

**FACT SHEET**  
**RHODE ISLAND POLLUTANT DISCHARGE ELIMINATION SYSTEM**  
**STORM WATER DISCHARGE**  
**FROM SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS**  
**AND FROM ELIGIBLE INDUSTRIAL FACILITIES OPERATED BY**  
**REGULATED SMALL MS4s**

**Summary:** The Rhode Island Department of Environmental Management (RIDEM) is issuing Notice of a draft Rhode Island Pollutant Discharge Elimination System (RIPDES) general permit for discharges from small municipal separate storm sewer systems (MS4s) to waters of the State throughout the State of Rhode Island. This draft RIPDES general permit establishes Notice of Intent (NOI) requirements, standards, prohibitions and management practices for discharges from MS4s.

All persons, including applicants, who believe any condition of the draft permit is inappropriate must raise all issues and submit all available arguments and all supporting material for their arguments in full by the close of the public comment period. A Public Hearing has been scheduled as noted below. Following the close of the public comment period and after the public hearing, the Director will issue a final permit decision and respond to all significant comments and forward a copy of the final decision to the applicant and each person who has submitted written comments or requested notice. Within thirty (30) days following the notice of the final permit decision, any interested person may submit a request for a formal hearing to reconsider or contest the final decision. Requests for formal hearings must satisfy the requirements of Rule 49 of the RIPDES Regulations.

**Public Comment Period:** The public comment period is from February 11, 2003 to March 14, 2003. Interested parties may submit comments on the draft general permit at the address given below, no later than 4:00 p.m. on March 14, 2003. The general permit shall be effective on the date specified in the final general permit and will expire five years from the date that the final permit is effective.

**Public Hearing:** A Public Hearing will be conducted in accordance with Rhode Island General Laws Section 46-12 and 42-35 and will provide interested parties the opportunity to provide written and/or oral comments for the final record. The public hearing will be held at the following time and place:

Thursday, March 13, 2003 at 6:00 p.m.  
Room 300  
235 Promenade Street  
Providence, RI 02908

Copies of the draft general permit may be obtained at no cost by visiting RIDEM's website at [www.state.ri.us/dem/](http://www.state.ri.us/dem/) or writing or calling RIDEM as noted below:

Margarita Chatterton  
Rhode Island Department of Environmental Management  
Office of Water Resources  
RIPDES Program  
235 Promenade Street  
Providence, Rhode Island 02908-5767  
(401) 222-4700, Ext: 7715

**Introduction and Background:** On December 8, 1999 EPA issued the final Phase II regulations, expanding the Phase I NPDES storm water program to address storm water discharges from small MS4s (those serving less than 100,000 persons) and construction sites that disturb one to five acres. In addition the Phase II regulations allow for a conditional exemption from permit

requirements for storm water discharges from all categories of industrial activity for those facilities that meet "no exposure" of industrial activities or materials to storm water. Lastly, the Phase II Regulations establish March 10, 2003 as the application deadline for storm water discharges from Industrial facilities that are owned or operated by federal, State, or local government.

Section 402(p) of the Clean Water Act specifies the level of control required for storm water permit. Permits for these discharges shall require controls to reduce the discharge of pollutants to maximum extent practicable, including management practices, control techniques and systems, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants (CWA 402(p)(3)(B)(iii)). EPA has determined that implementation of Best Management Practices (BMPs) designed to control storm water runoff to meet the definition of MEP.

As a delegated State, Rhode Island was required to promulgate the Phase II regulations and amended the RIPDES Regulations in February 2002 and February 2003. Rules 31 and 32 of the RIPDES Regulations authorize RIDEM to issue general permits to cover discharges of storm water associated with industrial activity and construction activity and to cover discharges of storm water from small MS4s owned or operated by federal, State, or local government. Permits developed by delegated states must be at least as stringent as those developed by EPA, and as such many of the draft RIPDES general permit conditions have been taken directly from draft permit EPA Region I published in the Federal Register on September 27, 2002. Also, the requirements set forth in this permit are from the State's Water Quality Regulations and the State's RIPDES Regulations both filed pursuant to RIGL Chapter 46-12, as amended. This general permit implements the requirements of the Phase II program for small municipal separate storm sewer systems owned or operated by federal, State, or local government and also allows the operator to seek permit coverage for certain eligible facilities with storm water discharges associated with industrial activity that are owned or operated by municipal, federal or State government. The following facilities are not eligible for this permit:

1. SARA Title III, Section 313 facilities; which release "Section 313 water priority chemicals" into the environment;
2. Primary Metal Industries (SIC 33);
3. Landfills, Land Application Sites, and Open Dumps;
4. Hazardous Waste Treatment, Storage or Disposal Facilities;
5. Wood Treatment Industry (SIC2491);
6. Coal Pile Runoff;
7. Battery Redemption Sites;
8. Airports with greater than 50,000 flights per year;
9. Coal Fired Steam Electric Plants;
10. Animal Handling Areas, manure management or storage areas, and production waste or storage areas in Meat Packing Plants (SIC2011), Poultry Slaughtering and Processing (SIC 2015), and Animal and Marine Fats and Oils (SIC 2077); where there is exposure to precipitation;
11. Chemicals and Allied Products (SIC 28) and Rubber and Miscellaneous Plastic Products (SIC 30); where solid chemicals used as raw materials, are exposed to precipitation;
12. Oil handling areas at Oil Fired Steam Electric Plants;
13. Cement Manufacturers (SIC 3241)
14. Read-Mix Concrete Plants (SIC 3273); and
15. Lime Storage piles at Lime Manufacturing Facilities

The general permit establishes specific requirements which include the development and implementation of a storm water management program plan (SWMPP) to reduce pollutants in storm water discharges. The SWMPP, at a minimum must address the following:

- Six minimum control measures;
- Implementation of TMDL requirements, if applicable;

Inspections;  
Record keeping;  
Reporting; and  
Compliance evaluation.

In addition, eligible industrial facilities seeking authorization under this general permit must develop a site-specific Storm Water Pollution Prevention Plan (SWPPP). The SWPPP is intended to minimize or eliminate the potential for pollutants in storm water discharges, and must be completed and implemented for these facilities by March 10, 2003, as part of the SWMPP requirements.

To apply for coverage under this permit once it is finalized, the operator of the MS4 must fill out a Notice of Intent (NOI). The NOI is a standardize form and must be submitted to:

RI Department of Environmental Management  
Office of Water Resources  
RIPDES Program  
235 Promenade Street  
Providence, RI 02908

**Types of Discharges and Authorization:** For storm water discharges from small MS4s designated under RIPDES Rule 31(a)(5)(i)(A), (B), (C) and (D); because the small MS4 is located fully or partially in an urbanized or a densely populated area as defined in RIPDES Rule 31(b)(21), or both; the small MS4 is operated by the federal or State government and serves a facility with an average daily population of equal or greater to 1,000; the small MS4 is operated by the Rhode Island Department of Transportation and is located in the urbanized or densely populated area or serves a divided highway; and for all storm water discharges associated with Industrial Activity that are eligible for this permit; authorization is granted immediately upon RIDEM receiving a complete NOI, a copy of the SWMPP and a copy of the SWPPP for each eligible industrial facility. The NOI, SWMPP and SWPPP(s) must be received by the effective date of the permit.

For storm water discharges from small MS4s are designated under RIPDES Rule 31(a)(5)(i)(E), (F), (H), (I) or (J), if the small MS4 is contributing substantially to the pollutant loadings of a physically-interconnected regulated MS4, the information for granting a waiver to the small MS4 has substantially changed, the small MS4 is contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the State, storm water controls are required based on waste load allocations that are part of an approved TMDL, or the small MS4 is designated by the Director pursuant to a petition from the public or another MS4 operator and for storm water discharges associated with industrial activity that are eligible for this permit which commence after the effective date of the permit, the authorization to discharge begins on the date a completed NOI and a copy of the SWMPP have been submitted to RIDEM. For storm water discharges from small MS4s designated under RIPDES Rule 31(a)(5)(i)(E), (F), (H), (I) or (J); the NOI and SWMPP must be received within 180 days of the date of notice for the MS4 to be in compliance with these regulations. For storm water discharges associated with industrial activity that are eligible for this permit which commence after the effective date of the permit, an amended NOI and SWMPP/SWPPP must be submitted ninety (90) days prior to commencement of such discharge to be in compliance with these regulations.

