MS4 Program Management
Adjusting MS4 Programs

Southwest Pennsylvania Commission (SPC)
Community and Rec Center @ Boyce Mathew Park
Upper St. Clair, PA 15241
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Michael T. LaSala, CPMSM, CBI
Senior MS4 Program Manager/Analyst

Agenda

Introduction and Background
Permit vs. Policy
MS4 Permit Focus Areas
SWMO Updates
Audits/Inspections
Questions and Discussion

Adjusting MS4 Programs

Introduction & Background
**Definitions (handout)**

**IMPORTANT DEFINITIONS**

**Illicit Discharge**
Any discharge to an MS4 that is not comprised entirely of stormwater, except for authorized non-stormwater discharges. Examples of illicit discharges include:
- Wastes from industrial processes (e.g., metals, chemicals, solvents).
- Wastes from animal (e.g., animal feedlot waste).
- Wastes from farming (e.g., agricultural chemicals).
- Wastes from construction or land development activities (e.g., concrete mix, asphalt mix).
- Wastes from public or private disposal sites (e.g., landfill, garbage, hazardous waste).
- Wastes from accidental spills (e.g., oil, gasoline).
- Wastes from accidental releases (e.g., leaks, spills, overflows).
- Wastes from intentional releases (e.g., wastes from industrial processes).

**Load Allocation**
The portion of a surface water's loading capacity that is assigned or allocated to existing and future nonpoint sources and natural quality.

**Municipal Separate Storm Sewer (MS4)**
A conveyance or system of conveyances (including roads with drainage systems, parking lots, lawns, and golf courses) from which runoff is directed to surface waters. It is a conveyance or system designed for, or used for, the collection and discharge of stormwater. It includes, but is not limited to:
- Storm sewers.
- Drainage ditches.
- Streams.
- Rainspouts.
- Storm drains.
- Culverts.
- Stormwater inlets.
- Storm sewers, which are designed to collect and carry stormwater for disposal to surface waters.

**Municipal Separate Storm Sewer (MS3)**
The local area draining to an individual MS4 outfall.
Water Quality “Problems”

“Clean Water” Laws/Regulations (policy level-why)

1899: Rivers and Harbors Act
Oldest federal environmental law in the United States

1937: PA Act 394 “Clean Streams Law”

1948: Federal Water Pollution Control Act
Legislation calling for the reduction of water pollution

1972: “Clean Water Act” (Amendment to the original 1948 legislation)
Significant new language calling for the control of water pollution
Created the NPDES

1978: PA Act 167 “Stormwater Management Act”
Addresses accelerated stormwater runoff (flooding problems)
Considered "revolutionary" in its approach

1987: “Water Quality Act” (Amendment to the original 1948 legislation)
Additional language that specifically labeled stormwater a problem with respect to water pollution

1992: TMDL Procedural Regulations established
Total Maximum Daily Load of a pollutant or set of pollutants that a water body can receive while meeting water quality standards (designated uses, etc.)

Small MS4s– Final Rule(s) (procedures level-who, what, where)

EPA

Stormwater Phase II
Final Rule
Small MS4 Stormwater Program Overview

What Is a Phase II Small MS4?

A small M4 is any MS4 that is not already covered by the Phase II program in a combined or separate sewer area. The Phase II MS4 is a utility or organization that is not otherwise regulated under the NPDES program (except if it discharges to a NPDES permit issuing authority), and the entity is not otherwise covered under the rules of the SDWA due to MACT permitting authority. For more information on Phase II small MS4 coverage, see Part 5030, Part 5020, and Part 5013.
PADEP MS4 Permit for small MS4s (practice level-how)

- "Streamlined" process to meet the federal requirements.
- 25 Pa. Code Ch. 92a

25 Pa. Code Ch. 92a

§ 92a.1 Purpose and scope.
   (a) Purpose. The regulatory provisions contained in this chapter implement the NPDES Program by the Department under the Federal Act.

§ 92a.3 Incorporation of Federal regulations by reference.
   (a) The Federal NPDES regulations in subsection (b) are incorporated by reference to the extent that those provisions are applicable and not contrary to the law of the Commonwealth. In the event of a conflict between a Federal regulatory provision and a regulation of the Commonwealth, the provision expressly set out in this chapter shall be applied unless the Federal provision is more stringent.

PA MS4s

In Pennsylvania, there are two Large MS4s, no Medium MS4s, and 1,059 Small MS4s.
MS4 – Stormwater Management Programs (SWMPs)

To prevent harmful pollutants from being washed or dumped into MS4s, certain operators are required to obtain NPDES permits and develop stormwater management programs (SWMPs). The SWMP describes the stormwater control practices that will be implemented consistent with permit requirements to minimize the discharge of pollutants from the sewer system.

PA MS4 Permit Program

In December 2002, DEP issued a General Permit ("PAG-13") for use by MS4s that fall under the National Pollutant Discharge Elimination System (NPDES) Phase II program, requiring the implementation of a stormwater management program for minimizing the impacts from runoff.

MS4 Permits are intended to cover five (5) year periods (permit cycles).

Basic MS4 Permit-SWMP Requirements

Six (6) Minimum Control Measures (MCMs) that must be implemented:
- MCM 1: Public Education & Outreach
- MCM 2: Public Involvement & Participation
- MCM 3: Illicit Discharge & Detection
- MCM 4: Construction Site Runoff Control
- MCM 5: Post-Construction SWM
- MCM 6: Good Housekeeping
“Additional” PADEP MS4 Permit Requirements

---Stream Impairments---
• Total Maximum Daily Load (TMDL)
• With applicable WLAs
• Metals and/or pH (AMD) PCMs – Appendix A
• Pathogenic PCMs – Appendix B
• Priority Organic Compounds PCMs – Appendix C
• Nutrients and Sediment PRP
  • CBPRP – Appendix D
  • General – Appendix E

Acronyms:
- AMD Acid Mine Drainage
- CBPRP Chesapeake Bay Pollutant Reduction Plan
- PCMs Pollutant Control Measures
- PRP Pollutant Reduction Plan
- WLA Waste Load Allocation

Notes:
- Priority Organic Compounds covers a variety of parameters including PCBs and pesticides.
- Nutrients are a general reference to Phosphorus and Nitrogen

Adjusting MS4 Programs

Permit vs. Policy

Permit: an official document giving someone authorization to do something (allow “someone” to do “something”).

