corrective actions were taken
 - Steps take for illicit discharge elimination procedures
 - Within 24 hours of ID of an illicit discharge that has a reasonable likelihood of adversely affecting human health – MS4 Operator must eliminate the discharge.
 - Within 5 days of ID of an illicit discharge that does not have a reasonable likelihood of adversely affecting human health or the environment, the MS4 Operator must eliminate the discharges
 - Where elimination of the discharges is not possible, DEC Regional Water Engineer must be notified.
 - Annually the illicit discharge elimination procedures must be updated and modified.
 - Existing and new staff must be trained before conducting illicit discharge eliminations and once every 5 years thereafter. If procedures are updated, all staff must be trained prior to conducting illicit discharge eliminations. Lists of staff trained must be updated annually.

MCM #4 – Construction Site Stormwater Runoff Controls

Illicit Discharge ELIMINATION Program (Cont'd)

- Within 6 months – establish an e-mail address or phone # with recording ability for the public to report complaints related to construction stormwater activity. Complaints must be documented with outcomes.
- Within 1 year – develop a **Construction Oversight Program**

MCM # 4 Construction Site Stormwater Runoff Controls

- **Construction Oversight Program**

- Within 1 year, sites must be prioritized based on a list of criteria (high or low) and updated annually.
- All staff must be trained in construction oversight procedures before conducting construction oversight and existing staff trained once every 5 years thereafter. If procedures are revised, all staff must be retrained prior to conducting construction oversight.
- Annually, construction oversight procedures must be reviewed and updated.
- Within 6 months, develop and maintain a prioritized inventory of all applicable construction sites.
- Within 30 days of when a construction site becomes active, prioritize it in the inventor.
- Annually, update the inventory if construction projects are approved or completed.






MCM #4 Construction Site Stormwater Runoff Controls

- **Construction Oversight Program**
(continued)
 - Staff who review SWPPs must have:
 - 4 hours of DEC-endorsed Erosion & Sediment Control training within 3 years, and every 3 years thereafter. Individuals without such training cannot review SWPPs.
 - Individuals who are *qualified professionals* are exempt.
 - Erosion and sediment controls must be reviewed for conformance.
 - Individuals who review post-construction SMPs must either be *qualified professionals* or work under their supervision.




MCM #4 Construction Site Stormwater Runoff Controls

- **Construction Oversight Program** (continued)
- Pre-construction meeting – must conduct before construction starts and confirm coverage, training, and oversight.
- Construction site inspections – must ensure that inspectors have 4-hour ESC training before inspecting and annually inspect all sites.
- Construction site close-out – must conduct a final site inspection and the Notice of Termination must be signed by the MS4 Operator.
- Annually, within 30 days of the annual evaluation of the SWMP, the Construction Oversight Program procedures must be updated and modified as recommended by the annual evaluation.



MCM # 5 – Post-Construction Stormwater Management

- Within 1 year – develop and implement a **Post Construction SMP Inspection and Maintenance Program** which details inspections, follow-up actions, enforcement, training, etc.
- Maintain and update the inventory from previous permits of BMPs installed after March 10, 2003, including post-construction SMPs. Updates are required when post-construction SMPs are discovered or approved, after the NOT has been filed with DEC, and annually.
- Within 5 years - additional specified information must be included in the inventory.



MCM # 5 – Post Construction Stormwater Management

- Training of all staff on post-construction SMP inspection and maintenance is required prior to conducting inspections and existing staff need to be trained once every 5 years and after any updates to procedures before conducting inspections.
- Annually, update and modify post-construction inspection and maintenance procedures as recommended by the annual evaluation.



