Construction Stormwater General Permit (CSGP)
MS4 References

HEA 1037 became effective **May 1, 2025,** and directs that a local unit of government may not have a law, rule, ordinance, or regulation that is more stringent or exceeds the requirements of IDEM's Construction Stormwater General Permit (CSGP) issued December 18, 2021. Currently, the CSGP references local ordinances, laws, regulations and requirements which sometimes creates confusion where the CSGP language is now in conflict with HEA 1037. To help clarify, IDEM has excerpted a list of references in the CSGP that speak to local legal controls, most notably MS4 ordinances and provided an interpretation of the language in light of 1037

2.0 ELIGIBILITY FOR PERMIT COVERAGE

This permit applies to all projects that meet the requirements in Section 2.1. Projects that occur in a designated municipal separate storm sewer system (MS4) jurisdictional area and are regulated by the MS4 entity must also comply with all appropriate MS4 ordinances and regulations related to stormwater discharges.

IDEM Comment: Per HEA 1037, projects are not required to comply with local MS4 ordinances and regulations related to stormwater discharges that are more stringent than the stormwater discharge requirements of the CSGP.

2.3 Waivers and Special Conditions

(a) Discharges are conditionally authorized for land-disturbing activities that are subject to this permit but are considered an emergency. Emergency activities include any work which requires immediate implementation to avoid imminent endangerment to human health, public safety, the environment, or to reestablish essential public services.

(b) Procedures for obtaining an emergency condition authorization, require the applicant to:

(1) Submit notification of the emergency to IDEM and where applicable to a MS4 within 24 hours or next business day of initiating land disturbance. An email notification to IDEM Stormwater Program (Stormwat@idem.IN.gov) is acceptable. For projects regulated by a MS4 notification to a MS4 must follow the local process defined for emergencies.

(2) Develop a SWP3 that specifically addresses the operations associated with the emergency. The submittal of the plan to IDEM is not required.

IDEM Comment:
The CSGP recognizes that emergency situations may occur that require authorization for CSGP covered land-disturbing activities. In an emergency, it is critical that the relevant authorities, including MS4s, are timely notified. HEA 1037 did not impact this requirement.

3.2 Design Requirements

(a) The selection, design, and implementation of all stormwater quality and management measures must at a minimum take into consideration the following:

1) Sound engineering, agronomic, and scientific principles.
2) Applicable standards as specified in technical manuals, the Indiana Stormwater Quality Manual or similar guidance documents, local ordinances, and the product guidance/specifications of the manufacturer.
3) Appropriate measures must be planned, designed, and installed as part of an erosion and sediment control system.
4) Stormwater run-off leaving the project site must be discharged in a manner that is consistent with applicable local, state, or federal law.
5) Collected run-off leaving the project site must be either discharged directly into a well-defined, stable receiving conveyance or diffused and released without causing erosion at the point of discharge.
6) Conveyance systems must be designed taking into consideration both peak flow and total volume and must be adequately protected so that their final gradients and resultant velocities are unlikely to cause erosion at the outlet or in the receiving channel, based on known conditions of the discharge at the time of design to accommodate post-construction conditions.
7) Sediment basins, where feasible, must withdraw water from the surface of the water column unless equivalent sediment reduction can be achieved by use of alternative measures. Alternative measures include but are not limited to increasing the basin length to width ratio to 4:1 or greater, implementation of porous baffles, use of flocculants/polymers, and/or phasing of project land disturbance that also incorporates a rapid stabilization program. During freezing conditions, the implementation of alternative withdrawal methods may be utilized.
8) Where applicable, stormwater run-off and project site discharges must be directed to an established vegetated area to increase pollutant removal and maximize stormwater infiltration.
9) Post-construction stormwater management measures must be implemented to manage the discharge of stormwater run-off to address quality and quantity. Measures must be designed and engineered in accordance with the following standards and at a minimum:
   A. The run-off rate of stormwater run-off and/or volume from the project site must meet local requirements to address stormwater quantity as established by ordinance or other regulatory mechanism. When a local requirement does not exist, the post-development run-off discharge from the project site must not exceed the pre-development discharge based on the two-year, ten-year, and one-hundred-year peak storm events.
   B. Run-off from the project site must be managed to minimize pollutants that are expected to be associated with stormwater run-off from the final land use. To achieve pollutant minimization goals, measures must be selected and meet the requirements as established by local ordinance or other regulatory mechanism. When a local requirement does not exist, the post-construction measures must be selected based on correct sizing to address

the Water Quality Volume (WQv) or water quality flow rate to ensure compliance with 327 IAC 2-1-6(a)(1)(A-D) and 327 IAC 2-1.5-B(a) and 327 IAC 2-1.5-8 (b)(1)(A-D).

