

**APPENDIX H**

Requirements Related to Discharges to Certain Water Quality Limited Waterbodies

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**I. Discharges to water quality limited waterbodies and their tributaries where nitrogen is the cause of the impairment**

1. Part 2.2.2.a.i. of the permit identifies the permittees subject to additional requirements to address nitrogen in their stormwater discharges because they discharge to waterbodies that are water quality limited due to nitrogen, or their tributaries, without an EPA approved TMDL. Permittees identified in part 2.2.2.a.i of the permit must identify and implement BMPs designed to reduce nitrogen discharges in the impaired catchment(s). To address nitrogen discharges each permittee shall comply with the following requirements:

a. Additional or Enhanced BMPs

i. The permittee remains subject to all the requirements of part 2.3. of the permit and shall include the following enhancements to the BMPs required by part 2.3 of the permit:

1. Part 2.3.2, Public education and outreach: The permittee shall supplement its Residential and Business/Commercial/Institution program with annual timed messages on specific topics. The permittee shall distribute an annual message in the spring (April/May) timeframe that encourages the proper use and disposal of grass clippings and encourages the proper use of slow-release fertilizers. The permittee shall distribute an annual message in the summer (June/July) timeframe encouraging the proper management of pet waste, including noting any existing ordinances where appropriate. The permittee shall distribute an annual message in the Fall (August/September/October) timeframe encouraging the proper disposal of leaf litter. The permittee shall deliver an annual message on each of these topics, unless the permittee determines that one or more of these issues is not a significant contributor of nitrogen to discharges from the MS4 and the permittee retains documentation of this finding in the SWMP. All public education messages can be combined with requirements of Appendix H part II and III as well as Appendix F part A.III, A.IV, A.V, B.I, B.II and B.III where appropriate.

2. Part 2.3.6, Stormwater Management in New Development and Redevelopment: the requirement for adoption/amendment of the permittee's ordinance or other regulatory mechanism shall include a requirement that new development and redevelopment stormwater management BMPs be optimized for nitrogen removal; retrofit inventory and priority ranking under 2.3.6.d shall include consideration of BMPs to reduce nitrogen discharges.

3. Part 2.3.7, Good House Keeping and Pollution Prevention for Permittee Owned Operations: establish requirements for use of slow release fertilizers on permittee owned property currently using fertilizer, in addition to reducing and managing fertilizer use as provided in 2.3.7.1; establish procedures to properly manage grass cuttings and leaf litter on

permittee property, including prohibiting blowing organic waste materials onto adjacent impervious surfaces; increase street sweeping frequency of all municipal owned streets and parking lots subject to Permit part 2.3.7.a.iii.(c) to a minimum of two times per year, once in the spring (following winter activities such as sanding) and at least once in the fall (Sept 1 – Dec 1; following leaf fall).

b. Nitrogen Source Identification Report

- i. Within four years of the permit effective date the permittee shall complete a Nitrogen Source Identification Report. The report shall include the following elements:
  1. Calculation of total MS4 area draining to the water quality limited water segments or their tributaries, incorporating updated mapping of the MS4 and catchment delineations produced pursuant to part 2.3.4.6,
  2. All screening and monitoring results pursuant to part 2.3.4.7.b., targeting the receiving water segment(s)
  3. Impervious area and DCIA for the target catchment
  4. Identification, delineation and prioritization of potential catchments with high nitrogen loading
  5. Identification of potential retrofit opportunities or opportunities for the installation of structural BMPs during redevelopment
- ii. The final Nitrogen Source Identification Report shall be submitted to EPA as part of the year 4 annual report.

