

**PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)  
MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) PERMITS  
FREQUENTLY ASKED QUESTIONS (FAQ)**

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## **General**

### **G.1. What is a “Municipal Separate Storm Sewer System (MS4)”?**

A MS4 is a conveyance or system of conveyances that is:

1. Owned by a state, city, town, village, or other public entity that discharges to waters of the Commonwealth;
2. Designed or used to collect or convey stormwater (including storm drains, pipes, ditches, etc.);
3. Not a combined sewer; and
4. Not part of a Publicly Owned Treatment Works (sewage treatment plant).

### **G.2. What is a small MS4?**

A small MS4 is defined as “All separate storm sewer systems that are:

1. Owned or operated by the US, a State, city, town, borough, city, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law, such as a sewer district, flood control district or drainage district, or similar entity;
2. Not defined as “large” or “medium” MS4s pursuant to [40 CFR §§122.26\(b\)\(4\) and \(7\), or designated under 40 CFR § 122.26\(a\)\(1\)\(v\)](#);
3. This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospitals or prison complexes, and highways or other thoroughfares.”

### **G3. What is a regulated small MS4?**

A regulated small MS4 as defined in PAG-13 is the portion of a small MS4 located within a designated Urbanized Area or a small MS4 that is specifically designated by DEP.

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The Federal Regulations ([64 FR 235, December 8, 1999, Page 68838](#)) required operators of small MS4s within designated Urbanized Areas to obtain authorization to discharge stormwater under a National Pollutant Discharge Elimination System (NPDES) permit beginning on March 10, 2003.

Urbanized Area is based upon the US Census Bureau data in accordance with [40 CFR 122.28\(a\)\(1\)\(vi\)](#) and is “a land area comprised of a residential population of at least 50,000 and an overall population density of at least 1,000 people per square mile.”

**G.4. How do I determine if my small MS4 is regulated?**

Not all small MS4s are regulated. Small MS4s are designated as regulated by either:

1. The Environmental Protection Agency’s (EPA’s) Automatic Nationwide Designation – all small MS4s located in Urbanized Areas as defined by the Bureau of the Census.
2. Discretionary Designation by DEP – Required Evaluation or Physically Interconnected.

Please see the [EPA Urbanized Area map webpage](#) to see if all or part of municipality is located within an Urbanized Area. If you are still unsure, you may ask DEP if your municipality has a regulated small MS4.

**G.5. How do I determine if my regulated small MS4 is eligible for NPDES general permit PAG-13?**

See “General Permit Eligibility” in PAG-13’s [“Authorization to Discharge”](#).

**G.6. How do I determine if my regulated small MS4 requires an Individual Permit Application submission?**

Any NPDES MS4 permit applicant that does not satisfy the requirements in “General Permit Eligibility” in PAG-13’s [“Authorization to Discharge”](#) must submit an application for an Individual Permit.

**G.7. How do I determine if my regulated small MS4 is eligible for a waiver?**

See “Who is eligible to use the Request for Waiver (RFW) Forms” in the [“Instructions, Request for Waiver”](#) in the PAG-13 permit package.

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**G.8. If my regulated small MS4 is eligible for a waiver and I submit a waiver request, must I also submit an NOI or Individual Permit Application?**

Yes, you must submit your waiver request together with your NOI or Individual Permit application by the deadline. You must submit both the waiver request and the NOI or Individual Permit application for DEP to act on the waiver request.

**G.9. My municipality has only a small portion within the Urbanized Area. Is my small MS4 still regulated?**

Yes, but if your small MS4 is not located entirely within an Urbanized Area, only the portion that is within the Urbanized Area is regulated.

**G.10. What are Stormwater Best Management Practices (BMPs)?**

For purposes of this permitting program, stormwater BMPs are defined in [Part A of the Authorization to Discharge](#) as: "Schedules of activities, prohibitions of practices, structural controls (e.g., infiltration trenches), design criteria, maintenance procedures, and other management practices to prevent or reduce pollution to the waters of the Commonwealth. BMPs include Erosion and Sedimentation Control Plans, Post Construction Stormwater Management Plans, MS4 TMDL Plans, Stormwater Management Act Plans, and other treatment requirements, operating procedures and practices to control runoff, spillage or leaks, sludge or waste disposal, drainage from raw material storage, and methods to reduce pollution, to recharge groundwater, to enhance stream baseflow, and to reduce the threat of flooding and streambank erosion."

