The SPDES Phase II Program

February 14, 2013

NYSDEC – Bureau of Water Permits

Clean Water Act

- The 1948 Clean Water Act (CWA) established the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters
- The 1972 CWA made it unlawful to discharge any pollutant from a point source into navigable waters, unless a permit was obtained.
- The 1987 amendments to the CWA required a phased approach to address water quality degradation caused by stormwater

SPDES Phase II Program

- SPDES General Permit for Construction Activity – GP-0-10-001
- SPDES General Permit for Municipal Separate Storm Sewer Systems (MS4) – GP-0-10-002
- SPDES Multi-Sector General Permit (MSGP) for Stormwater Discharges Associated with Industrial Activity – GP-0-12-001

MS4 Program

What is an MS4?

Municipal

Separate

Storm

Sewer

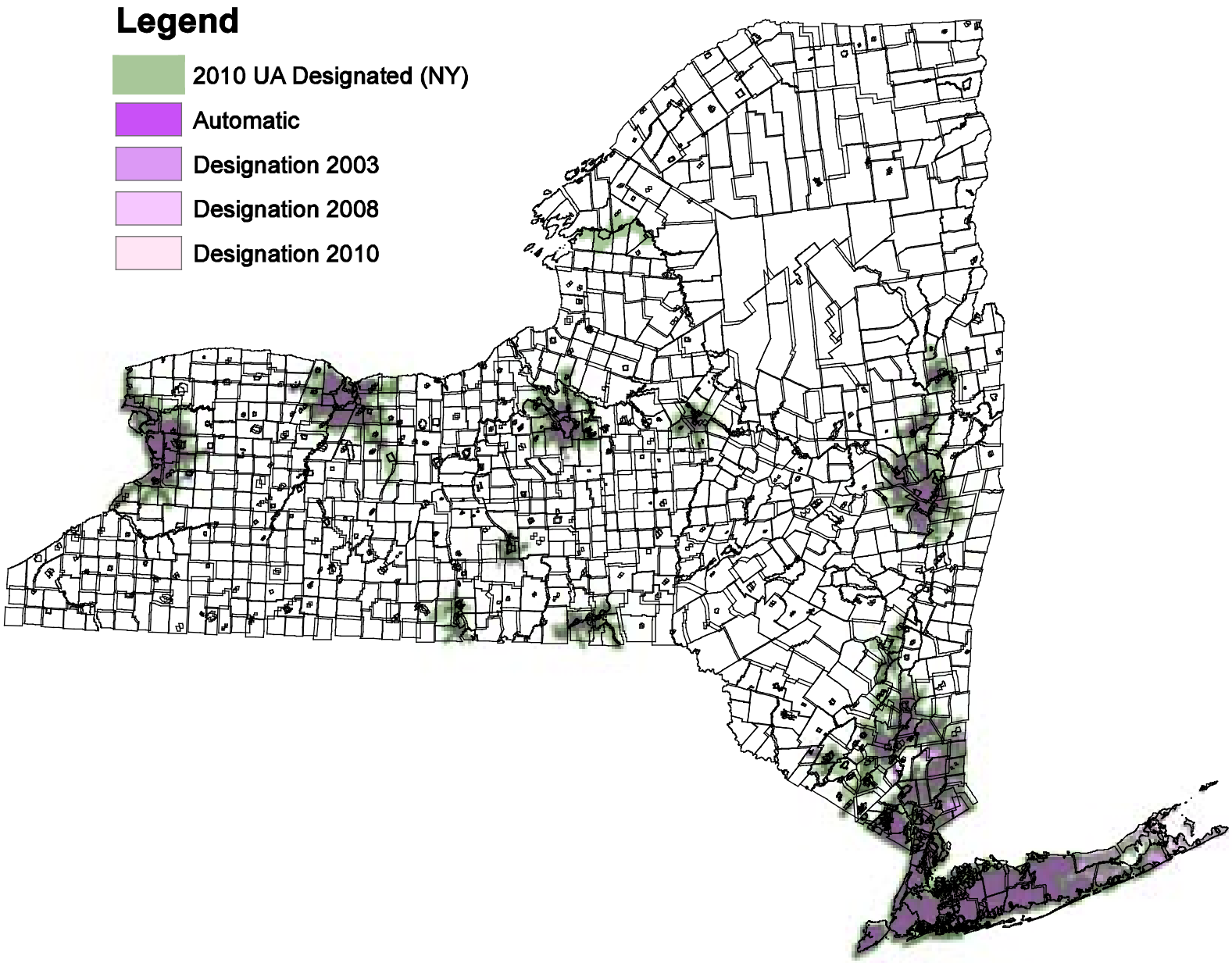
System

Definition of Regulated Small MS4s

- **Municipal Separate Storm Sever System is defined as:**
  - Any stormwater conveyance or system of conveyances (including roads with drainage) that are owned or operated by a State, city, town, village, ...
- **"Small" MS4s defined as:**
  - Any MS4 that is not already designated and regulated as large or medium under Phase I. (i.e. those less than 100,000 in population)
- **Regulated Small MS4 are:**
  - located in an "**Urbanized Area**" population of 50,000 and overall density of 1,000 per square mile, and/or
  - "**designated**" by DEC due to water quality concerns