c. Potential Structural BMPs

- i. Within five years of the permit effective date, the permittee shall evaluate all permittee-owned properties identified as presenting retrofit opportunities or areas for structural BMP installation under permit part 2.3.6.d. or identified in the Nitrogen Source Identification Report that are within the drainage area of the impaired water or its tributaries. The evaluation shall include:
  1. The next planned infrastructure, resurfacing or redevelopment activity planned for the property (if applicable) OR planned retrofit date;
  2. The estimated cost of redevelopment or retrofit BMPs; and
  3. The engineering and regulatory feasibility of redevelopment or retrofit BMPs.
- ii. The permittee shall provide a listing of planned structural BMPs and a plan and schedule for implementation in the year 5 annual report. The permittee shall plan and install a minimum of one structural BMP as a demonstration project within the drainage area of the water quality

limited water or its tributaries within six years of the permit effective date. The demonstration project shall be installed targeting a catchment with high nitrogen load potential. The permittee shall install the remainder of the structural BMPs in accordance with the plan and schedule provided in the year 5 annual report.

- iii. Any structural BMPs listed in Table 3 of Attachment 1 to Appendix H already existing or installed in the regulated area by the permittee or its agents shall be tracked and the permittee shall estimate the nitrogen removal by the BMP consistent with Attachment 1 to Appendix H. The permittee shall document the BMP type, total area treated by the BMP, the design storage volume of the BMP and the estimated nitrogen removed in mass per year by the BMP in each annual report.
2. Upon EPA or MassDEP notification that the permittee is discharging to a waterbody that is water quality limited due to nitrogen, the permittee shall update their SWMP within 90 days to incorporate the requirements of Appendix H part I.1 and document the date of SWMP update. When notification occurs beyond the effective date of the permit, deadlines in Appendix H part I.1 shall be extended based on the date of the required SWMP update rather than the permit effective date.
  3. At any time during the permit term the permittee may be relieved of additional requirements in Appendix H part I.1. applicable to it when in compliance with this part.
    - a. The permittee is relieved of its additional requirements as of the date when one of the following criteria are met:
      - i. The receiving water and all downstream segments are determined to no longer be impaired due to nitrogen by MassDEP and EPA concurs with such determination.
      - ii. An EPA approved TMDL for the receiving water or downstream receiving water indicates that no additional stormwater controls for the control of nitrogen are necessary for the permittee's discharge based on wasteload allocations as part of the approved TMDL.
    - b. In such a case, the permittee shall document the date of the determination provided for in paragraph a. above or the approved TMDL date in its SWMP and is relieved of any additional requirements of Appendix H part I.1. as of the applicable date and the permittee shall comply with the following:
      - i. The permittee shall identify in its SWMP all activities that have been implemented in accordance with the requirements of Appendix H part I.1. as of the applicable date to reduce nitrogen in its discharges, including implementation schedules for non-structural BMPs and any maintenance requirements for structural BMPs
      - ii. The permittee shall continue to implement all requirements of Appendix H part I.1. required to be done prior to the date of determination or the date of the approved TMDL, including ongoing implementation of identified non-structural BMPs and routine maintenance and replacement of all structural BMPs in accordance with manufacturer or design specifications.

## **II. Discharges to water quality limited waterbodies and their tributaries where phosphorus is the cause of the impairment**

1. Part 2.2.2.b.i. of the permit identifies the permittees subject to additional requirements to address phosphorus in their stormwater discharges because they discharge to waterbodies that are water quality limited due to phosphorus, or their tributaries, without an EPA approved TMDL. Permittees identified in part 2.2.2.b.i. of the permit must identify and implement BMPs designed to reduce phosphorus discharges in the impaired catchment(s). To address phosphorus discharges each permittee shall comply with the following requirements:

- a. Additional or Enhanced BMPs

- i. The permittee remains subject to the requirements of part 2.3. of the permit and shall include the following enhancements to the BMPs required by part 2.3 of the permit:

1. Part 2.3.2, Public education and outreach: The permittee shall supplement its Residential and Business/Commercial/Institution program with annual timed messages on specific topics. The permittee shall distribute an annual message in the spring (March/April) timeframe that encourages the proper use and disposal of grass clippings and encourages the proper use of slow-release and phosphorous-free fertilizers. The permittee shall distribute an annual message in the summer (June/July) timeframe encouraging the proper management of pet waste, including noting any existing ordinances where appropriate. The permittee shall distribute an annual message in the fall (August/September/October) timeframe encouraging the proper disposal of leaf litter. The permittee shall deliver an annual message on each of these topics, unless the permittee determines that one or more of these issues is not a significant contributor of phosphorous to discharges from the MS4 and the permittee retains documentation of this finding in the SWMP. All public education messages can be combined with requirements of Appendix H part I and III as well as Appendix F part A.III, A.IV, A.V, B.I, B.II and B.III where appropriate.
2. Part 2.3.6, Stormwater Management in New Development and Redevelopment: the requirement for adoption/amendment of the permittee's ordinance or other regulatory mechanism shall include a requirement that new development and redevelopment stormwater management BMPs be optimized for phosphorus removal; retrofit inventory and priority ranking under 2.3.6.d shall include consideration of BMPs that infiltrate stormwater where feasible.
3. Part 2.3.7, Good House Keeping and Pollution Prevention for Permittee Owned Operations: Establish procedures to properly manage grass cuttings and leaf litter on permittee property, including prohibiting blowing organic waste materials onto adjacent impervious surfaces; increased street sweeping frequency of all municipal owned

streets and parking lots subject to Permit part 2.3.7.a.iii.(c) to a minimum of two times per year, once in the spring (following winter activities such as sanding) and at least once in the fall (Sept 1 – Dec 1; following leaf fall).

b. Phosphorus Source Identification Report

- i. Within four years of the permit effective date the permittee shall complete a Phosphorus Source Identification Report. The report shall include the following elements:
  1. Calculation of total MS4 area draining to the water quality limited receiving water segments or their tributaries, incorporating updated mapping of the MS4 and catchment delineations produced pursuant to part 2.3.4.6,
  2. All screening and monitoring results pursuant to part 2.3.4.7.b., targeting the receiving water segment(s)
  3. Impervious area and DCIA for the target catchment
  4. Identification, delineation and prioritization of potential catchments with high phosphorus loading
  5. Identification of potential retrofit opportunities or opportunities for the installation of structural BMPs during redevelopment, including the removal of impervious area
- ii. The phosphorus source identification report shall be submitted to EPA as part of the year 4 annual report.

c. Potential Structural BMPs

- i. Within five years of the permit effective date, the permittee shall evaluate all permittee-owned properties identified as presenting retrofit opportunities or areas for structural BMP installation under permit part 2.3.6.d. or identified in the Phosphorus Source Identification Report that are within the drainage area of the water quality limited water or its tributaries. The evaluation shall include:
  1. The next planned infrastructure, resurfacing or redevelopment activity planned for the property (if applicable) OR planned retrofit date;
  2. The estimated cost of redevelopment or retrofit BMPs; and
  3. The engineering and regulatory feasibility of redevelopment or retrofit BMPs.
- ii. The permittee shall provide a listing of planned structural BMPs and a plan and schedule for implementation in the year 5 annual report. The permittee shall plan and install a minimum of one structural BMP as a demonstration project within the drainage area of the water quality limited water or its tributaries within six years of the permit effective date. The demonstration project shall be installed targeting a catchment

with high phosphorus load potential. The permittee shall install the remainder of the structural BMPs in accordance with the plan and schedule provided in the year 5 annual report.

