

Ohio Environmental Protection Agency

Fact Sheet for

National Pollutant Discharge Elimination System (NPDES)

General Permit for Discharges of Storm Water  
From Small Municipal Separate Storm Sewer Systems

I. Background

The federal Water Pollution Control Act (also referred to as the Clean Water Act [CWA]), which was enacted in 1972, provides that, except in compliance with the CWA, the discharge of any pollutant to waters of the United States by any person shall be unlawful.

The Clean Water Act amendments of 1987 (referred to as the Water Quality Act) explicitly required the U.S. Environmental Protection Agency (EPA) to adopt regulations to require NPDES permits of storm water dischargers.

The purpose of issuing an NPDES general permit for small municipal separate storm sewer systems (MS4s) is to ensure these dischargers can be in compliance with applicable state and federal regulations.

This will be the second generation of this general permit. Permit area coverage and eligibility requirements can be found under Part I.A and Part I.B of the permit.

The small MS4 program addresses a select group of MS4s that serve populations less than 100,000 in urbanized areas, and those that have or may have the potential to negatively impact surface water quality as a result of their discharges. An MS4 individual permitting program exists for those serving populations of more than 100,000.

The concern with MS4 discharges has to do with high concentrations of pollutants resulting from development that increases impervious areas, such as parking lots, city streets, driveways, sidewalks and rooftops, on which pollutants settle and remain until a storm event washes them into the storm sewer system that then discharges to surface waters. Common pollutants include: pesticides, fertilizers, oils, road salt, litter, motor vehicle fluids, other debris and sediment. Another concern is illicit discharges to MS4s such as sewage and dumping of waste materials into storm drains. An MS4 does not typically treat its wastewater, hence, when left uncontrolled, these discharges could cause fish kills, destruction of aquatic habitat, loss of surface water's aesthetic value, and contamination of drinking water supplies and recreational waterways.

## II. Description of General Permit Coverage and Type of Discharges

This permit would cover all small MS4s required to obtain NPDES permit coverage to discharge throughout the State of Ohio. On December 27, 2002, Ohio EPA issued its first generation of Small MS4 general permits. One of our general permits was a baseline permit, and the second was an alternative general permit for MS4s located within rapidly developing watersheds. Both permits include the required six minimum control measures and were very similar to a model general permit for MS4s developed by U.S. EPA. The difference between the two general permits was the compliance deadline for implementation of construction and post-construction requirements. The baseline permit allowed five years, whereas the alternative permit only allowed three years. Ohio EPA developed the alternative general permit to protect streams within areas that we believed were at high risk of impairment as a result of urban growth. Both general permits have an expiration date of December 26, 2007.

Ohio EPA has elected to only renew the baseline permit. The alternative permit should not be needed in the future. As discussed earlier, the alternative permit had an accelerated deadline for the construction and post-construction requirements. MS4s covered under the alternative permit have passed the accelerated deadline and should have these two requirements developed and being implemented. Instead of having the alternative permit, any future designated MS4s located within a rapidly developing watershed would obtain coverage under this permit but be issued Director's Final Findings and Orders (DFFOs) with an accelerated schedule for the construction and post-construction requirements.

## III. Applying for Coverage

MS4s must submit a Notice of Intent (NOI) to apply for coverage under the general permit. U.S. EPA's regulations at 40 CFR 122.21(a) exclude facilities covered by general permits from requirements to submit an application for an individual permit.

NOI requirements are intended to put a mechanism in place that can be used to establish a tracking system for MS4s covered by the general permit. Information on the MS4's identity, location, mailing address, MS4 drainage area, nature of discharge and receiving waterbody(s) is required.

MS4s applying for initial general permit coverage will be instructed to complete and submit an NOI application form that is available from Ohio EPA, along with its Storm Water Management Program (SWMP), and a non-refundable application fee of two hundred dollars (\$200.00). MS4s applying to renew their general permit coverage will be instructed to complete and submit an NOI

application form and a non-refundable application fee of two hundred dollars (\$200.00). Both application submittals would be submitted to:

Ohio EPA  
Office of Fiscal Administration  
P.O. Box 1049  
Columbus, Ohio 43216-1049

Ohio EPA will supply MS4s, required to apply for coverage, the necessary forms and instructions once the general permit is issued. Within 90 days of receiving Ohio EPA's notification after issuance, MS4s will need to submit their appropriate application for general permit coverage.