**Limitations on Permit Coverage:** The following discharges are not authorized by this permit:

- a. Storm water discharges mixed with non-storm water discharges except those listed in Part I.B.3 of this permit, or which are not in compliance with another RIPDES permit.

- b. Storm water discharges mixed with allowable non-storm water discharges as discussed in Part I.B.3, which are determined to be significant contributors of pollutants to waters of the State. If the Director or the operator of the MS4 does determine that one or more of the discharges listed in Part I.B.3 is a significant contributor of pollutants to the MS4, the identified discharges will be considered illicit discharges and must be addressed under the Illicit Discharge Detection and Elimination minimum measure (See Part IV.B.3 of this permit).
- c. Storm water discharges associated with industrial activity as defined in RIPDES Rule 31(b)(15)(i) - (xi) owned or operated by private entities.
- d. Storm water discharges associated with industrial activity as defined in RIPDES Rule 31(b)(15)(i)-(ix) and (xi) from the facilities owned or operated by a regulated MS4 operator listed above.
- e. Wastewater discharges from vehicle or equipment washing operations except as provided under allowable storm water discharges in accordance to Part I.B.3 of this permit.
- f. Storm water discharges associated with construction activity as defined in RIPDES Rule 31(b)(15)(x) or Rule 31(b)(16).
- g. Discharges or discharge related activities that may adversely effect a listed, or a proposed to be listed, endangered or threatened species or its critical habitat (See Part IV.A.7 of this permit).
- h. Discharges to territorial seas, the contiguous zone, and the oceans unless such discharges are in compliance with the ocean discharge criteria of 40 CFR 125 subpart M.
- i. Discharges prohibited under RIPDES Rule 6.
- j. Discharges that the Director determines an individual permit or alternative general permit is required in accordance with Part I.C.1.d of this permit. This determination may include but not be limited to discharges from a small MS4 when the SWMPP: is not consistent with the requirements of a TMDL, fails to ensure that future discharges that will cause or contribute to a violation of a water quality standard, or fails to adequately control discharges that the Director designated as significant contributors of pollutants or as causing or contributing to a violation of water quality standards.
- k. Discharges not in compliance with the state's anti-degradation policy for water quality standards.

**Storm Water Management Program Plan:** The general permit requires the development and implementation of a Storm Water Management Program Plan (SWMPP) designed to reduce pollutants to the maximum extent practicable (MEP), and to protect water quality. In order to achieve pollutant reduction and water quality protection, MS4s must develop a program

consisting of the six minimum measures described below.

**Six Minimum Control Measures:** MS4s must develop a program consisting of the six minimum measures described below. Implementation of the program involves the identification of BMPs, measurable goals and schedules for each minimum measure. MS4s will have the full permit term, five years from the effective date of this permit, to fully develop and implement their requirements under the six minimum measures unless a specific measurable goal for implementation has been established in the permit. Complete implementation of the program will be an ongoing process. RIDEM recognizes that the BMPs selected should be tailored to meet the specific needs of the community. However, in some instances RIDEM has included specific measurable goals for each of the minimum measures to develop and implement specific procedures, BMPs and frequency of actions.

**Public Education and Outreach:** A public education and outreach program helps to promote a greater awareness within the community regarding the importance of minimizing storm water impacts as well as the personal responsibilities expected of them. Public support is especially important for the program when operators of small MS4s attempt to institute new funding initiatives for the program or seek volunteers to help implement the program.

To meet the requirements of this minimum control measure, the operator of a regulated small MS4 will need to at a minimum:

- Implement a public education program to distribute education material to the community. The public education program must provide information concerning the impact of storm water discharges on water bodies. It must address steps and/or activities that the public can take to reduce the pollutants in storm water runoff.

