

## What's new in the 2018 Construction Stormwater General Permit

Introduction: This document is intended to highlight the changes in the new construction stormwater general permit. Many of the permit requirements were re-written, combined or split apart without changing the policy, meaning or expectations of the MPCA. Also, due to Agency wide policies, the format of the permit has changed considerably. For these reasons, a traditional red lined version of the permit is not possible.

<u>2013 Permit Reference</u>	<u>Section Name / Topic</u>	<u>Description of Change or Discussion</u>	<u>2018 Permit Reference</u>
Part II.B.3.a	Application and coverage effective date	The MPCA has removed the mandatory 7 day waiting period for permit coverage. However, payment confirmation is required before the MPCA can issue permit coverage and this process takes one business day. The waiting period of "seven (7) calendar days" has been replaced with "upon completing the payment process". This is often one calendar day but in no case more than 7 seven calendar days. All project proposers must obtain NPDES coverage electronically. The online application assures that all of the questions are completed and requires the user to certify that a SWPPP has been prepared for the project. For these reasons, the MPCA does not believe that a waiting period is necessary.	3.3
Part II.B.3.b	Permit coverage effective date	The MPCA has removed the mandatory 30 day waiting period. For projects that require a SWPPP review before coverage is issued, the MPCA will grant coverage upon the completion of the application and payment process and after the MPCA has made a determination that the SWPPP meets all of the permit requirements. This determination usually takes less than 30 days. Since the MPCA has performed a SWPPP review for these projects, any additional waiting period is not necessary.	3.4
New Provision	SWPPP amendments	<p>Permittees are allowed to revise the SWPPP for the projects at anytime as long as the BMP's are selected, installed and maintained in accordance with the manufactures specifications and accepted engineering practices (Part IV.A and item 7.2). In order to prevent contractors from deviating from the SWPPP and selecting inappropriate BMP option with no regard to the specific site conditions, the MPCA has added the following language regarding SWPPP amendments:</p> <p>All SWPPP changes must be done by one of the individuals described in item 21.4 or item 21.5 or another qualified individual. Changes involving the use of a less stringent BMP must include a justification describing how the replacement BMP is effective for the site characteristics.</p> <p>This language preserves the flexibility to allow contractors (or owners) to make cost effective BMP substitutions if the change is still protective for the site.</p>	6.2
New Provision	Documentation when the volume control standard cannot be achieved	For those projects where the full volume reduction requirement cannot be met on site, (e.g., the site has infiltration prohibitions, see item 16.14 through item 16.22 of the proposed permit) the permittee must document the reasons in the SWPPP. This is intended to ensure that SWPPP designers consider volume reduction type practices first before designing non-volume reduction BMP's such as a wet sedimentation basin.	5.15 15.6
Part III.A.5.m	Documentation of infeasibility	The MPCA has made an addition to this requirement. For projects adjacent to surface waters, the current permit requires the preservation of a 50' buffer unless infeasible. For projects adjacent to special waters or impaired waters, a 100' buffer zone must be preserved as described in item 23.22. The MPCA has observed several projects in which the buffer was not preserved and there was no apparent reason why. The permit now requires permittees to document in the SWPPP why the buffer was not preserved. This requirement is intended to work with item 5.12 which requires buffer zones to be shown on the plan sheets in the SWPPP.	5.13c
Part III.A.7	Karst areas	This part was removed. Issues pertaining to karst are addressed in item 16.19 and 18.10 of the proposed permit.	16.20 18.10

<u>2013 Permit Reference</u>	<u>Section Name / Topic</u>	<u>Description of Change or Discussion</u>	<u>2018 Permit Reference</u>
Part III.D, 2nd paragraph,	Permanent stormwater management	This section was deleted. The 2013 permit offered permittees an option to follow a municipalities (or other plan approval authority such as a watershed district) stormwater ordinance in lieu of the permit requirements if that municipality was regulated by the state through the Municipal Separate Storm Sewer System (MS4) program. This provision was intended to reduce duplicate regulations as all regulated MS4 communities should have an ordinance in place that is at least as stringent as the state permit. However, in MPCA's experience many of the ordinances have not been written such that the requirements were at least as stringent as the state requirements and this provision prevented the MPCA from taking any action if the permittees plans were approved by the municipality.	
Part III.D.1.j.i	Infiltration prohibition	The 2013 permit prohibited the construction of a designed infiltration system if the system will be constructed in any areas receiving runoff from vehicle fueling and maintenance activities. The prohibition only applied if the permittee was <u>required</u> to provide a stormwater treatment system under the permit. Only those projects that result in a net increase of impervious surfaces totaling one or more acres are required to provide a stormwater treatment system. Many projects, both large and small are not required to provide stormwater management under this permit as the project may encompass areas that are already impervious and the net increase in impervious is less than one acre. Permittees of these projects often propose stormwater management that includes infiltration, either because the owner desires to do so or it may be required under the local ordinance or direction of a watershed district. The permit now prohibits infiltration systems constructed as part of the project regardless of whether or not the CSW permit requires stormwater management if the site receives runoff from vehicle fueling and maintenance areas.	16.14
Part III.D.1.g	Infiltration requirement	The 2013 permit required "appropriate on-site testing consistent with the recommendations found in the Minnesota Stormwater Manual to verify soil types...". The manual recommends a certain number of on-site soil tests depending on the size of the system. In the MPCA's experience, many permittees are attempting to design infiltration systems using county soil maps, soil borings from nearby areas or no soil information at all. The permit now specifically requires permittees to provide at least one soil boring, test pit or infiltrometer test in the area of each infiltration system for determining infiltration rates. The permit allows field tested rates to be used with a safety factor of 2 or permittees may use the infiltration rate chart found in the Minnesota Stormwater Manual to determine design infiltration rates based on soil type.	16.10 16.11

