
ENVIRONMENTAL Fact Sheet



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Federal Stormwater Permits

The Federal Water Quality Act of 1987 recognized that runoff from urban areas and industrial sites pollutes surface waters. To address these stormwater discharges, the U.S. Environmental Protection Agency (EPA) created National Pollutant Discharge Elimination System (NPDES) permits using a two-phased approach. The Phase I and Phase II regulations were published in 1990 and 1999, respectively.

Who Is Required To Apply For A Permit?

In Phase I, EPA requires “large and medium municipal separate storm sewer system” (MS4) operators to obtain permit coverage. These MS4s, none of which are located in New Hampshire, generally serve areas with populations of 100,000 or more. Dischargers of “stormwater associated with industrial activity” are also required to apply for permits.

The Phase I industrial sources, which are described in detail in [40CFR122.26\(b\)\(14\)](#) generally include heavy and light manufacturing facilities, hazardous/solid waste processing, recycling facilities, transfer stations, junkyards, mining (including sand and gravel), timber processing, power plants, vehicle maintenance, marinas, sewage/sludge treatment plants and construction activities that disturb more than 5 acres.

Phase II regulates “small municipal separate storm sewer system” or “small MS4” discharges in urbanized areas; “stormwater discharge associated with small construction activity”; and municipally owned “Stormwater discharges associated with industrial activity” that were exempted from regulation during Phase I.

How do I apply for a Federal Stormwater Permit?

New or unpermitted Phase I facilities and all Phase II facilities must either submit federal forms 1 and 2F for an individual NPDES permit or file a Notice of Intent (NOI) application form for coverage under a general NPDES permit. For most New Hampshire facilities, the general NPDES permit is the preferred option. The following describes the three general NPDES permits for stormwater discharges in New Hampshire.

Construction General Permit (CGP)

EPA reissued the CGP on January 11, 2017, with modifications on June 27, 2019. The permit and authorization to discharge expires on February 16, 2022. The reissued CGP covers both the Phase I, large construction sites greater than 5 acres; and “stormwater discharge associated with small construction activity,” which includes construction sites from 1 to 5 acres (or smaller than 1 acre if part of a larger common plan of development or sale that totals 1 acre). The permit contains new requirements that implement technology-based [Effluent Limitation Guidelines and New Source Performance Standards](#), which were issued by EPA for the construction and development industry on December 1, 2009. The permit requires the owner and operator of the construction site to, among other things:

- Develop and implement a stormwater pollution prevention plan (SWPPP).
- Post a visible public notice at the main entrance of the construction site, containing confirmation of permit coverage and details on where the SWPPP may be viewed.
- As part of the SWPPP, develop a site map showing surface waters, disturbed areas, best management practices (BMPs), etc.
- Have “qualified personnel” inspect all erosion and sediment control BMPs, maintain BMPs after storm events and keep records in the SWPPP of all inspections and maintenance performed.
- Control wastes, such as discarded building materials, concrete truck washout and sanitary wastes.
- Take corrective actions (e.g., fix stormwater controls, clean up spills and sediment deposits, etc.).
- File a Notice of Termination (NOT) form when the construction site is stabilized/revegetated.

The CGP, including information on applying electronically, can be found on the [EPA NPDES webpage](#).

Multi-Sector General Permit (MSGP)

This permit covers stormwater discharges from 29 different industry sectors. The MSGP covers not only the Phase I industries described on page 1, but also municipally owned industrial activities that with the implementation of Phase II are now regulated. Municipally owned facilities needing permit coverage include sand and gravel pits, transfer stations, school bus maintenance and publicly owned treatment works (design flow >1 MGD or with a pretreatment program). Municipally owned power plants, airports and uncontrolled sanitary landfills are regulated under Phase I.

