NEW YORK
STATE OF
OPPORTUNITY

Department of
Environmental
Conservation

NYSDEC MS4 General Permit Updates

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May 29, 2019

Outline

- Background
  - EPA Remand Rule
  - SWMP Plan Items
- Interim Progress
- Exercise
- Next Steps

Background

MS4 General Permit

- Authorizes the discharge of stormwater from municipal separate storm sewer systems (MS4) located within designated urbanized area to surface waters of the State
- Automatic Designation
  - Designated area contains a population of at least 50,000 and has an overall population density of at least 1,000 people per square mile based on the latest U.S. Census
  - Construction Site Stormwater Runoff Control and Post Construction Stormwater Management Controls extension

2016 Draft MS4 Permit

- Permit Term – 5 years
- Draft Public Comment Began – October 30, 2016
- Comment Period Ended – February 3, 2017
- Current MS4 Permit Expired – April 30, 2017
- Permit SAPA Extended
  - What This Means:
    - Current Permit Requirements Remain in Effect
    - Current Permittees Covered
    - Cannot Cover New Permittees

2016 Draft MS4 Permit Considerations

- Recent EPA MS4 Permits
- EPA Guidance
- Program Experience
- Audit Reports
- Stakeholder Input
- Comments Received
  - 2015 renewal, MS4 Implementation Plans for TMDL waters
- EPA Proposed Remand Rule

EPA Remand Rule

EPA Remand Rule

- Final Rule Effective December 6, 2016
- Permitting Authority Choice
  - Traditional (Comprehensive) Approach
  - Two-Step Approach
- Permitting Authority Selects Option
  - NYSDEC Draft Permit uses the Traditional (Comprehensive) General Permit Approach

EPA Remand Rule Requirements

- General Permit Requirements
  - Reduce Discharge of Pollutants to Maximum Extent Practicable (MEP)
  - Protect Water Quality
  - Satisfy Water Quality Requirements of CWA
  - Clear, Specific, and Measurable Requirements

EPA Remand Rule Requirements: Permit Terms and Conditions

- Clear, Specific, and Measurable

Narrative	Adaptive Management Requirements
Numeric	Schedules for Implementation and Maintenance
BMP Design Requirements	Frequency of Actions
Performance Requirements	Other (i.e. Implementation of Specific Tasks or BMPs)

Stormwater Management Program (SWMP) Plan Items

- Mapping
- MCM 1 – Public Education and Outreach
- MCM 2 – Public Involvement and Participation
- MCM 3 – Illicit Discharge Detection and Elimination (IDDE)
- MCM 4 – Construction Site Stormwater Runoff Control
- MCM 5 – Post-Construction Stormwater Management
- MCM 6 – Pollution Prevention and Good Housekeeping for Municipal Operations

Interim Progress

2016 Draft to Present

- Comments Received
- Stakeholder Workgroup Series
- Edits
- Review
- Potential Changes

Mapping

Mapping IV.C. Updates

2016 Draft

C. Mapping

1. The MS4 Operator must *develop* and maintain a map to facilitate a clear understanding of the MS4 and serve as a planning tool to allow for prioritization of efforts and facilitate management decisions. The map must show the entire small MS4 conveyance system within the regulated area and contain the following components:
   - Location of all outfalls with priority rating identified
   - Urbanized area boundaries
   - *additionally designated area* boundaries
   - Names and location of all surface waters of the state within the regulated area
     - Classification
     - Impairment and POC, if applicable
     - TMDL watershed areas
   - Location of all interconnected MS4 outfalls with name and contact of MS4 Operator.
   - Location and type of conveyance – closed pipe or open drainage
     - Drop Inlet, catch basin and manhole locations
     - Number and size of connections to catch basins and manholes
     - Direction of flow.
   - Catch basins (Part VI.6.3 and Part VII.6.3)
   - Roads
   - Land area draining to MS4 (i.e. sewersheds).
   - Land Cover areas
   - Topography (USGS Quadrangle Map or better)
   - Areas of Concern
     - Areas served by sanitary sewer
     - Areas served by septic system
     - Commercial/industrial areas
   - Post Construction Stormwater Management Practices (see Part VI.E.3 and VII.E.2)
   - Municipal facilities (see Part VI.F.5 and Part VII.F.4)
   - Locations of suspected, confirmed and corrected illicit *discharges*

2019 Draft

- Readily available mapping components:
  - Urbanized area boundaries
  - Additionally designated area boundaries
  - Names and location of all surface waters
  - Roads
  - Topography

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Mapping IV.C. Updates (cont.)