Policy: a deliberate system of principles to guide decisions and achieve rational outcomes.
§ 122.1 Purpose and scope.

(a) Coverage.

The regulatory provisions contained in this part and parts 123, and 124 of this chapter implement the National Pollutant Discharge Elimination System (NPDES) Program under sections 318, 402, and 405 of the Clean Water Act (CWA), as amended, 33 U.S.C. 1251 et seq.
Practices (How)

- Six Minimum Control Measures:
  1. Public Education & Outreach
  2. Public Involvement/Participation
  3. Non-Discharge Detection and Elimination (NDDE)
  4. Construction Site Storm Water Runoff Control
  5. Post-Construction Storm Water Management in New
     and Re-Development Activities
  6. Pollution Prevention and Good Housekeeping for
     Municipal Operations

Records or Proofs

Procedures “Issues” (Waters of the U.S.)
Waters of the United States (WOTUS) Definition

1986/1988 Regulatory Definition of "Waters of the United States"

40 CFR 230.3(s) The term waters of the United States means:

1. All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
2. All interstate waters including interstate wetlands;
3. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate or foreign commerce including any such waters:
   a. Which are or could be used by interstate or foreign travelers for recreational or other purposes; or
   b. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
   c. Which are used or could be used for industrial purposes by industries in interstate commerce;
4. All impoundments of waters otherwise defined as waters of the United States under this definition;
5. Tributaries of waters identified in paragraphs (s)(1) through (4) of this section;
6. The territorial sea;
7. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (s)(1) through (6) of this section; waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 CFR 423.11(m) which also meet the criteria of this definition) are not waters of the United States.

* Waters of the United States do not include prior converted cropland.

WOTUS
Rapanos vs. U.S. - Supreme Court Decision Summary

Summary of Key Points

The agencies will assert jurisdiction over the following waters:
- Traditional navigable waters
- Waters that contribute to traditional navigable waters
- Non-navigable tributaries of traditional navigable waters that are relatively permanent, relatively contiguous, and that form a significant part of the flow of a traditional navigable water
- Wetlands that are not subject to a tidal influence
- Wetlands that do not have a relatively permanent pool

The agencies will decide jurisdiction over the following waters based on a fact-specific analysis that determines whether they have a significant nexus with a traditional navigable water:
- Non-navigable tributaries that are not relatively permanent
- Wetlands adjacent to but do not directly or significantly contribute a relatively permanent pool to navigable tributary

The agencies generally will not assert jurisdiction over the following types:
- Ponds or impoundments that do not retain water characterized by slow motion, stagnation, or short detention times
- Waters including seasonally dry or intermittent streams and drainageways, and dry channels or channels that are not significantly affected by past, present, or future regulation
- Significant means include consideration of hydrologic and hydrography factors

WOTUS definition refinement

WOTUS (Clean Water Rule)

USEPA/ACEO CLEAN WATER RULE (PARTIAL)

Clean Water Rule: Definition of “Waters of the United States” 40 CFR 230.3

§230.3 Definitions.

(a) The term waters of the United States means:

(1) For purposes of the Clean Water Act, 33 U.S.C. 1251 et. seq. and its implementing regulations, subject to the exclusions in paragraph (a)(2) of this section, the term “waters of the United States” means:

(i) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
(ii) All interstate waters, including interstate wetlands;
(iii) The territorial seas;
(iv) All impoundments of waters otherwise identified as waters of the United States under this section;
(v) All tributaries, as defined in paragraph (a)(3)(ii) of this section, of waters identified in paragraphs (a)(3)(i) through (iv) of this section;
(vii) All waters in paragraphs (o)(1)(vii)(A) through (E) of this section where they are determined, on a case-specific basis, to have a significant nexus to a water identified in paragraphs (o)(1)(i) through (iii) of this section. The waters identified in each of paragraphs (o)(1)(vii)(A) through (E) of this section are similarly situated and shall be combined, for purposes of a significant nexus analysis, in the watershed that drains to the nearest water identified in paragraphs (o)(1)(i) through (iii) of this section. Waters identified in this paragraph shall not be combined with waters identified in paragraph (o)(1)(vi) of this section when performing a significant nexus analysis. If waters identified in this paragraph are also an adjacent water under paragraph (o)(2)(v), they are an adjacent water and no case-specific significant nexus analysis is required.

(A) Prairie potholes. Prairie potholes are a complex of glacially formed wetlands, usually occurring in depressions that lack permanent natural outlets, located in the upper Midwest.

(B) Carolina bays and Delmarva bays. Carolina bays and Delmarva bays are ponded, depressional wetlands that occur along the Atlantic coastal plain.

(C) Pocosins. Pocosins are evergreen shrub and tree dominated wetlands found predominantly along the Central Atlantic coastal plain.

(D) Western vernal pools. Western vernal pools are seasonal wetlands located in parts of California and associated with topographic depression, soils with poor drainage, mild, wet winters and hot, dry summers.

(E) Texas coastal prairie wetlands. Texas coastal prairie wetlands are freshwater wetlands that occur as a mosaic of depressions, ridges, intermound flats, and mima mound wetlands located along the Texas Gulf Coast.

(viii) All waters located within the 100-year floodplain of a water identified in paragraphs (o)(1)(i) through (iii) of this section and all waters located within 4,000 feet of the high tide line or ordinary high water mark of a water identified in paragraphs (o)(1)(i) through (iii) of this section where they are determined on a case-specific basis to have a significant nexus to a water identified in paragraphs (o)(1)(i) through (iii) of this section. For waters determined to have a significant nexus, the entire water is a water of the United States if a portion is located within the 100-year floodplain of a water identified in paragraphs (o)(1)(i) through (iii) of this section or within 4,000 feet of the high tide line or ordinary high water mark. Waters identified in this paragraph shall not be combined with waters identified in paragraph (o)(1)(vi) of this section when performing a significant nexus analysis. If waters identified in this paragraph are also an adjacent water under paragraph (o)(2)(v), they are an adjacent water and no case-specific significant nexus analysis is required.
**WOTUS (Clean Water Rule) - Exclusions**

(2) The following are not "waters of the United States" even where they otherwise meet the terms of paragraphs (o)(1)(iv) through (viii) of this section.

