

Permit No.

**National Pollutant Discharge Elimination System
General Permit for Discharges from Small Municipal Separate Storm Sewer Systems**

Authorization to Discharge Under the National Pollutant Discharge Elimination System

In compliance with the provisions of the Clean Water Act, as amended, (33 U.S.C. 1251 et. seq.), except as provided in Part 1.3 of this permit, operators of small municipal separate storm sewer systems, located in an area specified in Part 1.1, and who submit a Notice of Intent and a storm water management plan in accordance with Part II, are authorized to discharge pollutants to waters of the United States in accordance with the conditions and requirements set forth herein.

This permit becomes effective on _____

This permit and the authorization to discharge expire at midnight, _____

Signed and issued this __ day of __, 200_ .

(Signature of Regional Administrator)

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7. Definitions

1 Coverage Under this Permit

1.1 Permit Area

This permit covers the State of _____ and Indian Country lands in the State of _____:

[This language will vary, depending on whether the permit is State-wide, watershed specific, etc.]

1.2 Eligibility

1.2.1 This permit authorizes discharges of storm water from small municipal separate storm sewer systems (MS4s), as defined in 40 CFR §122.26(b)(16). You are authorized to discharge under the terms and conditions of this general permit if you:

1.2.1.1 Operate a small MS4 within the permit area described in Section 1.1,

1.2.1.2 Are not a “large” or “medium” MS4 as defined in 40 CFR §122.26(b)(4) or (7), and

1.2.1.3 Submit a Notice of Intent (NOI) in accordance with Part 2 of this permit, and

1.2.1.4 Are located fully or partially within an urbanized area as determined by the latest Decennial Census by the Bureau of Census, or

1.2.1.5 Are designated for permit authorization by EPA pursuant to 40 CFR §122.32.

1.2.2 The following are types of authorized discharges:

1.2.2.1 *Storm water discharges.* This permit authorizes storm water discharges to waters of the United States from the small MS4s identified in Section 1.2.1, except as excluded in Section 1.3.

1.2.2.2 *Non-storm water discharges.* You are authorized to discharge the following non-storm water sources provided that the permitting authority has not determined these sources to be substantial contributors of pollutants to your MS4:

- Water line flushing
- Landscape irrigation
- Diverted stream flows
- Rising ground waters
- Uncontaminated ground water infiltration (infiltration is defined as water other than wastewater that enters a sewer system, including sewer service connections and foundation drains, from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow.)
- Uncontaminated pumped ground water
- Discharges from potable water sources
- Foundation drains
- Air conditioning condensate
- Irrigation water
- Springs
- Water from crawl space pumps
- Footing drains

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- Lawn watering
- Individual residential car washing
- Flows from riparian habitats and wetlands
- Dechlorinated swimming pool discharges
- Street wash water
- Discharges or flows from fire fighting activities

1.3 Limitations on Coverage

This permit does not authorize:

- 1.3.1 Discharges that are mixed with sources of non-storm water unless such non-storm water discharges are:
 - In compliance with a separate NPDES permit, or
 - Determined not to be a substantial contributor of pollutants to waters of the U.S.
- 1.3.2 Storm water discharges associated with industrial activity as defined in 40 CFR §122.26(b)(14)(i)-(ix) and (xi).
- 1.3.3 Storm water discharges associated with construction activity as defined in 40 CFR §122.26(b)(14)(x) or 40 CFR §122.26(b)(15).
- 1.3.4 Storm water discharges currently covered under another permit.
- 1.3.5 Discharges or discharge-related activities that are likely to jeopardize the continued existence of any species that are listed as endangered or threatened under the ESA or result in the adverse modification or destruction of habitat that is designated as critical under the ESA
 - 1.3.5.1 Coverage under this permit is available only if your storm water discharges, allowable non-storm water discharges, and discharge-related activities are not likely to jeopardize the continued existence of any species that are listed as endangered or threatened (“listed”) under the ESA or result in the adverse modification or destruction of habitat that is designated as critical under the ESA (“critical habitat”). Submission of a signed NOI will be deemed to also constitute your certification of eligibility.
 - 1.3.5.2 “Discharge-related activities” include: activities which cause, contribute to, or result in storm water point source pollutant discharges; and measures to control storm water discharges, including the siting, construction and operation of best management practices (BMPs) to control, reduce or prevent storm water pollution.
 - 1.3.5.3 Determining eligibility: You must use the most recent Endangered and Threatened Species County-Species List available from EPA and the process in Addendum A (ESA Screening Process) to determine your eligibility *prior* to submittal of your NOI. As of the effective date of this permit, the most current version of the List is located on the EPA Office of Water Web site at www.epa.gov/npdes/endangeredspecies. You must meet one or more of the criteria in 1.3.5.3.1 through 1.3.5.3.5 below for the entire term of coverage under the permit. You must include a certification of eligibility and supporting documentation on the eligibility determination as part of your Storm Water Management Program.

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- 1.3.5.3.1 Criteria A: No endangered or threatened species or critical habitat are in proximity to your MS4 or the point where authorized discharges reach the receiving water; or
- 1.3.5.3.2 Criteria B: In the course of a separate federal action involving your MS4 (e.g., EPA processing request for an individual NPDES permit, issuance of a CWA §404 wetlands dredge and fill permit, etc.), formal or informal consultation with the Fish and Wildlife Service and/or the National Marine Fisheries Service (the “Services”) under Section 7 of the Endangered Species Act (ESA) has been concluded and that consultation:
- Addressed the effects of your storm water discharges, allowable non-storm water discharges, and discharge-related activities on listed species and critical habitat and
 - The consultation resulted in either a no jeopardy opinion or a written concurrence by the Service on a finding that your storm water discharges, allowable non-storm water discharges, and discharge-related activities are not likely to adversely affect listed species or critical habitat; or
- 1.3.5.3.3 Criteria C: Your activities are authorized under Section 10 of the ESA and that authorization addresses the effects of your storm water discharges, allowable non-storm water discharges, and discharge-related activities on listed species and critical habitat; or
- 1.3.5.3.4 Criteria D: Using best judgement, you have evaluated the effects of your storm water discharges, allowable non-storm water discharges, and discharge-related activities on listed endangered or threatened species and critical habitat and do not have reason to believe the discharge and discharge-related activities will jeopardize the continued existence of any species or result in the adverse modification or destruction of critical habitat.
- 1.3.5.3.5 Criteria E: Your storm water discharges, allowable non-storm water discharges, and discharge-related activities were already addressed in another operator’s certification of eligibility under Part 1.3.5.3.1 through 1.3.5.3.4 which included your MS4’s activities. By certifying eligibility under this Part, you agree to comply with any measures or controls upon which the other operator’s certification was based;
- 1.3.5.4 The permitting authority may require any permittee or applicant to provide documentation of the permittee or applicant’s determination of eligibility for this permit using the procedures in Addendum A where EPA or the Fish and Wildlife and/or National Marine Fisheries Services determine that there is a potential impact on endangered or threatened species or a critical habitat.
- 1.3.5.5 You are not authorized to discharge if the discharges or discharge-related activities cause a prohibited "take" of endangered or threatened species (as defined under Section 3 of the Endangered Species Act and 50 CFR 17.3), unless such takes are authorized under sections 7 or 10 of the Endangered Species Act.
- 1.3.5.6 You are not authorized for any discharges where the discharges or discharge-related activities are likely to jeopardize the continued existence of any species that are listed as endangered or threatened under the ESA or result in the adverse modification or destruction of habitat that is designated as critical under the ESA.
- 1.3.6 Discharges and discharge-related activities with unconsidered adverse effects on historic properties.