2016 Draft

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- Areas of Concern
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  - Commercial/industrial areas
- Post Construction Stormwater Management Practices (see Part VI.E.3 and VII.E.2)
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- Locations of suspected, confirmed and corrected illicit *discharges*

2019 Draft

- Reorganized into three phases in the 2019 Draft

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Mapping IV.C. – 2019 Draft Phased Approach

Phase I (3 years):

- Location of all outfalls, including interconnected MS4 outfalls
- Areas of concern
- Municipally-owned post construction stormwater management practices
- Municipal facilities

Phase II (5 years):

- MS4 infrastructure information, including:
  - Closed pipe and open drainage
  - Structures: drop inlets, catch basins, and manholes
  - Structure description
- Privately-owned post construction stormwater management practices which drain to the MS4

Phase III (8 years):

- Land area draining to the MS4 by overland flow (sewershed)
- Location of interconnections

Public Education and Outreach (MCM 1)

Areas of Concern VI.A.1.a. Updates

2016 Draft

A. MCM1 – Public Education and Outreach

The MS4 Operator shall *develop* and implement an education and outreach program to educate the general public on significant stormwater issues that are relevant to the MS4. The goal of the education and outreach program is to increase knowledge, change pollutant generating behaviors and improve program effectiveness so that pollutants are reduced.

1. Program Development

a. Identify Significant Areas of Concern

The MS4 Operator must identify the areas where pollutant generating activities are occurring to target education and outreach efforts; including the following:

- Areas contributing to impaired waterbodies (See Part VIII and Appendix D)
- TMDL watersheds (See Part IX)
- Areas prone to erosion
- Areas contributing to waterbodies of significant value (drinking water supply, public bathing beaches, shellfishing, high recreation value)
- Densely populated residential areas
- Hot Spot Areas (remediation sites, clusters of industrial activity, salt storage, etc.)
- Areas where a high number of *construction activities* are occurring
- Areas with a high number of *illicit discharges*

2019 Draft

- "High" means something different to every MS4s
  - Areas where construction activities are occurring
  - Residential, commercial, and industrial areas
  - Areas with illicit discharges

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Illicit Discharge Detection and Elimination (MCM 3)

IDDE VI.C.4.a./VII.C.4.a. Updates

2016 Draft

4. *Illicit Discharge Detection Program*

a. Identification of Priority Areas

The MS4 Operator must:

i. Identify areas contributing to the MS4 with a high illicit *discharge* potential using the screening factors identified in Table 14 of the "Illicit Discharge Detection and Elimination: A Guidance Manual for Program Development and Technical Assessment, Center for Watershed Protection, October 2004" (IDDE Guidance Manual);

ii. Prioritize outfalls with the following considerations:

a) High Priority Outfalls

- Outfalls serving areas with a high illicit *discharge* potential;
- Outfalls discharging to impaired waters;
- Outfalls discharging to sensitive or high quality waters including but not limited to public beaches, recreational areas, drinking water supplies and shellfishing areas;
- Major Outfalls (as defined in 40CFR 122.26(b)(5)); and,
- Citizen complaints on more than three separate occasions in any 12 month period.

b) Low Priority Outfalls – All other outfalls not described as High Priority

2019 Draft

- No longer reference Table 14
- High Priority Outfalls
  - Discharging to impaired waters
  - Discharging to sensitive or high quality waters
  - Complaint driven

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IDDE VI.C.4.b./VII.C.4.b. Updates

2016 Draft

b. Outfall Inspection Program

The MS4 Operator must:

i. Provide annual training for all individual(s) responsible for outfall inspection and sampling on the MS4 Operator's outfall inspection procedures;

ii. Inspect all outfalls in the regulated area during dry weather (at least 48[4] hours after the last runoff-producing event) at the following frequencies:

a) Inspect High Priority Outfalls at least once per year

b) Inspect Low Priority Outfalls (20% per year)

iii. Document all outfall inspections using the ORI Field Sheets or use their own form provided it records the same information.

