

State of Mississippi  
Mississippi Department of Environmental Quality (MDEQ)



Office of Pollution Control  
Environmental Permits Division

**RATIONALE/ FACT SHEET  
FOR  
SMALL MUNICIPAL SEPARATE STORM SEWER  
SYSTEM (MS4)  
GENERAL PERMIT**

**SPRING 2026**

## **SUMMARY**

MDEQ is authorized by the U.S. Environmental Protection Agency (EPA) to administer the National Pollutant Discharge Elimination System (NPDES) Program in the State of Mississippi, including the issuance of general permits for categories of discharges under the provisions of 40 CFR 122.28, as adopted by reference in the “Mississippi Wastewater Regulations for NPDES Permits, Underground Injection Control (UIC) Permits, State Permits, Water Quality Based Effluent Limitations and Water Quality Certification”, (11 Miss. Admin. Code, Pt. 6, Ch. 1). Under this authority, MDEQ may issue a single general permit to a category of point sources located within the same geographic area whose discharges warrant similar pollution control measures.

Specifically, MDEQ is authorized to issue a general NPDES permit if there are a number of point sources operating in a geographic area that:

1. Involve the same or substantially similar types of operations;
2. Discharge the same type of wastes;
3. Require the same effluent limitations or operating conditions;
4. Require the same or similar monitoring requirements; and
5. Are more appropriately controlled under a general permit than under individual permits (in the opinion of the Permit Board).

As in the case of individual permits, violation of any condition of a general permit constitutes a violation of the Mississippi Air and Water Pollution Control Law (Section 49-17-1 et seq., Mississippi Code of 1972) and subjects the coverage recipient to the penalties specified therein.

Upon promulgation of the final general permit and request for re-coverage, owners/operators qualified for re-coverage are authorized to discharge under this general permit.

The draft permit conditions are grounded in the following legal and policy frameworks:

- Clean Water Act (CWA) Section 402(p), which requires MS4s to reduce pollutants in stormwater discharges to the MEP
- 40 CFR Part 122, which outlines NPDES permit requirements for stormwater discharges
- EPA’s Phase II Stormwater Rule, which mandates six Minimum Control Measures (MCMs) for small MS4s
- Mississippi Administrative Code Title 11, Part 6, Chapter 1, which incorporates federal NPDES requirements into state law
- EPA’s Remand Rule (2016), which emphasizes public participation and enforceable permit terms

The permit conditions are also informed by EPA guidance on Best Management Practices (BMPs), TMDL implementation strategies, and the need to address pollutants of concern in impaired waters.

## **Explanation of Variances or Alternatives**

No variances or alternatives to the standard permit requirements have been requested or granted under this general permit. MDEQ has determined that all regulated small MS4s can meet the permit conditions through implementation of the required Stormwater Management Program (SWMP) and associated BMPs. Therefore, no justification for variances or alternatives is necessary.

## **INTRODUCTION**

Beginning in 1990, the EPA promulgated the first rules establishing the NPDES MS4 stormwater program. EPA developed the MS4 regulations in two separate phases – Phase I included medium MS4s (serving populations of 100,000 and up to 250,000) and large MS4s (serving populations over 250,000). Additionally Phase I defined ‘municipal separate storm sewer’ as “publicly owned conveyances or systems of conveyances that discharge to waters of the United States and are designed or used for collecting or conveying stormwater, are not combined sewers, and are not part of a publicly owned treatment works.” EPA promulgated the Phase II rule on December 8, 1999, designating discharges from certain small MS4s. A small MS4 is defined as any MS4 located within an “urbanized area” as determined by the most recent U.S. Decennial Census. Small MS4s include traditional municipalities, but were also expanded to include military bases, universities, hospitals, prisons, and highways.

These rules establish the framework for the Stormwater Phase II rule that intends to prevent pollution that is transported by municipal separate storm sewer systems and ultimately discharges to waters of the state. Common urban runoff includes pollutants of concern include common urban runoff such as sediment, oil and grease, pesticides, pathogens, debris, metals, and litter. These pollutants in sufficient quantities could impair the stream or cause the stream to fail to support the stream’s designated use.

While the permit does not specify numeric effluent limits for these pollutants, it requires implementation of BMPs to reduce pollutant loads to the Maximum Extent Practicable (MEP). The actual quantity of pollutants discharged will vary by location, land use, and storm event intensity, but the permit mandates monitoring and adaptive management to ensure compliance with water quality standards.