IV. Description of Permit Conditions

The previous generation general permits required the development and implementation of a SWMP. This document must provide what best management practices (BMPs) the MS4 has selected to address the six minimum control measures in the permit, why those particular BMPs were selected by the MS4 in light of local water quality issues, and milestones for BMP implementation. The six minimum control measures are:

1. Public education and outreach (informing individuals, businesses and organizations within the MS4 as to the impact on surface water quality of contaminated storm water discharges and how they can help reduce storm water contamination).
2. Public participation and involvement (creating opportunities for individuals and organizations to participate in the development and implementation of activities to reduce the contamination of storm water).
3. Illicit discharge detection and elimination (a program to detect and eliminate cross-connections, dumping of wastes or other non-storm water discharges not authorized by a separate NPDES permit).
4. Construction site runoff control (a program to require erosion and sediment controls for sites disturbing one or more acres).
5. Post-construction runoff control (a program requiring the development, implementation and maintenance of controls on sites after development and redevelopment to address storm water pollutants and flow issues).
6. Housekeeping/pollution prevention (a program, including an employee training component, to minimize pollutants from municipal operations such as garages, salt piles, pesticides used for green spaces, etc.)

The MS4 is to implement its selected BMPs (have programs in place and running) within five years of initially being granted permit coverage.

This renewal permit contains the same basic framework of requirements as the previous generation general permits and includes some formatting changes for easier reading. However, there are seven conditions /requirements in the draft permit, which are noteworthy to identify, that differ from the first generation MS4 general permits. Ohio EPA is requesting comments on these seven conditions in particular. The following is a list of these conditions and associated draft permit part number:

1. **Requiring a table of organization, Part III.A.1.d.** The current MS4 general permits require that the SWMP indicate who is responsible for overall management and implementation of each minimum control measure and, if different, who is responsible for each of the BMPs identified for that minimum control measure. MS4 programs are typically implemented by various departments and other third party entities such as a Soil and Water Conservation Districts. MS4s need to better identify how implementation across multiple positions, agencies and departments will occur. The draft renewal permit requires MS4s to develop a table of organization for overall program development and implementation, including a primary point of contact. This requirement will aid MS4s in better identifying who is responsible for various aspects of their program, including contact information. The table of organization will be required to be updated annually and be included within annual reports.
2. **Requiring performance standards to set minimum permit requirements, Part III.B.1.c, Part III.B.2.c, Part III.B.3.j, Part III.B.4.c, Part III.B.5.g and Part III.B.6.e.** The current MS4 general permits require MS4s to select their own measurable goals to guide program development and implementation. The draft renewal permit includes performance standards to set minimum permit expectations for program implementation (i.e., require at least 50 percent of population be reached through outreach efforts over permit term, require at least 5 public involvement/participation events be held over permit term, etc.). This approach will set clear minimum permit requirements. The draft renewal permit provides a two year schedule for MS4s renewing coverage to revise programs, if needed, to satisfy this requirement.
3. **Expanding MS4 mapping requirements, Part III.B.3.b.** The current MS4 general permits require that a storm sewer system map be developed and, at a minimum, only include the location of storm water outfalls and the names and locations of surface waters of the state that receive discharges from those outfalls. Knowing the locations of outfalls and receiving waters are necessary to be able to conduct dry weather field screening for non-storm water flows. The draft renewal permit requires the entire MS4 system (i.e., catch basins, pipes, ditches, and public and private storm water facilities) to be mapped. In order for a MS4 to properly manage their system a complete

map of the system is needed. The draft renewal permit provides a five year schedule to complete this additional mapping effort.

4. **Provide Clarification for Discharging Home Sewage Treatment Systems (HSTSs), Part III.B.3.e.** As indicated within the preamble of the Federal Phase II regulations, discharging HSTSs are within the definition of illicit discharges as defined by the regulations. Where they are found to be the source of an illicit discharge, they need to be addressed similar to any other illicit discharge source (NPDES permitted or eliminated). The current MS4 general permits provided 5 years to identify and map these systems that were discharging to MS4s. Also, the current general permits required that MS4s develop and be implementing a plan to detect and eliminate illicit discharges to MS4s. Over the first permit term, many questions were raised on how to deal with these systems. The draft renewal permit is requiring that the plan to address HSTSs connected to MS4s include, at a minimum, the following components:

- If within two hundred feet of public sewers require the owner of the HSTS to connect per ORC 6117.51; and
- work with your local board of health to develop an inspection program to determine if HSTSs are operating as designed and intended. HSTSs that are not operating as designed and intended should be repaired or replaced. Replacement systems that cannot be an on-site system then the replacement discharging system shall obtain NPDES general permit coverage; and
- Evaluate installing sewers for areas which contain high densities of discharging HSTSs.”