2019 Draft

- MS4 Operators need to ensure staff are trained for outfall inspections
- Inspect high priority outfalls twice a permit term
  - Inspect all other outfalls 20% annually

IDDE VI.C.4.b./VII.C.4.b. Updates

2016 Draft

iv. Sample all flowing outfalls with any physical indicator of an illicit *discharge* (i.e. odor, color, turbidity or floatables) as follows:

Indicator Parameter	Action Level
Ammonia	≥50 mg/l
Chlorine	>0.1 mg/l
Conductivity	≥2000 µS/cm
Color	≥500 units
pH	≤5 or ≥9
Potassium	≥20
Turbidity	≥1000 NTU
Surfactants	≥25 mg/l

Table 3

2019 Draft

- Sample flowing outfalls with physical indicators of an illicit discharge
- Table 3 may indicate industrial source
  - If results do not exceed these values, may indicate an non-industrial discharge

IDDE VI.C.4.b./VII.C.4.b. Updates (cont.)

2016 Draft

c) Initiate track down procedures for *discharges* that exceed any action level within the timeframes specified in Part VI.C.5.d.

v. Re-inspect, within 30 days of initial inspection, non-flowing outfalls with physical indictors of intermittent or transitory *discharges* (i.e. outfall damage, outfall deposits or stains, abnormal vegetation growth, poor receiving water quality and biological growth on pipe surfaces) utilizing techniques described in Chapter 12.6 of the IDDE Guidance Manual or equivalent.

2019 Draft

- Nomenclature correlates with CWP IDDE Manual ORI Form
  - Initiate track down procedures for outfalls characterized as “suspect”
  - Outfalls with “physical indicators not related to flow” are re-inspected within 30 days

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Outfall Reconnaissance Inventory Field Sheet

Section 4: Physical Indicators for Flowing Outfalls Only

Are Any Physical Indicators Present in the flow? ☐ Yes ☐ No *(If No, Skip to Section 5)*

INDICATOR	CHECK if Present	DESCRIPTION	RELATIVE SEVERITY INDEX (1-3)		
Odor	☐	☐ Sewage ☐ Rancid/sour ☐ Petroleum/gas ☐ Sulfide ☐ Other:	☐ 1 – Faint	☐ 2 – Easily detected	☐ 3 – Noticeable from a distance
Color	☐	☐ Clear ☐ Brown ☐ Gray ☐ Yellow ☐ Green ☐ Orange ☐ Red ☐ Other:	☐ 1 – Faint colors in sample bottle	☐ 2 – Clearly visible in sample bottle	☐ 3 – Clearly visible in outfall flow
Turbidity	☐	See severity	☐ 1 – Slight cloudiness	☐ 2 – Cloudy	☐ 3 – Opaque
Floatables -Does Not Include Trash!!	☐	☐ Sewage (Toilet Paper, etc.) ☐ Suds ☐ Petroleum (oil sheen) ☐ Other:	☐ 1 – Few/slight; origin not obvious	☐ 2 – Some; indications of origin (e.g., possible suds or oil sheen)	☐ 3 - Some; origin clear (e.g., obvious oil sheen, suds, or floating sanitary materials)

Section 5: Physical Indicators for Both Flowing and Non-Flowing Outfalls

Are physical indicators that are not related to flow present? ☐ Yes ☐ No *(If No, Skip to Section 6)*

INDICATOR	CHECK if Present	DESCRIPTION	COMMENTS
Outfall Damage	☐	☐ Spalling, Cracking or Chipping ☐ Peeling Paint ☐ Corrosion	
Deposits/Stains	☐	☐ Oily ☐ Flow Line ☐ Paint ☐ Other:	
Abnormal Vegetation	☐	☐ Excessive ☐ Inhibited	
Poor pool quality	☐	☐ Odors ☐ Colors ☐ Floatables ☐ Oil Sheen ☐ Suds ☐ Excessive Algae ☐ Other:	
Pipe benthic growth	☐	☐ Brown ☐ Orange ☐ Green ☐ Other:	