- iii. Any structural BMPs installed in the regulated area by the permittee or its agents shall be tracked and the permittee shall estimate the phosphorus removal by the BMP consistent with Attachment 3 to Appendix F. The permittee shall document the BMP type, total area treated by the BMP, the design storage volume of the BMP and the estimated phosphorus removed in mass per year by the BMP in each annual report.
2. Upon EPA or MassDEP notification that the permittee is discharging to a waterbody that is water quality limited due to phosphorus, the permittee shall update their SWMP within 90 days to incorporate the requirements of Appendix H part II.1 and document the date of SWMP update. When notification occurs beyond the effective date of the permit, deadlines in Appendix H part II.1 shall be extended based on the date of the required SWMP update rather than the permit effective date.
  3. At any time during the permit term the permittee may be relieved of additional requirements in Appendix H part II.1. applicable to it when in compliance with this part.
    - a. The permittee is relieved of its additional requirements as of the date when one of the following criteria are met:
      - i. The receiving water and all downstream segments are determined to no longer be impaired due to phosphorus by MassDEP and EPA concurs with such determination.
      - ii. An EPA approved TMDL for the receiving water or downstream receiving water indicates that no additional stormwater controls for the control of phosphorus are necessary for the permittee's discharge based on wasteload allocations as part of the approved TMDL.
    - b. In such a case, the permittee shall document the date of the determination provided for in paragraph a. above or the approved TMDL date in its SWMP and is relieved of any additional requirements of Appendix H part II.1. as of the applicable date and the permittee shall comply with the following:
      - i. The permittee shall identify in its SWMP all activities that have been implemented in accordance with the requirements of Appendix H part II.1. as of the applicable date to reduce phosphorus in its discharges, including implementation schedules for non-structural BMPs and any maintenance requirements for structural BMPs
      - ii. The permittee shall continue to implement all requirements of Appendix H part II.1. required to be done prior to the date of determination or the date of the approved TMDL, including ongoing implementation of identified non-structural BMPs and routine maintenance and replacement of all structural BMPs in accordance with manufacturer or design specifications.

**III. Discharges to water quality limited waterbodies where bacteria or pathogens is the cause of the impairment**

1. Consistent with part 2.2.2.c.i. of the permit, permittees that discharge to waterbodies that are water quality limited due to bacteria or pathogens, without an EPA approved TMDL, are subject to the following additional requirements to address bacteria or pathogens in their stormwater discharges.
2. Additional or Enhanced BMPs
  - a. The permittee remains subject to the requirements of part 2.3. of the permit and shall include the following enhancements to the BMPs required by part 2.3 of the permit:
    - i. Part 2.3.2. Public Education and outreach: The permittee shall supplement its Residential program with an annual message encouraging the proper management of pet waste, including noting any existing ordinances where appropriate. The permittee or its agents shall disseminate educational materials to dog owners at the time of issuance or renewal of a dog license, or other appropriate time. Education materials shall describe the detrimental impacts of improper management of pet waste, requirements for waste collection and disposal, and penalties for non-compliance. The permittee shall also provide information to owners of septic systems about proper maintenance in any catchment that discharges to a water body impaired for bacteria or pathogens. All public education messages can be combined with requirements of Appendix H part I and II as well as Appendix F part A.III, A.IV, A.V, B.I, B.II and B.III where appropriate.
    - ii. Part 2.3.4 Illicit Discharge: The permittee shall implement the illicit discharge program required by this permit. Catchments draining to any waterbody impaired for bacteria or pathogens shall be designated either Problem Catchments or HIGH priority in implementation of the IDDE program.
3. Upon EPA or MassDEP notification that the permittee is discharging to a waterbody that is water quality limited due to bacteria or pathogens, the permittee shall update their SWMP within 90 days to incorporate the requirements of Appendix H part III.1 and document the date of SWMP update. When notification occurs beyond the effective date of the permit, deadlines in Appendix H part III.1 shall be extended based on the date of the required SWMP update rather than the permit effective date.
4. At any time during the permit term the permittee may be relieved of additional requirements in Appendix H part III.2. applicable to it when in compliance with this part.
  - a. The permittee is relieved of its additional requirements as of the date when one of the following criteria are met:
    - i. The receiving water is determined to be no longer impaired due to bacteria or pathogens by MassDEP and EPA concurs with such a determination.
    - ii. An EPA approved TMDL for the receiving water indicates that no additional stormwater controls are necessary for the control of bacteria or pathogens from