MCM #6 – Pollution Prevention & Good Housekeeping

- Within 3 years – develop & implement both a Municipal FACILITY Program and Municipal OPERATIONS Program
- Within 3 years – incorporate BMPs into the Municipal Facility Program and Municipal Operations Program. The permit now specifies a list of BMPs to be *considered*.
 - They fall into the following categories:
 - Minimize exposure (to rain, snow, snowmelt, runoff, etc.)
 - Follow a preventative maintenance program
 - Spill prevention and response procedures
 - Erosion and sediment controls
 - Manage vegetated areas and open space on public property
 - Storage of salt
 - Waste, garbage, and floatable debris
 - Alternative implementation operations (such as street sweeping and snow removal) when contracting out municipal services – require contractors to meet permit requirements

MCM #6 – Pollution Prevention & Good Housekeeping

- **Municipal FACILITY Program:**

- Within 2 years – develop & maintain an inventory of municipal facilities (with specific information required).
- Within 3 years – municipal facilities must be prioritized (high or low according to criteria specified).
 - Within 30 days of a new facility being added, it must be prioritized.
- Training required on municipal facility procedures for existing and new staff prior to conducting municipal facility operations and whenever the program is updated.
- Annually review and update procedures, inventory (if a new facility is added) and prioritization.





MCM # 6 – Pollution Prevention & Good Housekeeping

- **Municipal FACILITY Program** (continued)
 - Within 5 years for each high priority site, develop and implement a municipal-specific SWPPP (detailed list of what must be included)
 - High priority facilities will require:
 - Wet weather visual monitoring once a permit term, at least a year apart.
 - Monitoring location inspection and sampling once every 5 years following the most recent assessment.
 - Annual comprehensive site assessments. If deficiencies are found, prepare a schedule within 24 hours for corrective action if there is a reasonable likelihood of harm to human health of the environment, otherwise within 7 days.
 - Low priority facilities will require:
 - Monitoring location inspection and sampling once every 5 years following the most recent assessment. If deficiencies are found, prepare a schedule within 24 hours for corrective action if there is a reasonable likelihood of harm to human health of the environment, otherwise within 7 days.

MCM #6 – Pollution Prevention & Good Housekeeping

- Within 3 years – develop & implement a **Municipal OPERATIONS Program** (*this is separate from the **Municipal FACILITY Program***).

Municipal Operations are defined as street and bridge maintenance, winter road maintenance, MS4 maintenance, open space maintenance, solid waste management, new construction and land disturbances, right-of-way maintenance, marine operations; or hydraulic habitat modification.

- MUNICIPAL OPERATIONS CORRECTIVE ACTIONS – The permit requires municipal facilities assessments and also municipal operations assessments. These need to be conducted every 3 years. If anything is found not in compliance with this MS4 permit, you must:
 - Implement corrective actions within 24 hours if there is a reasonable likelihood of harm to human health of the environment.
 - Otherwise within 7 days initiate and complete within 30 days.
 - If it will take longer than 30 days due to funding or construction issues, prepare a schedule with milestones to ensure compliance within the shortest reasonable time.

MCM #6 – Pollution Prevention & Good Housekeeping

Municipal OPERATIONS Program (continued)

- Training is required on municipal facility procedures for existing and new staff prior to conducting municipal operations procedures and whenever the program is updated.
- Catch Basin Inspection and Inventory:
 - within 3 years, identify when catch basin inspection is needed and inventory catch basin inspection information.
- Cleaning of catch basins:
 - Within 6 months after inspection where debris > 50% of capacity.
 - Within 1 year after inspection where debris < 50% of capacity.
 - Catch basins that have no debris or where the sump depth of the basin is equal to or less than two feet do not need to be cleaned out.
 - Water or material removed must not re-enter the MS4 or surface waters.
 - Material removed must be screened for contamination and disposed of legally.
 - Must determine if there are signs or evidence of illicit discharges and have procedures for referral / follow-up for illicit discharges.



MCM #6 – Pollution Prevention & Good Housekeeping

Municipal OPERATIONS Program (continued)

- Sweeping / Cleaning of Streets, Bridges, Parking Lots, and Rights-of-Way:
 - Within 6 months develop & implement procedures for sweeping and/or cleaning streets, bridges, parking lots, and rights of way.
 - Annually from April 1st to October 31st all must be swept or cleaned in commercial and business areas except where there are no curbs and catch basins, high speed limited access highways, arterials or interstates.
 - Every 5 years in the Spring every road, bridge, parking lot, and rights-of-way must be swept and/or cleaned in the Spring except where there are no curbs and catch basins, high speed limited access highways, arterials or interstates.

