

**From:** [Water Environment Federation](#)  
**To:** [Susan Boynton](#)  
**Subject:** Breaking News: EPA Releases Pre-Publication of Proposed Phase II MS4 Permit Remand Rule  
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## **EPA Releases Pre-Publication of Proposed Phase II Municipal Separate Storm Sewer System (MS4) Permit Remand Rule**

The U.S. Environmental Protection Agency (EPA) released its [proposed Phase II Municipal Separate Storm Sewer System \(MS4\) permit remand rule](#) in pre-publication format on December 17, 2015.

The official rule will be published in the Federal Register in the upcoming weeks and will begin a 75-day public comment period. WEF has been working with EPA on this rule by facilitating engagement with Phase II communities providing EPA with input.

The proposed rule is the result of a mid-September settlement approved by the Ninth Circuit U.S. Court of Appeals with the Natural Resources Defense Council (NRDC) and the Environmental Defense Center Inc. That settlement requires EPA to revise its MS4 Phase II permits, which affects small communities with populations below 100,000.

The agency is obligated to issue a final MS4 rule by Nov. 17, 2016, under the terms of the settlement. EPA is also required to determine by May 26, 2016, if it will regulate stormwater runoff from forest roads.

The settlement resulted in the petitioners agreeing to withdraw a December 2014 lawsuit against EPA focused on claims that EPA did not implement requirements of a 2003 Ninth Circuit court ruling on Phase II MS4 permits and forest road stormwater runoff. The 2003 ruling required EPA to address procedural issues within the Phase II rule related to issuing Notices of Intent under the small MS4 General Permit option. According to the 2003 case, without public review and approval of permits, the rule lacked assurance that regulated communities would reduce stormwater pollution to the maximum extent practicable as required by the Clean Water Act.

WEF will continue to engage EPA and will be providing comments during the rule's public participation period. WEF will assemble its respective committees to review the rule and provide focused comments designed to improve the proposed rule.

WEF will host a free webcast on January 19, regarding the MS4 proposed rule and discuss its potential impacts to communities throughout the U.S., and help increase the knowledge base of the regulated community and public. Mark your calendars for this timely event and stay tuned as more details are made available.

For more information, please contact [Chris French](#), WEF Director of Stormwater Programs.

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