(i) Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the Clean Water Act are not waters of the United States.

(ii) Prior converted cropland. Notwithstanding the determination of an area’s status as prior converted cropland by any other Federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

(iii) The following ditches:

[A] Ditches with ephemeral flow that are not a relocated tributary or excavated in a tributary.

[B] Ditches with intermittent flow that are not a relocated tributary, excavated in a tributary, or drain wetlands.

[C] Ditches that do not flow, either directly or through another water, into a water identified in paragraphs (o)(1)(i) through (iii) of this section.

...and more

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**WOTUS - lots of misinformation**

(2) The following are not "waters of the United States" even where they otherwise meet the terms of paragraphs (o)(1)(iv) through (viii) of this section.

(iv) The following features:


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**WOTUS (Clean Water Rule) – Exclusions (cont’d)**

(iv) The following features are excluded:

[A] Artificially irrigated areas that would revert to dry land should application of water to that area cease;

[B] Artificial, constructed lakes and ponds created in dry land such as farm and stock watering ponds, irrigation ponds, settling basins, fields flooded for rice growing, log cleaning ponds, or cooling ponds;

[C] Artificial reflecting pools or swimming pools created in dry land;

[D] Small ornamental waters created in dry land;

[E] Water-filled depressions created in dry land incidental to mining or construction activity, including pits excavated for obtaining fill, sand, or gravel that fill with water;

[F] Erosional features, including gullies, rills, and other ephemeral features that do not meet the definition of tributary, non-wetland swales, and lawfully constructed grassed waterways; and


(v) Groundwater, including groundwater drained through subsurface drainage systems.

(vi) Stormwater control features constructed to convey, treat, or store stormwater that are created in dry land.
WOTUS “Confusion”? 

Confusing procedures (who, when, where) with practices (how)?

**Wait...**

I'm so confused...

Procedures: Final Rules, regulations, etc.
Practices: Permit(s)

Primary MS4 Permit Requirement

Authorization to Discharge
• “2018 PAG-13” – Discharges Not Authorized (Item 6)

“The discharge is not, or will not, result in compliance with an applicable effluent limitation or water quality standard.”

The operator must, at a minimum, develop, implement, and enforce a SWMP designed to reduce the discharge of pollutants from the MS4:
• to the maximum extent practicable (MEP),
• to protect water quality, and
• to satisfy the appropriate water quality requirements of the Clean Water Act. [40 CFR 122.34(a)]

Satisfy Appropriate Water Quality Requirements of the CWA

The “meat” of the requirements...there are three applicable WQ requirements of the CWA:

1. Designated Uses
   • States must identify and designate how each waterbody in the state is used.

2. Water Quality Criteria
   • States must set specific numeric criteria and/or narrative criteria necessary to protect each designated use.

3. Anti-degradation Policy
   • Rules (or policies) to protect existing uses and prevent clean waters from being degraded.
Clean Water Rule confusion – as a “guide”

USEPA Expectations for an MS4 Permit Program

- Stormwater Management for Small MS4s...are the following addressed?
  - Applicability
  - Limitations on Coverage
  - Discharges to Water Quality Impaired Waters
  - Stormwater Management Program (SWMP)
  - Public Education and Outreach (MCM 1)
  - Public Involvement/Participation (MCM 2)
  - Illicit Discharge Detection & Elimination (MCM 3)
  - Post-Construction Stormwater Management in New Development and Redevelopment (MCM 5)
  - Pollution Prevention/Good Housekeeping for Municipal Operations (MCM 6)
  - Sharing Responsibility
  - Reviewing and Updating SWMPs
  - Monitoring
  - Recordkeeping
  - Reporting
Permit/SWMP Implementation (part of the how)

SWMP Goals

All SWMP goals include the following information:
- description of the goal
- target, goal place
- rationale behind the goal
- measurement of the goal (including interim milestones)
- Best Management Practices (BMPs) that will be used to support facilitation of the goal

WOTUS
Some of the “how” could be considered new requirements, but not really…

The MS4 Permit, CWA, Final Rules, regulations, and so on have always required a permittee to address Discharges to Water Quality Impaired Waters.

**MS4 Permit – “New” Requirements**

**“Additional” PADEP MS4 Permit Requirements**

---Stream Impairments---
- Total Maximum Daily Load (TMDL)
  - With applicable WLA
- Metals and/or pH (AMO) PCMs – Appendix A
- Pathogens PCMs – Appendix B
- Priority Organic Compounds PCMs – Appendix C
- Nutrients and Sediment PRP
  - CBPRP – Appendix D
  - General – Appendix E

**Acronyms**
- AMO: Abandoned Mine Drainage
- CBPRP: Chesapeake Bay Pollutant Reduction Plan
- POM: Pollutant Control Measures
- PRP: Pollutant Reduction Plan
- WLA: Waste Load Allocation

**Notes**
- Priority Organic Compounds covers a variety of parameters including PCBs and pesticides.
- Nutrients are a general reference to Phosphorus and Nitrogen

**MS4 Permit – “New” Requirements**

**Standing Requirement (since Day 1):**

*Cannot cause and/or contribute to an impairment*
Adjusting MS4 Programs

Permit Focus Areas

USEPA Expectations for an MS4 Permit Program

Stormwater Management for Small MS4s...are the following addressed?
• Applicability
• Limitations on Coverage
• Discharges to Water Quality Impaired Waters
• Stormwater Management Program (SWMP)
• Public Education and Outreach (MCM 3)
• Public Involvement/Participation (MCM 2)
• Illicit Discharge Detection & Elimination (MCM 3)
• Post-Construction Stormwater Management in New Development and Redevelopment (MCM 5)
• Pollution Prevention/Good Housekeeping for Municipal Operations (MCM 6)
• Sharing Responsibility
• Reviewing and Updating SWMPs
• Monitoring
• Recordkeeping
• Reporting

How the MCMs support the SWMP

• Provides tools and mechanisms to help identify if issues or problems arise and avenues for resolution with the intent to reduce the potential for the MS4 causing an exceedance to water quality standards.