3 Categories of MS4's

- Traditional Land-Use Control
  - City, Town or Village with land use control authority
- Traditional Non-Land Use Control
  - Any County agency without land use control
- Non-Traditional
  - DOT, Thruway, County Highway Departments,
  - Other State Agencies, Authorities
  - Airports, State and Community Colleges, School Districts
  - Post offices, VA hospitals, military bases, prisons
  - Water, sewer, and other special districts


Legend
2010 UA Designated (NY)
Automatic
Designation 2003
Designation 2008
Designation 2010

I Qualify As An MS4 – Now What?

MS4 Program Requirements

MS4 operators must implement a stormwater management program (SWMP) that:

- Contains the **six minimum control measures**
- Utilizes approved **Best Management Practices** (BMPs)
- Implement program to **Maximum Extent Practicable**

Six Minimum Control Measures

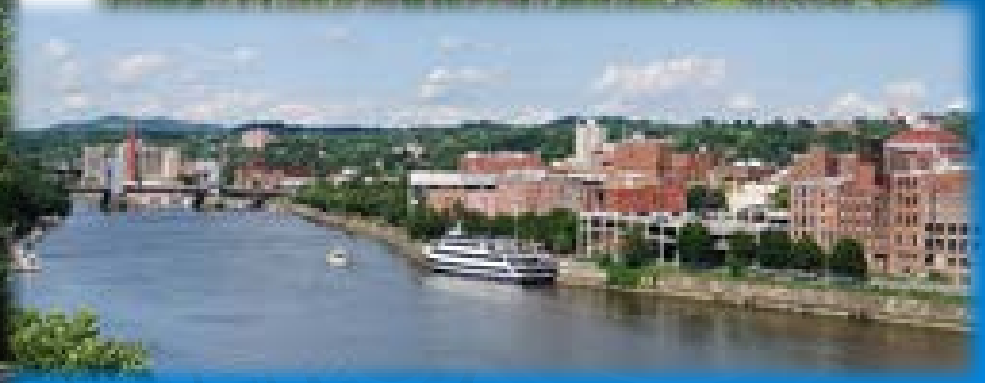
1. Public education and outreach
2. Public participation & involvement
3. Illicit discharge detection and elimination
4. Construction site runoff
5. Post-Construction Stormwater Management
6. Pollution prevention & Good housekeeping

MCM 1: Public Education and Outreach

- Identify:
  - Pollutants of Concern (POC);
  - Waterbodies of Concern;
  - Geographic areas of concern and
  - Target Audiences

What are Pollutants of Concern?

Water Bodies of Concern AND Geographic Areas of Concern



Who Is Your Target Audience?

