

Background on Phase II Final Rule Stormwater Program

Phase I of the U.S. Environmental Protection Agency's (EPA) was established in 1990 under the Clean Water Act. Phase I addresses stormwater runoff coverage through the National Pollutant Discharge Elimination System (NPDES) Permit and applies to:

1. "Medium" and "large" municipal separate storm sewer systems (MS4s) serving populations of 100,000 or greater,
2. Construction activity disturbing 5 acres of land or greater and
3. Ten (10) categories of industrial activity.

Phase II Final Rule Stormwater Program is the next step to preserve, protect and improve the Nation's water resources from polluted stormwater runoff. The Phase II program expands the Phase I program by requiring additional MS4s in urbanized areas and small construction sites to implement programs and practices to control polluted stormwater runoff.

The Phase II Final Rule Stormwater Program automatically covers two classes of stormwater dischargers:

1. Operators of small MS4s located in "urbanized areas" (UA). A "small" MS4 is any MS4 not already covered by Phase I of the NPDES stormwater program or
2. Operators of small construction activities that disturb equal to or greater than one (1) and less than five (5) acres of land.

A small MS4 can be designated by the NPDES Permitting Authority as a *regulated* small MS4 in one of the following three ways:

1. Automatic Nationwide Designation
 - a. MS4 is located within the boundaries of a Census defined "urbanized area" (UA) based on the latest decennial Census.
2. Designated by the NPDES Permitting Authority after an evaluation
 - a. If it is determined that discharges from the small MS4 cause or have the potential to cause an adverse impact on water quality.
 - b. Population is at least 10,000 and the population density is at least 1,000 people/square mile.
3. Designated by the NPDES Permitting Authority if it is determined the small MS4 is physically interconnected with a regulated MS4
 - a. The small MS4 is located adjacent to a UA and substantially contributes to the pollutant loadings by being physically interconnected to a regulated MS4.

It is those *regulated* small MS4s that are required to implement a Phase II Final Rule Stormwater Program.

Requirements of the Phase II Final Rule Stormwater Program

Operators of Phase II designated small MS4s and small construction activity are required to apply for NPDES permit coverage under a general rather than an individual

permit and to implement stormwater best management practices (BMPs). Stormwater programs must be designed to:

1. Reduce the discharge of pollutants to the “maximum extent practicable”,
2. Protect water quality and
3. Satisfy appropriate water quality requirements of the Clean Water Act.

Specific requirements are as follows:

For Small SM4s:

1. Develop, implement and enforce a stormwater management program designed to reduce the discharge of pollutants to the maximum extent possible.
2. The stormwater management program must include the following six (6) control measures as a minimum:
 - a. Public education and outreach
 - b. Public participation and involvement
 - c. Illicit discharge detection and elimination
 - d. Construction site runoff control
 - e. Post-construction runoff control
 - f. Pollution prevention and good housekeeping
3. Identify BMPs and measurable goals for each of the minimum measures in the permit application. Evaluate and assess the success of each of the chosen BMPs and goals.

For Small Construction Activity:

1. Follow the requirements for stormwater controls on small construction sites as defined by the NPDES permitting authority.
2. Establish a stormwater pollution prevention plan where NPDES permitting authorities have already adapted their existing Phase I general permits for large construction activity to also include small construction activity.

There are a number of options for implementation of stormwater management plans for regulated small MS4s. They include:

1. Sharing responsibility for program development with an adjacent regulated small MS4,
2. Using existing local or State programs or
3. Participating in the implementation of an existing Phase I MS4’s stormwater program as a co-permittee.

1. The Phase II Final Rule was published in the Federal Register **Date: December 8, 1999**

2. NPDES permitting authorities required to issue general permits for Phase II designated small SM4s and small construction activity **By: December 9, 2002**

A small MS4 is any MS4 not already covered by Phase I of the NPDES stormwater program and is located in an "urbanized area" as determined by the latest Census. A small construction activity disturbs equal to or greater than one (1) and less than five (5) acres of land.

3. Operators of automatically designated and regulated Phase II small SM4s and small construction activities required to obtain permit coverage **Due: within 90 days from above date**

There are three (3) ways a small MS4 can be designated by the permitting authority as regulated:

- Automatic Nationwide Designation based upon the latest decennial Census,
- Designation by the NPDES Permitting Authority after evaluation or
- Designation by the NPDES Permitting Authority if it is determined the small MS4 is physically interconnected with a regulated MS4

4. Stormwater management programs must be fully implemented by the end of the first permit term **Due: within 5-years**

The stormwater management program must include the following six (6) control measures as a minimum:

- Public education and outreach,
- Public participation and involvement,
- Illicit discharge detection and elimination,
- Construction site runoff control,
- Post-construction runoff control and
- Pollution prevention and good housekeeping