Section 6: Overall Outfall Characterization

☐ Unlikely ☐ Potential (presence of two or more indicators) ☐ Suspect (one or more indicators with a severity of 3) ☐ Obvious

Post Construction Stormwater Management (MCM 5)

Post Construction Inventory VI.E.3./VII.E.3. Updates

2016 Draft

3. ***Post Construction SMP Inventory & Tracking***
The MS4 Operator must *develop* and maintain an inventory of post-construction SMPs that include the following information:

- Location of practice (street address or coordinates)
- Type of practice
- Receiving waterbody
- Date practice was installed
- Ownership
- Responsible party for maintenance, if different from owner.
- Location of documentation depicting O&M requirements and legal agreements for practice.
- Frequency for inspection of practice (specified by the Operations & Maintenance plan (O&M plan) in approved SWPPP as described in Part VI.E.4.

2019 Draft

- Revised information
  - Type of stormwater management practice
  - Date of installation, if available
- Additional information
  - Reason for the stormwater management practice
  - Location of discharge

Post Construction Inspection VI.E.3./VII.E.3. Updates

2016 Draft

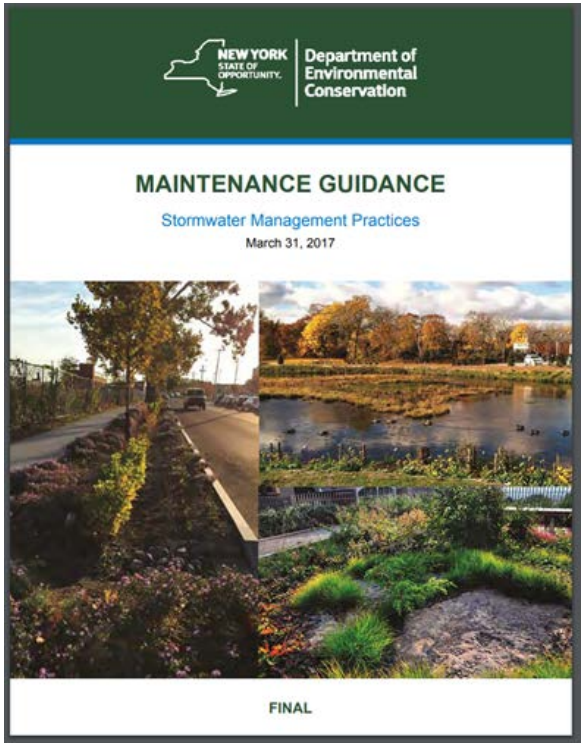
- Inspection and maintenance history that tracks the following:
  - Date of last inspection
  - Inspection results
  - Actions taken in accordance with Enforcement Response Plan (ERP) for private SMPs.
  - Dates for corrective actions to be completed
  - Status of corrective action
  - Projected date of next inspection

The inventory must be kept up to date as new post construction SMPs are approved or discovered.

2019 Draft

- Changed what information is tracked based on responsible party
  - MS4 Operator owned
    - Date of inspection
    - Inspection results
    - Corrective actions (and dates)
    - Date of next inspection
  - Privately owned
    - Corrective actions (and dates)

Stormwater Maintenance Chapter – Final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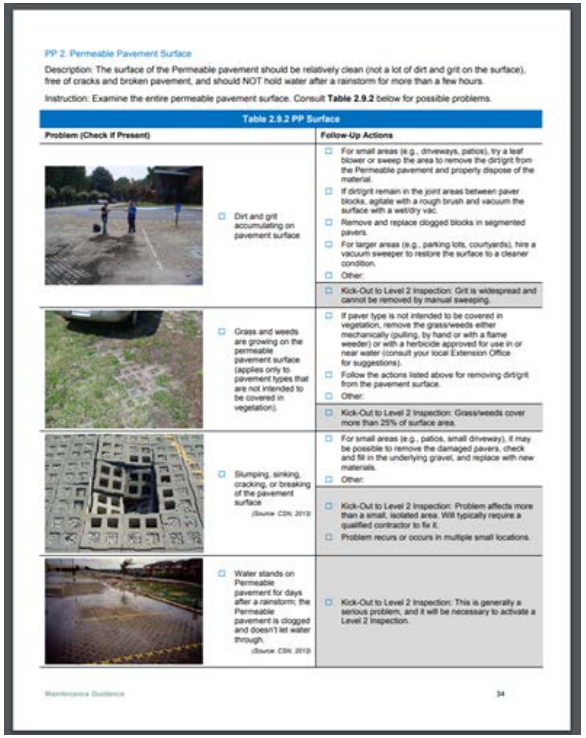
MAINTENANCE GUIDANCE