**G.11. What must I do to meet the requirements of the MS4 permit?**

The general requirement is to develop and implement a Storm Water Management Program (SWMP) of Best Management Practices (BMPs) to reduce the discharge of pollutants from your regulated small MS4 to the Maximum Extent Practicable (MEP). The six (6) Minimum Control Measures (MCMs) are: Public Education & Outreach; Public Participation/Involvement; Illicit Discharge Detection & Elimination; Construction Site Runoff Control; Post-Construction Runoff Control; and Pollution Prevention/Good Housekeeping. Each MCM requires implementation of BMPs to meet Measurable Goals according to an approved schedule. Annual or periodic reports are also required. In addition, an appropriate stormwater management ordinance must be adopted to provide local regulation of development and

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activities that may affect stormwater runoff. There are additional requirements for small regulated MS4s that discharge to: impaired waters with approved TMDLs; impaired waters without approved TMDLs; or watersheds draining to the Chesapeake Bay.

**G.12. How do I determine the receiving waters for my permit?**

A topographic map can be reviewed to determine streams flowing through the regulated area (e.g., Urbanized Area, municipal boundary, and MS4). eMapPA is an online map feature that can be utilized to determine receiving waters. To determine receiving waters through eMapPA, go to: <http://www.emappa.dep.state.pa.us/emappa/viewer.htm>.

**G.13. How long is my permit valid?**

Permit coverage is valid for five (5) years from the effective date of the Approval of Coverage.

**Impaired Watersheds**

**I.1. Where can I find the legal definitions for Pollutant, Total Maximum Daily Load (TMDL), and Wasteload Allocation (WLA)?**

TMDL, WLA, and Pollutant are defined in [25 Pa. Code §96.1](#) as follows:

*Pollutant* — Any contaminant or other alteration of the physical, chemical, biological, or radiological integrity of surface water which causes or has the potential to cause pollution as defined in section 1 of The Clean Streams Law (35 P. S. § 691.1).

*TMDL* — *Total maximum daily load* — The sum of individual waste load allocations for point sources, load allocations for nonpoint sources and natural quality and a margin of safety expressed in terms of mass per time, toxicity or other appropriate measures.

*WLA* — *Wasteload allocation* — The portion of a surface water's loading capacity that is allocated to existing and future point source discharges.

**I.2. What is a Total Maximum Daily Load (TMDL)?**

See definition above. A TMDL is a calculation of the maximum amount of a pollutant that a waterbody can assimilate and still meet water quality standards, and an allocation of the allowable discharge of

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that pollutant load among the various sources. Pollutants can include alteration of the physical, chemical, biological, or radiological integrity of a surface water that causes or has the potential to cause pollution. Pollutant sources are characterized as either point sources that receive a Wasteload Allocation (WLA) or nonpoint sources that receive a Load Allocation (LA). Point sources include all sources subject to regulation under the National Pollutant Discharge Elimination System (NPDES) permits, such as discharges from MS4s. Nonpoint sources include all remaining sources of the pollutant including anthropogenic (manmade) and natural background sources. TMDLs also must account for seasonal variations in water quality, and include a Margin of Safety (MOS) to account for uncertainty in the estimates of pollutant reductions necessary to meet water quality standards.

If a Wasteload Allocation (WLA) in an approved TMDL is applicable to the discharges from a regulated small MS4, the MS4 permittee must develop and submit an MS4 TMDL Plan that meets the assumptions and requirements of the approved TMDL.

**I.3. In addition to the six (6) Minimum Control Measures, what are the MS4 permit requirements for discharges into impaired waters or into waters tributary to the Chesapeake Bay?**

Where a regulated small MS4 discharges into an impaired water, or into waters tributary to the Chesapeake Bay watershed, it must meet additional requirements, as follows:

1. For regulated small MS4s discharging into impaired waters with an approved TMDL with applicable Wasteload Allocations (WLAs), the permittee shall develop, submit for approval, and implement an approved MS4 TMDL Plan that is designed to achieve pollutant reductions consistent with the assumptions and requirements of applicable WLAs in the TMDLs.
2. Regulated small MS4s discharging into the Chesapeake Bay watershed shall develop, submit for approval, and implement a Chesapeake Bay Pollutant Reduction Plan, including a schedule, to implement BMPs to reduce nitrogen, phosphorus, and sediment associated with existing stormwater discharges into regulated small MS4s discharging to receiving waters tributary to the Chesapeake Bay.