• Provides tools and mechanisms to help administer approaches with the intent to reduce the MS4 contributing to an exceedance to water quality standards.
Illicit Discharge Detection & Elimination (MCM 3)

Field investigations to detect illicit materials before entering the system, in the system, and exiting the system (outfall screening)

Chemical analyses

Tracing (dye, smoke, TV, etc.)

Regulation(s)

MCM 3 is a set of field, administrative, and technical tools.

IDD&E (MCM 3) Base Policy

Still the same...

Authorized Discharges List
Authorized Discharges List (previous)

1. The following are authorized discharges:
   a. Discharges from potable water sources including discharged water line and fire hydrant flushing.
   b. Discharges from potable water sources including discharged water line and fire hydrant flushing.
   c. Discharges from potable water sources including discharged water line and fire hydrant flushing.
   d. Discharges from potable water sources including discharged water line and fire hydrant flushing.
   e. Discharges from potable water sources including discharged water line and fire hydrant flushing.
   f. Discharges from potable water sources including discharged water line and fire hydrant flushing.

Authorized Discharges List (current)

DISCHARGES AUTHORIZED BY THIS GENERAL PERMIT

Except where specifically prohibited under the "Discharges Not Authorized by this General Permit" section, the following are authorized discharges:

1. Discharges or flows from firefighting activities.
2. Discharges from potable water sources including discharged water line and fire hydrant flushing.
   a. Discharges from potable water sources including discharged water line and fire hydrant flushing.
   b. Discharges from potable water sources including discharged water line and fire hydrant flushing.
   c. Discharges from potable water sources including discharged water line and fire hydrant flushing.
   d. Discharges from potable water sources including discharged water line and fire hydrant flushing.
   e. Discharges from potable water sources including discharged water line and fire hydrant flushing.
   f. Discharges from potable water sources including discharged water line and fire hydrant flushing.

Fire Hydrant Flushing

Previous:

1. Discharges from potable water sources including discharged water line and fire hydrant flushing.

Current:

2. Discharges from potable water sources including discharged water line and fire hydrant flushing. If such discharges do not contain detectable concentrations of Total Residual Chlorine (TRC),
Residential Car Washing

Previous: 

Current: 

F. Residential (i.e., not commercial) vehicle wash water when cleaning agents are not added.

Swimming Pools

Previous: 

Current: 

Swimming Pools

DRAINING A POOL

Keep in Mind

- Only waste water is to be drained when cleaning agents are added. 
- Water quality test results are to be used, and water quality is to be maintained. 
- Water consumption rates are to be monitored, and water quality is to be maintained.

If this is not an option, you may dispose of the water on your property. However, the water should only be released after stopping the treatment chemicals, and the water in the pool for at least one week to allow for chlorine levels to drop.

Like a pool test, it is to be measured and stored to ensure levels are less than 1.5 mg/L of free chlorine. Always a new time may be necessary if the level is higher than 1.5 mg/L.
Dry Weather Outfall Screening

Changes really only apply for new permittees...

Previous:

Current:

(1) For new permittees, all of the identified regulated small MSH outfalls shall be screened during dry weather at least once within the 5-year period following approval of coverage under this General Permit.

However (for renewal permittees):

(2) For renewal permittees, each of the identified regulated small MSH outfalls shall be screened during dry weather at least once by March 15, 2020. For those where post procedures have been repatriated or known sources of dry weather flows exist on a continual basis, outfalls shall be screened annually during each year of permit coverage.

Sampling when screening

(5) If a discharge is observed from any outfall during dry weather screening, the discharge shall be expected for color, odor, floating solids, scums, sheens, and sedimentation but smell shall be observed deposits in the surface waters. In addition, the discharge cannot contain substances that result or deposits in the receiving water or produce an observable change in the color, odor or turbidity of the receiving water.

If the discharge exhibits any of the above characteristics, or contains any other pollutants or causes an observable change in the surface waters, the permittee shall submit the discharge(s) for field and laboratory analysis of test or metric parameters in order to determine if either dry weather flow is in fact, possible parameters analyzed, or are not limited to pH, Conductivity, Total Coliform Bacteria, Heavy Metals, Chemical Oxygen Demand (COD), Total Suspended Solids (TSS), Total Dissolved Solids (TDS), Oil and Grease, Total Reduced Nitrogen (TRN) and Ammonia Nitrogen. Proper quality assurance and quality control procedures shall be followed when collecting, transporting, and analyzing field samples. The results of such analyses shall be reported in accordance with Part A.11.6 of this General Permit.
Observation Points

(6) If the permittee determines that an outfall cannot be maintained due to safety or other reasons, the permittee shall establish an "Observation Permit" for an amendment to relocate or to be outfall. Such a permit shall be submitted to the permittee, such permits shall be identified on the map required under BPS 2 of this section.

Additional IDD&E Consideration

(7) Permittees must ensure that outfalls are properly maintained in accordance with Part C I.E.6.b. of the General Permit.

Which is under MCM #6...

b. BPS 2d. Develop, implement, and maintain a written O&M program for all operations that could contribute to the discharge of pollutants from the regulated small MS4, as identified under 40 CFR 122.46. This program shall address stormwater collection or conveyance systems within the regulated MS4. The written O&M program shall address pollution prevention and good housekeeping practices, contain site-specific information, and include the following:

Post-Construction Stormwater Management (MCM 5)

---System (MS4) protection mechanism---

Standards and performance criteria for structural and non-structural BMPs treating stormwater associated with new development (and re-development)

Inspections, administration, and enforcement

Regulation(s)

MCM 5 is primarily a set of engineering based tools related to performance and supported by administrative tools to help protect your system.
PCSM (MCM 5) Base Policy

Still the same...

