



**DRAFT**

Permit No. **WI0073008**

AUTHORIZATION TO DISCHARGE STORMWATER  
TO WATERS OF THE UNITED STATES  
FROM THE PORTION OF THE BROWN COUNTY, WISCONSIN MUNICIPAL  
SEPARATE STORM SEWER SYSTEM (MS4) LOCATED WITHIN THE GREEN BAY, WI  
URBANIZED AREA AND WITHIN THE EXTERIOR BOUNDARIES OF THE  
RESERVATION OF  
THE ONEIDA TRIBE OF INDIANS OF WISCONSIN  
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.), Brown County (Permittee) is authorized to discharge stormwater from the portions of the Permittee's municipal separate storm sewer system (MS4) located within the Green Bay urbanized area and within the Reservation of the Oneida Tribe of Indians of Wisconsin, to waters of the United States, in accordance with the conditions and requirements set forth herein.

This permit and the authorization to discharge shall expire at midnight, [DATE]. The Permittee shall not discharge after the above date of expiration. In order to receive authorization to discharge beyond the date of expiration, the Permittee shall submit such information and forms as required by EPA, Region 5 no later than 180 days prior to the above date of expiration.

This permit will become effective on the date of signature.

Signed and issued this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

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Tinka Hyde, Director, Water Division  
U.S. EPA Region 5

**DRAFT**

**Authorization To Discharge Stormwater To Waters Of The United States From The Portion Of The Brown County, Wisconsin Municipal Separate Storm Sewer System (Ms4) Located Within The Green Bay Urbanized Area And Within The Exterior Boundaries Of The Reservation Of The Oneida Tribe Of Indians Of Wisconsin**

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## **1. Coverage Under this Permit**

### **1.1 Permit Area**

### **1.1 Permit Area**

This permit covers the area of the Brown County, Wisconsin Municipal Separate Storm Sewer System (MS4) located within the Green Bay urbanized area, as delineated by the U.S. Census Bureau, and within the exterior boundaries of the Reservation of the Oneida Tribe of Indians of Wisconsin.

### **1.2 Authorization to Discharge**

1.2.2 The following discharges are authorized:

1.2.2.1 *Stormwater discharges.* This permit authorizes stormwater discharges to waters of the United States from the portions of the Permittee's MS4 located within the Green Bay urbanized area and within the Oneida Reservation, except as excluded in Section 1.3.

1.2.2.2 *Non-stormwater discharges.* The Permittee is authorized to discharge the following non-stormwater sources provided that EPA has not determined that these sources are significant contributors of pollutants to waters of the United States:

- 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
- 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

1.2.2.3 Where the operator changes, or where a new operator is added after submittal of the permit application, notice must be submitted to EPA. The notice must include a statement that no other change in the permit is necessary and a copy of a written agreement between the current and new Permittees containing a specific date for transfer of permit responsibility, coverage, and liability. Notice must be sent to the address below:

Stormwater Coordinator  
U.S. EPA, Region 5  
NPDES Programs Branch (WN-16J)  
Stormwater Program  
77 West Jackson Boulevard  
Chicago, Illinois 60604

### **1.3 Limitations on Coverage**

This permit does not authorize:

- 1.3.1 Discharges that are mixed with sources of non-stormwater unless such non-stormwater discharges are in compliance with a separate NPDES permit or are authorized pursuant to section 1.2.2.2 of this permit.
- 1.3.2 Stormwater discharges associated with industrial activity as defined in 40 CFR §122.26(b)(14)(i)-(ix) and (xi).
- 1.3.3 Stormwater 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 Stormwater discharges currently covered under another permit.

