

Appendix E.1

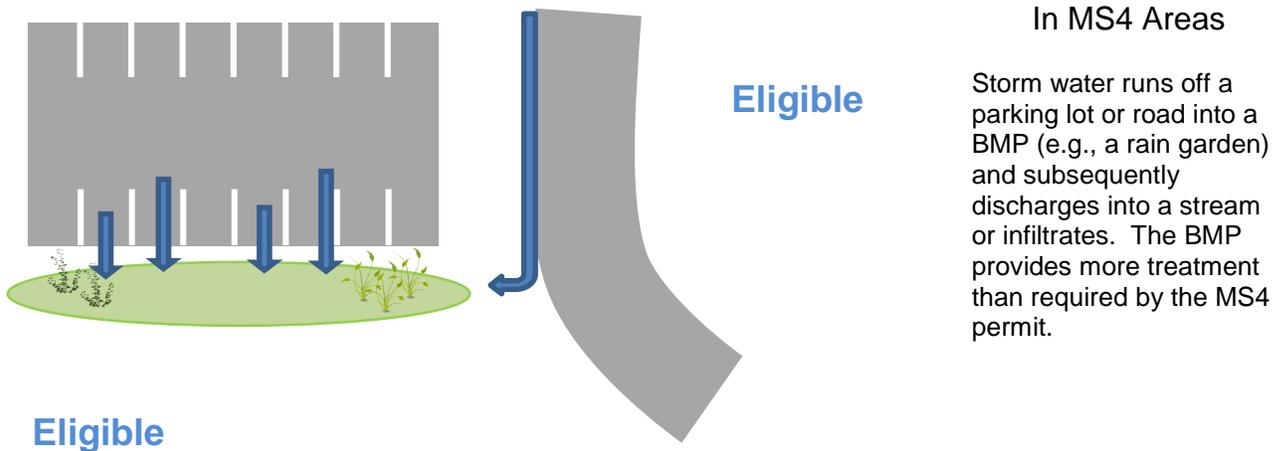
Addressing Storm Water Under Michigan's Nonpoint Source Program – What's Eligible

Neither the Federal Clean Water Act - Section 319 nor the State Clean Michigan Initiative Nonpoint Source (NPS) grant funds can be used to meet the conditions of a permit. In urban areas there has been confusion about when treatment provided by Best Management Practices (BMP) exceeds the requirement of a Municipal Separate Storm Sewer (MS4) permit, what is point source and what is nonpoint source runoff. The following scenarios were developed by Michigan Department of Environmental Quality NPS Program staff with input from U.S. Environmental Protection Agency Region 5 NPS staff to illustrate common situations where NPS grant funds are often requested to be used. Each scenario includes specific conditions and is followed by a response discussing the eligibility for NPS funding. Activities that are not eligible for funding are also not eligible as matching activities. The scenarios provided here do not cover every possible scenario and other situations not covered should be discussed with NPS staff for clarification. In addition to the issues discussed here, other NPS requirements (priority recommendations in critical areas of approved watershed management plans, for instance) may impact the eligibility of specific sites.

An MS4 is a conveyance of storm water, owned and operated by a municipality and is not a Water of the State. By contrast, an open county drain conveys storm water but, with limited exceptions, also has many other natural inputs and attributes that make it a Water of the State. A direct discharge to a Water of the State which is not part of an MS4 is not subject to a municipality's MS4 permit. However, most municipalities do not differentiate between properties that discharge into the MS4 and properties that do not. NPS grant funds are applied to control nonpoint source runoff prior to entering a storm sewer system or Water of the State.