- the permittee's discharge based on wasteload allocations as part of the approved TMDL.
- iii. The permittee's discharge is determined to meet applicable water quality standards<sup>1</sup> and EPA agrees with such a determination. The permittee shall submit data to EPA that accurately characterizes the concentration of bacteria or pathogens in their discharge. The characterization shall include water quality and flow data sufficient to accurately assess the concentration of bacteria or pathogens in all seasons during storm events of multiple sizes and for the duration of the storm events including the first flush, peak storm flow and return to baseflow.
  - b. In such a case, the permittee shall document the date of the determination, date of approved TMDL or date of EPA concurrence that the discharge meets water quality standards in its SWMP and is relieved of any additional requirements of Appendix H part III.2. as of that date and the permittee shall comply with the following:
    - i. The permittee shall identify in its SWMP all activities implemented in accordance with the requirements of Appendix H part III.2. to date to reduce bacteria or pathogens in its discharges, including implementation schedules for non-structural BMPs and any maintenance requirements for structural BMPs
    - ii. The permittee shall continue to implement all requirements of Appendix H part III.3. required to be done prior to the date of determination date, date of approved TMDL, or date of EPA concurrence that the discharge meets water quality standards, including ongoing implementation of identified non-structural BMPs and routine maintenance and replacement of all structural BMPs in accordance with manufacturer or design specifications

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<sup>1</sup> Applicable water quality standards are the state standards that have been federally approved or promulgated as of the issuance date of this permit and may be compiled by EPA at <http://www.epa.gov/waterscience/standards/wqslibrary/>

**IV. Discharges to water quality limited waterbodies where chloride is the cause of the impairment**

1. Consistent with part 2.2.2.c.i. of the permit, permittees that discharge to waterbodies that are water quality limited due to chloride, without an EPA approved TMDL, are subject to the following additional requirements to address chloride in their stormwater discharges.
2. Permittees discharging to a waterbody listed as impaired due to chloride in categories 5 or 4b on the Massachusetts Integrated Report of waters listed pursuant to Clean Water Act sections 303(d) and 305(b) shall develop a Salt Reduction Plan that includes specific actions designed to achieve salt reduction on municipal roads and facilities, and on private facilities that discharge to its MS4 in the impaired catchment(s). The Salt Reduction Plan shall be completed within three years of the effective date of the permit and include the BMPs in part IV.4. below. The Salt Reduction Plan shall be fully implemented five years after the effective date of the permit.
3. Permittees that, during the permit term, become aware that their discharge is to a waterbody that is impaired due to chloride must update their Salt Reduction Plan within 60 days of becoming aware of the situation to include salt reduction practices targeted at lowering chloride in discharges to the impaired waterbody. If the permittee does not have a Salt Reduction Plan already in place, then the permittee shall complete a Salt Reduction Plan that includes the BMPs in part IV 4) below within 3 years of becoming aware of the situation and fully implement the Salt Reduction Plan within 5 years of becoming aware of the situation.
4. Additional or Enhanced BMPs
  - a. For municipally maintained surfaces:
    - i. Tracking of the types and amount of salt applied to all permittee owned and maintained surfaces and reporting of salt use beginning in the year of the completion of the Salt Reduction Plan in the permittee's annual reports;
    - ii. Planned activities for salt reduction on municipally owned and maintained surfaces, which shall include but are not limited to the following unless the permittee determines one or more of the following is not applicable to its system and documents that determination as part of the Salt Reduction Plan:
      - Operational changes such as pre-wetting, pre-treating the salt stockpile, increasing plowing prior to de-icing, monitoring of road surface temperature, etc.;
      - Implementation of new or modified equipment providing pre-wetting capability, better calibration rates, or other capability for minimizing salt use;
      - Training for municipal staff and/or contractors engaged in winter maintenance activities;