**Public Involvement and Participation:** Successful public involvement programs allow for the public to play an active role in both the development and implementation of the program. An active and involved community allows for broader public support of the program, a broader base of expertise, shorter implementation schedules due to fewer obstacles in the form of public and legal challenges, as well as economic benefits since the community can be a valuable and free intellectual resource.

To meet the requirements of this minimum control measure, the operator of a regulated small MS4 will need to at a minimum:

- Comply with State and local public notice requirements for all Public Involvement/Participation activities.

**Illicit Discharge Detection and Elimination:** Illicit discharges enter the system through either direct connections (e.g., wastewater piping either mistakenly or deliberately connected to the storm drains) or indirect connections (e.g., infiltration into the MS4 from cracked sanitary systems, spills collected by drain outlets, or paint or used oil dumped directly into a drain). Pollutants levels from these illicit discharges have been shown in EPA studies to significantly degrade receiving water quality and threaten aquatic, wildlife, and human health.

To meet the requirements of this minimum control measure, the operator of a regulated small MS4 will need to at a minimum, develop, implement and enforce a program to detect and eliminate illicit discharges or flows into the small MS4 that includes the following:

1. Development of a storm sewer system map that at a minimum shows the location of all outfalls and the names of all receiving waters;

2. Adoption and enforce an ordinance or other regulatory mechanism to effectively prohibit non storm water discharges into the system
3. Development and implementation of a plan to detect and address non storm water discharges, including illegal dumping, into the system.
4. Development of specific procedures to identify and initially target priority areas, locate illicit discharges, locate the source of the discharge, remove illicit discharges, document actions, and evaluate impact on sewer system subsequent to the removal.
5. Informing public employees, businesses, and the general public of hazards associated with illegal discharges and improper waste disposal.

**Construction Site Runoff Control:** Polluted storm water runoff from construction sites often enters MS4s and ultimately is discharged into local rivers and streams. Construction sites can contribute in a short amount of time, more sediment to streams than can be deposited naturally during several decades. The resulting siltation and other pollutants from construction sites can cause physical, chemical, and biological harm to our State's waters requiring dredging and destroying aquatic habitats.

To meet the requirements of this minimum control measure, the operator of a regulated small MS4 will need to at a minimum, develop, implement, and enforce a program to reduce pollutants in any storm water runoff to the MS4 from construction activities that result in a land disturbance of greater than or equal to one (1) acre. The program must include disturbances less than one (1) acre if part of a larger common plan or if controlling such activities in a watershed is required by the Director. At a minimum, the program must be consistent with the requirements of the RIDEM RIPDES General Permit for Storm Water Discharge Associated with Construction Activity. The construction site storm water runoff control program must include the development and implementation of the following:

1. Adoption of an ordinance or other regulatory mechanism to require sediment and erosion control and control of other wastes at construction sites, as well as sanctions to ensure compliance.
2. Requirements for construction site operators to implement a sediment and erosion control program which includes best management practices that are appropriate for the conditions at the construction site and that at a minimum include the requirements of: Rhode Island Soil Erosion and Sediment Control Handbook (as amended).
3. Requirements for the control of construction wastes
4. Requirements for construction site operators to develop and implement a Storm Water Pollution Prevention Plan (SWPPP).
5. Procedures for plan and SWPPP review.
6. Procedures for receipt and consideration of information submitted by the public.
7. Procedures for inspections and enforcement of control measures at construction sites.
8. Procedures for coordination of local and State construction permits and referrals of enforcement actions.

**Post Construction Storm Water Management in New Development and Redevelopment:**

Post-construction storm water management in areas undergoing new development or redevelopment is necessary because runoff from these areas has been shown to significantly effect receiving waterbodies. As runoff flows over areas altered by development, it picks up harmful sediment and chemicals such as oil and grease, pesticides, heavy metals, and nutrients. These pollutants often become suspended in runoff and are carried to receiving waters. Also of concern is that post construction runoff quantities may be increased, delivering more water to the waterbody during storms. Increased impervious surfaces interrupt the natural cycle of gradual percolation of water through vegetation and soil and can lead to streambank scouring and downstream flooding, which often lead to a loss of aquatic life and damage to property. Studies indicate that the most cost effective approach to storm water quality management is prior planning and design for the minimization of pollutants in post-construction storm water discharges.

