

Does My MS4 Qualify For A Waiver?

Scenario 1:

My MS4 serves a population of more than 1,000 within the urbanized area AND serves a population over 10,000 within the municipality. Does it qualify for a waiver?

No. Your MS4 does not meet the criteria for waiver approval.

Scenario 2:

My MS4 has outfalls that discharge stormwater to surface waters with an approved TMDL. Does it qualify for a waiver?

Maybe. If the MS4 causes or contributes to the impairment(s) identified in the TMDL, a waiver cannot be granted.

Scenario 3:

My MS4 satisfies at least one of the two population criteria AND does not have TMDL responsibilities. It **does not** have any impaired surface waters listed in the MS4 Requirements Table. Is my MS4 eligible for a waiver?

Yes. You meet all the criteria for waiver approval.

Scenario 4:

My MS4 satisfies at least one of the two population criteria AND does not have TMDL responsibilities, BUT it **does** discharge to impaired surface waters listed in the MS4 Requirements Table. Is my MS4 eligible for a waiver?

Maybe. It depends on whether your MS4 causes or contributes to the local impairment which triggered the MS4 Requirements Table listing. The permittee must prepare a PRP for submittal with the NOI/application unless DEP determines that the MS4 does not cause or contribute to the impairment.

Scenario 5:

The only impaired surface water listed in the MS4 Requirements Table for my MS4 is Chesapeake Bay Nutrients/ Sediment (Appendix D). Is my MS4 eligible for a waiver?

Yes, if you meet at least one of the two population criteria and you do not cause or contribute to an impairment addressed in a TMDL. Chesapeake Bay Nutrients/ Sediment (Appendix D) is not a factor in waiver approval consideration.

Scenario 6:

My MS4 does not discharge to surface waters impaired for BOD (organic enrichment), sediment (siltation), pathogens, oil and grease, and/or nutrients. Is my MS4 eligible for a waiver?

Yes, if you meet at least one of the two population criteria and do not cause or contribute to an impairment addressed in a TMDL. Note: if your MS4 discharges to waters impaired for PCBs or other pollutants not listed above, you may be eligible for a waiver and may not need to prepare a PRP.

Scenario 7:

My MS4 does discharge to surface waters impaired for BOD (organic enrichment), sediment (siltation), pathogens, oil and grease, and/or nutrients, and causes or contributes to the local impairment. Is my MS4 eligible for a waiver?

Not if your discharge contributes to or has the potential to contribute to the impairment.

Scenario 8:

My MS4 does discharge to surface waters impaired for BOD (organic enrichment), sediment (siltation), pathogens, oil and grease, and/or nutrients, **BUT** we can show that our MS4 does not cause or contribute to the local impairment, **AND** DEP concurs in an advanced waiver approval. Is my MS4 eligible for a waiver?

Yes, if you meet at least one of the two population criteria and there are no discharges which cause or contribute to an impairment addressed in a TMDL. Your MS4 is eligible for a waiver and does not need to prepare a PRP for submission with your NOI.

Scenario 9:

My MS4 does discharge to surface waters impaired for BOD (organic enrichment), sediment (siltation), pathogens, oil and grease, and/or nutrients. We did not get advanced waiver approval from DEP because our request was denied. Is my MS4 eligible for a waiver?

No. Your MS4 does not meet the criteria for waiver approval, and must submit a Pollutant Reduction Plan (PRP) with your NOI.

Scenario 10:

My MS4 does discharge to surface waters impaired for BOD (organic enrichment), sediment (siltation), pathogens, oil and grease, and/or nutrients. We did not get advanced waiver approval from DEP because we didn't apply. Is my MS4 eligible for a waiver?

*It's possible. You may submit a waiver application with your NOI, but you **MUST** also submit a Pollutant Reduction Plan (PRP) with your NOI or application if indicated on the MS4 Requirements Table.*

Advanced Waiver Approval FAQ

What is advanced waiver approval?

Advanced waiver approval is a tentative approval from DEP for waiver status that eliminates the need to submit a Pollutant Reduction Plan (PRP) with your NOI.

How do I request advanced waiver approval?

To submit an advanced waiver approval request, send the following to DEP's Central Office (see waiver instructions):

- A detailed map of the MS4 including all outfalls, storm sewers, surface waters, land uses, and any points of connection to another entity's MS4;
- The drainage area (in acres) of each outfall that discharges to impaired waters; and
- A written justification for the waiver.

Requests for advanced waiver approval should be submitted *no later than December 31, 2016*.

I received advanced waiver approval, what should I do next?

Submit your completed waiver application with your NOI or application 180 days before expiration of your individual permit or waiver, or September 16, 2017, whichever is later.

To submit a waiver application, send the following to the regional office of DEP that has jurisdiction over the county where the MS4 is located (see NOI or application instructions):

1. One original and two copies of the completed NOI/application;
2. NOI/application filing fee;
3. One original and two copies of the completed Waiver Application (with copies of your advanced waiver approval documentation);
4. Completed copy of the NOI checklist; and
5. Stormwater map(s) (existing permittees) or topographic map(s) (MS4s with previous waivers and new applicants).

What MS4s should not submit an advanced waiver approval request?

- MS4s that do not meet one of the population criteria or discharge to TMDL waters should not submit a request for advanced waiver approval because it will not be approved.
- MS4s that meet at least one of the two population criteria, do not discharge to TMDL waters, and do not discharge to impaired waters (or discharge to waters impaired for pollutants other than BOD, sediment, pathogens, oil and grease and/or nutrients) do not need to submit a request for an advanced waiver approval (those MS4s would be eligible for a waiver). However, if an MS4 is unsure whether it qualifies for a waiver, a request may be submitted.