Stormwater Management Practices

March 31, 2017

FINAL


PP 2: Permeable Pavement Surface

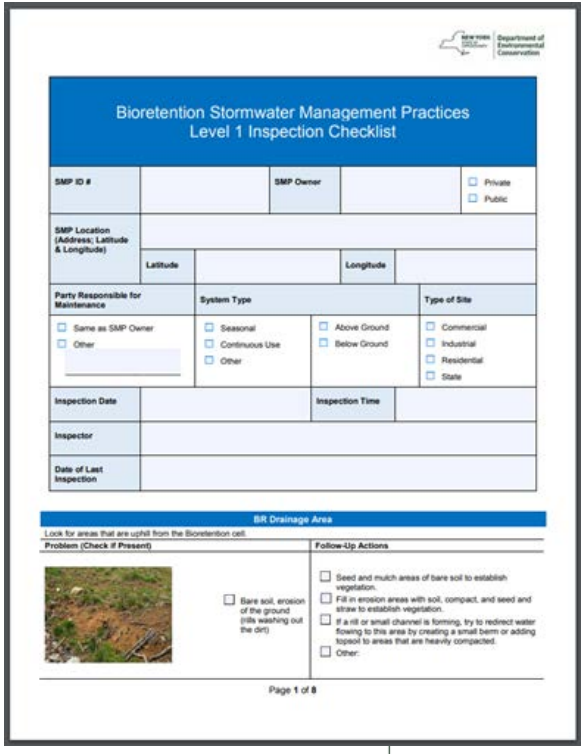
Description: The surface of the Permeable pavement should be relatively clean (not a lot of dirt and grit on the surface), free of cracks and broken pavement, and should NOT hold water after a rainstorm for more than a few hours.

Instruction: Examine the entire permeable pavement surface. Consult **Table 2.9.2** below for possible problems.

Table 2.9.2 PP Surface

Problem (Check if Present)	Follow-Up Actions
☐ Dirt and grit accumulating on pavement surface	☐ For small areas (e.g., driveways, patios), try a leaf blower or sweep the area to remove the dirt/grit from the Permeable pavement and properly dispose of the material. ☐ If dirt/grit remain in the joint areas between paver blocks, agitate with a rough brush and vacuum the surface with a wet/dry vac. ☐ Remove and replace clogged blocks in segmented pavers. ☐ For larger areas (e.g., parking lots, courtyards), hire a vacuum sweeper to restore the surface to a cleaner condition. ☐ Other: ☐ Kick-Out to Level 2 Inspection: Grit is widespread and cannot be removed by manual sweeping.
☐ Grass and weeds are growing on the permeable pavement surface (applies only to pavement types that are not intended to be covered in vegetation).	☐ If paver type is not intended to be covered in vegetation, remove the grass/weeds either mechanically (pulling, by hand or with a flame weeder) or with a herbicide approved for use in or near water (consult your local Extension Office for suggestions). ☐ Follow the actions listed above for removing dirt/grit from the pavement surface. ☐ Other: ☐ Kick-Out to Level 2 Inspection: Grass/weeds cover more than 25% of surface area.
☐ Slumping, sinking, cracking, or breaking of the pavement surface (Source: CSN, 2013)	☐ For small areas (e.g., patios, small driveway), it may be possible to remove the damaged pavers, check and fill in the underlying gravel, and replace with new materials. ☐ Other: ☐ Kick-Out to Level 2 Inspection: Problem affects more than a small, isolated area. Will typically require a qualified contractor to fix it. ☐ Problem recurs or occurs in multiple small locations.
☐ Water stands on Permeable pavement for days after a rainstorm; the Permeable pavement is clogged and doesn't let water through. (Source: CSN, 2013)	☐ Kick-Out to Level 2 Inspection: This is generally a serious problem, and it will be necessary to activate a Level 2 Inspection.