- Adoption of guidelines for application rates for roads and parking lots (see *Winter Parking Lot and Sidewalk Maintenance Manual (Revised edition June 2008)* <http://www.pca.state.mn.us/publications/parkinglotmanual.pdf>; and the application guidelines on page 17 of *Minnesota Snow and Ice Control: Field Handbook for Snow Operators (September 2012)* <http://www.mnltap.umn.edu/publications/handbooks/documents/snowice.pdf> for examples );
  - Regular calibration of spreading equipment;
  - Designation of no-salt and/or low salt zones;
  - Measures to prevent exposure of salt stockpiles (if any) to precipitation and runoff; and
  - An estimate of the total tonnage of salt reduction expected by each activity.
- b. For privately maintained facilities that discharge to the MS4:
- i. Establish an ordinance, bylaw, or other regulatory mechanism requiring measures to prevent exposure of any salt stockpiles to precipitation and runoff at all commercial and industrial properties within the regulated area.
  - ii. Part 2.3.2. Public Education and Outreach: The permittee shall supplement its Commercial/Industrial education program with an annual message to private road salt applicators and commercial and industrial site owners on the proper storage and application rates of winter deicing material. The educational materials shall be disseminated in the November/December timeframe and shall describe steps that can be taken to minimize salt use and protect local waterbodies.
  - iii. Part 2.3.6, Stormwater Management in New Development and Redevelopment – establish procedures and requirements to minimize salt usage and require the use of salt alternatives where the permittee deems necessary.
- c. The completed Salt Reduction Plan shall be submitted to EPA along with the annual report following the Salt Reduction Plan’s completion. Each subsequent annual report shall include an update on Plan implementation progress, any updates to the Salt Reduction Plan deemed necessary by the permittee, as well as the types and amount of salt applied to all permittee owned and maintained surfaces.
5. At any time during the permit term the permittee may be relieved of additional requirements in Appendix H part IV as follows:
- a. The permittee is relieved of its additional requirements as of the date when one of the following criteria are met:

- i. The receiving water is determined to be no longer impaired due to chloride by MassDEP and EPA concurs with such a determination.
  - ii. An EPA approved TMDL for the receiving water indicates that no additional stormwater controls are necessary for the control of chloride from the permittee's discharge based on wasteload allocations as part of the approved TMDL.
  - iii. The permittee's discharge is determined to be meet applicable water quality standards<sup>2</sup> and EPA agrees with such a determination. The permittee shall submit data to EPA that accurately characterizes the concentration of chloride in their discharge during the deicing season (November – March). The characterization shall include water quality and flow data sufficient to accurately assess the concentration of chloride in the deicing season during storm events of multiple sizes and for the duration of the storm events including the first flush, peak storm flow and return to baseflow and include samples collected during deicing activities.
- b. In such a case, the permittee shall document the date of the determination, date of approved TMDL or date of EPA concurrence that the discharge meets water quality standards in its SWMP and is relieved of any additional requirements of Appendix H part IV as of that date and the permittee shall comply with the following:
- i. The permittee shall identify in its SWMP all activities implemented in accordance with the requirements of Appendix H part IV to date to reduce chloride in its discharges, including implementation schedules for non-structural BMPs
  - iii. The permittee shall continue to implement all requirements of Appendix H part IV required to be done by the date of determination date, date of approved TMDL, or date of EPA concurrence that the discharge meets water quality standards , including ongoing implementation of identified non-structural BMPs and routine maintenance and replacement of all structural BMPs in accordance with manufacturer or design specifications

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<sup>2</sup> Applicable water quality standards are the state standards that have been federally approved or promulgated as of the issuance date of this permit and may be compiled by EPA at <http://www.epa.gov/waterscience/standards/wqslibrary/>

**V. Discharges to water quality limited waterbodies and their tributaries where solids, oil and grease (hydrocarbons), or metals is the cause of the impairment**