Phase II MS4 permits apply to “urbanized areas” (UAs), which areas defined by the Bureau of Census or on a case-by-case basis as designated by the MDEQ Permit Board as “one or more cities of 50,000 or more and all the nearby closely settled suburban territory, or urban fringes.” The Census Bureau announced with the 2020 Census that they would no longer identify ‘urbanized areas.’ In 2023, EPA clarified this in the NPDES Small MS4 Urbanized Area Clarification (2023-12494 88 FR 37994) by defining “urban areas with a population of 50,000 or more people.” In response to these changes, an analysis of the 2020 Census data was conducted to determine whether any new areas in Mississippi met the updated criteria for automatic MS4 designation under Phase II regulations. This review ensured that the MS4 General Permit reflects current urban population distributions and complies with EPA’s clarified designation standards.

## **NOTICE OF INTENT**

To obtain coverage under the MS4 General Permit, regulated entities must submit a complete Notice of Intent (NOI) and SWMP. The NOI must include key information such as the applicant's contact details, type of public entity, urbanized area, counties served, receiving waterbodies (including those with TMDLs or on the 303(d) list), and any co-regulated entities. The SWMP must outline the six required MCMs.

Permit coverage is granted only after MDEQ reviews the submission and issues written approval. MDEQ may request additional information, deny coverage, or require an individual or alternative general permit. If the NOI substantially complies with permit requirements, interim discharges are considered authorized until final coverage is issued.

## **WAIVER OF APPLICATION REQUIREMENTS (under 40 CFR §122.21(j) or (q))**

No application requirements under §122.21(j) (Publicly Owned Treatment Works) or §122.21(q) (Treatment Works Treating Domestic Sewage) have been waived for this general permit. All regulated entities seeking coverage under the MS4 General Permit are required to submit a complete NOI and a SWMP in accordance with the permit and applicable federal and state regulations. MDEQ has not exercised any discretionary authority to waive these requirements.

## **COMPLIANCE WITH REMAND RULE**

In 2017, the EPA changed its regulations governing how small MS4s obtain coverage under NPDES general permits. The change, referred to as the Remand Rule, promotes greater public engagement through clear requirements regarding the opportunities for public participation in the permitting process. The final MS4 General Permit Remand Rule establishes two approaches an NPDES permitting authority can use to issue and administer small MS4 permits that address a partial remand of the Phase II stormwater regulation. Both approaches ensure that the permitting authority establishes what is necessary to “reduce the discharge of pollutants from the MS4 to the maximum extent practicable, to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act,” referred to as the “MS4 permit standard,” and that the public participation requirements of the CWA are met.

Through the issuance of the MS4 General Permit, the State of Mississippi has elected to implement a two-step approach (Option 2 – Procedural Approach) to comply with the Remand Rule's emphasis on public engagement. MDEQ will establish applicable permit regulations under the MS4 general permit, then individual MS4 coverages will be required to go through a second permitting step upon submittal of NOI. Each MS4 entity will submit a complete NOI, SWMP, and any other required information. MDEQ staff will review the submittal package and request additional information if necessary to make a permitting decision. Upon determining the submittal is complete, MDEQ will notice (in accordance with 40 CFR 124.10) the NOI and submitted information which will become enforceable permit conditions through (NEW PERMIT CITATION). After the conclusion of the public notice, MDEQ will consider all comments and requests for hearing. If comments were received, MDEQ will create a ‘response to comments’

document which will list and respond to all comments received during the public notice or hearing and list all provisions of the draft permit that have been revised.

### **MINIMUM CONTROL MEASURES**

The SWMP for Mississippi MS4s is designed to manage water quality in response to increasing urbanization, which leads to greater stormwater runoff from impervious surfaces like roads and buildings. This runoff can carry pollutants that degrade water quality, affecting public health and ecosystems. The SWMP provides a framework for reducing stormwater pollution through compliance with the NPDES and the CWA.

To effectively reduce pollutants in discharges from municipal separate storm sewer systems, the SWMP *must* include the following six (6) Minimum Control Measures (MCMs) outlined by the EPA:

1. **Public Education and Outreach** – Inform citizens about the impacts stormwater runoff can have on water quality.
2. **Public Involvement and Participation** – Provide opportunities for citizen participation in stormwater program development and implementation.
3. **Illicit Discharge Detection and Elimination (IDDE)** – Detect and eliminate illegal discharges to the stormwater sewer system.
4. **Construction Site Stormwater Runoff Control** – Manage stormwater runoff from active construction sites.
5. **Post-Construction Stormwater Management** – Manage stormwater discharges from new development and redeveloped areas.
6. **Pollution Prevention/Good Housekeeping for Municipal Operations** – Develop and implement a program to prevent or reduce stormwater runoff from municipal operations.