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- 1.3.6.1 Determining eligibility: In order to be eligible for coverage under this permit, you must be in compliance with the National Historic Preservation Act. Your discharges may be authorized under this permit only if:
 - 1.3.6.1.1 Criteria A: your storm water discharges, allowable non-storm water discharges, and discharge-related activities do not affect a property that is listed or is eligible for listing on the National Register of Historic Places as maintained by the Secretary of the Interior; or
 - 1.3.6.1.2 Criteria B: you have obtained and are in compliance with a written agreement with the state Historic Preservation Officer (SHPO) or tribal Historic Preservation Officer (THPO) that outlines all measures you will undertake to mitigate or prevent adverse effect to the historic property.
- 1.3.6.2 Addendum B of this permit provides guidance and references to assist you with determining your permit eligibility concerning this provision.
- 1.3.7 Discharges to territorial seas, the contiguous zone, and the oceans unless such discharges are in compliance with the ocean discharge criteria of 40 CFR Part 125, Subpart M.
- 1.3.8 Discharges that would cause or contribute to instream exceedances of water quality standards. Your storm water management program must include a description of the BMPs that you will be using to ensure that this will not occur. EPA may require corrective action or an application for an individual permit or alternative general permit if an MS4 is determined to cause an instream exceedance of water quality standards.
- 1.3.9 Discharges of any pollutant into any water for which a Total Maximum Daily Load (TMDL) has been either established or approved by the EPA unless your discharge is consistent with that TMDL. This eligibility condition applies at the time you submit a Notice of Intent for coverage. If conditions change after you have permit coverage, you may remain covered by the permit provided you comply with the applicable requirements of Part 3. You must incorporate any limitations, conditions and requirements applicable to your discharges, including monitoring frequency and reporting required, into your Storm Water Management Program in order to be eligible for permit coverage. For discharges not eligible for coverage under this permit, you must apply for and receive an individual or other applicable general NPDES permit prior to discharging.
- 1.3.10 Discharges that do not comply with your state or tribe's anti-degradation policy for water quality standards. State and tribal anti-degradation policies can be obtained from the appropriate state or tribal environmental office or their Internet sites.

1.4 Obtaining Authorization

- 1.4.1 To be authorized to discharge storm water from all MS4s, you must submit a notice of intent (NOI) and a description of your storm water management program in accordance with the deadlines presented in Section 2.1 of this permit.
- 1.4.2 You must submit the information required in section 2.2 on the latest version of the NOI form (or photocopy thereof) contained in Addendum #. Your NOI must be signed and dated in accordance with section 6.7 of this permit.

Note: If EPA notifies dischargers (either directly, by public notice, or by making information available on the Internet) of other NOI form options that become available at a later date (e.g., electronic

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submission of forms), you may take advantage of those options to satisfy the NOI use and submittal requirements of Section 2.

1.4.3 Unless notified by EPA to the contrary, dischargers who submit an NOI in accordance with the requirements of this permit are authorized to discharge storm water from small MS4s under the terms and conditions of this permit thirty (30) days after the date that the NOI is postmarked. The Agency may deny coverage under this permit and require submittal of an application for an individual NPDES permit based on a review of the NOI or other information (see Section 6.16).

1.4.4 Where the operator changes, or where a new operator is added after submittal of an NOI under Part 2, a new NOI must be submitted in accordance with Part 2 prior to the change or addition.

2 Notice of Intent Requirements

2.1 Deadlines for Notification

2.1.1 If you are automatically designated under 40 CFR §122.32(a)(1) or designated by the permitting authority in this permit, then you are required to submit an NOI and a description of your storm water management program or apply for an individual permit by March 10, 2003.

2.1.2 *Additional designations after the date of permit issuance.* If you are designated by the permitting authority after the date of permit issuance, then you are required to submit an NOI and a description of your storm water management program to the permitting authority within 180 days of notice.

2.1.3 *Submitting a Late NOI.* You are not prohibited from submitting an NOI after the dates provided in 2.1. If a late NOI is submitted, your authorization is only for discharges that occur after permit coverage is granted. The permitting authority reserves the right to take appropriate enforcement actions for any unpermitted discharges.

2.2 Contents of the Notice of Intent

The Notice(s) of Intent must be signed in accordance with Part 6.7 of this permit and must include the following information:

2.2.1 *Information on the Permittee:*

2.2.1.1 The name of your municipal entity/tribe/state agency/federal agency, mailing address, and telephone number;

2.2.1.2 An indication of whether you are a Federal, State, Tribal, or other public entity;

2.2.2 *Information on the Municipal Separate Storm Sewer System:*

2.2.2.1 The Urbanized Area or Core Municipality (if you are not located in an Urbanized Area) where your system is located; the name of your organization, county(ies) or parish(es) where your MS4 is located, and the latitude and longitude of an approximate center of your MS4;

2.2.2.2 The name of the major receiving water(s) and an indication of whether any of your receiving waters are on the latest CWA §303(d) list of impaired waters. If you have discharges to 303(d) waters, a certification that your Storm Water Management Program complies with the requirements of Part 3.1;

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- 2.2.1.3 An indication of whether all or a portion of the MS4 is located on Indian Country lands.
- 2.2.1.4 If you are relying on another governmental entity regulated under these storm water regulations (40 CFR 122.26 & 122.32) to satisfy one or more of your permit obligations (see Part 4.4), the identity of that entity(ies) and the element(s) they will be implementing.
- 2.2.1.5 Information on your chosen best management practices (BMPs) and the measurable goals for each of the storm water minimum control measures in Part 4.2 of this permit, your timeframe for implementing each of the BMPs, and the person or persons responsible for implementing or coordinating your Storm Water Management Program.
- 2.2.1.6 Certification of whether you have met eligibility criteria for protection of threatened or endangered species, critical habitat, historic properties, and marine fisheries.