MCM 2: Public Participation and Involvement

- Comply with State Open Meetings Law and local public notice requirements

MCM 2

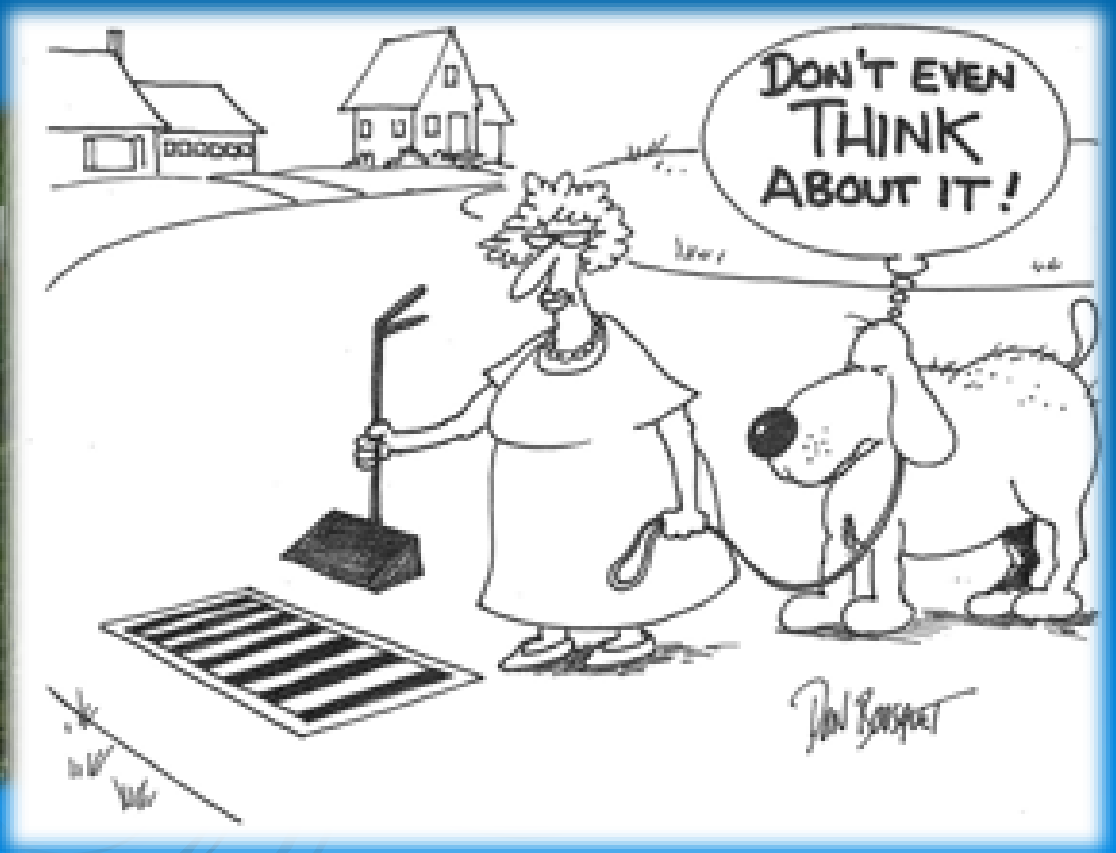
- Identify a Local Stormwater Public Contact

MCM 2

- Develop and implement a public involvement/participation program

MCM 2

- Select and Implement public involvement/ participation activities and measureable goals to reduce POC's



MCM 2

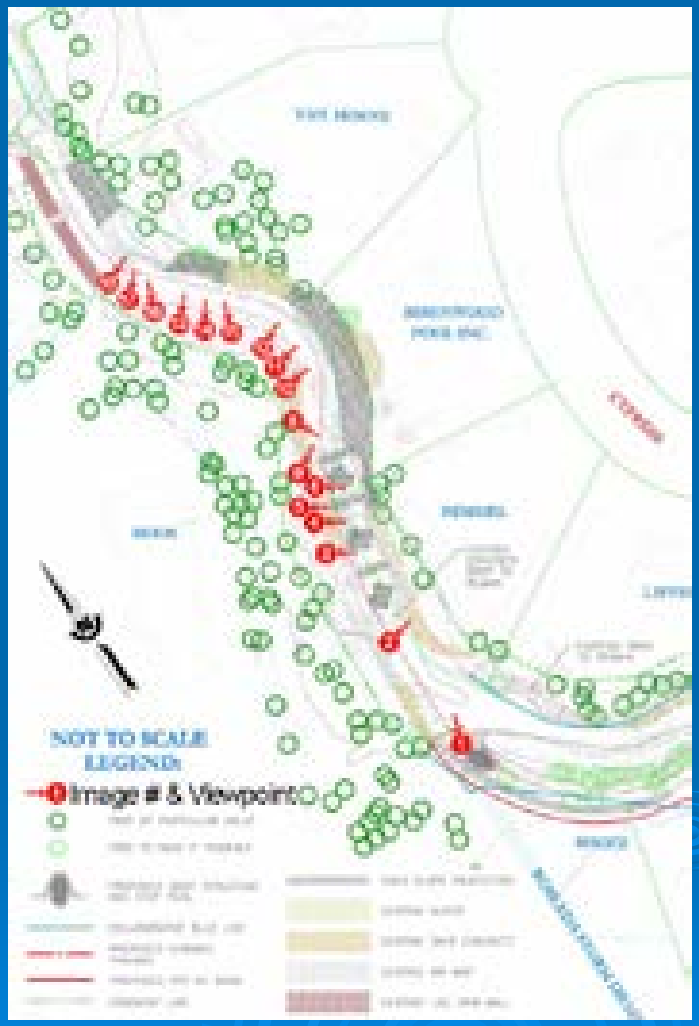
- Annual Report Presentation
  - A DRAFT Annual Report **must** be presented to the public for questions and comments prior to submitting a Final Report
  - By June 1st a Final Annual Report must be submitted to the Department that includes a summary of public comments,(intended) responses, and proposed changes to SWMP