C. Utilize one (1) or more post-construction measures working in tandem or series to treat stormwater run-off and increase the overall efficiency of individual and specialized measures.

D. In combination with proper post-construction measure selection, design and development strategies may be selected and incorporated into the plan to minimize the discharge pollutants. These strategies may include, but are not limited to:
   1) Low Impact Development (LID) and green infrastructure.
   2) Infiltration measures. When selected, infiltration measures must take into consideration the pollutants associated with run-off and the potential to contaminate ground water resources. When there is a potential for contamination, choose alternative measures or measures that pre-treat run-off to eliminate or reduce the pollutants of concern.

IDEM Comment: Per HEA 1037, project design requirements for stormwater quality and management measures are not required to comply with local MS4 ordinances, laws, regulations, or requirements that are more stringent than the design requirements of the CSGP.

3.5 Special Provisions

(a) The use of anionic polymers (cationic polymers are not authorized for use) on the project site are authorized for sediment control provided their use is in conformance with current State of Indiana standards and specifications and the use is identified in the stormwater pollution prevention plan (SWP3). If use of a polymer is not in the SWP3 and is selected at a later date notification to IDEM or the MS4 regulating the project is required. An email notification prior to the use of the polymer to the IDEM Stormwater Program is acceptable. For projects regulated by a MS4 notification must follow the local process for the use of polymers.

IDEM Comment:
IDEM has authorized the use of anionic polymers in Indiana and the CSGP recognizes that, when using anionic polymers, it is critical that the relevant authorities, including MS4s, are timely notified prior to the use of the polymer.

4.1 Plan Content

Develop a construction plan that includes a stormwater pollution prevention plan (SWP3) for both the construction and post-construction phases of the project. The SWP3 must be developed in accordance with this permit or where applicable the requirements of a MS4 ordinance.

(10) The post-construction SWP3 must meet, at a minimum, the performance requirements in Section 3.1 and 3.2 or where applicable local postconstruction requirements. The plan must include:

(A) A description of potential pollutant generating sources and a list of pollutants from the proposed land use that may reasonably be expected to contribute pollutants to stormwater discharges.

(B) A description of stormwater quality and stormwater management measures that will be installed to address post-construction sources that are expected to generate pollutants in

stormwater discharges after construction activities have been completed. The measures selected should achieve, at a minimum, the following objectives:

1) Stormwater quality measures that target pollutants of concern and are designed to remove or minimize pollutants from stormwater run-off that is associated with the final land use.
2) Stormwater quality measures that will be implemented to prevent or minimize adverse impacts to aquatic resources including, but not limited to, wetlands, streams, karst features, and riparian habitats.
3) Stormwater management measures that will address the potential impacts of increased run-off from the project. Measures must be designed and approved according to this permit or where applicable local requirements and drainage ordinances. A trained individual must approve that the design meets the applicable requirement(s).
4) Measures, including structural and those based on low impact development principles, selected to address the pollutant(s) of concern, reduction of peak flows, and ability to infiltrate.
5) Protective measures that will be implemented during active construction when the type of post-construction measure(s) planned are susceptible to pollutants, specifically sediment that may be generated during land-disturbing activities.

(C) The location, dimensions, detailed specifications, and construction details of all post-construction stormwater quality and stormwater management measures.

(D) A sequence describing when each post-construction stormwater measure will be installed in relation to project construction.

(E) An operation and maintenance manual that includes a description of the maintenance guidelines for all post-construction stormwater measures to facilitate their proper long-term function. This operation and maintenance manual must be provided to future parties who will assume responsibility for the operation and long-term maintenance of the post-construction stormwater measures.

(F) When known at the time of plan submittal, the entity that will be responsible for operation and maintenance of the post-construction system.

IDEM Comment: Per HEA1037, a construction plan (which is to include a stormwater pollution prevention plan (SWP3) for both the construction and post-construction phases of the project) is not required to comply with local MS4 ordinances and requirements that are more stringent than the construction plan requirements of the CSGP.

4.3 Plan Review

(a) The construction/SWP3 review is based on the requirements of this permit and for projects within a MS4, the requirements as established by the MS4. The MS4 is responsible for plan reviews within their jurisdictional area.

(b) I DEM, SWCDs, or MS4s, may require plan modifications, terms, and conditions as necessary to meet the requirements of the permit and for a MS4, the local ordinance.

(c) A plan may be deemed deficient based any of the following :

(1) The plan does not meet the content requirements of Section 4.0 or MS4 requirements.

