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AVAILABILITY OF FINAL NPDES GENERAL PERMIT FOR STORMWATER
DISCHARGES FROM SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS IN
NEW HAMPSHIRE

AGENCY: ENVIRONMENTAL PROTECTION AGENCY (EPA)

ACTION: NOTICE OF AVAILABILITY OF FINAL NPDES GENERAL PERMIT

SUMMARY: The Director of the Office of Ecosystem Protection, EPA – Region 1, is providing a notice of availability of the final National Pollutant Discharge Elimination System (NPDES) general permit for stormwater discharges from Small Municipal Separate Storm Sewer Systems (MS4s) to certain waters of the State of New Hampshire. The final New Hampshire Small MS4 general permit establishes Notice of Intent (NOI) requirements, prohibitions, and management practices for stormwater discharges from small MS4s in New Hampshire. The final New Hampshire small MS4 general permit reflects modifications to the draft small MS4 general permit released for comment on February 12, 2013 and to renoticed sections of the draft Small MS4 general permit released for comment on September 1, 2015. The final New Hampshire small MS4 general permit replaces the 2003 small MS4 general permit for MS4 operators within the State of New Hampshire.

DATES: The New Hampshire small MS4 general permit shall be effective on July 1, 2018 and will expire at midnight on June 30, 2023. In accordance with 40 CFR part 23, this permit shall be considered issued for the purpose of judicial review at 1:00 pm eastern daylight time on February 1, 2017. Under section 509(b) of the Clean Water Act, judicial review of this general permit can be requested by filing a petition for review in the United States Court of Appeals within 120 days

after the permit is considered issued. Under section 509(b)(2) of the Clean Water Act, the requirements in this permit may not be challenged later in civil or criminal proceedings to enforce these requirements. In addition, this permit may not be challenged in other agency proceedings.

FOR FURTHER INFORMATION CONTACT: Suzanne Warner, Stormwater and Construction Permits Section OEP 06-4, Environmental Protection Agency, 5 Post Office Square - Suite 100, Boston, Massachusetts 02109-3912; 617-918-1383; warner.suzanne@epa.gov.

SUPPLEMENTARY INFORMATION:

General Information:

EPA is reissuing three final NPDES permits for discharges of stormwater from small MS4s to certain waters within the State of New Hampshire. The three general permits are:

NHR041000 – Traditional cities and towns

NHR042000 – Non-traditional state, federal, county, and other publicly owned MS4s

NHR043000 – Non-traditional transportation MS4s

While these are technically distinct permits, for convenience they have been grouped into a single document and this document refers to the “permit” in the singular. The final general permit, appendices and attachments, as well as response to comments on the draft permit are available at http://www.epa.gov/region1/npdes/stormwater/MS4_NH.html.

The conditions in the general permit are established pursuant to Clean Water Act (CWA) section 402(p)(3)(iii) to ensure that pollutant discharges from small MS4s are reduced to the Maximum Extent Practicable (MEP), protect water quality, and satisfy the appropriate

requirements of the CWA. Further information on the requirements of the permit related to MEP and water quality may be found in EPA's Response to Comments document on the above website.

EPA issued a final general permit to address stormwater discharges from small MS4s in Massachusetts and New Hampshire on May 1, 2003. The 2003 general permit required small MS4 operators to develop and implement a Stormwater Management Program (SWMP) designed to control pollutants to the maximum extent practicable and protect water quality. The final general permit for New Hampshire MS4s builds on the requirements of the 2003 general permit. EPA drafted a small MS4 general permit for New Hampshire and took public comments on the draft from February 12, 2013 to August 15, 2013. Based on comments received on the draft and newly available information, EPA modified specific parts of the draft general permit and renoticed those parts for public comment. EPA took comments on those modified permit parts from September 1, 2015 to November 2, 2015. EPA received over 50 unique written letters and oral comments on the 2013 draft permit and 2015 renoticed permit parts. Concurrent with the release of the final permit and supplemental materials EPA will make available a Response to Comments received on the 2013 draft permit and 2015 renoticed permit parts. The Response to Comments will be available on the EPA website listed above. Changes to the permit resulting from public comments include, but are not limited to: reduction of certain reporting requirements and metrics, adding more specific requirements to certain minimum control measures, reorganization of certain requirements for clarity, and extension of deadlines for certain required tasks and reports within the permit.

Obtaining Authorization:

In order for a small MS4 operator to obtain authorization to discharge, it must submit a complete

and accurate NOI containing the information in Appendix E of the general permit. If the operator so chooses, it must include any alternative pollutant reduction plans approved by New Hampshire Department of Environmental Services (NHDES) in the NOI submission. The NOI must be submitted on or before October 1, 2018. A small MS4 operator must meet the eligibility requirements of the general permit found in Part 1.2 and Part 1.9 prior to submission of its NOI. A small MS4 operator will be authorized to discharge under the permit upon receipt of written notice from EPA following a public notice of the submitted NOI, if necessary. EPA will authorize the discharge, request additional information, or require the small MS4 to apply for an alternative permit or an individual permit. NOIs may be submitted electronically to EPA at stormwater.reports@epa.gov or sent via regular or overnight mail to: United States Environmental Protection Agency, Stormwater and Construction Permits Section OEP 06-1, 5 Post Office Square - Suite 100, Boston, Massachusetts 02109-3912. If requested to do so by NHDES, the small MS4s must also submit a copy of the NOI to: New Hampshire Department of Environmental Services, Water Division – Wastewater Engineering Bureau, P.O. Box 95, Concord, New Hampshire 03302-0095, ATTN: Stormwater Permits Coordinator.

Other Legal Requirements:

In accordance with the Endangered Species Act (ESA), EPA has updated the provisions and necessary actions and documentation related to potential impacts to endangered species from discharges and related actions under the New Hampshire Small MS4 general permit. EPA has obtained concurrence from the appropriate federal services (U.S. Fish and Wildlife Service and National Marine Fisheries Service) regarding the requirements of this general permit.

In accordance with the National Historic Preservation Act, EPA has established provisions and documentation requirements for operators seeking coverage under the New

Hampshire small MS4 general permit to ensure that discharges or actions taken under this permit will not adversely affect historic properties and places.

AUTHORITY: This action is being taken under the Clean Water Act, 33 U.S.C. 1251 *et seq.*

January 18, 2017.
Dated

/ Signature on File /

H. Curtis Spalding
Regional Administrator, Region 1