MCM 3: Illicit Discharge Detection and Elimination

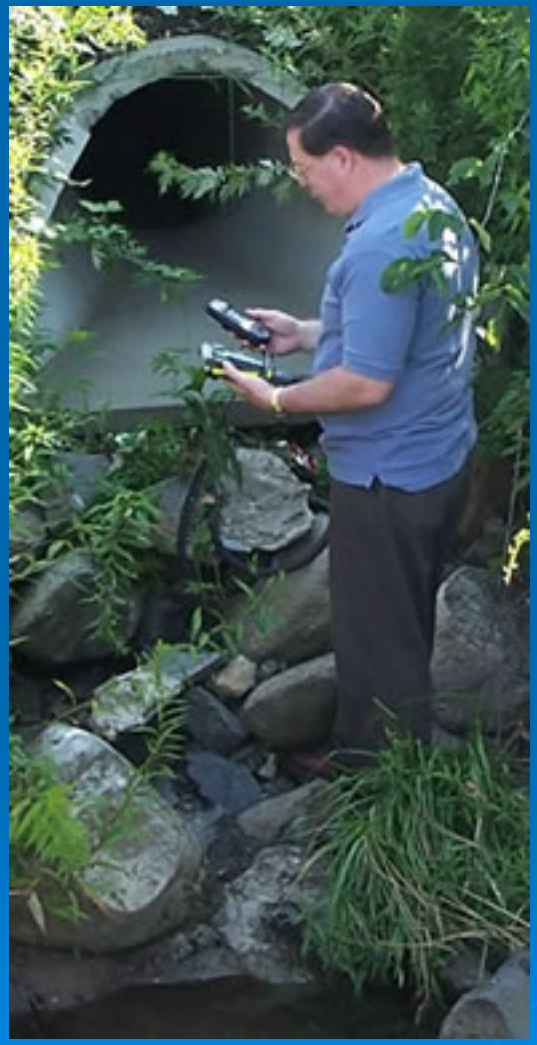
- Develop, implement and enforce a program to detect and eliminate illicit discharges
  - An Illicit Discharge is defined as a discharge not entirely composed of stormwater into the MS4 system such as sanitary sewage**, garage drain effluent, waste motor oil, or any other non-permitted discharge which the MS4 or the Department has determined to be a substantial contributor of pollutants to the MS4

MCM 3

- Develop and maintain a map with the location of all outfalls and names and locations of all surface waters of the state that receive discharges from those outfalls
- Map the preliminary boundaries of the MS4's storm sewershed utilizing GIS or other tools



MCM 3



- Field verify outfall locations
- Conduct an outfall reconnaissance inventory, addressing every outfall at least once every five years.
- Map new outfalls as they are constructed or discovered

MCM 3

- Prohibit, though a law, ordinance or other regulatory mechanism, illicit discharges into the MS4 and implement appropriate procedures and actions.