The following are the requirements for MCM 5 that are included in the Federal Regulations:

- Develop, implement, and maintain a program to address stormwater runoff from new development and redevelopment projects that discharge to or exceed one acre, including projects less than one acre that are part of a larger common plan of development or site, that discharge into your small WRRs. Your program should include all controls that would prevent or limit the discharge of pollutants to the extent feasible under your small WRRs.
- Develop and implement strategies within the jurisdiction to address stormwater runoff from new development and redevelopment projects to the extent feasible under State, Tribal or local law.
- Ensure that the long-term operation and maintenance of BMPs are in accordance with the requirements of the BMPs.

PCSM Plan Reinforcement

BMP O&M

- BMPs are to be designed, constructed, and operated in accordance with the best available practice (BAP) to reduce stormwater runoff and pollutants to the extent feasible.
- An inventory of BMPs should be developed and maintained by the end of the third year of operation of the BASIN and shall be continuously updated in the same manner as the inventory of BMPs.
- The inventory shall be updated and maintained in a similar manner as the inventory of BMPs.
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PCSM Plan Recommendations

OPERATION AND MAINTENANCE FORM

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<tr>
<th>Detention Basins</th>
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<tbody>
<tr>
<td>Submit Date:</td>
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<tr>
<td>Inspected Date:</td>
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<tr>
<td>Results of Inspections:</td>
</tr>
<tr>
<td>Date/Maintenance Completed:</td>
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<tr>
<td>Description of Maintenance Conducted:</td>
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For more information on typical maintenance requirements, refer to the U.S. EPA's "Maintenance of Stormwater BMPs."
PCSM Plan Recommendations

O&M Agreements

O&M Agreements ("Plans")
Introduction to Design and Maintenance
Considerations for BMP® Stormwater Quality Systems

Background:
The BMP® system from Best Management Practices, Inc. (BMP® Inc.) is based on a concept that can reduce peak flow and, thus, in turn, reduce loads from stormwater discharges. In this regard, application of a BMP™ is evaluated over the entire life of a catch basin or other stormwater quality structure which incorporates a by-passing (new installation Drawing). The BMP™ Domestic Stormwater Treatment System is applicable for the entire life of a BMP™ installation.

Maintenance Recommendations:
- Monthly monitoring for the first year of a new installation after the site has been stabilized.
- Measurements should be taken after each rain event of 0.5 inches or more, or monthly, as determined by local weather conditions.
- Choking(sediment) depth and reducing the surface pollutants in the structure.
- The pollutants collected in BMP™-equipped structures will consist of floating debris and oils on the surface of the captured water, and get removed using the new technology of rain screens.
Easements

"Additional" PADEP MS4 Permit Requirements

---Stream Impairments---
• Total Maximum Daily Load (TMDL)
• With applicable WLAs
  • Metals and/or pH (AMD) PCMs – Appendix A
  • Pathogens PCMs – Appendix B
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Notes
- Priority Organic Compounds covers a variety of parameters including PCBs and pesticides.
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Delineated Sewersheds (MS3s)
Primary MS4 Permit Requirement

Authorization to Discharge
• “2018 PAG-13” – Discharges Not Authorized (item 6)

“The discharge is not, or will not, result in compliance with an applicable effluent limitation or water quality standard.”

Standing Requirement (since Day 1):
Cannot cause and/or contribute to an impairment

Monitoring

Adjusting MS4 Programs

SWMO Updates
Ordinance Checklist

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</thead>
<tbody>
<tr>
<td>Article I - General Principles</td>
<td>Does the ordinance impose sections for each title? Statement of findings, purpose, legislative authority, definitions, repeal and savings, application, population, population, certainty, comparison with other requirements, discussion, intent, or outline these sections as addressed in the ordinance in a manner generally consistent with municipal ordinances?</td>
</tr>
<tr>
<td>Article I - General Principles</td>
<td>Does the ordinance set forth standards for service?</td>
</tr>
<tr>
<td>Article I - General Principles</td>
<td>Does the ordinance include standards for all other terms (whether or not set forth in the ordinance) meaning that area subject to similar conditions, using land use techniques, using water resources, using water resources, and ensuring the public health, safety, and welfare?</td>
</tr>
</tbody>
</table>

Article I Recommendations

Section 102: Statement of Findings

B. A comprehensive program of SWM, including reasonable regulation of development and activities causing or expected to cause runoff and based on the concepts of low impact development (LID), is fundamental to the public health, safety, welfare, and the protection of the people of the Borough and all the people of the Commonwealth, their resources, and the environment.

Section 110: Water Protection

Any person or entity owning or occupying a premises through which the MS-4 passes, or mutual or community subject to this ordinance in which the MS-4 passes or receives discharge from the site to which the activities are subject to this ordinance, shall:

A. Keep and maintain that part of the premises reasonably free of trash, debris, sediment, and other debris which may pollute, contaminate, or retard the flow of water to or through the MS-4.

B. Maintain existing structures within or adjacent to the MS-4 so that those structures will not become a hazard to the use, function, or physical integrity of the MS-4.

C. Protect shall or other inlet points to the MS-4 from maximum extent practicable to prevent pollution of water resources in which activities, aggregation, or materials could result in the discharge of a pollutant or non-stormwater discharge.
Article I Recommendations

Section 129. RECOMMENDATIONS

If the Borough determines that any requirement under this Ordinance cannot be achieved for a particular regulated activity, the Borough may, after an evaluation of alternatives, approve measures other than those in this Ordinance, subject to the following:

A. Whenever or modifications of the requirements of this Ordinance may be approved by the Borough, a determination will exist under hardship because of similar conditions pertaining to the land in question, provided that the modifications will not be in conformity with the public interest and that the purpose of the Ordinance is improved. Cost or financial burdens shall not be considered a hardship. Modifications may be considered if an alternative method or approach will provide equal or better achievement to the Maximum Diluted Pollutant Load for the purpose of the Ordinance. A request for modifications shall be in writing and submitted to the Borough. The request shall provide the facts on which the request is based, the criteria of the Ordinance involved in the proposal, the modifications.

B. No owner or modification of any regulated stormwater activity involving earth

Article II Recommendations

Added definitions:

Municipal Separate Storm Sewer System (MS4): All separate storm sewers that are defined as "large" or "medium" or "small" municipal separate storm sewer systems pursuant to 40 CFR 122.23(b)(1)(i) or designated as regulated under 40 CFR 122.26(b)(3)(ii).

