



STATE OF CONNECTICUT

COUNCIL ON ENVIRONMENTAL QUALITY

VIA ELECTRONIC MAIL

April 23, 2025

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Re: National Pollutant Discharge Elimination System (NPDES) General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems (MS4) (General Permit)

The Council on Environmental Quality (Council) provides the following comments regarding DEEP's proposed General Permit.

3.1.1 Allowable Non-stormwater Discharge

This general permit authorizes the following non-stormwater discharges provided the permittee controls such non-stormwater discharges to the MEP, such non-stormwater discharges do not contribute to a violation of instream water quality standards, and such non-stormwater discharges are documented in the Stormwater Management Plan and are not significant contributors of pollutants to any identified MS4:

- *discharges of hydrant flushing water from a municipally-owned or -operated drinking water distribution system provided best management practices are employed.*

The Council notes that the discharge of hydrant flushing water was identified in the draft Comprehensive General Permit for Discharges to Surface Water and Ground Water (Comprehensive GP), under section 2.1 and the General Permit for Discharge of Stormwater Associated with Commercial Activity (Commercial Stormwater General Permit), under section 2.1. The Council questions if discharges of hydrant flushing are authorized under this General Permit as an allowable non-stormwater discharge, or an eligible activity and discharge under the Comprehensive GP and/or the Commercial Stormwater General Permit. The Council suggests that DEEP confirm which general permit would authorize the discharge of hydrant flushing water.

- *All other non-stormwater discharges except those specifically listed are not authorized by this permit. Such discharges to surface water must be authorized under a different (pursuant to Section 22a-430 or 22a-430b of the Connecticut*

The Council notes a typographical error in this section and suggests revising the parenthetical to state: (pursuant to Section 22a-430 or 22a-430b of the Connecticut General Statutes).

3.2.1 Limitations of Coverage

Prohibited discharges under this general permit are as follows:

- *discharges of water, substance, or material into the waters of the state other than eligible discharges specified in this general permit.*
- *eligible discharges to publicly or privately owned storm sewers or conveyances without written consent from the owner.*
- *discharges of polychlorinated biphenyl (“PCB”) compounds.*
- *discharges of mercury.*

The Council suggests that “emerging contaminants”, such as per- and polyfluoroalkyl substances (PFAS) or 1,4 Dioxane that can present a hazard to human health and the environment, be included in the list of prohibited discharges under the General Permit.

3.2.4 Endangered and Threatened Species

Such activity must not threaten the continued existence of any species listed as endangered or threatened pursuant to Section 26-306 of the Connecticut General Statutes and must not result in the destruction or adverse modification of habitat designated as essential to such species.

The Council supports the protection of endangered and threatened species and their habitat. The Council also supports the protection of all critical habitat for all species. Given that the General Permit might allow for discharges to surface water, the Council suggests that section 3.2.4 of the General Permit be revised to prohibit adverse modification of any critical habitat essential to any species.

3.2.5. Aquifer Protection

Such activity, if it is located within an aquifer protection area as mapped under section 22a-354b of the Connecticut General Statutes, must comply with regulations adopted pursuant to section 22a-354i of the Connecticut General Statutes.

The Council strongly supports the provisions of the General Permit that protect aquifers and suggests that the General Permit also include provisions to protect public drinking water supply watersheds, and any municipal groundwater protection overlay areas.

3.2.7. Wild and Scenic Rivers Act

Such activity must be consistent with the Wild and Scenic Rivers Act (16 U.S.C. 1271-1287) for those river components and tributaries which have been designated as Wild and Scenic by the United States Congress. Further, such activity must not have a direct and adverse effect on the values for which such river designation was established.

The Council supports this provision and suggests that the word “direct” be removed so that any activity that could have an adverse effect, both direct and indirect, on the values for which such river designation was established, be prohibited.