### **2. Effluent Limitations**

- 2.1 The Permittee shall reduce the discharge of pollutants in storm water discharges to the maximum extent practicable (MEP) in compliance with the management practices, control techniques, systems, design and engineering methods, and other provisions required under this permit.
- 2.2 Except for discharges authorized in section 1.2.2.2 of this permit, the Permittee shall effectively prohibit non-stormwater discharges into the storm sewer system.
- 2.3 The Permittee shall not discharge the following substances from the MS4:

- A Solids that settle to form putrescence or otherwise objectionable sludge deposits.
- B Oil, grease, or other floating material that form noticeable accumulations of debris, scum, foam, or sheen.
- C Color or odor that is unnatural and to such a degree as to create a nuisance.
- D Toxic substances in amounts harmful to aquatic life, wildlife, or humans.
- E Nutrients conducive to excessive growth of aquatic plants and algae to the extent that such growth is detrimental to desirable forms of aquatic life, creates conditions that are unsightly, or is a nuisance.
- F Any other substances that impair, or threaten to impair, beneficial uses of the receiving water.

#### 2.4 Antidegradation

A new or increased discharge of stormwater from the Permittee's MS4 system is prohibited unless it has been affirmatively demonstrated to EPA that such a change is justified as a result of necessary economic and social development. In no case will a new or increased discharge of pollutant be allowed if the new or increased discharge of pollutants interferes with or becomes injurious to any designated uses made of, or presently possible in the receiving waters.

### 3. Special Conditions

#### 3.1 Outstanding and Exceptional Resource Waters

3.1.1 The Permittee shall determine whether any part of its MS4 discharges to a water body designated as an outstanding resource water (ORW), or exceptional resource water (ERW), or to waters which flow into ORWs or ERWs. ORWs and ERWs are listed in ss. NR 102.10 and 102.11, Wisconsin Administrative Code. *An unofficial list of ORWs and ERWs in Wisconsin may be found at: <http://dnr.wi.gov/org/water/wm/wqs/>.*

3.1.2 The Permittee may not establish a new or increased MS4 discharge of pollutants to an ORW or ERW unless the Stormwater Management Program (SWMP) required under this permit is designed and implemented with the objective of ensuring that any new or increased MS4 discharge of pollutants will not exceed background levels of the ORW or ERW.

#### 3.2 Impaired Water Bodies

- 3.2.1 The Permittee shall determine whether any part of its MS4 discharges to an impaired water body listed in accordance with section 303(d)(1) of the federal Clean Water Act, 33 USC §1313(d)(1), and 40 CFR §130.7(1) or discharges to waters which flow into such impaired waters. Impaired waters are those that are not meeting applicable water quality standards. *A list of impaired water bodies in Wisconsin may be found at: <http://dnr.wi.gov/org/water/wm/wqs/303d/303d.html>*. This determination shall be documented in the SWMP to be submitted to EPA for approval.
- 3.2.2 If any part of the MS4 discharges to an impaired water body or discharges to waters which flow into impaired waters, the Permittee shall plan and document in the SWMP management practices and control measures to reduce the discharge of pollutant(s) of concern to the MEP. Pollutant(s) of concern means a pollutant that is causing an impairment(s) of a water body.
- 3.2.2.1 The Permittee shall include in the SWMP to be submitted to EPA for approval any measures required to address impaired waters required pursuant to Section 3.2.2.
- 3.2.3 After the date of permit issuance, the Permittee shall not establish a new discharge of a pollutant of concern to an impaired water body or to waters which flow into impaired waters, or an increased MS4 discharge of a pollutant of concern to an impaired water body or to waters which flow into impaired waters, unless the new or increased discharge of the pollutant of concern:
- A Causes the impaired water to meet applicable water quality standards for the pollutant of concern; or
  - B Is consistent with the Wasteload Allocation(s) and other provisions of an approved Total Maximum Daily Load (TMDL).

### 3.3 **Total Maximum Daily Loads (TMDLs)**

- 3.3.1 The Permittee shall determine whether it discharges to an impaired water body for which EPA has approved a TMDL. *Information on approved TMDLs in Region 5 can be found at: [http://www.epa.gov/region5/water/wshednps/topic\\_tmdls.htm#states](http://www.epa.gov/region5/water/wshednps/topic_tmdls.htm#states)*. If so, the Permittee shall review the TMDL and assess whether the TMDL wasteload allocation for the MS4 is being met through the existing stormwater management controls or whether additional or enhanced control measures are necessary. This determination shall be documented in the SWMP to be submitted to EPA for approval.
- 3.3.2 If based on the assessment(s) conducted pursuant to Section 3.3.1 of this Permit, the Permittee determines additional or enhanced management practices and control measures are necessary, the Permittee must plan and document in the SWMP the practices and measures to be implemented to meet the TMDL wasteload allocation and other requirements applicable to the Permittee specified in the TMDL.