1. Consistent with part 2.2.2.c.i. of the permit, permittees that discharge to waterbodies that are water quality limited due to solids, metals, or oil and grease (hydrocarbons), without an EPA approved TMDL, are subject to the following additional requirements to address solids, metals, or oil and grease (hydrocarbons) in their stormwater discharges.
2. Additional or Enhanced BMPs
  - a. The permittee remains subject to the requirements of part 2.3. of the permit and shall include the following enhancements to the BMPs required by part 2.3 of the permit:
    - i. Part 2.3.6, Stormwater Management in New Development and Redevelopment: stormwater management systems designed on commercial and industrial land use area draining to the water quality limited waterbody shall incorporate designs that allow for shutdown and containment where appropriate to isolate the system in the event of an emergency spill or other unexpected event. EPA also encourages the permittee to require any stormwater management system designed to infiltrate stormwater on commercial or industrial sites to provide the level of pollutant removal equal to or greater than the level of pollutant removal provided through the use of biofiltration of the same volume of runoff to be infiltrated, prior to infiltration.
    - ii. Part 2.3.7, Good House Keeping and Pollution Prevention for Permittee Owned Operations: increased street sweeping frequency of all municipal owned streets and parking lots to a schedule determined by the permittee to target areas with potential for high pollutant loads. This may include, but is not limited to, increased street sweeping frequency in commercial areas and high-density residential areas, or drainage areas with a large amount of impervious area. Prioritize inspection and maintenance for catch basins to ensure that no sump shall be more than 50 percent full. Clean catch basins more frequently if inspection and maintenance activities indicate excessive sediment or debris loadings. Each annual report shall include the street sweeping schedule determined by the permittee to target high pollutant loads.
3. Upon EPA or MassDEP notification that the permittee is discharging to a waterbody that is water quality limited due to solids, metals, and/or oil and grease, the permittee shall update their SWMP within 90 days to incorporate the requirements of Appendix H part V.1 and document the date of SWMP update. When notification occurs beyond the effective date of the permit, deadlines in Appendix H part V.1 shall be extended based on the date of the required SWMP update rather than the permit effective date.
4. At any time during the permit term the permittee may be relieved of additional requirements in Appendix H part V.2. applicable to it when in compliance with this part.
  - a. The permittee is relieved of its additional requirements as of the date when one of the following criteria are met:

- i. The receiving water is determined to be no longer impaired due to solids, metals, or oil and grease (hydrocarbons) by MassDEP and EPA concurs with such a determination.
  - ii. An EPA approved TMDL for the receiving water indicates that no additional stormwater controls are necessary for the control of solids, metals, or oil and grease (hydrocarbons) from the permittee's discharge based on wasteload allocations as part of the approved TMDL.
  - iii. The permittee's discharge is determined to meet applicable water quality standards and EPA agrees with such a determination<sup>3</sup>. The permittee shall submit data to EPA that accurately characterizes the concentration of bacteria or pathogens in their discharge. The characterization shall include water quality and flow data sufficient to accurately assess the concentration of bacteria or pathogens in all seasons during storm events of multiple sizes and for the duration of the storm events including the first flush, peak storm flow and return to baseflow.
- b. In such a case, the permittee shall document the date of the determination, date of approved TMDL or date of EPA concurrence that the discharge meets water quality standards in its SWMP and is relieved of any additional requirements of Appendix H part V.2. as of that date and the permittee shall comply with the following:
- iv. The permittee shall identify in its SWMP all activities implemented in accordance with the requirements of Appendix H part V.2. to date to reduce solids, metals, or oil and grease (hydrocarbons) in its discharges, including implementation schedules for non-structural BMPs and any maintenance requirements for structural BMPs
  - v. The permittee shall continue to implement all requirements of Appendix H part V.3. required to be done by the date of determination date, date of approved TMDL, or date of EPA concurrence that the discharge meets water quality standards, including ongoing implementation of identified non-structural BMPs and routine maintenance and replacement of all structural BMPs in accordance with manufacturer or design specifications

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<sup>3</sup> Applicable water quality standards are the state standards that have been federally approved or promulgated as of the issuance date of this permit and may be compiled by EPA at <http://www.epa.gov/waterscience/standards/wqslibrary/>