3.5.1 Authorization to Discharge for New Permittees

If the Small MS4 owner or operator does not submit a timely, appropriate, complete, and accurate registration requesting authorization to discharge under the reissued general permit or a timely request for authorization under an individual or alternative general permit, authorization under this permit will terminate on the due date for the registration under the reissued general permit unless otherwise specified in the reissued general permit. The Commissioner will review and approve, reject, or deny registrations in writing.

The Council notes that the language above is the same for new permittees and for “existing permittees”. The Council questions if the “authorization to discharge under the reissued general permit” can be terminated for a new permittee, which presumably did not have prior authorization under the previous

general permit. The Council suggests that DEEP clarify if the “*authorization under this permit will terminate on the due date for the registration under the reissued general permit*” for new permittees.

4.3.2 Registration Form

4.3.2.2 Site information

Name and waterbody ID of receiving stream(s), watershed(s), or waterbody(s) to which the MS4 discharges and indication of whether or not a receiving stream is listed as an impaired water with or without a TMDL, including identification of the impairment in the most recent State of Connecticut Integrated Water Quality Report or identification of the receiving stream as a high-quality water in the Connecticut Water Quality Standards.

The Council suggests that information regarding the discharge of stormwater into wetlands should be included as part of the “site information” on the registration form.

4.3.2.3 Stormwater Management Plan

v. the Stormwater Management Plan appropriately addresses new or increased discharges to high quality waters, as specified in Section 3.2.6.

vi. the Stormwater Management Plan appropriately addresses new or increased discharges to impaired waters, as specified in Section 3.2.7.

The Council notes that section 3.2.6 contains a provision for “*Conservation and Preservation Restrictions*”, which does not include reference to “*new or increased discharges to high quality waters*”, and section 3.2.7 contains a provision for “*Wild and Scenic Rivers Act*”, which does not include reference to “*new or increased discharges to impaired waters*”. The Council suggests that DEEP clarify if the sections referenced in section 4.3.2.3, subsections v and vi should address sections 3.2.10 and 3.2.11, and if so, revise as appropriate.

The Council also notes that the phrase “appropriately addresses” in both subsections are vague and potentially unenforceable. Likewise, the Council notes that the General Permit includes words and phrases, such as excessive, sufficient, proper, etc., that are also vague and might be unenforceable or provides insufficient guidance for permittees. The Council suggests that additional guidance be provided to potential permittees so they might better conform to DEEP’s expectations for compliance with the provisions of the General Permit.

4.4 Additional Information

The Commissioner may require a registrant to submit additional information that the Commissioner reasonably deems necessary to evaluate the consistency of the subject activity with the requirements for authorization under this general permit. A response to the Commissioner’s request for additional information shall be submitted to the Department within fifteen (15) days of the Commissioner’s request.

The Council notes that Section 4.8.2 Rejection or Denial states that “*the Commissioner may reject or deny without prejudice a registration if it is determined that it does not satisfy the registration requirements in Section 4 of this general permit, or if more than seven (7) days have elapsed since the Commissioner requested the permittee submit additional information to determine eligibility for permit coverage for authorization to discharge under this general permit.*” The Council suggests that the General Permit clarify when the provision of additional information is required (15 days or seven (7) days).

4.5 Additional Notification

“For discharges within a public drinking water supply watershed or aquifer area, the permittee shall notify the water company of the availability pursuant to Sections 4.6.1 and 4.6.2 of the registration and the Stormwater Management Plan described in Section 5.2 of this general permit or the registration and Stormwater Management Plan shall be submitted to the water company upon request.”

The Council supports the provisions of Section 4.5 that require the permittee to notify the “water company”. The Council suggests that the permittee also notify the municipality and/or the local health department/health district for discharges within a public drinking water supply watershed, aquifer protection area (not “aquifer area”) and municipal groundwater protection overlay area.

Section 5 Conditions of this General Permit

5.1 Conditions Applicable for Certain Discharges

The Council notes that this section includes provisions for “Proximity to Tidal Wetlands”, discharges to “High Quality waters”, and “Discharges to Impaired Waters or Waterbodies Subject to a Load Allocation Within a TMDL”. However, there are almost no provisions in this section and in the General Permit that address the protection of inland wetlands. At a minimum, the General Permit should include a requirement that permittees comply with the requirements of the host municipality’s Inland Wetlands Regulations, and that inland wetlands not be degraded to the Maximum Extent Practicable (MEP).

