



## DEP Issues Significantly Improved MS4 General Permit Drafted by WVMWQA September 2025

Nearly six years after the previous MS4 Phase 2 General Permit expired, DEP issued its revised MS4 General Permit on September 8, 2025. The revised permit reflects significant input from the WVMWQA. We believe the final General Permit will streamline compliance and eliminate unnecessary burdens and expenses for WVMWQA members. Key provisions are noted below.

- Water Quality Sampling and Monitoring Requirements. None!
- “End-Result” WQS Compliance Requirements. “End-result” requirements that generally prohibit discharges that “cause or contribute” to water quality standards exceedances are not acceptable NPDES permit conditions under the CWA. The revised MS4 permit deletes language found in prior draft versions that imposed such end-result conditions. Instead, compliance with the permit’s conditions constitutes compliance with applicable water quality standards. In other words, as long as an MS4 permittee remains in compliance with the permit, it need not worry about claims from DEP or citizen plaintiffs that discharges from the MS4 are causing or contributing to WQS exceedances.
- Stormwater Management Plans. The rMS4 permit does not require DEP approval of Stormwater Management Plans (SWMP). Instead, MS4s will be solely responsible for developing and revising their SWMPs to satisfy the requirements listed in the permit. Final SWMPs must be submitted to DEP, but do not require approval.
- MCM 1: Public Outreach and Education and MCM 2: Public Involvement and Participation. For MCMs 1 and 2, the MS4 permit includes lists of available “strategies.” For example, the list of strategies for MCM 1 includes inserting educational materials on stormwater in utility bills or stenciling storm drains. To comply with the MCMs, permittee would choose 2 or 3 items from the lists to implement each year.
- MCM 3: Illicit Discharges. MCM 3 has been retooled to provide greater clarity and simplicity. For example, the number of required dry weather screenings that must be completed each year is capped at (1) 20% of the MS4’s outfalls or (2) 50 outfalls—whichever is *less*. The permit also clearly defines the expectations, limits, and documentation requirements for suspected illicit discharges.
- MCM 4: Runoff from Construction Sites. This MCM has been reconfigured to allow MS4s to *assume* that a construction activity has a satisfactory Stormwater Pollution Prevention Plan (SWPPP) if DEP has issued construction stormwater general permit coverage for the activity. In other words, MS4s would not be required to review and approve every SWPPP for construction activities that exceed one acre of land disturbance. However, MS4s retain the discretion to require local approval of SWPPPs if they wish. MS4s are responsible for inspecting construction sites on a defined frequency.
- MCM 5: Stormwater Runoff from Development and Redevelopment. In a very significant departure from the previous MS4 permit, the revised version of MCM 5 gives MS4s the *choice* of four “development standards” and four “redevelopment standards” to adopt. The familiar one-inch capture requirement will remain available for use, but the MS4 may adopt an alternative (1) pollutant reduction standard, (2) extended infiltration standard, and/or (3) an equivalent alternative standard. The MS4 may choose to adopt any one or more of the standards. The MCM also places primary responsibility for long-term inspection and maintenance of stormwater BMPs on developers.
- MCM 6: Good Housekeeping. Rather than imposing stormwater management requirements for *all* municipal facilities, the revised MCM 6 generally applies only to “*high-priority*” municipal facilities, such as vehicle washing, maintenance, and fueling yards, and solid waste handling and transfer stations.



- Special Conditions for Discharges to TMDL Waters. The MS4 permit tailors the TMDL special conditions by clearly stating the expectations for discharges to waterbodies based on the nature of the impairment. For example, if an MS4 discharges to a stream subject to a chloride TMDL, the permit would require an additional inspection (i.e., two per year) of municipal facilities storing large quantities of road salt.