- 3.3.2.1 The Permittee shall include in the SWMP to be submitted to EPA for approval any practices and measures required to address an approved TMDL(s) required pursuant to Section 3.3.2. If the Permittee determines that additional or enhanced practices and measures are not necessary to meet the TMDL wasteload allocation, this determination shall be documented in the SWMP.

#### **3.4 Endangered Species Act and National Historic Preservation Act**

The Permittee must notify EPA at least 90 days before establishing a new MS4 discharge of pollutants to allow time for consideration of possible Endangered Species Act (ESA) or National Historic Preservation Act (NHPA) impacts. If EPA notifies the Permittee there are ESA or NHPA issues of concern, the Permittee may not establish the new MS4 discharge until such time as EPA notifies the Permittee that the issues are resolved.

### **4 Stormwater Management Program**

- 4.1 The Permittee must develop and submit to EPA for approval a Stormwater Management Program (SWMP) describing the measures to be implemented to meet the effluent limitations and other requirements of this permit. Upon approval by EPA the Permittee must implement the SWMP. The SWMP and the activities, procedures, and systems carried out by the Permittee to implement the SWMP are collectively referred to as the Stormwater Management Program. The Permittee must assess and report on the Stormwater Management Program as required in ensuing sections of this permit.

#### **4.2 Minimum Control Measures**

The SWMP must include sections addressing the following six Minimum Control Measures. Additional measures may be included in the SWMP as necessary to protect receiving waters or meet stormwater program objectives

*Note: Most of the Permittee's MS4 system within the urbanized area is sewer and drainage facilities associated with the Brown County roads network. The control measures to be implemented will be tailored to the scope and nature of the Permittee's MS4 system covered under this permit.*

##### **4.2.1 Public Education and Outreach on Stormwater Impacts**

- 4.2.1.1 Objective. To reduce pollutant loading to water bodies to the MEP by providing educational materials and communications to residents and institutional and enterprise employees.

*Note: Brown County should coordinate education and outreach efforts with municipalities in the Green Bay urbanized area and the Oneida Tribe of Indians. It may, for example, be workable for the County to implement measures to communicate across the urbanized area, such as a public service announcement or signs on buses or highways, while other MS4 permittees circulate information to homes and businesses within their jurisdictions.*

- 4.2.1.2 Requirements. To satisfy this minimum control measure, the Permittee must:

4.2.1.2.1 Implement a public education program about the impacts of stormwater discharges on local water bodies and the steps that can be taken to reduce stormwater pollution.

4.2.1.2.1 Implement a training/outreach program on stormwater for County employees, particularly employees who interact with the public as part of their duties or who work on the design, construction, and/or maintenance of County roads.

4.2.1.2.3 Determine the appropriate BMPs and measurable goals for this minimum control measure.

4.2.1.2.4 The public education and outreach measurable goals shall include, at a minimum, the following elements:

A Promote detection and elimination of illicit discharges to the Permittee's MS4.

B Inform and educate employees, contractors, and the public about the proper management of materials that may cause stormwater pollution from sources including automobiles, littering, pet waste, household hazardous waste and household practices.

4.2.1.2.5 When developing the public outreach and education goal, consider the following:

A Message Development: Messages should be clear, specific, and tied directly to each specific audience values, in addition to the goals established in the SWMP. In some cases, multiple messages may be necessary to address various audiences or behavior.

B Target Audiences: Identify the target audiences for the Permittee's program, including but not limited to employees, contractors, drivers on County highways, and businesses that own/operate sites which drain to the County MS4.