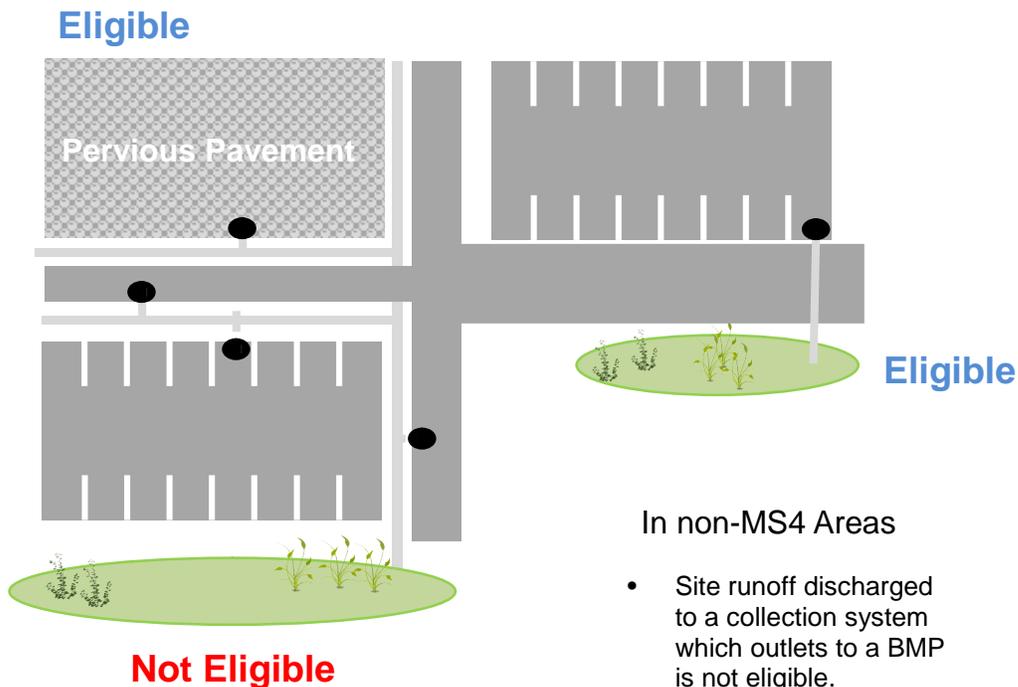
Scenario 1 - In an area with a regulated MS4, storm water runs off a parking lot or road directly into a BMP (e.g., a rain garden) and subsequently discharges into a stream. The site is regulated by the local storm water ordinance; however, the BMP provides more treatment than required by the MS4 permit (In Michigan, MS4 permit requirements are generally based on NPS design criteria). Is the BMP eligible for NPS grant funding?

Response – Since this site is covered by a local storm water ordinance, only the cost of the additional treatment provided over what is required is eligible for NPS grant funds. Because retrofitting an existing site is generally not a requirement of most MS4 permits, retrofitting a site with storm water controls is often eligible for NPS grant funds.



Scenario 2 – Road and parking lot runoff on a large site such as a school campus or from multiple small sites is collected in catch basins and a storm sewer line which outlets to a BMP. The BMP then discharges directly to a stream. Are the BMPs eligible for NPS grant funds in a non-MS4 area? Are they eligible in an MS4 area?

Response – Application of BMPs after runoff enters a conveyance system (i.e., a pipe that collects storm water to transport it to treatment or a discharge point) is not eligible regardless of whether the area is an MS4 or non-MS4. An exception would be a pipe directly into a BMP or to transport storm water a short distance, such as under a road, which is eligible in a non-MS4 area. In an MS4 area none of the BMPs are eligible unless they provide more treatment than required as described in Scenario 1.