2.3 Where to Submit

You are to submit your NOI, signed in accordance with the signatory requirements of Section 6.7 of this permit, to EPA at one of the following addresses:

For regular mail:
Storm Water Notice of Intent (4203M)
USEPA
1200 Pennsylvania Ave., N.W.
Washington, DC 20460

For overnight/express mail:
Storm Water Notice of Intent
USEPA East Building, Room 7329
1201 Constitution Ave., N.W.
Washington, DC 20004

2.4 Co-Permittees Under a Single NOI

You may partner with other MS4s to develop and implement your storm water management program. You may also jointly submit an NOI with one or more MS4s. Each MS4 must fill out the NOI form in Addendum #. The description of your storm water management program must clearly describe which permittees are responsible for implementing each of the control measures.

3 Special Conditions

3.1 Discharges to Water Quality Impaired Waters

3.1.1 *Applicability:* You must:

- 3.1.1.1 Determine whether storm water discharge from any part of the MS4 significantly contributes directly or indirectly to a 303(d) listed (i.e., impaired) waterbody. If you have discharges meeting this criteria, you must comply with Part 3.1.2; if you do not, Part 3.1 does not apply to you.
- 3.1.1.2 If you have “303(d)” discharges described above, you must also determine whether a TMDL has been developed and approved by EPA for the listed waterbody. If there is a TMDL, you must comply with

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- both Parts 3.1.2 and 3.1.3; if no TMDL has been approved, Part 3.1.3 does not apply until a TMDL has been approved.
- 3.1.2 *Water Quality Controls for Discharges to Impaired Waterbodies.* Your storm water management program (SWMP) must include a section describing how your program will control the discharge of the pollutants of concern and ensure your discharges will not cause or contribute to instream exceedances of the water quality standards. This discussion must specifically identify measures and BMPs that will collectively control the discharge of the pollutants of concern.
- 3.1.3 *Consistency with Total Maximum Daily Load (TMDL) Allocations.* If a TMDL has been approved for any waterbody into which you discharge, you must:
- 3.1.3.1 Determine whether the approved TMDL is for a pollutant likely to be found in storm water discharges from your MS4.
- 3.1.3.2 Determine whether the TMDL includes a pollutant wasteload allocation (WLA) or other performance requirements specifically for storm water discharge from your MS4.
- 3.1.3.3 Determine whether the TMDL address a flow regime likely to occur during periods of storm water discharge.
- 3.1.3.4 After the determinations above have been made and if it is found that your MS4 must implement specific WLA provisions of the TMDL, assess whether the WLAs are being met through implementation of existing storm water control measures or if additional control measures are necessary.
- 3.1.3.5 Document all control measures currently being implemented or planned to be implemented. Also include a schedule of implementation for all planned controls. Document the calculations or other evidence that shows that the WLA will be met.
- 3.1.3.6 Describe a monitoring program to determine whether the storm water controls are adequate to meet the WLA.
- 3.1.3.7 If the evaluation shows that additional or modified controls are necessary, describe the type and schedule for the control additions/revisions. Continue Parts 3.1.3.4-7 until two continuous monitoring cycles show that the WLAs are being met or that WQ standards are being met.

4 Storm Water Management Programs

4.1 Requirements

- 4.1.1 You must develop, implement, and enforce a storm water management program designed to reduce the discharge of pollutants from your small MS4 to the maximum extent practicable (MEP), to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act. The storm water management program should include management practices; control techniques and system, design, and engineering methods; and such other provisions as the permitting authority determines appropriate for the control of such pollutants. Your storm water management program must include the following information for each of the six minimum control measures described in Section 4.2 of this permit:

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- 4.1.1.1 The best management practices (BMPs) that you or another entity will implement for each of the storm water minimum control measures;
- 4.1.1.2 The measurable goals for each of the BMPs including, as appropriate, the months and years in which you will undertake required actions, including interim milestones and the frequency of the action; and
- 4.1.1.3 The person or persons responsible for implementing or coordinating the BMPs for your storm water management program.
- 4.1.2 In addition to the requirements listed above, you must provide a rationale for how and why you selected each of the BMPs and measurable goals for your storm water management program. The information required for such a rationale is given in Section 4.2 for each minimum measure. You must develop and fully implement your program by [insert date five years from permit issuance].

4.2 Minimum Control Measures

The six minimum control measures that must be included in your storm water management program are:

4.2.1 Public Education and Outreach on Storm Water Impacts

- 4.2.1.1 Permit requirement. You must implement a public education program to distribute educational materials to the community or conduct equivalent outreach activities about the impacts of storm water discharges on water bodies and the steps that the public can take to reduce pollutants in storm water runoff.
- 4.2.1.2 *Decision process.* You must document your decision process for the development of a storm water public education and outreach program. Your rationale statement must address both your overall public education program and the individual BMPs, measurable goals and responsible persons for your program. The rationale statement must include the following information, at a minimum:
 - 4.2.1.2.1 How you plan to inform individuals and households about the steps they can take to reduce storm water pollution.
 - 4.2.1.2.2 How you plan to inform individuals and groups on how to become involved in the storm water program (with activities such as local stream and beach restoration activities).
 - 4.2.1.2.3 Who are the target audiences for your education program who are likely to have significant storm water impacts (including commercial, industrial and institutional entities) and why those target audiences were selected.
 - 4.2.1.2.4 What are the target pollutant sources your public education program is designed to address.
 - 4.2.1.2.5 What is your outreach strategy, including the mechanisms (e.g., printed brochures, newspapers, media, workshops, etc.) you will use to reach your target audiences, and how many people do you expect to reach by your outreach strategy over the permit term.
 - 4.2.1.2.6 Who is responsible for overall management and implementation of your storm water public education and outreach program and, if different, who is responsible for each of the BMPs identified for this program.

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4.2.1.2.7 How will you evaluate the success of this minimum measure, including how you selected the measurable goals for each of the BMPs.

4.2.2 Public Involvement/Participation

4.2.2.1 *Permit requirement.* You must at a minimum, comply with State, Tribal, and local public notice requirements when implementing a public involvement/participation program.

4.2.2.2 *Decision process.* You must document your decision process for the development of a storm water public involvement/participation program. Your rationale statement must address both your overall public involvement/participation program and the individual BMPs, measurable goals, and responsible persons for your program. The rationale statement must include the following information, at a minimum:

4.2.2.2.1 How you have involved the public in the development and submittal of your NOI and storm water management program.