2013 Permit Reference	Section Name / Topic	Description of Change or Discussion	2018 Permit Reference
Part III.D.1.j.iv	Infiltration prohibition	<p>The current permit prohibits constructing infiltration systems in areas with contaminated soil or groundwater. The current language states that infiltration is prohibited in: "areas where high levels of contaminants in soil or groundwater will be mobilized by the infiltrating stormwater." The proposed permit includes additional language describing the steps permittees are expected to take to demonstrate compliance with this requirement. The permit now states:</p> <p>"Permittees are prohibited from constructing infiltration systems where high levels of contaminants in soil or groundwater may be mobilized by the infiltrating stormwater. Permittees must either complete the MPCA's contamination screening checklist or conduct their own assessment to determine the suitability for infiltration. Permittees must retain the checklist or the assessment with the SWPPP. For more information and to access the MPCA's screening assessment tool see the Minnesota Stormwater Manual".</p> <p>A page can be viewed in the MN stormwater manual to guide permittees through the process:  <a href="https://stormwater.pca.state.mn.us/index.php?title=Stormwater_Infiltration_and_soil/groundwater_contamination:_A_guide_to_the_Construction_Stormwater_Permit_requirements">https://stormwater.pca.state.mn.us/index.php?title=Stormwater_Infiltration_and_soil/groundwater_contamination:_A_guide_to_the_Construction_Stormwater_Permit_requirements</a></p> <p>The MPCA does not expect soil or groundwater testing at every site but rather intends for permittees to continue to use the screening assessment tool in the stormwater manual to determine if contamination might be present. In addition, Permittees can look up past remediation sites using the "What's in my Neighborhood" tool on the MPCA website to access information on those properties:</p> <p><a href="https://www.pca.state.mn.us/data/whats-my-neighborhood">https://www.pca.state.mn.us/data/whats-my-neighborhood</a></p>	16.15
Part III.D.1.j.vii	Infiltration prohibitions for Drinking Water Supply Management Areas (DWSMA)	<p>The current permit prohibits infiltration anywhere within a DWSMA. The permit prohibition in the final permit states:</p> <p>This permit prohibits permittees from constructing infiltration systems within a Drinking Water Supply Management Area (DWSMA) as defined in Minn. R. 4720.5100, subp. 13, if the system will be located:</p> <ul style="list-style-type: none"> <li>a. in an Emergency Response Area (ERA) within a DWSMA classified as having high or very high vulnerability as defined by the Minnesota Department of Health; or</li> <li>b. in an ERA within a DWSMA classified as moderate vulnerability unless a regulated MS4 Permittee performed or approved a higher level of engineering review sufficient to provide a functioning treatment system and to prevent adverse impacts to groundwater; or</li> <li>c. outside of an ERA within a DWSMA classified as having high or very high vulnerability, unless a regulated MS4 Permittee performed or approved a higher level of engineering review sufficient to provide a functioning treatment system and to prevent adverse impacts to groundwater.</li> </ul> <p>See "higher level of engineering review" in the Minnesota Stormwater Manual for more information.</p>	16.19