6.1.3.3 IDDE Program Area of Implementation

The permittee shall, at minimum, implement the IDDE Program within the Priority Area. The permittee is encouraged to develop a prioritizing strategy to identify areas outside the Priority Area to further implement these IDDE measures.

The Council suggests that the language of this subsection be revised so that permittees prioritize the implementation of the Illicit Discharge Detection and Elimination (IDDE) Program within the “Priority Area” (which should also be defined in Section 2 Definitions) rather than “at minimum” which might suggest a “low bar” for implementation of the IDDE Program and compliance with the General Permit.

6.1.3.5 MS4 Mapping

c. Additional mapping elements

The following additional elements are recommended to be included, where available, in mapping to further assist IDDE program implementation.

The Council suggests that other data/information should be added to the “Water Resources and Topographic Features” list including the location of Aquifer Protection Areas, water supply watershed boundaries, and municipal groundwater protection overlay areas. The Council also suggests that the locations of certain land uses that have the potential to generate runoff with the pollutants of concern identified in Appendix D, including but not limited to concentrated animal feeding operations, salvage yards/facilities, deicing storage facilities, large parking areas, etc., be included as “additional mapping elements” in the General Permit to further assist the permittee with the IDDE program implementation.

6.1.3.8 Outfall Prioritization

i. Critical Outfalls

MS4 outfalls with known or suspected illicit discharges based on existing information such as citizen reports or the results of previous investigations shall be classified as “Critical Outfalls.”

Critical Outfalls shall only be identified during the initial ranking outfalls; subsequent rankings shall not add any outfalls to the Critical Outfall category.

The Council questions why Critical Outfalls are only identified during the initial ranking of all outfalls within the MS4 area. Given that illicit discharges can arise over time, this provision potentially discourages monitoring for new illicit discharges. The Council suggests that the General Permit include a provision to have permittees screen for Critical Outfalls and update this category throughout the life of the General Permit.

ii. High Priority Outfalls

MS4 outfalls with no known or suspected illicit discharges based on existing information (i.e., outfalls not classified as Critical Outfalls) which discharge to an area of concern to public health (such as areas in proximity to public beaches, recreational areas, drinking water supplies, or shellfish beds) or which have received multiple complaints concerning discharges in the past may be classified as “High Priority Outfalls. “Any outfall where screening or sampling indicates sanitary sewer input shall be ranked at the top of the High Priority Outfalls category and scheduled for follow-up investigation pursuant to Section 6.1.3.7.

The Council notes that “MS4 outfalls with no known or suspected illicit discharges based on existing information... or which have received multiple complaints” are considered “High Priority Outfalls”. However, the definition of “Critical Outfalls” includes “known or suspected illicit discharges based on existing information such as citizen reports”. The fact that the characterization is based, in part, on “citizen reports” or “multiple complaints” could lead to confusion designating the outfall prioritization. The Council suggests that the General Permit clarify how outfalls that receive citizen reports/complaints should be characterized. The Council also suggests expanding the areas of concern to include important environmental resources, such as trout stocking areas, important fisheries, and critical habitats.

6.1.5.2 Runoff Reduction and Low Impact Development Measures

a. For development or redevelopment of sites that are currently developed with impervious cover of forty percent or more ($\geq 40\%$): retain onsite half the Water Quality Volume (“WQV”) for the site.