To meet the requirements of this minimum control measure, the operator of a regulated small MS4 will need to at a minimum, develop, implement and enforce a program to address storm water runoff from new development and redevelopment projects that disturb greater than or equal to one (1) acre, including projects less than one (1) acre that are part of a larger common plan of development or sale that discharge into the MS4. The program must ensure that controls are in place to prevent or minimize water quality impacts. The post construction program must include:

1. Development and implementation of strategies which include a combination of structural and/or non-structural BMPs appropriate for the community.
2. Adoption of an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects.
3. Procedures for site plan review to ensure that design of controls to address post-construction runoff are consistent with: The State of Rhode Island Stormwater Design and Installation Manual (as amended).
4. Procedures to ensure adequate long term operation and maintenance of BMPs.
5. Development and implementation of strategies to reduce runoff volume.

**Pollution Prevention and Good Housekeeping in Municipal Operations:** The Pollution Prevention/Good Housekeeping for municipal operations is a key element of the small MS4 storm water management program. Although this measure is meant to primarily accomplish the goal of improving or protecting the quality of receiving waters by altering the performance of municipal or facility operations, it can also result in a cost savings for the small MS4 operator, since proper and timely maintenance of storm sewer systems can help avoid repair costs from damage caused by age and neglect.

To meet the requirements of this minimum control measure, the operator of a regulated small MS4 will need to at a minimum:

1. Identify all municipally owned or operated facilities, operations and structural BMPs.
2. Develop and implement a program with a goal of preventing and/or reducing pollutant runoff and runoff volumes from municipal facilities, municipal structural BMPs and the MS4. The program must include an employee training component.

3. Development and implementation of a program to prevent and reduce storm water pollution from municipal operations and maintenance activities.
4. Develop inspection procedures and schedules for long term O&M of municipal facilities, municipal structural BMPs and the MS4.
5. Develop and implement an employee training for good housekeeping, pollution prevention, and O&M of BMPs.

**Inspections:** The general permit requires the development and implementation of inspection procedures and schedules for long term O&M of municipal facilities, municipal structural BMPs and the MS4.

Inspections of eligible industrial facilities include quarterly visual monitoring of storm water discharges; routine visual inspections of designated equipment, processes, and material handling areas; and an annual inspection of the entire facility for evidence of pollution, evaluation of BMPs that have been implemented, and inspection of equipment.

**Record Keeping:** All records required by this permit must be kept for a period of three years. Records need to be submitted only when requested by the permitting authority. The operator's storm water management program must be available to the public. The operator may charge reasonable fees for copies.

For eligible industrial facilities records described in the SWPPP must be retained on site for 5 years from the date of the cover letter that notifies this facility of coverage under the storm water permit.

**Reporting:** The operator must submit an annual report for each year after the permit is issued by March 10<sup>th</sup>. The reports must contain information regarding activities of the previous calendar year. Reports must be submitted to RIDEM and the operators of identified interconnected MS4s.

**Compliance Evaluation:** The general permit requires an annual evaluation of compliance of the SWMPP with the conditions of this permit. If the operator is required to implement, requirements for the control of storm water identified in an approved TMDL, the evaluation must identify compliance with the approved scope of work and schedules. If the schedules are not being met, an explanation as well as an amended schedule must be provided. If any or all of the storm water control measures have been implemented, an assessment of whether the storm water control measures are being met or if additional measures are necessary must also be provided.

The operator annually must evaluate the appropriateness of the selected BMPs in efforts towards achieving the Measurable Goals

**Storm Water Pollution Prevention Plan:** The general permit requires the development and implementation of a storm water pollution prevention plan (SWPPP) for each of the eligible industrial facilities which the operator is seeking coverage. The goal of the SWPPP is to help identify the sources of pollutants in industrial storm water discharge and to ensure practices are being implemented to minimize pollutants from entering industrial storm water discharge. This plan emphasizes the use of Best Management Practices (BMPs) to provide the necessary flexibility to address the different sources of pollutants at different facilities. Although the SWPPP may be submitted with the NOI as part of the SWMPP, the required elements of the SWPPP must be retained on site for the duration of the authorization of the discharge. It must be noted that eligible industrial facilities seeking authorization under this general permit must develop and implement to full compliance the requirements of their SWPPPs by the effective date of this permit.