<u>2013 Permit Reference</u>	<u>Section Name / Topic</u>	<u>Description of Change or Discussion</u>	<u>2018 Permit Reference</u>
New Provision	Filtration systems	The 2018 permit required <u>infiltration</u> systems to be constructed when the drainage area is stabilized near the end of the project, or to be completely protected if ongoing construction is occurring within the drainage area of the system. This provision helped ensure that the soil profile does not prematurely clog. <u>Filtration</u> systems require the same type of care to avoid clogging the placed material (filter media) installed over the drainage system. The following requirement has been added for filtration systems:  "Permittees must not install filter media until they construct and fully stabilize the contributing drainage area unless they provide rigorous erosion prevention and sediment controls (e.g., diversion berms) to keep sediment and runoff completely away from the filtration area."	17.3
New Provision	Wet sedimentation basin requirement	The design requirements for wet sedimentation basins in the current permit are in Part III.D.2. A new requirement was added requiring an impermeable liner to be included in the design of a basin located in active karst terrain.	18.10
Part IV.B.4 4th Paragraph	Ditch stabilization methods	The 2013 permit specifically states that some less effective stabilization methods such as mulch cannot be used in ditches or swales for stabilization and permittees must rely on more robust practices such as erosion control blankets. The MPCA has heard from numerous stakeholders that Best Management Practices such as disc anchored mulch may be adequate under certain limited conditions such as areas with little or no slope and installing blanket in all locations is cost prohibitive and not necessary. The permit now limits the use of mulch or similar products only if the ditch has a continuous slope of greater than 2 percent. Additionally, as with all BMP requirements in the permit, if the selected BMP is found to be inadequate at minimizing erosion from ditches or swales, another more effective BMP must be utilized.	8.8
Part IV.C.5	Sediment controls near stockpiles	The permit now specifically states that perimeter controls are required near the base of stockpiles. This change in language better clarifies that stockpile perimeter controls are required in addition to the perimeter sediment controls required in item 9.2. This does not represent a change in MPCA policy regarding stockpile management.	9.9
Part IV.C.9	50 foot buffer	The 2013 permit required redundant sediment controls around surface waters if a 50 foot natural buffer cannot be maintained. This requirement is derived from the EPA's C&D rule and was carried forward in the new permit. The permit now requires these sediment control practices to be spaced at least 5 feet apart. The MPCA believes that proper spacing for sediment storage between the practices is necessary in order to function properly. Language was also included to relieve permittees of the spacing requirement if there are site constraints.	9.17
Part IV.F.1.c	Hazardous materials	The 2013 permit required "restricted access storage areas must be provided to prevent vandalism". This component of this requirement has been removed. The MPCA believes this is not an appropriate requirement for the permit.	12.4
Part IV.F.2	Fueling and maintenance	The 2013 permit required that "permittees must conduct fueling in a contained area unless infeasible". This component of this requirement has been removed. The MPCA believes this is not an appropriate requirement for the permit.	12.7

<u>2013 Permit Reference</u>	<u>Section Name / Topic</u>	<u>Description of Change or Discussion</u>	<u>2018 Permit Reference</u>
Appendix A	Discharges to Special and Impaired Waters	<p>Appendix A in the 2013 permit and section 23 in the new permit contain additional requirements for projects that discharge to Special or Impaired water bodies. The specific water bodies listed remains unchanged however the proposed permit separates the "Prohibited Waters" into it's own unique category. The additional requirements for projects discharging to prohibited waters has been expended to address the language in the new state antidegradation rule. The categories of prohibited waters are Wilderness Areas, Lake Superior and Scientific and Natural Areas. The new additional requirements for projects discharging to these waters are:</p> <p>23.13 - Permittees must conduct routine site inspections once every 3 days as described in item 11.2.</p> <p>23.14 - If discharges to prohibited waters cannot provide volume reduction equal to one (1) inch of runoff from new impervious surfaces as required in item 15.4 and 15.5, permittees must develop a permanent stormwater treatment system that will result in no net increase of TSS or phosphorus to the prohibited water. Permittees must keep the plan in the SWPPP for the project.</p>	23.3
Appendix A.C.4	Temperature controls	The list of additional BMP's for discharges to temperature sensitive waters has been revised. Providing stormwater infiltration (or other volume reduction) must be the first consideration. Providing stormwater filtration was added to the list as the second option. Minimizing impervious surfaces was removed from the list as it is not a BMP that can be constructed to mitigated temperature. The other options in this list remain the same.	23.12
Appendix B.18	Definitions of operator & general contractor	The MPCA has added a definition for general contractor. The permit more specifically requires the party that signs the application with the owner as a co-permittee to be hired by and under the supervision of the owner. The permit more specifically states that the operator cannot be a sub-contractor hired by someone other than the owner.	25.10 25.20
New provision	Rule references to this permit	<p>This item was added to the permit to preserve continuity with state rules such as Minn. R. 7090 or other documents which refer to specific parts of the construction permit by name that will no longer be used. Those parts in the 2013 permit are:</p> <ul style="list-style-type: none"> <li>- "Stormwater Discharge Design Requirements"</li> <li>- "Construction Activity Requirements"</li> <li>- "Appendix A"</li> </ul> <p>Item 24.11 indicates which parts in the new permit correspond to these three parts of the 2013 permit.</p>	24.11