MCM #6 – Pollution Prevention & Good Housekeeping

Municipal OPERATIONS Program (continued)

- Maintenance:
 - Within 5 years – must implement the following:
 - Pave, mark & seal in dry weather.
 - Stage road operations and maintenance activities (e.g. patching potholes) to reduce spillage (cover catch basins, etc.).
 - Restrict use of herbicides & pesticides along roads.
 - Contain pollutants associated with bridge maintenance (paint chips, dust, etc.).
 - Routinely calibrate equipment to control salt/sand rates.
 - Ensure that snow disposal complies with DEC guidance.
 - Annually update municipal facility procedures.



Part VIII – Enhanced Requirements for Impaired Waters



- This applies in sewersheds which discharge to impaired waters on the NYS 303(d) list where no TMDL has been established. Here is the current list for the north shore of Nassau:
 - Hempstead Harbor South – fecal coliform
 - Hempstead Harbor North – fecal coliform
 - Oyster Bay Harbor – fecal coliform
 - Cold Spring Harbor – fecal coliform
 - Manhasset Bay – fecal coliform
 - Dosoris Pond – fecal coliform
 - Glen Cove Creek – fecal coliform and silt/sediment (note latter is proposed for delisting)
 - Mill Neck Creek – fecal coliform
 - Beaver Lake – phosphorous
 - Long Island Sound Coastal Waters – fecal coliform and nitrogen



Part VIII – Enhanced Requirements for Impaired Waters

For PATHOGEN Impaired Areas: In addition to everything else -

- MAPPING - Within 3 years – comprehensive mapping is required in GIS format. The mapping must include:
 - MS4 outfalls and Sewersheds
 - Areas with a history of sanitary sewer overflows
 - Waterfowl congregation areas on municipal property or rights of way
 - Areas where pets frequent (public trails and dog parks)
 - Waste disposal areas (landfills, transfer stations)