Maintenance Guidance 34


Bioretention Stormwater Management Practices
Level 1 Inspection Checklist

SMP ID #		SMP Owner		☐ Private ☐ Public
SMP Location (Address; Latitude & Longitude)				
	Latitude		Longitude	
Party Responsible for Maintenance	System Type		Type of Site	
☐ Same as SMP Owner ☐ Other	☐ Seasonal ☐ Continuous Use ☐ Other	☐ Above Ground ☐ Below Ground	☐ Commercial ☐ Industrial ☐ Residential ☐ State	
Inspection Date		Inspection Time		
Inspector				
Date of Last Inspection				

BR Drainage Area

Look for areas that are uphill from the Bioretention cell.

Problem (Check if Present)	Follow-Up Actions
☐ Bare soil, erosion of the ground (rills washing out the dirt)	☐ Seed and mulch areas of bare soil to establish vegetation. ☐ Fill in erosion areas with soil, compact, and seed and straw to establish vegetation. ☐ If a rill or small channel is forming, try to redirect water flowing to this area by creating a small berm or adding topsoil to areas that are heavily compacted. ☐ Other:

Page 1 of 8

Pollution Prevention and Good Housekeeping (MCM 6)

Facility Prioritization VI.F.3.b,f./VII.F.3.b. Updates

2016 Draft

b. High Priority Facilities

The following types of facilities have been identified by the *Department* as high priority facilities based on the typical pollutant sources and activities present and their potential for water quality impacts. Facility specific Stormwater Pollution Prevention Plans (SWPPPs) must be *developed* for these facilities as outlined in Part VII.F.4.c:

- Fleet maintenance facilities including bus, taxi, police, fire and other vehicle maintenance.
- Public works facilities/ DPW garages
- Salt storage facilities
- Equipment storage yards where equipment maintenance is performed

...

f. Low Priority Facilities

The following municipally owned facilities have been identified by the *Department* as low priority facilities based on the typical pollutant sources and activities present and their low risk for water quality impacts.

- Cemeteries
- Vehicle and/or equipment storage facilities where no vehicle and/or equipment maintenance is performed
- Incinerators
- Materials storage yards
- Pesticide storage facilities
- Prisons or correctional facilities
- Parks
- Parking lots
- Golf courses
- Swimming pools

2019 Draft

- Prioritization of facilities
  - Based on activities at the site rather than facility type

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Catch basin VI.F.4.a.i./VII.F.4.a.i. Updates

2016 Draft

4. *Municipal Infrastructure Operations & Maintenance*
The MS4 Operator must ensure that MS4 infrastructure (i.e. storm sewer system components, roadways, bridges and associated rights of way) is maintained in a timely manner to reduce the *discharge* of pollutants from the MS4.

a. Municipal Storm Sewer System (MS4) Operations & Maintenance

i. Catch Basin Inspection & Maintenance Program
The MS4 Operator shall document and implement a plan to optimize catch basin inspection and cleaning so that catch basins are cleaned before exceeding 50% of *sump capacity*.
The MS4 Operator shall *develop* a prioritized catch basin inventory based on the volume of trash/debris generated in the surrounding land use or captured in the catch basin.

- Catch basins serving areas with a high potential to generate trash/debris shall be considered high priority:
  - Commercial areas;
  - Industrial areas;
  - Areas with concentrated construction activities;
  - History of complaints or flooding;
  - Other areas known to generate significant amounts of trash/debris based on institutional knowledge of staff
- As part of the *development* of a comprehensive map, catch basins shall be inspected to determine the level of trash debris captured:
  - Catch basins found to be >50% sump capacity shall be cleaned and assigned a high priority
  - Catch basins found to be <50% sump capacity shall be assigned a moderate priority;
  - Catch basins with no debris shall be assigned a low priority.

2019 Draft

- Document and implement a plan so catch basins are
  - Cleaned when necessary
  - Information is documented
    - Date of inspection
    - Level of trash debris captured
    - Date of clean-out
    - Sump depth
    - Catch basin type

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Catch basin VI.F.4.a.i./VII.F.4.a.i. Updates (cont.)