National Pollutant Discharge Elimination System (NPDES): A permit issued under 33 U.S.C. Chapter XIX relating to National Pollutant Discharge Elimination System permitting, monitoring, and compliance for the discharge or potential discharge of pollutants from a point source to surface waters.

Stormwater Management Program (SWMP): Means a written description of the specific runoff management measures and programs, including SWMPs, that the Borough will implement to comply with the MS4 Permit and ensure that all runoff from stormwater discharges are reduced to the maximum extent practicable and do not cause or contribute to a violation of water quality requirements and standards. A copy of the current, applicable SWMP is kept on file at the Borough.
Ordinance Checklist

3. Article IV - Stormwater Management Standards. Does the ordinance require:
   a. Preparation and implementation of a stormwater management plan that integrates riparian and stormwater management practices to ensure that stormwater is conveyed through a conveyance system?
   b. URM compliance with GNR’s Chapter 102 and 105, and 209?
   c. Mitigation of adjacent property interests when stormwater runoff may be directed on adjacent property?
   d. Design standards for storage basins or swales, including the design storm volumes, retention and retention area for each facility?
   e. A stormwater management plan or stormwater drainage system, including management practices for a designated stormwater facility?
   f. Stormwater management plans for large developments of 10 acres or more?
   g. Use of green infrastructure and low-impact development practices?
   h. Design standards for stormwater management practices on a developed property?
   i. Specific standards for stormwater management practices on a developed property?

Riparian Buffers/Corridors

Section 202. Riparian Buffers
A. In order to plan for and maintain an adequate supply of riparian buffer areas, a Riparian Buffer Currency shall be issued and included as part of any application for land development that commences or expands a Riparian Buffer.
B. Riparian Buffer Currency shall be assessed and paid in accordance with the riparian buffer requirements of the Riparian Buffer Standard.
C. Riparian Buffer Currency is subject to the riparian buffer requirements of the Riparian Buffer Standard.
D. Riparian Buffers shall be designed and maintained in accordance with the Riparian Buffer Standard.
E. Riparian Buffers shall be designed and maintained in accordance with the Riparian Buffer Standard.
F. Riparian Buffers shall be designed and maintained in accordance with the Riparian Buffer Standard.
G. Riparian Buffers shall be designed and maintained in accordance with the Riparian Buffer Standard.
H. Riparian Buffers shall be designed and maintained in accordance with the Riparian Buffer Standard.
I. Riparian Buffers shall be designed and maintained in accordance with the Riparian Buffer Standard.
J. Riparian Buffers shall be designed and maintained in accordance with the Riparian Buffer Standard.
K. Riparian Buffers shall be designed and maintained in accordance with the Riparian Buffer Standard.
L. Riparian Buffers shall be designed and maintained in accordance with the Riparian Buffer Standard.
M. Riparian Buffers shall be designed and maintained in accordance with the Riparian Buffer Standard.
N. Riparian Buffers shall be designed and maintained in accordance with the Riparian Buffer Standard.
O. Riparian Buffers shall be designed and maintained in accordance with the Riparian Buffer Standard.
P. Riparian Buffers shall be designed and maintained in accordance with the Riparian Buffer Standard.
Q. Riparian Buffers shall be designed and maintained in accordance with the Riparian Buffer Standard.
R. Riparian Buffers shall be designed and maintained in accordance with the Riparian Buffer Standard.
S. Riparian Buffers shall be designed and maintained in accordance with the Riparian Buffer Standard.
SWMO organizational recommendations

Small Projects Guide

Small Project Guidance Document and Worksheets

Introduction

If you are considering a relatively small construction project on your property that creates new impervious area and you want to manage the discharges that is generated, this document will guide you through the appropriate process required by the Borough. Some general background information is provided below, prior to reviewing the necessary requirements for the Borough.

Step 1. Prepare a Site Plan (see Page 3)
- Minimum R-3.5, 100' setback line that depicts the existing structures adjacent to the proposed and other related structures and examples are shown on the Step 1 on Page 3.

Step 2. Determine the amount of proposed impervious area for your project (see Page 3)

Enter anticipated proposed impervious area for your project into the following table:

<table>
<thead>
<tr>
<th>Project Impervious Area</th>
<th>Area (sq ft)</th>
<th>Average Slope (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Buildings/Structures</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Driveways/Parking/Driveway</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Total Proposed Impervious Area</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Small Projects Guide (cont’d)

Step 3. Determine the review/approval process required for your project (see Page 3)

Select the appropriate option based on the calculated or shown in the table given above the area or area:

<table>
<thead>
<tr>
<th>Option 1</th>
<th>Option 2</th>
<th>Option 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total new and existing impervious area is less than 500 sq ft or 2,000 sq ft</td>
<td>Total new and existing impervious area is greater than 500 sq ft or 2,000 sq ft</td>
<td></td>
</tr>
</tbody>
</table>

Next step in the plan:
- Step 4

Step 4. Determine the remaining stormwater control to be managed (see Page 3)

<table>
<thead>
<tr>
<th>Stormwater Management</th>
<th>Total Runoff [sq ft]</th>
<th>Stormwater Credit</th>
<th>Remaining Runoff [sq ft]</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stormwater Management</td>
<td>Total Runoff [sq ft]</td>
<td>Stormwater Credit</td>
<td>Remaining Runoff [sq ft]</td>
</tr>
<tr>
<td>Step 4</td>
<td>Total Runoff [sq ft]</td>
<td>Stormwater Credit</td>
<td>Remaining Runoff [sq ft]</td>
</tr>
</tbody>
</table>
Small Projects Guide (cont’d)

Using Rain Gardens:
- The rain garden would be required to be sized to accommodate the net surface area to be managed. The following sizing chart assumes a 4-inch ponding depth can occur, Rounded up to the nearest size to be managed for each size chart.

<table>
<thead>
<tr>
<th>Stormwater Volume to be Managed (mm)</th>
<th>Rain Garden Required Size (m²)</th>
</tr>
</thead>
<tbody>
<tr>
<td>15</td>
<td>6</td>
</tr>
<tr>
<td>20</td>
<td>10</td>
</tr>
<tr>
<td>25</td>
<td>15</td>
</tr>
</tbody>
</table>

Using Vertical Trenches:
The vertical trench would be required to be sized to accommodate the net surface area to be managed. The following chart assumes a 4-foot-wide trench with a depth of 1 foot.