The six MCMs serve as a framework for MS4s, guiding them in the development and implementation of stormwater management programs within their service areas. Each MCM has associated BMPs designed to achieve the MCM's objectives<sup>9</sup>. These BMPs are tailored to reduce pollutants in stormwater runoff and discharge effectively.

The SWMP, at a minimum, *must* be implemented for the entire urbanized area or all areas operated by the city, town, or non-traditional MS4 (such as a university). The SWMP *must* include:

- **Rationale statements** explaining why and how the regulated entity will address each MCM and identify BMPs for each MCM;
- **Measurable goals** for each BMP including, as appropriate, a timeline the years in which the regulated entity will undertake required actions, including interim milestones and the frequency of the action;
- All **responsible individuals** and their roles implementing or coordinating each BMP for the SWMP; and
- **Timelines** for required actions, specifying **short-term actions** and **long-term actions**. Each measurable goal will need to include a timeframe.

In addition to the requirements listed above, The regulated entity **must**:

- Develop and fully implement the SWMP within (5) five years of coverage issuance, setting measurable goals targeted at addressing existing water quality issues and preventing new ones.

### **ANTI-DEGRADATION PROVISION**

MDEQ will conduct the antidegradation review for each activity for which a Notice of Intent (NOI) to discharge is received for coverage under a general permit. The procedures for general permits follow:

1. An application is received for coverage (NOI).
2. The NOI is posted on MDEQ's website at [http://opc.deq.state.ms.us/report\\_gnp\\_notice.aspx](http://opc.deq.state.ms.us/report_gnp_notice.aspx). Typically, the notice is posted for at least a 10-day period prior to action on the NOI.
3. The permit manager uses the NOI application and other available data and information to answer a list of questions that relate to a proposed project including alternatives analysis and socio-economic issues.
4. The information in the completed project awareness checklist provides the basis for MDEQ to complete its antidegradation review.
5. If, based on the results of the antidegradation review, MDEQ determines that the applicant can receive coverage under a general permit, notice of coverage by a general permit is posted on MDEQ's website at [http://opc.deq.state.ms.us/report\\_gnp\\_issued.aspx](http://opc.deq.state.ms.us/report_gnp_issued.aspx).
6. If, based on the results of the antidegradation review, MDEQ determines that the applicant can not receive coverage, the applicant must apply for an individual NPDES permit and fulfill the requirements of Section IV of this methodology.

### **PROCEDURES FOR THE FORMULATION OF FINAL DETERMINATIONS**

#### Comment Period

Following review by EPA, The MDEQ will publish a notice in multiple newspapers across the state concerning the reissuance of this general permit and providing a 30-day comment period to the public. Papers with varying distribution areas in the state will be selected. The notice will provide the below address to which interested persons are invited to submit written comments on the permit application or on the Permit Board's proposed determinations.

Mississippi Department of Environmental Quality  
Office of Pollution Control  
P. O. Box 2261  
Jackson, MS 39225

Additional details and a copy of the draft permit will be available to the public by request in writing to Richard Rebich at the Permit Board's address or by calling 601-961-5171. All comments received prior to the end of the 30-day public comment period will be considered in the formulation of final determinations about the reissuance of this general permit.

### Public Hearing

The Permit Board may hold a public hearing if there is a significant degree of public interest. Public notice of such a hearing will be circulated in multiple newspapers, as during the comment period, and to those on the agency's mailing list at least 30 days prior to the hearing.

Following the public hearing, the Permit Board may make modifications to the terms and conditions of the proposed permits as may be appropriate and shall issue or deny the permit. Notice of issuance or denial will be circulated to those who participated in the hearing and to appropriate persons on the mailing list.

If no public hearing is held, and, after review of the comments received, the Permit Board's determinations are substantially unchanged, the permit will be issued and become effective immediately.

If no public hearing is held, but there have been substantial changes, public notice of the Permit Board's revised determinations will be made. Following a 30-day comment period, the permit will be issued and become effective immediately, unless a public hearing is granted.