(2) The plan does not include provisions to avoid, adequately protect, or identify a wetland, state/federal jurisdictional water, or other natural feature and work activities are not feasible on other areas of the project site. Upon notification, the plan review is suspended until such time as the appropriate permits/authorizations are obtained or stormwater measures are planned to protect the resource feature.

(d) When the plan is determined to be deficient:

(1) When notification of a deficient plan is received, the plan must be modified to meet the requirements of this permit and/ a MS4 requirement and resubmitted prior to land disturbance.

(e) When the project site representative does not receive notification of plan review verification within:

(1) The review period as established by the MS4 a NOI may be submitted to IDEM provided documentation of the delivery date of the plan is included with the NOI submittal.

(2) Twenty-eight (28) days after the plan is received by the department or a SWCD reviewing on behalf of the department, a NOI may be submitted to IDEM, provided documentation of the delivery date of the plan is included with the NOI submittal.

IDEM Comment: Per HEA 1037, a construction plan is not required to comply with local MS4 requirements that are more stringent than the construction plan requirements of the CSGP. Plan reviews should only evaluate against the construction plan requirements of the CSGP. Plan reviews conducted by an MS4 are not subject to the 28-day review period and must comply with the requirements contained in IC 13-18-27-16. SWCDs or MS4s, may only require plan modifications, terms, or conditions that meet the requirements of the CSGP.

5.0 NOTICE OF INTENT (NOI)

5.2 NOI Content

(a) The following information must be submitted by the project site owner with a complete notice of intent (NOI):

(11) Notification from IDEM, soil and water conservation district (SWCD), or MS4 (for projects regulated by a MS4) as the reviewing agency indicating that the construction/stormwater pollution prevention plan is sufficient to comply with this permit or the applicable ordinance of a MS4, including the name of the plan reviewer and the MS4 the reviewer represents.

(A) When the review was not completed within twenty-eight (28) days (this time frame may not apply to a MS4 conducting a plan review in accordance with a local ordinance), documentation of the delivery date of the plan to the reviewing agency is acceptable to meet this requirement.

(B) Verification of plan review of an acceptable plan may be used for a renewal NOI or for continuation of permit coverage provided the following conditions are met:

1) The original boundaries of the project are not being expanded by one (1) acre or more. Expansion beyond one (1) acre or more at the time of renewal will require new permit coverage for the project expansion.

2) The local MS4 or designated reviewing agency does not require a new review.

IDEM Comment: Per HEA 1037, a construction plan is not required to comply with local MS4 ordinance requirements that are more stringent than the construction plan requirements of the CSGP. Per HEA 1037, a local ordinance may not exceed the requirements of the CSGP "in any manner".

Plan reviews conducted by an MS4 are not subject to the 28-day review period and must comply with the requirements contained in IC 13-18-27-16.

Appendix A

(a) Specific activities will require permit coverage and notice of intent (NOI) based on land disturbance. Other land-disturbing activities will require compliance with conditions of this permit or may allow land-disturbing operations to occur under an existing permit for the overall development. These activities are defined below and apply to:

(1) An individual lot operator of a residential lot within a multi-lot project site with permit coverage is required to:

(A) Develop a lot specific stormwater pollution prevention plan (SWP3). Where site characteristics are similar, one SWP3 may be developed for multiple lots. The SWP3 must be developed in accordance with Section 3.8 and any applicable requirements of a MS4.

(B) Complete a Construction Stormwater Residential Development Registration form certifying their intent to comply with the Construction General Permit and where applicable the MS4 local ordinance.

(4) Residential strip developments are considered multi-lot projects and are required to obtain permit coverage. To determine applicability of coverage the following options apply.

(A) When improvements are made to the property in preparation for development and the total projected land disturbance for the entire development, including each building lot is one (1) acre or more based on the calculation in Appendix A (a)(c), the individual lot operator must obtain permit coverage. Upon sale of the individual lots, the permittee must notify each individual lot owner and/or individual lot operator of the requirements of this permit specifically Appendix A (1)(A) and (B).

(B) The individual that owns the parcels of platted lots does not make improvements and only sells the lots is not required to obtain permit coverage. Upon sale of the lots, the lot operator of one or more lots must obtain permit coverage and must develop a lot specific stormwater pollution prevention plan (SWP3). Where site characteristics are similar, one SWP3 may be developed for multiple lots. The SWP3 must be developed in accordance with Section 3.8 and any applicable requirements of an MS4.

IDEM Comment: Per HEA 1037, a lot specific SWP3 is not required to comply with local MS4 requirements that are more stringent than the requirements of the CSGP. A Construction Stormwater Residential Development Registration form must be completed certifying the intent to comply with the CSGP requirements but not any MS4 local ordinance requirements that are more stringent than the requirements of the CSGP.