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3. MS4s discharging into impaired waters without an approved TMDL shall ensure that new discharges from the permittee's regulated small MS4s do not cause or contribute to exceedances of water quality standards. [p. 5 NOI Instructions]

**I.4. Why are MS4 TMDL Plans required?**

Federal regulations require that any NPDES permit issued for discharges to waters with an established TMDL must be consistent with the assumptions and requirements in Wasteload Allocations (WLAs) in approved TMDLs (40 CFR 122.44(d)(1)).

**I.5. Can I include stormwater BMPs in my MS4 TMDL Plan if the BMPs were installed subsequent to the TMDL stream assessments?**

Yes, in some circumstances, DEP will consider granting approval for requests to include previously-installed BMPs in MS4 TMDL Plans that include quantifiable demonstrated reductions in net pollutant loading from stormwater BMPs that were installed after the starting date for the first NPDES permit term for regulated small MS4s (March 2003, when Post-Construction Stormwater Management became a NPDES permitting requirement and when the DEP issued the first round of MS4 permits), and after the completion date of the stream assessments for a TMDL, whichever is the more recent. The applicant must demonstrate on a case-by-case basis that past stream restoration activities comply with all applicable legal requirements and that the actions taken: (1) were voluntary and not required by any permit, order, or other enforceable mechanism, or by any state, federal or local law; and (2) improved pollutant load reductions from the *status quo ante* (prior to) the action. For example, preservation of open space, or agricultural preservation, does not generate pollutant load reductions that may be counted in an MS4 TMDL Plan, while pollutant load reductions resulting from voluntary actions to install riparian buffers, retrofits, or enhancements of stormwater BMPs may be included. Net pollutant load reductions must be calculated by netting the demonstrated pollutant load reductions of the applicable restoration BMPs against the increased pollutant loadings, if any, due to the addition of impervious surface and other development in, or otherwise impacting, the municipality during the timeframe in which the pollutant load reduction is being calculated for an MS4 TMDL Plan. Including such pollutant load reductions in an MS4 TMDL Plan may be acceptable to DEP if the applicant demonstrates to DEP's satisfaction that all applicable legal requirements have been satisfied and there has been a quantifiable net decrease in applicable pollutant loadings during the term of the permit.

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**I.6. How do I determine if I need to submit a Chesapeake Bay Pollutant Reduction Plan?**

If your regulated small MS4 discharges into a watershed that drains to the Chesapeake Bay, then you must prepare and submit a Chesapeake Bay Pollutant Reduction Plan within twelve (12) months after the effective date of the Approval to Discharge.

**Ordinance**

**O.1. Which ordinance option can I use?**

New permittees shall enact and implement within the first year of permit coverage, either: one (1) of the model ordinances in the MS4 permit package; an ordinance from an applicable Act 167 Stormwater Management Plan approved by DEP in 2005 or later; or an ordinance(s) that satisfies all applicable requirements in a completed and signed MS4 Stormwater Management Ordinance Checklist. The permittee must satisfy these requirements in accordance with the information provided by the permittee in the permit application.

**O.2. How do renewal permittees demonstrate their existing ordinance satisfies all applicable ordinance requirements?**

Renewal permittees must continue to maintain, update, implement, and enforce a Stormwater Management Ordinance that satisfies all applicable requirements.

Permittees with a stormwater management ordinance from the 2003 NPDES MS4 permitting package or with a stormwater management ordinance implementing a DEP approved Act 167 Plan should review their ordinances using the checklist option to determine what needs to be updated in the ordinance, then fill-out the checklist after amending the ordinance if necessary. The permittee must justify the absence of provisions included in the checklist that are not in the ordinance, if they are not incorporated into an updated ordinance.

For each option, DEP suggests that the applicant submit the appropriate checklist for the option selected and have it signed by the municipal solicitor prior to submittal to DEP.

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For more information on the ordinance requirements, see the following link:

[http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-85640/12\\_3930-PM-WM0100k.pdf](http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-85640/12_3930-PM-WM0100k.pdf)

## **Compliance**

**C.1. What do I need to do if I have been notified by DEP that I am in violation of the conditions of my permit?**

You must resolve the violation prior to obtaining a new or renewed permit. DEP cannot issue permits, or permit renewals, to anyone in violation of a current permit until the violations have been resolved or are being resolved to the satisfaction of DEP in accordance with 35 P.S. § 691.609. After the violation is resolved, the permit renewal can be issued. Even while working through non-compliance issues, your renewal NOI or Individual Permit Application must be submitted before the September 14, 2012, deadline (i.e., 180 days before expiration of your current permit).