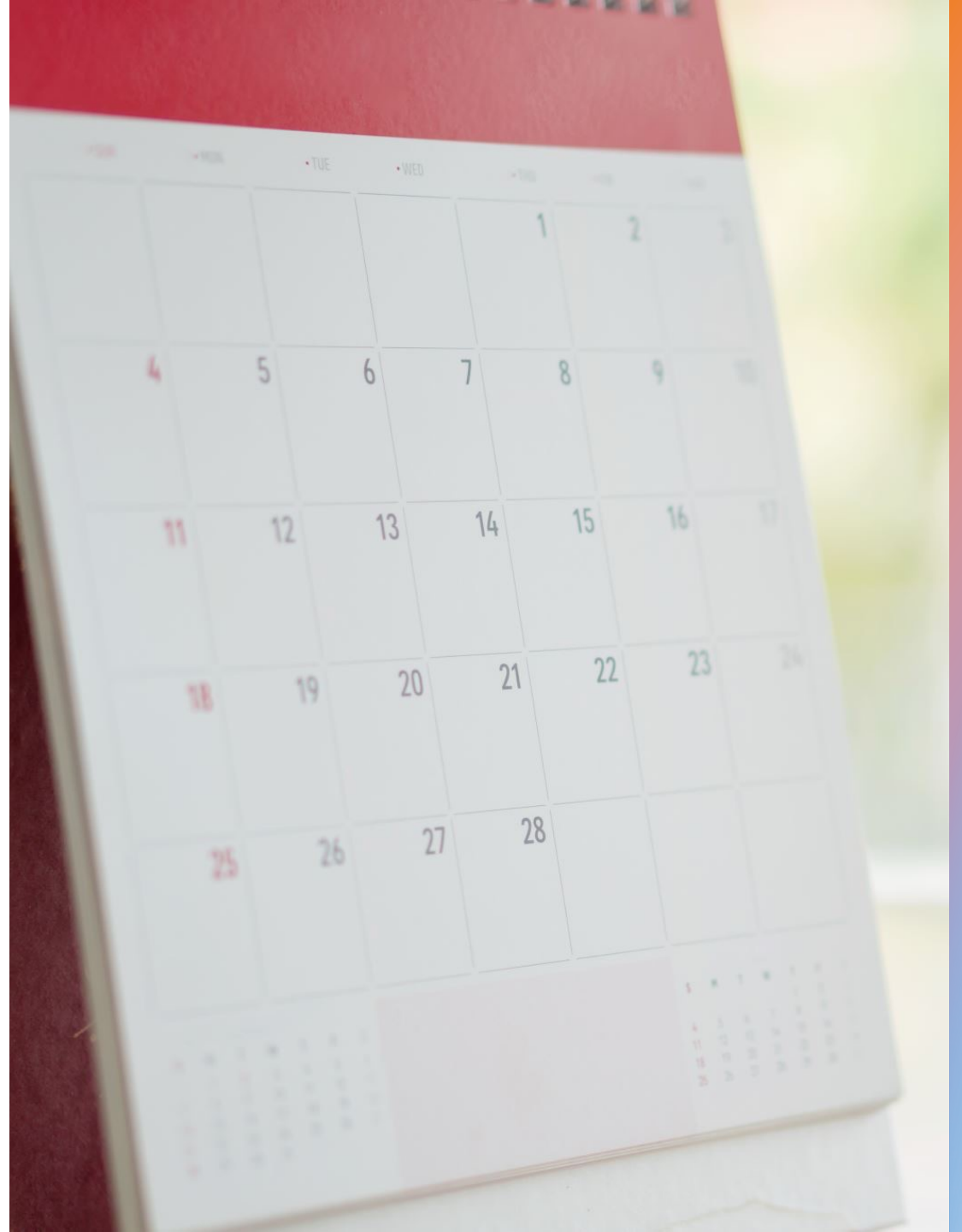
Part VIII – Enhanced Requirements for Impaired Waters

PUBLIC EDUCATION –

- Within 6 months – must make available information on how the impairment is being addressed by implementation of a local law or other legal mechanism.
- Twice a year following completion of mapping (once from March to August and once from September to February) – provide educational messages specific to pathogens to target audiences.

MAINTENANCE -

- Once a year (between April 1 and October 31) – all streets located in sewersheds discharging to pathogen-impaired waterbodies must be swept and documented.



Part VIII – Enhanced Requirements for Impaired Waters

MAINTENANCE (continued)

- Within 6 months of the outfall inspection – outfalls must be repaired and/or bank stability repaired.
- Within 6 months – identify municipal facilities with nuisance bird populations that have the potential to contribute pathogens (e.g. Canada geese) and:
 - Erect signs at these facilities instructing the public not to feed wildlife.
 - Remove accumulated trash and debris from municipal facilities when necessary to eliminate potential food sources for wildlife.
 - Within 1 year – evaluate the effectiveness of deterrents, population controls, and other measures that may reduce bird-related pathogen contributions and document the results in the SWMP plan.
- Within 1 year – make dog waste receptacles available in areas where pets/ domestic animals may frequent (public trails, dog parks).
- Incorporate, where feasible, cost-effective runoff reduction techniques during planned municipal upgrades including rights-of-way (e.g. bioswales, porous pavements, etc.).

Part VIII – Enhanced Requirements for Impaired Waters

For **Nitrogen Impaired Areas** (only applies to Long Island Sound Coastal Waters in Nassau County) : In addition to everything else –

- **MAPPING - Within 3 years** – comprehensive mapping is required in GIS format. The mapping must include:
 - MS4 outfalls
 - Retail and wholesale nurseries (including big box stores)
 - Commercial lawn care facilities
 - Golf courses
- **PUBLIC EDUCATION AND OUTREACH -**
 - Within 6 months – must make available information on how the impairment is being addressed by implementation of a local law or other legal mechanism.
 - Twice a year – once from March to August and once from September to February provide educational messages with information specific to nitrogen to applicable target audiences within the sewershed.