4.2.2.2.2 What is your plan to actively involve the public in the development and implementation of your program.

4.2.2.2.3 Who are the target audiences for your public involvement program, including a description of the types of ethnic and economic groups engaged. You are encouraged to actively involve all potentially affected stakeholder groups, including commercial and industrial businesses, trade associations, environmental groups, homeowners associations, and educational organizations, among others.

4.2.2.2.4 What are the types of public involvement activities included in your program. Where appropriate, consider the following types of public involvement activities:

4.2.2.2.4.1 Citizen representatives on a storm water management panel

4.2.2.2.4.2 Public hearings

4.2.2.2.4.3 Working with citizen volunteers willing to educate others about the program

4.2.2.2.4.4 Volunteer monitoring or stream/beach clean-up activities

4.2.2.2.5 Who is responsible for the overall management and implementation of your storm water public involvement/participation program and, if different, who is responsible for each of the BMPs identified for this program.

4.2.2.2.6 How you will evaluate the success of this minimum measure, including how you selected the measurable goals for each of the BMPs.

4.2.3 Illicit Discharge Detection and Elimination

4.2.3.1 *Permit requirement.* You must:

4.2.3.1.1 Develop, implement and enforce a program to detect and eliminate illicit discharges (as defined in 40 CFR §122.26(b)(2)) into your small MS4;

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- 4.2.3.1.2 Develop, if not already completed, a storm sewer system map, showing the location of all outfalls and the names and location of all waters of the United States that receive discharges from those outfalls;
- 4.2.3.1.3 To the extent allowable under State, Tribal or local law, effectively prohibit, through ordinance, or other regulatory mechanism, non-storm water discharges into your storm sewer system and implement appropriate enforcement procedures and actions;
- 4.2.3.1.4 Develop and implement a plan to detect and address non-storm water discharges, including illegal dumping, to your system;
- 4.2.3.1.5 Inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste; and
- 4.2.3.1.6 Address the following categories of non-storm water discharges or flows (i.e., illicit discharges) only if you identify them as significant contributors of pollutants to your small MS4: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (as defined at 40 CFR §35.2005(20)), uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water (discharges or flows from fire fighting activities are excluded from the effective prohibition against non-storm water and need only be addressed where they are identified as significant sources of pollutants to waters of the United States).
- 4.2.3.1.7 You may also develop a list of other similar occasional incidental non-storm water discharges (e.g. non-commercial or charity car washes, etc.) that will not be addressed as illicit discharges. These non-storm water discharges must not be reasonably expected (based on information available to the permittees) to be significant sources of pollutants to the Municipal Separate Storm Sewer System, because of either the nature of the discharges or conditions you have established for allowing these discharges to your MS4 (e.g., a charity car wash with appropriate controls on frequency, proximity to sensitive waterbodies, BMPs on the wash water, etc.). You must document in your SWMP any local controls or conditions placed on the discharges. You must include a provision prohibiting any individual non-storm water discharge that is determined to be contributing significant amounts of pollutants to your MS4.
- 4.2.3.2 *Decision process.* You must document your decision process for the development of a storm water illicit discharge detection and elimination program. Your rationale statement must address both your overall illicit discharge detection and elimination program and the individual BMPs, measurable goals, and responsible persons for your program. The rationale statement must include the following information, at a minimum:
 - 4.2.3.2.1 How you will develop a storm sewer map showing the location of all outfalls and the names and location of all receiving waters. Describe the sources of information you used for the maps, and how you plan to verify the outfall locations with field surveys. If already completed, describe how you developed this map. Also, describe how your map will be regularly updated.
 - 4.2.3.2.2 The mechanism (ordinance or other regulatory mechanism) you will use to effectively prohibit illicit discharges into the MS4 and why you chose that mechanism. If you need to develop this mechanism, describe your plan and a schedule to do so. If your ordinance or regulatory mechanism is already developed, include a copy of the relevant sections with your program.

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- 4.2.3.2.3 Your plan to ensure through appropriate enforcement procedures and actions that your illicit discharge ordinance (or other regulatory mechanism) is implemented.
- 4.2.3.2.4 Your plan to detect and address illicit discharges to your system, including discharges from illegal dumping and spills. Your plan must include dry weather field screening for non-storm water flows and field tests of selected chemical parameters as indicators of discharge sources. Your plan must also address on-site sewage disposal systems that flow into your storm drainage system. Your description must address the following, at a minimum:
 - 4.2.3.2.4.1 Procedures for locating priority areas which includes areas with higher likelihood of illicit connections (e.g., areas with older sanitary sewer lines, for example) or ambient sampling to locate impacted reaches.
 - 4.2.3.2.4.2 Procedures for tracing the source of an illicit discharge, including the specific techniques you will use to detect the location of the source.
 - 4.2.3.2.4.3 Procedures for removing the source of the illicit discharge
 - 4.2.3.2.4.4 Procedures for program evaluation and assessment.
- 4.2.3.2.5 How you plan to inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste. Include in your description how this plan will coordinate with your public education minimum measure and your pollution prevention/good housekeeping minimum measure programs.
- 4.2.3.2.6 Who is responsible for overall management and implementation of your storm water illicit discharge detection and elimination program and, if different, who is responsible for each of the BMPs identified for this program.
- 4.2.3.2.7 How you will evaluate the success of this minimum measure, including how you selected the measurable goals for each of the BMPs.

4.2.4 Construction Site Storm Water Runoff Control

- 4.2.4.1 *Permit requirement.* You must develop, implement, and enforce a program to reduce pollutants in any storm water runoff to your small MS4 from construction activities that result in a land disturbance of greater than or equal to one acre. Reduction of storm water discharges from construction activity disturbing less than one acre must be included in your program if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more. If the NPDES permitting authority waives requirements for storm water discharges associated with small construction activity in accordance with § 122.26(b)(15)(i), you are not required to develop, implement, and/or enforce a program to reduce pollutant discharges from such sites. Your program must include the development and implementation of, at a minimum:
 - 4.2.4.1.1 An ordinance or other regulatory mechanism to require erosion and sediment controls, as well as sanctions to ensure compliance, to the extent allowable under State, Tribal, or local law;
 - 4.2.4.1.2 Requirements for construction site operators to implement appropriate erosion and sediment control best management practices;