The Council notes that the intent of this section is to provide guidance/requirements to reduce the amount of runoff from development and redevelopment projects within the MS4 area. The Council suggests that this requirement be revised to “... retain onsite half the Water Quality Volume (“WQV”) for the site or the maximum extent practicable, whichever is greater”

6.1.6.3 MS4 Property and Operations Maintenance Program

The permittee shall establish, implement, and maintain a program to maintain permittee owned or operated properties, parks, and other facilities that are owned, operated, or otherwise the legal responsibility of the permittee so as to minimize the discharge of pollutants to its MS4. The program shall be outlined in the Stormwater Management Plan and annual progress of maintenance efforts shall be documented in the Annual Report. Such maintenance shall include, but not be limited to:

a. Parks and Open Space

The Council supports the provisions of this section that would establish a program to maintain permittee owned or operated properties, parks, and other facilities in a manner that would minimize the discharge of pollutants to its MS4. The Council suggests that the General Permit include a requirement that permittees develop and implement an integrated pest management plan in order to reduce the runoff of pesticides and herbicides into their MS4. The Council also recommends that information related to the application of each restricted-use pesticide(s) on properties owned or operated by the permittee be included in their annual MS4 report, such as the date of application, name of the pesticide, quantity, concentration, and application method.

The permittee shall establish practices for the proper disposal of grass clippings and leaves at permittee owned and operated properties. Clippings shall be composted or otherwise appropriately disposed.

The Council questions the provision of the General Permit that suggests “clippings shall be composted or otherwise disposed”, as the elimination of organic material from disposal is an important measure in reducing the state’s solid waste capacity deficit and methane gas emissions. The Council recommends DEEP revise the phrase to “or otherwise appropriately managed” since grass clippings are banned from disposal at landfills and incinerators.

6.1.6.5 Snow Management Procedures

a. Deicing Material Management

The permittee shall develop, implement, and maintain standard operating procedures for the use, handling, storage, application, and disposal of deicing products such as salt and sand to minimize exposure to stormwater.

As identified in the Council's most recent annual report, [*Environmental Quality in Connecticut*](#),¹ chloride, a common constituent of deicing chemicals, is the most common contaminant of public drinking water supplies in Connecticut. The Council supports the provisions of this section and suggests that the locations of public water system wells within the MS4 area with high levels of chloride be identified for targeted/enhanced stormwater control measures/treatment.

Section 9 Standard Conditions

The Council notes that some of the provisions within Section 9 reference or apply to activities that might generate "wastewater" rather than stormwater. The Council suggests that DEEP clarify if the provisions of the General Permit that reference or apply to "wastewater" should be revised or eliminated, such as 9.12 Sludge Disposal, 9.13 Resource Conservation, 9.16 Equalization, 9.21 Notification to DEEP, 9.22 Proper Operation and Maintenance, and 9.23 Instrumentation, Alarms, and Flow Records.

Appendix B: Illicit Discharge Detection and Elimination Program Protocol

1.2.2.5 ii Outfall Sampling

a. Samples analyzed in the field

Where surfactants are not measured above the benchmark value, the sample shall be analyzed for chlorine to determine if the likely source is natural (surface water/groundwater) or human-generated (e.g., potable water sources, swimming pools, or industrial discharges). The results of this analysis may not always prove conclusive, as the chlorine demand found in the storm sewer may diminish or eliminate any chlorine present.

The Council notes that federal and state regulations require public water systems to add fluoride, which does not diminish due to heat or time like chlorine, to their potable water. The Council suggests that a fluoride analysis could also be used as a method to assist in determining if the likely source for surfactants is natural or human-generated.

The Council notes that there are provisions within the General Permit that allow for the submittal of comments to the Commissioner of DEEP (4.7.1.2 and 4.7.2.2, and/or the permittee (4.7.2.1 and 6.1.2.1). However, there is no requirement for DEEP or the permittee to acknowledge receipt of, respond to, or address the comments submitted by the public. The Council suggests that the General Permit include provisions for DEEP and/or the permittee to respond to the substantive issues identified by members of the public regarding the Stormwater Management Plan, permit, or annual report.

Thank you for your consideration of the Council's comments.

Sincerely,



Paul Aresta,
Executive Director

¹Connecticut Council on Environmental Quality, *Environmental Quality in Connecticut*, 2023, <https://portal.ct.gov/ceq/ar-23-gold/2023-ceq-annual-report-ebook/water-quality---rivers-lakes-and-estuaries/drinking-water>