Ohio EPA feels that these requirements will provide better guidance for MS4s to implement a plan to address HSTSs discharging to their MS4s.

5. **Requiring local construction and post-construction ordinances to be consistent and not conflict with the applicable NPDES Construction Storm Water general permit for the permit area, Part III.B.4.a.i and Part III.B.5.d.** Federal regulations require that construction projects obtain coverage under an NPDES permit whenever the larger common plan of development or sale is one or more acres of land disturbance. As a result, construction site operators must obtain Ohio EPA’s NPDES Construction Storm Water general permit (CGP) applicable for that area which contains sediment and erosion requirements and also post-construction requirements. Likewise, the MS4 program requires MS4s to develop ordinances or other regulatory mechanisms to require similar elements of the CGP at the local level. Currently, there is no hard requirement that these local requirements mirror the CGP because the current MS4 general permits’ requirements are vague and flexible.

The draft renewal Small MS4 general permit requires a regulated Small MS4's construction and post-construction requirements to be at least as stringent and not conflict with the NPDES CGP applicable for their permit area at the time of issuance of this permit. This approach would deter conflicting requirements and allow for a lessened presence of Ohio EPA in regards to the CGP requirements within MS4 jurisdictions. Under this approach, regulated MS4s located within the Big Darby Creek Watershed would need to have their local regulations be at least as stringent and not conflict with Ohio EPA's alternative NPDES CGP for the Big Darby Creek Watershed. All other regulated MS4s would be required to have their local regulations be at least as stringent and not conflict with Ohio EPA's statewide NPDES CGP that is effective at the time of issuance of this permit. This draft renewal permit provides a two year schedule for MS4s renewing coverage to revise programs to satisfy this requirement.

The draft renewal NPDES CGP (OHC000003) is currently public noticed for comment. Ohio EPA intends on issuing OHC000003 before issuing OHQ000002; therefore, regulated MS4s should review draft OHC000003 as it will be the effective NPDES CGP at the time of issuance of this permit. You can view the draft renewal NPDES CGP (OHC000003) and the NPDES CGP for the Big Darby Creek Watershed at the following:

<http://www.epa.state.oh.us/dsw/storm/index.html>

6. **Require SWP3s for municipally owned facilities that conduct activities defined as industrial activity but are not subject to Industrial Storm Water General Permit, Part III.B.6.c.** Ohio EPA's Industrial Storm Water General Permit requirements contain a loophole which doesn't require some municipally owned facilities to obtain NPDES coverage; whereas, the same facility if privately owned would require coverage. A common example of this would be for municipally owned vehicle maintenance facilities. The draft renewal permit requires MS4s which own or operate such a facility to develop a Storm Water Pollution Prevention Plan (SWPPP) for the facility equivalent to what the NPDES Industrial Storm Water General Permit would require. Ohio EPA is not proposing that these facilities obtain NPDES coverage. These facilities have the potential to negatively impact surface waters through storm water discharges; thus, Ohio EPA believes they should implement the necessary controls to minimize storm water impacts.
7. **Requiring the use of an annual report form, Part IV.C and requiring specific information for each minimum control measure to be included within annual reports, Part III.B.1.d, Part III.B.2.d, Part III.B.3.k, Part III.B.4.d, Part III.B.5.h and Part III.B.6.f .** MS4s are required to submit annual reports that allow Ohio EPA to track and assess the development and implementation status of programs. It is not intended for these reports to be overly burdensome. The current MS4 general permits contain vague language on what information is required in an annual report. To date, there has been no standardized reporting format which has resulted in many

different variations of reports being submitted. In order to provide a simplified approach to obtain relevant information, this draft renewal permit requires the use of an annual report form and the general permit includes specific annual reporting requirements for each minimum control measure. The form has been set up to provide a quick and easy mechanism for regulated MS4s to use. Although, MS4s may request approval to use their own reporting format.

If you have further questions, please contact Jason Fyffe at (614) 728-1793 or via email at [jason.fyffe@epa.state.oh.us](mailto:jason.fyffe@epa.state.oh.us).