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- 4.2.4.1.3 Requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality;
- 4.2.4.1.4 Procedures for site plan review which incorporate consideration of potential water quality impacts;
- 4.2.4.1.5 Procedures for receipt and consideration of information submitted by the public; and
- 4.2.4.1.6 Procedures for site inspection and enforcement of control measures.
- 4.2.4.2 *Decision process.* You must document your decision process for the development of a construction site storm water control program. Your rationale statement must address both your overall construction site storm water control program and the individual BMPs, measurable goals, and responsible persons for your program. The rationale statement must include the following information, at a minimum:
 - 4.2.4.2.1 The mechanism (ordinance or other regulatory mechanism) you will use to require erosion and sediment controls at construction sites and why you chose that mechanism. If you need to develop this mechanism, describe your plan and a schedule to do so. If your ordinance or regulatory mechanism is already developed, include a copy of the relevant sections with your storm water management program description.
 - 4.2.4.2.2 Your plan to ensure compliance with your erosion and sediment control regulatory mechanism, including the sanctions and enforcement mechanisms you will use to ensure compliance. Describe your procedures for when you will use certain sanctions. Possible sanctions include non-monetary penalties (such as a stop work orders), fines, bonding requirements, and/or permit denials for non-compliance.
 - 4.2.4.2.3 Your requirements for construction site operators to implement appropriate erosion and sediment control BMPs and control waste at construction sites that may cause adverse impacts to water quality. Such waste includes discarded building materials, concrete truck washouts, chemicals, litter, and sanitary waste.
 - 4.2.4.2.4 Your procedures for site plan review, including the review of pre-construction site plans, which incorporate consider of potential water quality impacts. Describe your procedures and the rationale for how you will identify certain sites for site plan review, if not all plans are reviewed. Describe the estimated number and percentage of site that will have pre-construction site plans reviewed.
 - 4.2.4.2.5 Your procedures for receipt and consideration of information submitted by the public. Consider coordinating this requirement with your public education program.
 - 4.2.4.2.6 Your procedures for site inspection and enforcement of control measures, including how you will prioritize sites for inspection.
 - 4.2.4.2.7 Who is responsible for overall management and implementation of your construction site storm water control program and, if different, who is responsible for each of the BMPs identified for this program.
 - 4.2.4.2.8 Describe how you will evaluate the success of this minimum measure, including how you selected the measurable goals for each of the BMPs.

4.2.5 Post-Construction Storm Water Management in New Development and Redevelopment

4.2.5.1 *Permit requirement.* You must:

4.2.5.1.1 Develop, implement, and enforce a program to address storm water runoff from new development and redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale, that discharge into your small MS4. Your program must ensure that controls are in place that would prevent or minimize water quality impacts;

4.2.5.1.2 Develop and implement strategies which include a combination of structural and/or non-structural best management practices (BMPs) appropriate for your community; and

4.2.5.1.3 Use an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects to the extent allowable under State, Tribal or local law; and

4.2.5.1.4 Ensure adequate long-term operation and maintenance of BMPs.

4.2.5.2 *Decision process.* You must document your decision process for the development of a post-construction storm water management program. Your rationale statement must address both your overall post-construction storm water management program and the individual BMPs, measurable goals, and responsible persons for your program. The rationale statement must include the following information, at a minimum:

4.2.5.2.1 Your program to address storm water runoff from new development and redevelopment projects. Include in this description any specific priority areas for this program.

4.2.5.2.2 How your program will be specifically tailored for your local community, minimize water quality impacts, and attempt to maintain pre-development runoff conditions.

4.2.5.2.3 Any non-structural BMPs in your program, including, as appropriate:

4.2.5.2.3.1 Policies and ordinances that provide requirements and standards to direct growth to identified areas, protect sensitive areas such as wetlands and riparian areas, maintain and/or increase open space (including a dedicated funding source for open space acquisition), provide buffers along sensitive water bodies, minimize impervious surfaces, and minimize disturbance of soils and vegetation;

4.2.5.2.3.2 Policies or ordinances that encourage infill development in higher density urban areas, and areas with existing storm sewer infrastructure;

4.2.5.2.3.3 Education programs for developers and the public about project designs that minimize water quality impacts; and

4.2.5.2.3.4 Other measures such as minimization of the percentage of impervious area after development, use of measures to minimize directly connected impervious areas, and source control measures often thought of as good housekeeping, preventive maintenance and spill prevention.

4.2.5.2.4 Any structural BMPs in your program, including, as appropriate:

4.2.5.2.4.1 Storage practices such as wet ponds and extended-detention outlet structures;

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- 4.2.5.2.4.2 Filtration practices such as grassed swales, bioretention cells, sand filters and filter strips; and
- 4.2.5.2.4.3 Infiltration practices such as infiltration basins and infiltration trenches.
- 4.2.5.2.5 What are the mechanisms (ordinance or other regulatory mechanisms) you will use to address post-construction runoff from new developments and redevelopments and why did you chose that mechanism. If you need to develop a mechanism, describe your plan and a schedule to do so. If your ordinance or regulatory mechanism is already developed, include a copy of the relevant sections with your program.
- 4.2.5.2.6 How you will ensure the long-term operation and maintenance (O&M) of your selected BMPs. Options to help ensure that future O&M responsibilities are clearly identified include an agreement between you and another party such as the post-development landowners or regional authorities.
- 4.2.5.2.7 Who is responsible for overall management and implementation of your post-construction storm water management program and, if different, who is responsible for each of the BMPs identified for this program.
- 4.2.5.2.8 How you will evaluate the success of this minimum measure, including how you selected the measurable goals for each of the BMPs.

4.2.6 Pollution Prevention/Good Housekeeping for Municipal Operations

- 4.2.6.1 *Permit requirement.* You must:
 - 4.2.6.1.1 Develop and implement an operation and maintenance program that includes a training component and has the ultimate goal of preventing or reducing pollutant runoff from municipal operations; and
 - 4.2.6.1.2 Using training materials that are available from EPA, your State, Tribe, or other organizations, your program must include employee training to prevent and reduce storm water pollution from activities such as park and open space maintenance, fleet and building maintenance, new construction and land disturbances, and storm water system maintenance.
- 4.2.6.2 *Decision process.* You must document your decision process for the development of a pollution prevention/good housekeeping program for municipal operations. Your rationale statement must address both your overall pollution prevention/good housekeeping program and the individual BMPs, measurable goals, and responsible persons for your program. The rationale statement must include the following information, at a minimum:
 - 4.2.6.2.1 Your operation and maintenance program to prevent or reduce pollutant runoff from your municipal operations. Your program must specifically list the municipal operations that are impacted by this operation and maintenance program. You must also include a list of industrial facilities you own or operate that are subject to EPA's Multi-Sector General Permit (MSGP) or individual NPDES permits for discharges of storm water associated with industrial activity that ultimately discharge to your MS4. Include the EPA permit number or a copy of the Industrial NOI form for each facility.
 - 4.2.6.2.2 Any government employee training program you will use to prevent and reduce storm water pollution from activities such as park and open space maintenance, fleet and building maintenance, new construction and land disturbances, and storm water system maintenance. Describe any existing, available materials you plan to use. Describe how this training program will be coordinated with the

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outreach programs developed for the public information minimum measure and the illicit discharge minimum measure.