**C.2. I have not been notified by DEP of a violation, but I think a violation may exist.**

If you are aware that you are in violation of your current MS4 permit, you need to take action to correct the violation immediately or you may face DEP and/or EPA enforcement and may be unable to obtain a new or renewed permit. You also need to submit your Individual Permit Application or NOI for renewal before the September 14, 2012, deadline (i.e., 180 days before expiration of your current permit). You must also comply with all reporting requirements regarding the violation(s).

**C.3. Do I need to correct existing violations before renewing my current permit?**

If you are aware that you are in violation of your current NPDES MS4 permit, then you need to take immediate action to correct those existing violations. Be sure to submit your application or NOI for renewal before the September 14, 2012, deadline.

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## **New Permittees**

**N.1. What is the fee to submit a Notice of Intent (NOI) or Individual Permit (IP) Application? What is the annual fee?**

The fee to submit a NOI is \$500 for new general permits (PAG-13). PAG-13 has no annual fee.

The fee to submit an IP Application is \$5,000 for first-time permit applications. See 92a.26.(e) at: <http://www.pacode.com/secure/data/025/chapter92a/s92a.26.html>.

At the end of each permit year, an annual fee of \$500 is charged for Individual permits.

Except for state government agencies, the check must be included with the NOI or IP Application. The check must be made payable to the *Commonwealth of Pennsylvania* and the check must be dated within ten (10) days of the NOI or IP Application submittal date.

## **Renewal Permittees**

**R.1. What is the fee to submit a Notice of Intent (NOI) or Individual Permit (IP) Application? What is the annual fee?**

The fee to submit a NOI is \$500 for renewal general permits (PAG-13). PAG-13 has no annual fee.

The fee to submit an Individual Permit Application is \$2,500 for permit renewals. See 92a.26.(e) at: <http://www.pacode.com/secure/data/025/chapter92a/s92a.26.html>.

At the end of each permit year, an annual fee of \$500 is charged for Individual Permits.

Except for state government agencies, the check must be included with the NOI or Individual Permit Application. The check must be made payable to the *Commonwealth of Pennsylvania* and the check must be dated within ten (10) days of the NOI or Individual Permit Application submittal date.

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**R.2. Must MS4 permittees update their existing Stormwater Management Programs to comply with the renewed MS4 permit?**

Yes, all MS4 permittees must review and modify their Stormwater Management Programs to ensure that they meet the requirements contained in the renewed PAG-13 or Individual Permit, as applicable.

Reference Links

General

- G.1 <http://cfpub.epa.gov/npdes/stormwater/munic.cfm>; [40 CFR §122.26\(b\)\(8\), and \(18\)](#); [40 CFR §122.26\(b\)\(16\)](#); [40 CFR §122.32](#); [25 Pa. Code §92a.2](#), and [Part A Stormwater Management Program Definitions, Authorization to Discharge](#)
- G.2 [40 CFR 122.26\(b\)\(16\)](#); [40 CFR § 122.32](#); and [Part A Stormwater Management Program Definitions, Authorization to Discharge](#)
- G.3 [64 FR 235, December 8, 1999, Page 68838](#) and [40 CFR 122.28\(a\)\(1\)\(vi\)](#)
- G.4 [40 CFR 122.28\(a\)\(1\)\(vi\)](#)
- G.5 PAG-13 [Authorization to Discharge](#)
- G.6 PAG-13 [Authorization to Discharge](#)
- G.7 Request for Waiver (RFW) Forms in the [Instructions, Request for Waiver](#)
- G.8 [Authorization to Discharge, Part A Stormwater Management Program Definitions](#)
- G.10 [Part A of the Authorization to Discharge](#)
- G.12 <http://www.emappa.dep.state.pa.us/emappa/viewer.htm>

Impaired Waters

- I.1 [25 Pa. Code §96.1](#)

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New Permittees

N.1 <http://www.pacode.com/secure/data/025/chapter92a/s92a.26.html>

Renewal Permittees

R.1 <http://www.pacode.com/secure/data/025/chapter92a/s92a.26.html>