MCM 4: Construction Site Runoff Controls

- Develop, implement and enforce a program that:
  - Provides equivalent protection to the NYS SPDES Permit for Stormwater Discharges from Construction Activities (GP-0-10-001)
  - Addresses stormwater runoff from construction activities that result in a land disturbance of greater than or equal to 1 acre

Larger Common Plan of Development or Sale

- Means…a contiguous area where multiple separate and distinct construction activities are occurring, or will occur, under one plan.
  - The term “plan” is broadly defined as any announcement or piece of documentation – including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, computer design, zoning request, SEQRA application, etc.

MCM 4

- Enactment and implementation of a law, ordinance or other regulatory mechanism to require a SWPPP for each applicable land disturbing activity that includes erosion and sediment control that meet the State’s most current technical standards

MCM 4

- The program must contain requirements for construction site operators to implement erosion and sediment control practices

- Allow for sanctions to ensure compliance to the extent allowable by State law

MCM 4

- Describes procedures for SWPPP review with consideration of potential water quality impacts AND review of SWPPPs to ensure consistency with State and local sediment and erosion control requirements

- Describes procedures for site inspections and enforcement of erosion and sediment control measures

MCM 5: Post-Construction Stormwater Management

- Develop, implement and enforce a program that:
  - Provides equivalent protection to GP-0-10-001
  - Addresses stormwater runoff from new development and redevelopment projects that result in a land disturbance of greater than or equal to 1 acre, or less if part of a Larger Common Plan of Development or Sale

MCM 5

- Includes a local law, ordinance or other regulatory mechanism requiring post-construction runoff controls from new development and re-development projects to the extent allowable under State law that meet the State's most current technical standards

MCM 5

- Includes a combination of structural or non-structural management practices – according to the most current version of the NYS Stormwater Management Design Manual, that will reduce the discharge of pollutants to the Maximum Extent Practicable

MCM 5

During development of watershed plans, municipal comprehensive plans, open space preservation programs, local laws, ordinances and land use regulations, MS4's must consider the principles of Low Impact Development, Better Site Design and other Green Infrastructure to the Maximum Extent Practicable

MCM 5

- Review SWPPPs and perform Inspections the same as for MCM 4

- Maintain an inventory of post-construction stormwater management practices (at a minimum, those practices installed since March 2003)

MCM 6: Pollution Prevention and Good Housekeeping

Develop and implement a pollution prevention/good housekeeping program for municipal operations and facilities

MCM 6

- The program must address municipal operations and facilities that contribute or potentially contribute pollutants of concern to the MS4 system. These operations may include:
  - Street and bridge maintenance
  - Vehicle and fleet maintenance
  - Municipal facilities – Police and Fire Departments, Public buildings such as DPW, Highway, Municipal offices or libraries, Parking lots, Athletic fields or Parks, POTW, etc.

MCM 6

- At a MINIMUM – every 3 years perform and document a self-assessment of all municipal operations

MCM 6

- Employee pollution prevention and good housekeeping training program

- Select and implement appropriate pollution prevention and good housekeeping BMPs