<table>
<thead>
<tr>
<th>Stormwater Volume to be Managed (mm)</th>
<th>Vertical Trench Size (m²)</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>1.5</td>
</tr>
<tr>
<td>20</td>
<td>2.1</td>
</tr>
<tr>
<td>30</td>
<td>2.7</td>
</tr>
</tbody>
</table>

Ordinance Checklist

6. Action F – Operation and Maintenance
   - Open the ordinance to maintain
   - Check off the required items
   - Include the date of the last maintenance
   - Sign and date the maintenance

O&M Verification Forms

Section 608 - O&M VERIFICATION FORMS

A. The O&M program is subject to the terms and conditions of an issued O&M Permit. The program shall be designed to ensure that the treatment and/or management facilities and BMPs are operated as intended, designed and maintained as required. To meet this requirement, the program requires the completion and return of an O&M Verification Form from the treatment and/or management facility and BMP owners annually including inspections and maintenance services.
Ordinance Checklist

6. Article X - Fees and Expenses
   □ Check the ordnance section that a sewer surcharge may be required for a job (not to include administrative costs, waste costs, excavation or maintainance and repair).

7. Article XII - Prohibitions
   (Specific provisions to be added or modified)
   □ A. Prohibits discharge of non-stormwater discharges into the municipal stormwater drain system.
   □ Authorized waste discharge for stormwater purposes.
   □ Prohibits the discharge of non-discharge charges.
   □ Prohibits certain discharge fees, such as those for discharge of non-discharge purposes.
   □ A statement that a user drain and pump shall discharge to collection or recharge through above ground or underground facility.
   □ A statement that a user drain and pump shall discharge to collection or recharge through above ground or underground facility.

Prohibitions (Authorized Discharge List)

DISCHARGES AUTHORIZED BY THIS GENERAL PERMIT

Except where specifically prohibited under the "Prohibitions Not Authorized by this General Permit" section, the following non-stormwater discharges are authorized in accordance with the applicable regulations and rules. In addition, the following discharges may be authorized by the General Permit if they do not cause or contribute to the generation of discharges or activities prohibited or regulated under the applicable regulations and rules:

1. Discharges of stormwater activities.
2. Discharges from prohibited water sources, including water line flushing and re-manufacturer flushing, if such discharges do not contain detectable concentrations of total dissolved solids (TDS).
3. Non-contaminated industrial (NPI) sources, where the discharge is from equipment and from industrial processes.
4. Discharged stormwater discharges.
5. Non-contaminated treated wastewater from industrial sources.
6. Non-contaminated hydraulic test water discharges, if such discharges do not contain detectable concentrations of TDS.

Prohibitions (Illicit Discharges Language)

8. Illicit Discharges
   1. Except as provided in Section B), it is unlawful for any person or entity to cause a non-stormwater discharge to the MUA.
   2. It is unlawful for any person or entity to cause or contribute to an discharge of a pollutant, including the discharge of a pollutant to a stormwater drainage system.
   3. Any person or entity that causes a non-stormwater discharge or a discharge into any stormwater drainage system shall be subject to the penalties provided in Section A).

[Signature]
[Date: 6/18/2019]
Ordinance Checklist

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>a.</td>
<td>A process authorizing right of entry to inspect buildings and land owned or leased by the municipality</td>
<td>Checkmark for compliance</td>
</tr>
<tr>
<td>b.</td>
<td>A specification of inspection frequencies of buildings and land owned or leased by the municipality</td>
<td>Checkmark for compliance</td>
</tr>
<tr>
<td>c.</td>
<td>Transmission of written reports containing inspections to the municipality</td>
<td>Checkmark for compliance</td>
</tr>
<tr>
<td>d.</td>
<td>A statement that if the material or property inspection is not made or recorded, the building or land will be held in violation until the violation is cured</td>
<td>Checkmark for compliance</td>
</tr>
<tr>
<td>e.</td>
<td>A statement that a violation of a model ordinance language</td>
<td>Checkmark for compliance</td>
</tr>
<tr>
<td>f.</td>
<td>A statement that no violation of a model ordinance language</td>
<td>Checkmark for compliance</td>
</tr>
<tr>
<td>g.</td>
<td>An appeal process</td>
<td>Checkmark for compliance</td>
</tr>
</tbody>
</table>

Enforcement

b. ENFORCEMENT RESPONSE

The enforcement officer will be responsible for categorizing and/or tracking the categorization of a violation and/or failure to comply with any provision of this Ordinance. The enforcement officer determines if a violation is considered repetitive, or a violation that is similar in nature to a previously identified violation. The enforcement officer will establish multiple enforcement levels and corresponding actions as required for the enforcement officer to comply with and/or a violation of any provision of this Ordinance, including illegal dumping and illegal discharging.

1. ENFORCEMENT LEVELS

b. Enforcement is applied, in a similar order of the enforcement plan levels for violations:

   1. Violation: Educational outreach and voluntary compliance
   2. Level 1: Nature of Violation (NVD) is equal
c. Level 2: A second NVD is issued and includes a monetary penalty of not less than $500 dollars and not more than Six Thousand (6,000) dollars for Level 2 enforcement
d. Civil Action

t. Inspections (Model Ordinance language)

Section 002: Inspections

The builder or the owner/designee (including the Municipality for dedicated and owned facilities) shall inspect 100% of all structures and publicly owned lands. The inspection program shall be conducted according to the following frequencies, at a minimum:

1.annually for the first 5 years
2. once every 5 years thereafter
3. during any work after the completion of 10 years or greater

Inspections must be conducted during immediately following consecutive months. A written inspection report shall be created at the end of each inspection. The inspection report shall contain the dates and times of the inspection, the condition of the building, findings or defects identified, observations on performance, and any recommendations for improving performance. The inspection report shall be submitted to the Municipality within 10 days following completion of the inspection.
Inspections ("alternate" language)

The following shall be addressed in the O&M Plan:

1. Description of maintenance requirements, including, but not limited to:

   a. Regular inspection of all SWM facilities. To ensure proper implementation of SWM, ordnance and other BMPs should be inspected by a qualified person, which may include the landscaper, or the owner's drapes (including the municipalities for local and County facilities), according to the following minimum frequencies:

   i. Annually,
   ii. During or immediately after the creation of a 10 foot or greater slope,
   iii. As specified in the O&M Agreement pursuant to Section 403.