Part VIII – Enhanced Requirements for Impaired Waters

- ILLICIT DISCHARGE DETECTION & ELIMINATION
 - Following completion of mapping and within the 5 year permit period – include on the MS4 outfall inventory the number of nurseries, lawn care facilities, etc.
- CONSTRUCTION SITE STORMWATER RUNOFF CONTROL -
 - Following completion of mapping – high priority construction sites must be inspected during active construction after the pre-construction meeting. If the MS4 Operator is doing the inspections, the site must be inspected every 90 days. If the MS4 Operator uses a qualified inspector's weekly inspection reports, as required by the Construction General Permit, the MS4 Operator must inspect the site once every 6 months, or sooner if any deficiencies.

Part VIII – Enhanced Requirements for Impaired Waters

- POLLUTION PREVENTION & GOOD HOUSEKEEPING –
 - Annually following completion of the mapping between April 1st and October 31st all streets located in sewersheds discharging nitrogen must be swept (except streets with no curbs and catch basins, high-speed limited access highways, and freeways, expressways and arterials)
 - Within 6 months of an MS4 outfall inspection, initiate actions to repair all MS4 outfall protection and/or bank stability problems identified in the inspections.
- PLANNED UPGRADES TO MUNICIPAL FACILITIES –
 - Incorporate where feasible, cost-effective runoff reduction techniques.



Part VIII – Enhanced Requirements for Impaired Waters

For **PHOSPHOROUS** Impaired Areas (only applies to Beaver Lake) : In addition to everything else –

- **MAPPING - Within 3 years** – comprehensive mapping is required in GIS format. The mapping must include:
 - MS4 outfalls
 - Retail and wholesale nurseries (including big box stores)
 - Commercial lawn care facilities
 - Golf courses
- **PUBLIC EDUCATION AND OUTREACH -**
 - Within 6 months – must make available information on how the impairment is being addressed by implementation of a local law or other legal mechanism.
 - Twice a year following completion of mapping – once from March to August and once from September to February provide educational messages with information specific to phosphorous to applicable target audiences within the sewershed.



Part VIII – Enhanced Requirements for Impaired Waters

- ILLICIT DISCHARGE DETECTION & ELIMINATION -
 - Following completion of mapping and within the 5 year permit period – include on the MS4 outfall inventory the number of nurseries, lawn care facilities, etc.
- CONSTRUCTION SITE STORMWATER RUNOFF CONTROL -
 - Following completion of mapping – high priority construction sites must be inspected during active construction after the pre-construction meeting. If the MS4 Operator is doing the inspections, the site must be inspected every 90 days. If the MS4 Operator uses a qualified inspector's weekly inspection reports, as required by the Construction General Permit, the MS4 Operator must inspect the site once every 6 months, or sooner if any deficiencies.

Part VIII – Enhanced Requirements for Impaired Waters

- POLLUTION PREVENTION & GOOD HOUSEKEEPING
 - Annually following completion of the mapping between April 1st and October 31st all streets located in sewersheds discharging nitrogen must be swept (except streets with no curbs and catch basins, high-speed limited access highways, and freeways, expressways and arterials)
 - Within 6 months of an MS4 outfall inspection, initiate actions to repair all MS4 outfall protection and/or bank stability problems identified in the inspections.
- PLANNED UPGRADES TO MUNICIPAL FACILITIES –
 - Incorporate where feasible, cost-effective runoff reduction techniques.



Part IX – Watershed Improvement Strategy Requirements for TMDL Implementation

- Since DEC rescinded the pathogen TMDL for our waters, this section no longer applies to us.
- While DEC is drafting a new pathogen TMDL, it is likely that any MS4 permit requirements will not be applied during this permit period.