**Antidegradation Provisions and Implementation of TMDL recommendations:** Discharges which violate the State's antidegradation policy are not eligible for coverage under this permit. The RIDEM may restrict eligibility for this permit for discharges from a small MS4 when the SWMPP is not consistent with the requirements of a TMDL, fails to ensure that future discharges that will cause or contribute to a violation of a water quality standard, or fails to adequately control discharges that the Director designated as significant contributors of pollutants or as causing or contributing to a violation of water quality standards.

Upon review of the NOI and SWMPP, the Director may deny coverage under this permit at any time and require the submittal of an application for an individual or an alternative general permit, i.e., when the Director determines that the general permit is not adequate to ensure protection of water quality standards. If coverage is denied, the operator must submit an application for an individual permit within sixty (60) days.

RIDEM has developed a list of water bodies which are not meeting the classification of the water body called the 303(d) List, which refers to the section of the Clean Water Act that requires states to do this. States are required to develop Total Maximum Daily Load (TMDLs) for the waters listed on the 303(d) list. In very simple terms, a TMDL describes what levels of the pollutant can or cannot be put into the water in order for the water to meet standards.

To meet the requirements of this permit, the operator of a regulated small MS4 will need to at a minimum:

1. determine whether any portion of the MS4 or any facility owned or operated by the MS4 operator, discharges storm water either directly or indirectly into a water body on the current 303(d) list.
2. determine whether storm water discharges from any part of the MS4 or a facility owned or operated by the MS4 operator discharges the pollutant identified as causing the impairment or contributes, either directly or indirectly, to the impairment of a 303(d) listed water body and whether the TMDL has been completed.
3. If a TMDL has been approved for any water body into which storm water discharges from the MS4 or facility contribute directly or indirectly the pollutant(s) of concern, the operator's SWMPP must address the TMDL provisions or other provisions for storm water discharges from the MS4 or the facility, in accordance with Part IV.D of this permit.
4. If a TMDL has not been approved, the SWMPP must include a description of the BMPs that will be used to control the pollutants of concern (pollutants identified as causing the impairment), to the maximum extent practicable. BMPs that will collectively control the discharge of the pollutants of concern from existing and new sources, must be specifically identified.
5. In order to remain eligible for this permit, the operator must incorporate into the SWMPP any limitations, conditions and requirements applicable to discharges authorized by this permit to implement the recommendations in an approved TMDL. This may include monitoring and reporting. Discharges not eligible for this permit, must apply for an individual or alternative RIPDES general permit.

Where a discharge is already authorized under this permit and is later determined to cause or contribute or have the reasonable potential to cause or contribute to the violation of an applicable water quality standard, or to be a significant contributor of

pollutants, the Director will notify the operator of such violation(s) and may take enforcement actions for such violations. In order to remain eligible for this permit the operator must revise the SWPPP to eliminate the cause or reasonable potential to cause or contribute to a violation of an applicable water quality standard and to reduce any sources identified as significant contributors of pollutants. The Director may require corrective action and coverage under this permit may be terminated and an alternative general permit or individual permit may be issued if an MS4 is determined to cause an instream exceedance of water quality standards or if violations remain or reoccur.

**Water Quality Certification:** This permit serves as the State's Water Quality Certification pursuant to the State's Water Quality Regulations for discharges eligible for this permit.

#### **DEM CONTACTS**

Additional information concerning the general permit may be obtained by calling Margarita Chatterton or Greg Goblick of the RIPDES Program staff at (401) 222-4700, at the following extensions 7605 and 7265 respectively, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday, excluding holidays, or by writing to the office at:

RIDEM  
RIPDES Program Staff  
235 Promenade Street  
Providence, RI 02908

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Date

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Eric A. Beck, P.E.  
Supervising Engineer  
RIPDES Program  
Office of Water Resources  
Department of Environmental Management