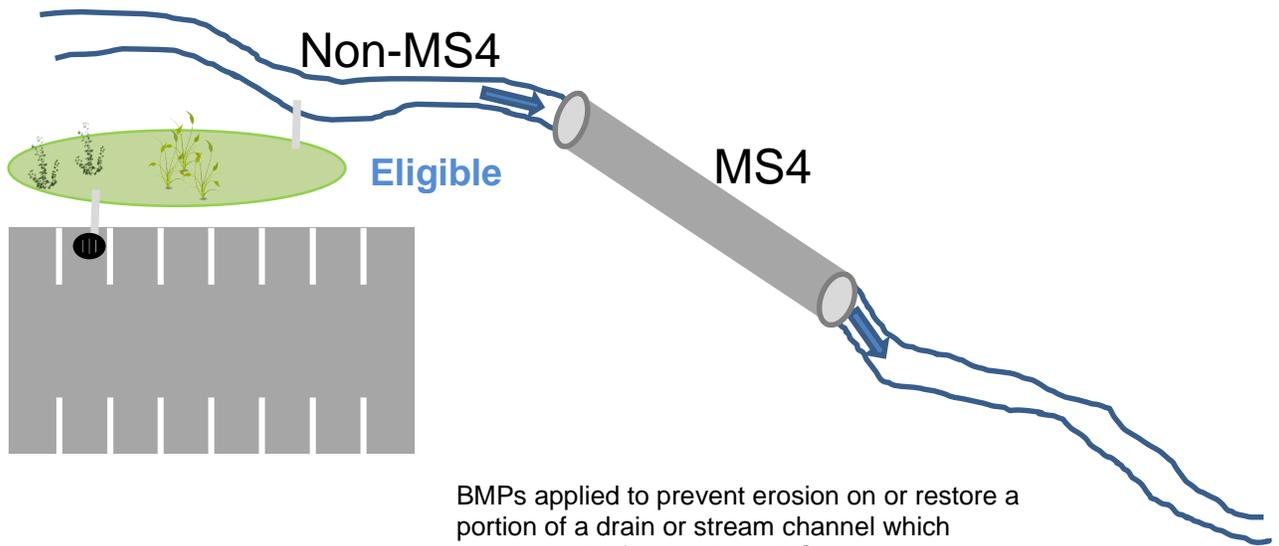


In non-MS4 Areas

- Site runoff discharged to a collection system which outlets to a BMP is not eligible.
- BMPs applied before entering the system are eligible.
- Discharges from a single site into a pipe for purposes of transporting a short distance to a BMP are eligible.

Scenario 3 – In a non-MS4 area, storm water runs off directly into a BMP that discharges into an open drain or stream which, further downstream, becomes enclosed as part of an MS4. A BMP is proposed to stop erosion in the open drain, which is contributing sediment and creating water quality impairments to the stream downstream of the MS4. Is this BMP eligible for funding?

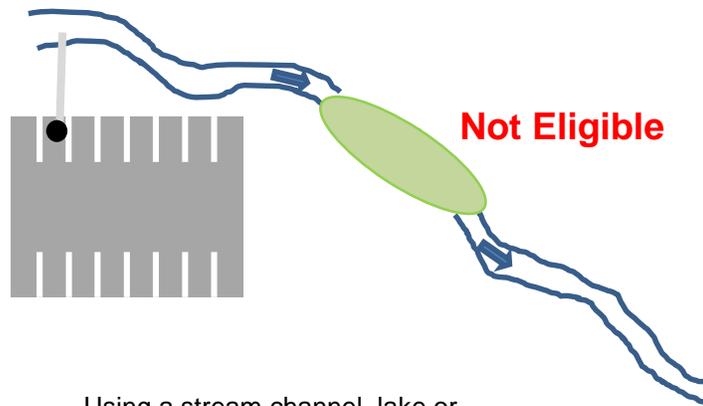
Response – BMPs applied to the portion of the drain that is not an MS4 may be eligible. Private drains are not considered to be part of the MS4. Streambank restoration in a drain which is not Waters of the State is not eligible.



BMPs applied to prevent erosion on or restore a portion of a drain or stream channel which subsequently flows into an MS4 area may be eligible.

Scenario 4 – In either an MS4 or non-MS4 area, the stream channel is excavated for a short distance or a dam is constructed across the stream channel for the purpose of capturing pollutants within the stream channel. Are these BMPs eligible for NPS grant funding?

Response – Using a stream channel, lake, or wetland to capture pollutants is not eligible. Doing so will likely cause the waterbody to fall short of the water quality standards associated with it. In addition, while this technique may treat NPS pollutants that have entered the waterbody, the sources of these pollutants are not addressed. By contrast, restoration of a waterbody to directly control the source of a pollutant may be eligible for NPS grant funding.



Using a stream channel, lake or wetland to trap pollutants is not eligible. The first priority of Nonpoint Source control is treatment at the source.