Pathogens PCMs: Ordinance Requirements

Model Ordinance - Pet Waste

Ordinance No. [ ] - Pet Waste

SECTION 1. Purpose:

An ordinance to establish requirements for the proper disposal of pet solid waste in [insert name of municipality] so as to protect public health, safety and welfare, and to prescribe penalties for violation thereof.

SECTION 2. Definitions:

For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this Chapter clearly demonstrates a different meaning. When not inconsistent with the context, all words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory:

a. Immediate - shall mean that the pet solid waste is removed at once, without delay.

b. Overseer - any person who shall, own, maintain, house or harbor any pet or otherwise have custody of any pet, whether or not the owner of such pet.

c. Person - any individual, corporation, contractor, partnership, firm, association, or political subdivision of the State subject to municipal jurisdiction.

d. Pet - a domiciled animal (other than a disability assistance animal) kept for leisure or companionship.

Adjusting MS4 Programs

Audits/Inspections
Lititz Borough – USEPA Compliance Inspection

Background...

- Prior to the audit/compliance inspection, Lititz was covered under the 2003 General Permit for small MS4s as well as the subsequent 2013 update (PAG-13).

- In the August 2014, the Borough received a call from the EPA requesting that we compile information and that we would be inspected for compliance (Compliance Inspection Protocol).

Lititz Borough – USEPA Compliance Inspection

What they wanted up front...

- Program management documents (SWMP, NOI, Annual Reports, Organizational Charts)
- System mapping & BMP Inventories – with municipally owned facilities noted
- Stormwater ordinances & regulatory mechanisms
- Written procedures, tracking mechanisms, and violation tracking
- Inspection files
- Records of training

During the course of the inspection, the Borough supplied EPA with over 70 different resources.

Lititz Borough – USEPA Compliance Inspection

Initial review findings and follow-up...

- By early September, the Borough received EPA’s Administrative Order. It detailed their main focus areas, which corresponded to the Minimum Control Measures (MCMs) which are required to be part of a Stormwater Management Program.

- Representatives of the EPA and their contractors audited our stormwater management program and inspected our facilities for two days in late October 2014. PADEP staff were also in attendance.
Lititz Borough – USEPA Compliance Inspection

Inspection Schedule...

Findings...

• Observation 1: At the time of inspection, Lititz did not have an accurate map that showed the location of all MS4 outfalls.

• Observation 2: At the time of inspection, Lititz was not conducting field screening of outfalls in the priority areas twice a year.

• Observation 3: At the time of inspection, the former Superintendent of Public Works stated that not all outfall field screening was conducted after 72 hours following a rain event.

• Observation 4: While on site, [EPA] observed that Lititz did not have equipment or sampling kits to collect and analyze dry weather samples if needed during outfall field screening.

Findings...

• Observation 5: At the time of inspection, Lititz had not taken an enforcement action or issued a penalty for violations of erosion and sediment control (ESC) related provisions in their Stormwater Management Ordinance since the start of their permit coverage.

• Observation 6: At the time of inspection, Lititz did not distribute educational materials to developers.
Lititz Borough – USEPA Compliance Inspection

Findings...

Observation 7: During the inspection, [EPA] observed that Lititz may not be ensuring the installation of the stormwater detention basin at [an active construction site] as designed.

Observation 8: At the time of the inspection, it did not appear that Lititz had a system in place to monitor post-construction stormwater BMPs since the start of their permit coverage in 2004.

Observation 9: At the time of the inspection, Lititz did not have baseline information and annual records documenting current conditions and required maintenance for municipally-owned stormwater control facilities.

Observation 10: While on site, [EPA] observed that a detailed schedule for inspecting all stormwater facilities and performing operations and maintenance activities was not available, except for a street sweeping schedule.

Observation 11: At the time of the inspection, the Fire Chief stated that the Lititz Fire Department washes its vehicles outside in the driveway of the Fire Station.

Observation 12: At the time of the inspection, Lititz disposed of sediment, catch basin debris, vegetative debris, street sweepings, grass clippings, mulch, asphalt, and concrete at its Borough-owned “fill site”...

Observation 13: While on site, [EPA] observed that Lititz did not have documentation indicating that all public works municipal employees received training about stormwater management and operations and maintenance of municipal facilities.
Lititz Borough – USEPA Compliance Inspection

Follow-up...

After receiving the observations, the Borough was asked to respond within 15 business days. A response was sent in late February 2015.

Borough heard nothing from the EPA until July 2016.

Lititz Borough – USEPA Compliance Inspection

After some time...

*Based on the 2014 inspection, as well as a review of the information provided by the Borough during and after the inspection and information obtained from PADEP, EPA believes that the Borough’s MS4 program was not and is not compliant with the MOA RAG-13*...

MCMs 3, 4, 5, and 6 were specifically cited as deficiencies

Fines were cited as high as $187,500***

...but

Lititz Borough – USEPA Compliance Inspection

Negotiations...

EPA offered an opportunity to settle the fine administratively instead of through formal litigation based on the SWMP development and implementation.

So representatives of the Borough traveled to EPA Region 3 Headquarters in Philadelphia in September 2016 to discuss the settlement and the progress made thus far.

At the meeting, we described the progress we had made into the SWMP since the audit including adding additional staff to work on the program.

During the discussion, EPA seemed impressed at our progress and even asked if they could use some of our resources as examples.

After the discussion, no fine was mentioned... despite our expectations.

The Borough received the Consent Agreement and Final Order (CAFO) in December of 2016, incorporating several of the solicitor’s comments.

The amount of the final civil penalty was agreed upon in the amount of $3,000.
Final Thoughts and Questions?

Michael T. LaSala, CPMSM, CSI
mike@landstudies.com
717-627-5400