4.2.6.2.3 Your program description must specifically address the following areas:

4.2.6.2.3.1 Maintenance activities, maintenance schedules, and long-term inspection procedures for controls to reduce floatables and other pollutants to your MS4.

4.2.6.2.3.2 Controls for reducing or eliminating the discharge of pollutants from streets, roads, highways, municipal parking lots, maintenance and storage yards, waste transfer stations, fleet or maintenance shops with outdoor storage areas, and salt/sand storage locations and snow disposal areas you operate.

4.2.6.2.3.3 Procedures for the proper disposal of waste removed from your MS4 and your municipal operations, including dredge spoil, accumulated sediments, floatables, and other debris.

4.2.6.2.3.4 Procedures to ensure that new flood management projects are assessed for impacts on water quality and existing projects are assessed for incorporation of additional water quality protection devices or practices.

4.2.6.2.4 Who is responsible for overall management and implementation of your pollution prevention/good housekeeping program and, if different, who is responsible for each of the BMPs identified for this program.

4.2.6.2.5 How you will evaluate the success of this minimum measure, including how you selected the measurable goals for each of the BMPs.

4.3 Qualifying State, Tribal, or Local Program [Optional section to use if appropriate]

If you are meeting the requirements of (name of qualifying program), you do not need to submit the information required in Part 4.____.

4.4 Sharing Responsibility

Implementation of one or more of the minimum measures may be shared with another entity, or the entity may fully take over the measure. You may rely on another entity only if:

4.4.1 The other entity, in fact, implements the control measure;

4.4.2 The particular control measure, or component of that measure, is at least as stringent as the corresponding permit requirement.

4.4.3 The other entity agrees to implement the control measure on your behalf. Written acceptance of this obligation is expected. This obligation must be maintained as part of the description of your storm water management program. If the other entity agrees to report on the minimum measure, you must supply the other entity with the reporting requirements contained in Section 5.3 of this permit. If the other entity fails to implement the control measure on your behalf, then you remain liable for any discharges due to that failure to implement.

4.5 Reviewing and Updating Storm Water Management Programs

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- 4.5.1 *Storm Water Management Program Review:* You must do an annual review of your Storm Water Management Program in conjunction with preparation of the annual report required under Part 5.3
- 4.5.2 *Storm Water Management Program Update:* You may change your Storm Water Management Program during the life of the permit in accordance with the following procedures:
- 4.5.2.1 Changes adding (but not subtracting or replacing) components, controls, or requirements to the Storm Water Management Program may be made at any time upon written notification to the Permitting Authority.
- 4.5.2.2 Changes replacing an ineffective or unfeasible BMP specifically identified in the Storm Water Management Program with an alternate BMP may be requested at any time. Unless denied by the Permitting Authority, changes proposed in accordance with the criteria below shall be deemed approved and may be implemented 60 days from submittal of the request. If request is denied, the permitting Authority will send you a written response giving a reason for the decision. Your modification requests must include the following:
- 4.5.2.2.1 An analysis of why the BMP is ineffective or infeasible (including cost prohibitive),
- 4.5.2.2.2 Expectations on the effectiveness of the replacement BMP, and
- 4.5.2.2.3 An analysis of why the replacement BMP is expected to achieve the goals of the BMP to be replaced.
- 4.5.2.3 Change requests or notifications must be made in writing and signed in accordance with Part 6.7.
- 4.5.3 *Storm Water Management Program Updates Required by the Permitting Authority:* The Permitting Authority may require changes to the Storm Water Management Program as needed to:
- 4.5.3.1 Address impacts on receiving water quality caused, or contributed to, by discharges from the Municipal Separate Storm Sewer System;
- 4.5.3.2 Include more stringent requirements necessary to comply with new Federal statutory or regulatory requirements; or
- 4.5.3.3 Include such other conditions deemed necessary by the Permitting Authority to comply with the goals and requirements of the Clean Water Act.
- 4.5.3.4 Changes requested by the Permitting Authority must be made in writing, set forth the time schedule for you to develop the changes, and offer you the opportunity to propose alternative program changes to meet the objective of the requested modification. All changes required by the Permitting Authority will be made in accordance with 40 CFR 124.5, 40 CFR 122.62, or as appropriate 40 CFR 122.63.
- 4.5.4 *Transfer of Ownership, Operational Authority, or Responsibility for Storm Water Management Program Implementation:* You must implement the Storm Water Management Program on all new areas added to your portion of the municipal separate storm sewer system (or for which you become responsible for implementation of storm water quality controls) as expeditiously as practicable, but not later than one year from addition of the new areas. Implementation may be accomplished in a phased manner to allow additional time for controls that cannot be implemented immediately.

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- 4.5.4.1 Within 90 days of a transfer of ownership, operational authority, or responsibility for storm water management program implementation, you must have a plan for implementing your Storm Water Management Program on all affected areas. The plan may include schedules for implementation. Information on all new annexed areas and any resulting updates required to the Storm Water Management Program must be included in the annual report.
- 4.5.4.2 Only those portions of the Storm Water Management Programs specifically required as permit conditions shall be subject to the modification requirements of 40 CFR 124.5. Addition of components, controls, or requirements by the permittee(s) and replacement of an ineffective or infeasible BMP implementing a required component of the Storm Water Management Program with an alternate BMP expected to achieve the goals of the original BMP shall be considered minor changes to the Storm Water Management Program and not modifications to the permit.

5 Monitoring, Recordkeeping, and Reporting

5.1 Monitoring

- 5.1.1 You must evaluate program compliance, the appropriateness of identified best management practices, and progress toward achieving identified measurable goals. If you discharge to a water for which a TMDL has been approved, you will have additional monitoring requirements under Part 3.1.3.6.
- 5.1.2 When you conduct monitoring at your permitted small MS4, you are required to comply with the following:
- 5.1.2.1 *Representative monitoring.* Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- 5.1.2.2 *Test Procedures.* Monitoring results must be conducted according to test procedures approved under 40 CFR part 136
- 5.1.3 Records of monitoring information shall include:
- 5.1.3.1 The date, exact place, and time of sampling or measurements;
- 5.1.3.2 The names(s) of the individual(s) who performed the sampling or measurements;
- 5.1.3.3 The date(s) analyses were performed;
- 5.1.3.4 The names of the individuals who performed the analyses;
- 5.1.3.5 The analytical techniques or methods used; and
- 5.1.3.6 The results of such analyses.
- 5.1.4 *Discharge Monitoring Report.* Monitoring results must be reported on a Discharge Monitoring Report (DMR)

5.2 Record keeping

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5.2.1 You must retain records of all monitoring information, including, all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, copies of Discharge Monitoring Reports (DMRs), a copy of the NPDES permit, and records of all data used to complete the application (NOI) for this permit, for a period of at least three years from the date of the sample, measurement, report or application, or for the term of this permit, whichever is longer. This period may be extended by request of the permitting authority at any time.