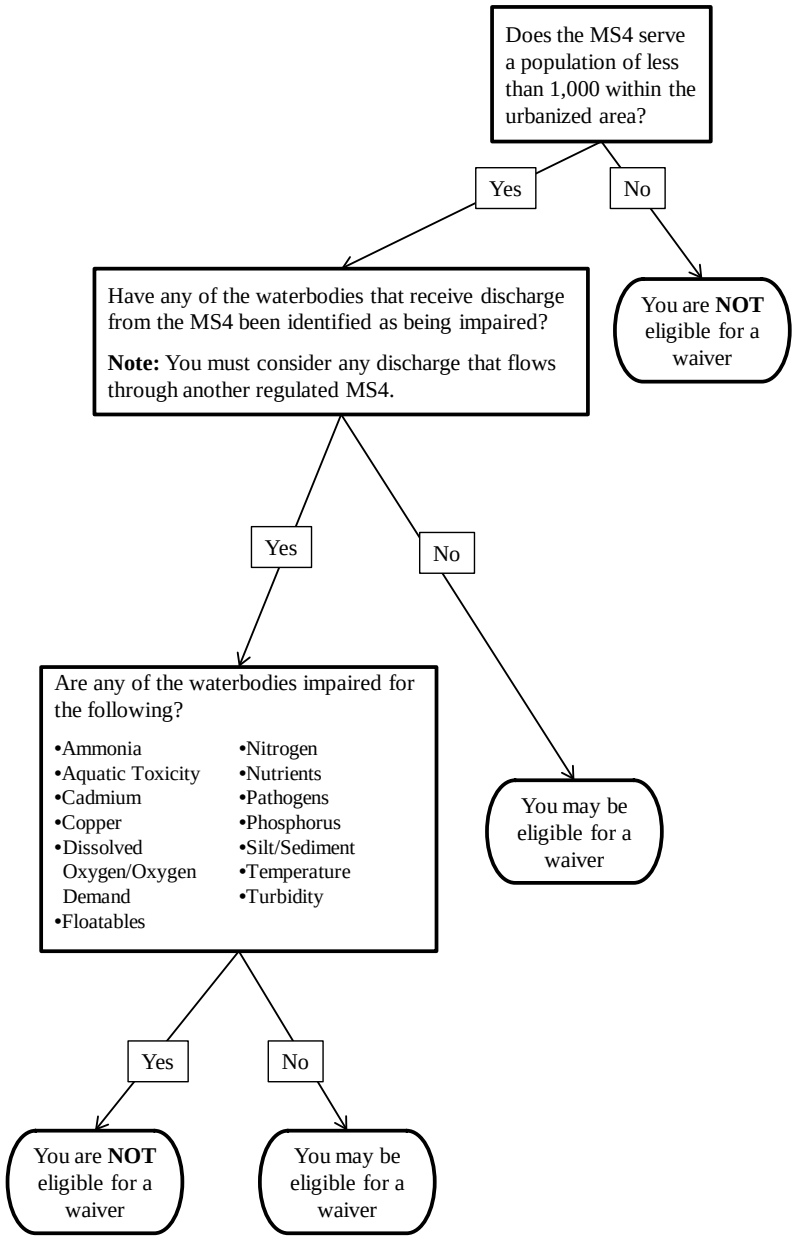
When Do I Begin?

- You will be notified in writing that a permit for discharges from MS4 is required
- Within 180 days of this notification the MS4 must either:
  1. Apply for and obtain a Waiver

     Or
  2. Submit a completed Notice of Intent to Department

Wait, I can waive out of the program?

Waiver Eligibility Decision



*Just because an MS4 is eligible for a waiver, does not mean one will be granted. DEC will consider potential for growth and site specific considerations.

OK I cannot waive out of the program.
So, how do I begin?

Notice of Intent (NOI)

- The NOI is the foundation of your stormwater management program plan
- Identifies the actions to be taken under each minimum control measure
- Identifies how success of program will be measured

Preparing NOI

During the 180 day preparation.

- Identify urbanized area boundaries
- Find and/or understand system within urbanized area boundaries (**NO** need to fully map)

Definition: A conveyance or system of conveyances owned or operated by a State, City, Town, Village, …

- Identify impaired waterbodies that receive discharge from system
- Identify Primary Stormwater Management Program contact person

Preparing NOI

Begin to identify staff who will be responsible for various elements such as:

- Educating and training construction site operators of requirements for a SWPPP
- Public Education and Outreach
- Receipt and consideration of information submitted by public
- Pollution Prevention and Good housekeeping program

Preparing NOI

Consider how you as an MS4 plan to

- Provide coordination and cooperation amongst staff
- Record and track documents
- Schedule important meetings
- Provide the necessary information to the public in regards to MS4 program and SWMP

Submit NOI

- Submit a complete and accurate NOI to

  MS4 Coordinator
  NYS DEC, Bureau of Water Permits
  625 Broadway, 4th Floor
  Albany, NY 12233-3505

- DEC reviews NOI for completeness and either
  - Determines NOI incomplete and rejects NOI

    Or

  - Determines NOI is complete and public notices NOI

Public Notice of NOI

- NOI is posted for 28 days on
  - Environmental Notice Bulletin (ENB) AND
  - DEC Website
- Department considers all comments and
  - Requires additional information,
  - Submission of individual permit, or
  - Accept s NOI and issues acknowledgment letter
- Coverage begins upon receiving acknowledgment letter

Development and Implementation of your Stormwater Management Program Plan

Stormwater Management Program Plan

- The SWMPP documents the planned and implemented components of your SWMP
- It contains the six minimum control measures and the goals and achievements under each MCM
- It describes how pollutants in stormwater runoff will be controlled