2016 Draft

Inspect catch basins at the following frequency:

- High priority catch basins – once (1) per year
- Moderate priority catch basins – once every two (2) years year
- Low priority catch basins – once every five (5) years

Catch basin inspections and cleaning must be documented in a log that records:

- date of inspection
- level of trash debris captured (no debris, <50% sump capacity, >50% sump capacity)
- date of clean out
- Log must be available for inspection by EPA or DEC.

Annually report the number of catch basins inspected, number cleaned and total mass or volume of debris removed with the annual report.

After 2 inspection/clean out cycles have been completed, evaluate inspection findings for trends or patterns to optimize the catch basin inspection and maintenance program and make adjustments to the overall stormwater program. For example:

- Adjust inspection frequency

2019 Draft

- No longer a frequency
- Development of a priority assessment for catch basin maintenance
  - Re-inspection
  - Analyze inspection findings for trends to optimize program

Street Sweeping VI.F.4.b/VII.F.4.b Updates

2016 Draft

b. Roads, Bridges & Right of Ways

i. *Sweeping*

The MS4 Operator must *develop* and implement procedures for sweeping and/or cleaning municipal streets, parking lots or other paved areas at municipal facilities:

- All streets and parking lots (except rural uncurbed roads with no catch basins or high speed limited access highways) shall be swept and/or cleaned a minimum of once per year in the spring (following winter activities such as sanding).
- Streets in business districts, commercially zoned areas and any other area where catch basin inspections identify high volumes of trash and debris shall be swept monthly.
- The MS4 Operator shall report in each annual report the number of lane miles cleaned or the volume or mass of material removed.

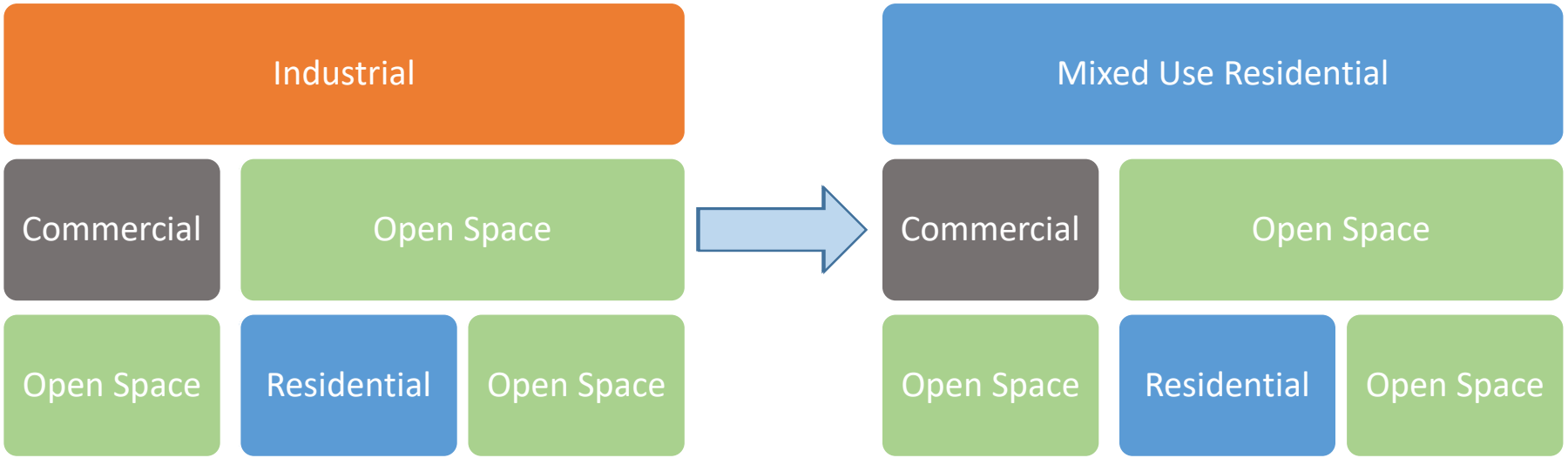
2019 Draft

- Frequency updated
  - Sweeping twice per year, April 1 through October 31

Questions so far

Stormwater Scenarios Exercise

#1: Rezoning


Industrial
Commercial
Open Space
Open Space
Residential
Open Space
Mixed Use Residential
Commercial
Open Space
Open Space
Residential
Open Space

#2: Citizen complaint about sediment washing down the road

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#3: Find a suspected illicit discharge at one of your outfalls

#4: New development

#5: Overgrown bioretention

#6: Flooding in a roadway with municipal infrastructure

With stormwater in mind, think about…

- Why is this happening?
- What is your first step to address the scenario?
- How does this impact your overall stormwater program?