EPA reissued the MSGP on January 15, 2021, with an effective date of March 1, 2021. It requires, among other things, the development and implementation of a SWPPP, employee training, record keeping, discharge monitoring and annual reports to EPA. The MSGP, including the NOI and guidance materials on the permit requirements can be found on the [EPA Stormwater Discharge from Industrial Activities](#) webpage. The MSGP will expire on February 28, 2026, and will be administratively extended for current permittees until it is reissued by EPA.

Phase I and II facilities with stormwater discharges associated with industrial activity, which eliminate the exposure of pollutants (such as from raw materials, finished products and by-products) to stormwater, may be able to opt out of the need for permit coverage if they file a “No Exposure Certification” (NEC) form every five years with EPA. NEC forms and guidance can be found at the website listed in the above paragraph.

Small Municipal Separate Storm Sewer System General Permit (MS4GP)

The MS4GP was reissued by EPA on January 18, 2017. The final permit reflects modifications to the 2013 Draft Small MS4 General Permit and the 2015 renoticed permit sections. EPA proposed modifications to the 2017 NH MS4 General Permit on April 23, 2020 and finalized those modifications on December 7, 2020. See the [EPA website](#) for the final permit. Small MS4 owners and operators in urbanized areas (based on 2010 census) in the following 61 New Hampshire municipalities are required to apply or reapply for coverage under the 2017 MS4GP, unless granted a waiver by EPA:

- ❖ Allenstown, Amherst, Atkinson, Auburn, *Barrington*, Bedford, Bow, Brentwood, Candia, Chester, Danville, Derry, Dover, Durham, *East Kingston*, Epping, Exeter, Fremont, Goffstown, Greenland, Hampstead, Hampton, *Hampton Falls*, Hollis, Hooksett, Hudson, Kingston, Lee, Litchfield, Londonderry, *Lyndeborough*, Madbury, Manchester, Merrimack, Milford, Milton, *Mont Vernon*, Nashua, New Castle, *Newfields*, *Newington*, Newmarket, Newton, North Hampton, Pelham, Pembroke, Plaistow, Portsmouth, Raymond, Rochester, Rollinsford, Rye, Salem, Sandown, Seabrook, Somersworth, *South Hampton*, Stratham, Wilton and Windham.

Communities in the above list in *italics* were granted waivers pursuant to 40CFR122.32(d) by EPA in 2013.

In addition to the MS4s in urbanized areas in the municipalities listed above, EPA may designate additional MS4s outside of urbanized areas for permit coverage, if they are contributing to water quality problems.

The owners/operators of Small MS4s may include municipalities; county facilities, such as prisons/hospitals; districts; federal facilities, such as military bases; and state facilities, such as highways. The MS4GP requires MS4 operators to develop a stormwater management program that controls pollutants from all of the MS4 discharge points to the "Maximum Extent Practicable." The MS4GP requires that the stormwater program include the six minimum control measures listed below as well as an annual report to EPA summarizing progress toward achieving specific measurable goals:

- Public education and outreach on stormwater impacts.
- Public involvement/participation during program development.
- Illicit discharge detection and elimination.
- Construction site storm water runoff control.
- Post-construction storm water management in new development and redevelopment.
- Pollution prevention/good housekeeping for municipal operations.

The 2017 MS4GP contains many new, more prescriptive, requirements necessary to protect water quality as compared to the first MS4GP issued in 2003. These include, among other things, the requirements to employ or install non-structural and structural best management practices in catchment areas draining to impaired surface waters.

Where to Obtain More Information

EPA's [NPDES Stormwater Program website](#) and the EPA [Stormwater Program in New England](#) website. Newton Tedder (Tedder.Newton@epa.gov) is the federal stormwater coordinator for EPA New England and may be reached at [\(617\) 918-1038](tel:6179181038).

The [NHDES website on the Federal Stormwater Program](#) contains guidance materials, including a timeline for the requirements of the 2017 MS4GP. For additional assistance regarding the MS4GP, contact Deborah Loiselle, NHDES Stormwater Coordinator, at [\(603\) 271-1352](tel:6032711352).