5.2.2 You must submit your records to the permitting authority only when specifically asked to do so. You must retain a description of the Storm Water Management Program required by this permit (including a copy of the permit language) at a location accessible to the permitting authority. You must make your records, including the notice of intent (NOI) and the description of the storm water management program, available to the public if requested to do so in writing.

5.3 Reporting

You must submit annual reports to the Director by [insert date] of each year of the permit term. The report must include:

5.3.1 The status of your compliance with permit conditions, an assessment of the appropriateness of the identified best management practices, progress towards achieving the statutory goal of reducing the discharge of pollutants to the MEP, and the measurable goals for each of the minimum control measures;

5.3.2 Results of information collected and analyzed, if any, during the reporting period, including monitoring data used to assess the success of the program at reducing the discharge of pollutants to the MEP;

5.3.3 A summary of the storm water activities you plan to undertake during the next reporting cycle (including an implementation schedule);

5.3.4 Proposed changes to your storm water management program, including changes to any BMPs or any identified measurable goals that apply to the program elements; and

5.3.5 Notice that you are relying on another government entity to satisfy some of your permit obligations (if applicable).

6 Standard Permit Conditions

6.1 Duty to Comply

6.1.1 You must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of CWA and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

6.1.2 *Penalties for Violations of Permit Conditions.*

The Director will adjust the civil and administrative penalties listed below in accordance with the Civil Monetary Penalty Inflation Adjustment Rule (Federal Register: December 31, 1996, Volume 61, Number 252, pages 69359-69366, as corrected, March 20, 1997, Volume 62, Number 54, pages

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13514-13517) as mandated by the Debt Collection Improvement Act of 1996 for inflation on a periodic basis. This rule allows EPA's penalties to keep pace with inflation. The Agency is required to review its penalties at least once every four years thereafter and to adjust them as necessary for inflation according to a specified formula. The civil and administrative penalties listed below were adjusted for inflation starting in 1996.

6.1.2.1 *Criminal Violations.*

6.1.2.1.1 *Negligent Violations.* The CWA provides that any person who *negligently* violates permit conditions implementing section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act, is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than 1 year, or both. In the case of a second, or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than \$50,000 per day of violation, or by imprisonment of not more than 2 years, or both.

6.1.2.1.2 *Knowing Violations.* The CWA provides that any person who *knowingly* violates permit conditions implementing section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act, is subject to a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than 3 years, or both. In the case of a second, or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than \$100,000 per day of violation, or by imprisonment of not more than 6 years, or both.

6.1.2.1.3 *Knowing Endangerment.* The CWA provides that any person who *knowingly* violates permit conditions implementing section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury shall, upon conviction be subject to a fine not more than \$250,000 or by imprisonment for not more than 15 years, or both. In the case of a second, or subsequent conviction for a knowing endangerment violation, a person shall be subject to criminal penalties of not more than \$500,000 per day of violation, or by imprisonment of not more than 30 years, or both. An organization, as defined in section 309(c)(3)(B)(iii) of the CWA shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions.

6.1.2.1.4 *False Statement.* The CWA provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act, shall upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than two years, or by both. If a conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than four years, or by both. (See section 309(c)(4) of the Clean Water Act).

6.1.2.2 *Civil Penalties.*

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The CWA provides that any person who violates a permit condition implementing section 301, 302, 306, 307, 308, 318 or 405 of the Act or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act is subject to a civil penalty not to exceed \$27,500 per day for each violation.

6.1.2.3 *Administrative Penalties.*

The CWA provides that any person who violates a permit condition implementing section 301, 302, 306, 307, 308, 318 or 405 of the Act or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act is subject to an administrative penalty as follows:

6.1.2.3.1 *Class I penalty.* Not to exceed \$11,000 per violation nor shall the maximum amount exceed \$27,500.

6.1.2.3.2 *Class II penalty.* Not to exceed \$11,000 per day for each day during which violation continues nor shall the maximum amount exceed \$137,500.

6.2 **Continuation of the Expired General Permit**

If this permit is not reissued or replaced prior to the expiration date, it will be administratively continued in accordance with the Administrative Procedures Act and remain in force and effect. Any permittee who was granted permit coverage prior to the expiration date will automatically remain covered by the continued permit until the earlier of:

6.2.1 Reissuance or replacement of this permit, at which time you must comply with the Notice of Intent conditions of the new permit to maintain authorization to discharge; or

6.3.2 Issuance of an individual permit for your discharges; or

6.3.3 A formal permit decision by the permitting authority not to reissue this general permit, at which time you must seek coverage under an alternative general permit or an individual permit.

6.3 **Need to Halt or Reduce Activity Not a Defense**

It shall not be a defense for you in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

6.4 **Duty to Mitigate**

You must take all reasonable steps to minimize or prevent any discharge in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

6.5 **Duty to Provide Information**

You must furnish to the permitting authority any information that is requested to determine compliance with this permit or other information.

6.6 Other Information

If you become aware that you have failed to submit any relevant facts in your Notice of Intent or submitted incorrect information in the Notice of Intent or in any other report to the permitting authority, you must promptly submit such facts or information.

6.7 Signatory Requirements

All Notices of Intent, reports, certifications, or information submitted to the permitting authority, or that this permit requires be maintained by you shall be signed and certified as follows:

6.7.1 *Notices of Intent.* All Notices of Intent shall be signed by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes (1) the chief executive officer of the agency, or (2) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

6.7.2 *Reports and other information.* All reports required by the permit and other information requested by the permitting authority or authorized representative of the permitting authority shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

6.7.2.1 *Signed authorization.* The authorization is made in writing by a person described above and submitted to the permitting authority.

6.7.2.2 *Authorization with specified responsibility.* The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of manager, operator, superintendent, or position of equivalent responsibility for environmental matter for the regulated entity.

6.7.3 *Changes to authorization.* If an authorization is no longer accurate because a different operator has the responsibility for the overall operation of the MS4, a new authorization satisfying the requirement of (6.7.2.2) above must be submitted to the permitting authority prior to or together with any reports, information, or notices of intent to be signed by an authorized representative.