Stormwater Management Program (SWMP) Plan Items

- Mapping
- MCM 1 – Public Education and Outreach
- MCM 2 – Public Involvement and Participation
- MCM 3 – Illicit Discharge Detection and Elimination (IDDE)
- MCM 4 – Construction Site Stormwater Runoff Control
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- MCM 6 – Pollution Prevention and Good Housekeeping for Municipal Operations

How the permit has been viewed historically: The “To-Do” List

MCM 1
- ❑ Determine areas of concern in my MS4
- ❑ Figure out target audiences in my MS4
- ❑ …

MCM 2
- ❑ Update SWMPP on website
- ❑ Create a flyer for stream clean-up
- ❑ …

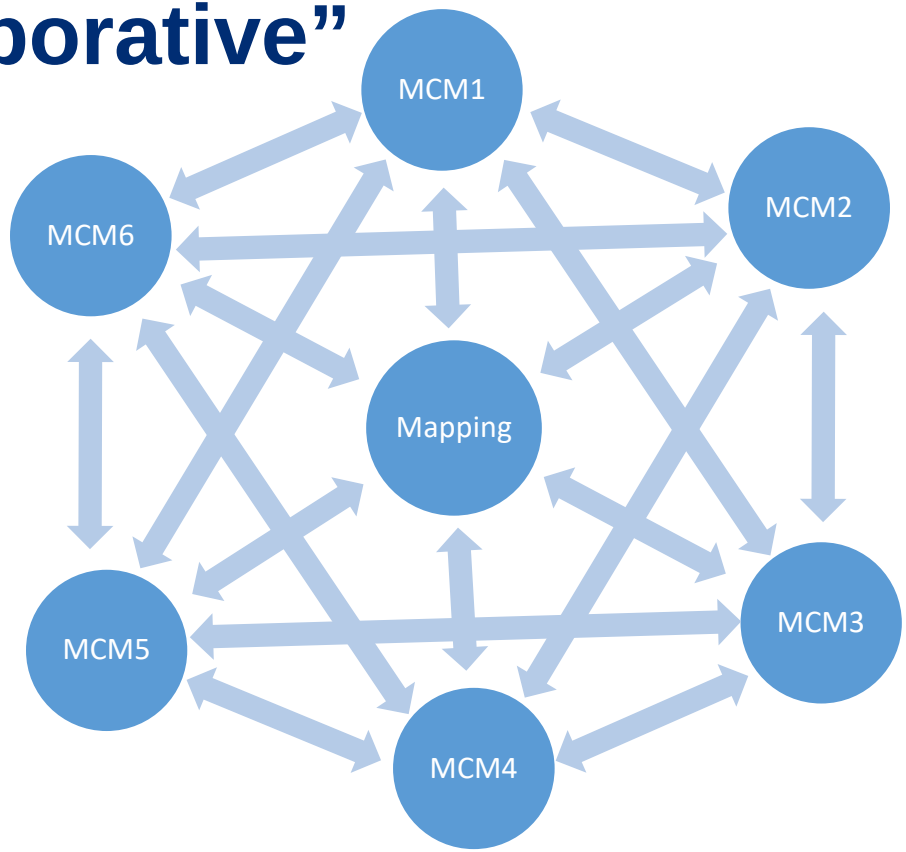
MCM 3
- ❑ Conduct 20% of outfall inspections this year
- ❑ Create tracking document for illicit discharges
- ❑ …

MCM 4
- ❑ Train appropriate staff in SWPPP Review
- ❑ Create a construction site inspection form
- ❑ …

MCM 5
- ❑ Inventory post-construction stormwater management practices
- ❑ Assemble all O&M for SMPs
- ❑ …

MCM 6
- ❑ Inventory and prioritize facilities
- ❑ Create site maps for high priority facilities
- ❑ …

How the permit actually works: The “Collaborative”



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Next Steps

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