Timeline

- Permit requires that a SWMP is developed within the first 3 years
- At the end of the first 3 years the permit requires that the SWMP is being fully implemented
- Permit contains a schedule of compliance that specifies completion dates of specific tasks (refer to handout)

Stormwater Management Program Plan

- Documents to include:
  - Your local laws for Construction and IDDE
  - Inter-municipal agreements (if applicable)
  - Staffing and their responsibilities under the SWMPP
  - Program Budget
  - Policies and Procedures
  - Materials for each MCM
  - Operation and Maintenance Schedules
  - Documentation of Public Outreach Efforts
  - Construction Site SWPPPs and Review letters/documentation
  - Construction Site Inspection Reports

Do I really need to do ALL of this?

Compliance Violations

- Failure to adequately implement your program can subject you to sanctions from DEC or EPA and fines of up to $37,500 per violation per day.

- Citizen Suits

Is there any funding available?

- Look for the Water Quality Improvement Project (WQIP) program grants at:

  http://www.dec.ny.gov/pubs/4774.html

How can I hear about program updates?

- The Department uses electronic media as much as possible.
  - Web pages:
    - Newly Designated MS4
    - MS4 Toolbox
    - Stormwater Training Calendar
    - We will update pages as new information becomes available.

How can I hear about program updates? (con't)

- Making Waves listserve
  - The Division of Water sends a Making Waves email every Thursday.
  - The purpose of the listserve is to provide information to those interested in new developments that affect the waters of New York State.
  - http://lists.dec.state.ny.us/mailman/listinfo/makingwaves

Training Opportunities

Narrated On-Line Stormwater Training Videos

http://www.ocgov.net/planning/environmentwater/StormwaterVideo5

- Training Video - Part I: Basic Stormwater Planning and Permit Concepts
- Training Video - Part II: Better Site Design and Green Infrastructure Approaches to Stormwater Management
- Training Video - Part III: Project Review Using the New Runoff Reduction Stormwater Design Process
- Training Video - Stormwater System, Outfall, and Sewershed Mapping for MS4's
- Training Video - Municipal Review of Stormwater Pollution Prevention Plans

Training Opportunities

- **Stormwater Management Training Series (multiple courses/dates)**
- Sponsors: Cornell University Cooperative Extension, Orange County
  Location: Cornell University Cooperative Extension, Orange County, 18 Seaward Avenue, Suite 300, Middletown, NY 10940
  Contact: Rose Baglia at rsb22@cornell.edu or Tiffany Glavan tg257@cornell.edu, 845-344-1234, http://cce.cornell.edu/orange
- Sponsors: Stormwater Coalition of Monroe County and Monroe County SWCD
  Location: Henrietta Fire Training Center, 60 Erie Station Road, Henrietta, NY 14586
  Contact: Kelly Emerick, 585-473-2120, Ext 3; kelly.emerick@ny.nacdnet.net, www.monroecountyswcd.org
- Sponsors: Saratoga County Cornell Cooperative Extension
  Location: Saratoga County Cornell Cooperative Extension, 50 West High Street, Ballston Spa, NY 12020
  Contact: Blue Neils, 518-885-8995 Ext. 224, www.saratogastormwater.org
- Sponsors: Central New York Regional Planning & Development Board
  Location: CNY RPDB, 126 N. Salina Street, Syracuse NY, 13202
  Contact: Kathleen Bertuch at Bertuch@cnyrpdb.org or 315-422-8276 Ext. 208
  www.cnyrpdb.org/stormwater

Training Opportunities

- DEC's MS4 Permit and Forms page

http://www.dec.ny.gov/chemical/43150.html

- DEC's MS4 toolbox

http://www.dec.ny.gov/chemical/8695.html

- DEC's Training Calendar for more training opportunities:

http://www.dec.ny.gov/chemical/8699.html

Helpful Links

- DEC: http://www.dec.ny.gov/chemical/8468.html
- EPA: Stormwater Outreach Toolbox: http://cfpub.epa.gov/npstbx/index.html
- EPA: Fact Sheet Series: http://cfpub.epa.gov/npdes/stormwater/swfinal.cfm
- Capital District Regional Planning Commission http://cdrpc.org/
- Center for Watershed Protection: http://www.cwp.org/
- Stormwater Coalition of Albany County http://www.stormwateralbanycounty.org/