



# Stormwater Phase II Final Rule

## Small MS4 Stormwater Program Overview

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Polluted storm water runoff is often transported to municipal separate storm sewer systems (MS4s) and ultimately discharged into local rivers and streams without treatment. EPA's Stormwater Phase II Rule establishes an MS4 stormwater management program that is intended to improve the Nation's waterways by reducing the quantity of pollutants that stormwater picks up and carries into storm sewer systems during storm events. Common pollutants include oil and grease from roadways, pesticides from lawns, sediment from construction sites, and carelessly discarded trash, such as cigarette butts, paper wrappers, and plastic bottles. When deposited into nearby waterways through MS4 discharges, these pollutants can impair the waterways, thereby discouraging recreational use of the resource, contaminating drinking water supplies, and interfering with the habitat for fish, other aquatic organisms, and wildlife.

In 1990, EPA promulgated rules establishing Phase I of the National Pollutant Discharge Elimination System (NPDES) stormwater program. The Phase I program for MS4s requires operators of "medium" and "large" MS4s, that is, those that generally serve populations of 100,000 or greater, to implement a stormwater management program as a means to control polluted discharges from these MS4s. The Stormwater Phase II Rule extends coverage of the NPDES stormwater program to certain "small" MS4s but takes a slightly different approach to how the stormwater management program is developed and implemented.

### What Is a Phase II Small MS4?

A small MS4 is any MS4 not already covered by the Phase I program as a medium or large MS4. The Phase II Rule automatically covers on a nationwide basis all small MS4s located in "urbanized areas" (UAs) as defined by the Bureau of the Census (unless waived by the NPDES permitting authority), and on a case-by-case basis those small MS4s located outside of UAs that the NPDES permitting authority designates. For more information on Phase II small MS4 coverage, see Fact Sheets 2.1 and 2.2.

### What Are the Phase II Small MS4 Program Requirements?

Operators of regulated small MS4s are required to design their programs to:

- ☐ Reduce the discharge of pollutants to the "maximum extent practicable" (MEP);
- ☐ Protect water quality; and
- ☐ Satisfy the appropriate water quality requirements of the Clean Water Act.

Implementation of the MEP standard will typically require the development and implementation of BMPs and the achievement of measurable goals to satisfy each of the six minimum control measures.

The Phase II Rule defines a small MS4 stormwater management program as a program comprising six elements that, when implemented in concert, are expected to result in significant reductions of pollutants discharged into receiving waterbodies.

The six MS4 program elements, termed “minimum control measures,” are outlined below. For more information on each of these required control measures, see Fact Sheets 2.3 – 2.8.

**① *Public Education and Outreach***

Distributing educational materials and performing outreach to inform citizens about the impacts polluted stormwater runoff discharges can have on water quality.

**② *Public Participation/Involvement***

Providing opportunities for citizens to participate in program development and implementation, including effectively publicizing public hearings and/or encouraging citizen representatives on a stormwater management panel.

**③ *Illicit Discharge Detection and Elimination***

Developing and implementing a plan to detect and eliminate illicit discharges to the storm sewer system (includes developing a system map and informing the community about hazards associated with illegal discharges and improper disposal of waste).

**④ *Construction Site Runoff Control***

Developing, implementing, and enforcing an erosion and sediment control program for construction activities that disturb 1 or more acres of land (controls could include silt fences and temporary stormwater detention ponds).

**⑤ *Post-Construction Runoff Control***

Developing, implementing, and enforcing a program to address discharges of post-construction stormwater runoff from new development and redevelopment areas. Applicable controls could include preventative actions such as protecting sensitive areas (e.g., wetlands) or the use of structural BMPs such as grassed swales or porous pavement.

**⑥ *Pollution Prevention/Good Housekeeping***

Developing and implementing a program with the goal of preventing or reducing pollutant runoff from municipal operations. The program must include municipal staff training on pollution prevention measures and techniques (e.g., regular street sweeping, reduction in the use of pesticides or street salt, or frequent catch-basin cleaning).

## **What Information Must the NPDES Permit Application Include?**

The Phase II program for MS4s is designed to accommodate a general permit approach using a Notice of Intent (NOI) as the permit application. The operator of a regulated small MS4 must include in its permit application, or NOI, its chosen BMPs and measurable goals for each minimum control measure. To help permittees identify the most appropriate BMPs for their programs, EPA issued a Menu of BMPs to serve as guidance. NPDES permitting authorities can modify the EPA menu or develop their own list. For more information on application requirements, see Fact Sheet 2.9.

## **What Are the Implementation Options?**

The rule identifies a number of implementation options for regulated small MS4 operators. These include sharing responsibility for program development with a nearby regulated small MS4, taking advantage of existing local or State programs, or participating in the implementation of an existing Phase I MS4's stormwater program as a co-permittee. These options are intended to promote a regional approach to stormwater management coordinated on a watershed basis.

## **What Kind of Program Evaluation/Assessment Is Required?**

Permittees need to evaluate the effectiveness of their chosen BMPs to determine whether the BMPs are reducing the discharge of pollutants from their systems to the “maximum extent practicable” and to determine if the BMP mix is satisfying the water quality requirements of the Clean Water Act. Permittees also are required to assess their progress in achieving their program's measurable goals. While monitoring is not required under the rule, the NPDES permitting authority has the discretion to require monitoring if deemed necessary. If there is an indication of a need for improved controls, permittees can revise their mix of BMPs to create a more effective program. For more information on program evaluation/assessment, see Fact Sheet 2.9.

### For Additional Information

#### *Contacts*

- ☛ U.S. EPA Office of Wastewater Management

<http://www.epa.gov/npdes/stormwater>

Phone: 202-564-9545

- ☛ Your NPDES Permitting Authority. Most States and Territories are authorized to administer the NPDES Program, except the following, for which EPA is the permitting authority:

Alaska	Guam
District of Columbia	Johnston Atoll
Idaho	Midway and Wake Islands
Massachusetts	Northern Mariana Islands
New Hampshire	Puerto Rico
New Mexico	Trust Territories
American Samoa	

- ☛ A list of names and telephone numbers for each EPA Region and State is located at <http://www.epa.gov/npdes/stormwater> (click on "Contacts").

#### *Reference Documents*

- ☛ EPA's Stormwater Web Site

<http://www.epa.gov/npdes/stormwater>

- Stormwater Phase II Final Rule Fact Sheet Series
- Stormwater Phase II Final Rule (64 *FR* 68722)
- National Menu of Best Management Practices for Stormwater Phase II
- Measurable Goals Guidance for Phase II Small MS4s
- Stormwater Case Studies
- And many others