6.7.4 *Certification.* Any person (as defined above in (6.7.2.1 and 6.7.2.2)) signing documents under section 6.7 shall make the following certification:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

6.8 Property Rights

The issuance of this permit does not convey any property rights of any sort, or any exclusive privilege, nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations

6.9 Proper Operation and Maintenance

You must at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by you to achieve compliance with the conditions of this permit and with the conditions of your storm water management program. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by you only when the operation is necessary to achieve compliance with the conditions of the permit.

6.10 Inspection and Entry

You must allow the permitting authority or an authorized representative (including an authorized contractor acting as a representative of the Administrator) upon the presentation of credentials and other documents as may be required by law, to do any of the following:

- 6.10.1 Enter your premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit;
- 6.10.2 Have access to and copy at reasonable times, any records that must be kept under the conditions of this permit;
- 6.10.3 Inspect at reasonable times any facilities or equipment (including monitoring and control equipment) practices, or operations regulated or required under this permit; and
- 6.10.4 Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the CWA, any substances or parameters at any location.

6.11 Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. Your filing of a request for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

6.12 Permit Transfers

This permit is not transferable to any person except after notice to the permitting authority. The permitting authority may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Act.

6.13 Anticipated Noncompliance

You must give advance notice to the permitting authority of any planned changes in the permitted small MS4 or activity which may result in noncompliance with this permit.

6.14 State/Tribal Environmental Laws

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6.14.1 Nothing in this permit shall be construed to preclude the institution of any legal action or relieve you from any responsibilities, liabilities, or penalties established pursuant to any applicable State/Tribal law or regulation under authority preserved by section 510 of the Act.

6.14.2 No condition of this permit releases you from any responsibility or requirements under other environmental statutes or regulations.

6.15 Severability

The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.

6.16 Procedures for Modification or Revocation

Permit modification or revocation will be conducted according to 40 CFR 122.62, 122.63, 122.64 and 124.5.

6.17 Requiring an Individual Permit or an Alternative General Permit

6.17.1 *Request by permitting authority.* The permitting authority may require any person authorized by this permit to apply for and/or obtain either an individual NPDES permit or an alternative NPDES general permit. Any interested person may petition the permitting authority to take action under this paragraph. Where the permitting authority requires you to apply for an individual NPDES permit, the permitting authority will notify you in writing that a permit application is required. This notification shall include a brief statement of the reasons for this decision, an application form, a statement setting a deadline for you to file the application, and a statement that on the effective date of issuance or denial of the individual NPDES permit or the alternative general permit as it applies to the individual permittee, coverage under this general permit shall automatically terminate. Applications must be submitted to the appropriate Regional Office. The permitting authority may grant additional time to submit the application upon request of the applicant. If you fail to submit in a timely manner an individual NPDES permit application as required by the permitting authority under this paragraph, then the applicability of this permit to you is automatically terminated at the end of the day specified by the permitting authority for application submittal.

6.17.2 *Request by permittee.* Any discharger authorized by this permit may request to be excluded from the coverage of this permit by applying for an individual permit. In such cases, you must submit an individual application in accordance with the requirements of 40 CFR 122.33(b)(2), with reasons supporting the request, to the permitting authority at the address for the appropriate Regional Office. The request may be granted by issuance of any individual permit or an alternative general permit if the reasons cited by you are adequate to support the request.

6.17.3 *General permit termination.* When an individual NPDES permit is issued to a discharger otherwise subject to this permit, or you are authorized to discharge under an alternative NPDES general permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the effective date of the individual permit or the date of authorization of coverage under the alternative general permit, whichever the case may be. When an individual NPDES permit is denied to an operator otherwise subject to this permit, or the operator is denied for coverage under an alternative NPDES general permit, the applicability of this permit to the individual NPDES permittee is

automatically terminated on the date of such denial, unless otherwise specified by the permitting authority.

7 **Definitions**

All definition contained in Section 502 of the Act and 40 CFR 122 shall apply to this permit and are incorporated herein by reference. For convenience, simplified explanations of some regulatory/statutory definitions have been provided, but in the even of a conflict, the definition found in the Statute or Regulation takes precedence.

Best Management Practices (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Control Measure as used in this permit, refers to any Best Management Practice or other method used to prevent or reduce the discharge of pollutants to waters of the United States.

CWA or The Act means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub.L. 92-500, as amended Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483 and Pub. L. 97-117, 33 U.S.C. 1251 et.seq.

Discharge, when used without a qualifier, refers to “discharge of a pollutant” as defined at 40 CFR 122.2.

Illicit Connection means any man-made conveyance connecting an illicit discharge directly to a municipal separate storm sewer.

Illicit Discharge is defined at 40 CFR 122.26(b)(2) and refers to any discharge to a municipal separate storm sewer that is not entirely composed of storm water, except discharges authorised under an NPDES permit (other than the NPDES permit for discharges from the MS4) and discharges resulting from fire fighting activities.

Indian Country, as defined in 18 USC 1151, means (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same. This definition includes all land held in trust for an Indian tribe.

MEP is an acronym for "Maximum Extent Practicable," the technology-based discharge standard for Municipal Separate Storm Sewer Systems to reduce pollutants in storm water discharges that was established by CWA §402(p). A discussion of MEP as it applies to small MS4s is found at 40 CFR 122.34.

MS4 is an acronym for "Municipal Separate Storm Sewer System" and is used to refer to either a Large, Medium, or Small Municipal Separate Storm Sewer System (e.g. "the Dallas MS4"). The term is used to refer to either the system operated by a single entity or a group of systems within an area that are operated by multiple entities (e.g., the Houston MS4 includes MS4s operated by the city of

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Houston, the Texas Department of Transportation, the Harris County Flood Control District, Harris County, and others).

Municipal Separate Storm Sewer is defined at 40 CFR 122.26(b)(8) and means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States; (ii) Designed or used for collecting or conveying storm water; (iii) Which is not a combined sewer; and (iv) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.

NOI is an acronym for “Notice of Intent” to be covered by this permit and is the mechanism used to “register” for coverage under a general permit.

Permitting Authority means the EPA Regional Administrator or an authorized representative.

Small Municipal Separate Storm Sewer System is defined at 40 CFR 122.26(b)(16) and refers to all separate storm sewers that are owned or operated by the United States, a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States, but is not defined as “large” or “medium” municipal separate storm sewer system. This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.

Storm Water is defined at 40 CFR 122.26(b)(13) and means storm water runoff, snow melt runoff, and surface runoff and drainage.

Storm Water Management Program (SWMP) refers to a comprehensive program to manage the quality of storm water discharged from the municipal separate storm sewer system.

SWMP is an acronym for “Storm Water Management Program.”

“*You*” and “*Your*” as used in this permit is intended to refer to the permittee, the operator, or the discharger as the context indicates and that party’s responsibilities (e.g., the city, the country, the flood control district, the U.S. Air Force, etc.).