- C Communication Mechanisms: Use multiple mechanisms to deliver messages to different target audiences. The mechanisms should be appropriate to the audience (i.e., demographic, employment, geographic location, etc.). Mechanisms for messages can include brochures, signs (including roadside signs or signs on buses), TV and radio spots, videos, presentations, events and other formats.
- D Distribution Mechanisms: Distribution methods should be appropriate for the message and intended audience.
- E Evaluation: Evaluation methods should be linked to the establishment of measurable goals. Methods of evaluation include surveys, number of brochures distributed, people trained, participation in events, and volunteer hours. The Permittee should also track metrics showing the adoption of desirable behavior changes to the extent practicable.

#### **4.2.2 Public Involvement/Participation**

4.2.2.1 Objective. To have citizens actively involved in the Stormwater Management Program.

4.2.2.2 Requirements. To satisfy this minimum control measure, the Permittee must:

- A Notify the public of the availability of elements of the SWMP and accept comments.
- B Comply with applicable public notice requirements.
- C Implement a public involvement/participation program to provide opportunities for citizens to be actively involved in the Stormwater Management Program.
- D Determine the appropriate program activities/BMPs and measurable goals for this minimum control measure.

4.2.2.3 When developing public participation goals, the Permittee must consider the following:

- A Target Audiences: Identify the target audiences of the Permittee's program, including but not limited to employees, contractors, drivers on County highways, and businesses that own/operate sites which drain to the County MS4.
- B Public Involvement Activities: Encourage and facilitate involvement by coordinating or promoting community events and promoting volunteerism in the community through activities such as storm drain stenciling, stream cleanups, riparian tree plantings and other programs.

4.2.2.4 Records of the public participation activities shall be maintained with the SWMP.

### **4.2.3 Illicit Discharge Detection and Elimination**

4.2.3.1 Objective. To develop, implement and enforce an illicit discharge detection and elimination program.

4.2.3.2 Requirements. To satisfy this minimum control measure, the Permittee must:

4.2.3.2.1 Develop 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. The map requirement in Part 4.3 of this Permit will satisfy this requirement.

4.2.3.2.2 Implement through an ordinance, or other regulatory mechanism, a prohibition of non-stormwater discharges into the MS4, other than those listed in section 1.2.2.2.. The Permittee must conduct surveillance activities to identify illicit connections and the ordinance must be enforced, including appropriate inspection and enforcement procedures and actions.

A The Permittee shall take appropriate action to remove identified illicit discharges from its MS4 system as soon as possible.

4.2.3.2.3 The section of the SWMP addressing Illicit Discharge Detection and Elimination, at a minimum, must include the following:

A Initial field screening at outfalls during dry weather periods. This element of the SWMP must address:

- 1 Field screening shall include a visual observation and assessment of outfalls for the purpose of ascertaining if there is flow in the MS4 in dry weather periods, which likely indicates there is an illicit discharge into the MS4.
- 2 The outfalls to be included in the initial field screening should be determined reflecting a prioritization scheme based on risks and probability. In prioritizing outfalls for field screening, consideration shall be given to hydrological conditions, size and characteristics of the drainage area, population density of the drainage area, traffic density, age of the structures or buildings in the area, history of the area and land use types. At a minimum all major outfalls should be included in the initial field screening. Initial field screenings shall be scheduled and implemented following the prioritization scheme.

- 3 Field screening locations should be located downstream of sources of suspected illicit activity. Safety of personnel and accessibility of the location shall be considered in making this determination.
- 4 If flow is observed in the MS4 or discharging from the MS4 during dry weather, the characteristics of the flow/discharge shall be assessed and documented, including the following: color, odor, turbidity, oil sheen or surface scum, flow rate, and any other relevant observations regarding the potential presence of non-stormwater discharges or illicit dumping.
- 5 Field Analysis – If flow is observed, a field analysis shall be conducted to determine the presence of illicit discharges or illegal dumping. The field analysis shall include sampling for pH, total chlorine, total copper, total phenol and detergents, unless the Permittee elects instead to use detergent, ammonia, potassium and fluoride as the indicator parameters.

*Note: Detergent, ammonia, potassium and fluoride indicator parameters provide a better screening tool to identify whether the flow is contaminated with sanitary waste or wastewater, and also whether the source is tap water or a natural source of water. The Center for Watershed Protection (CWP) has illicit discharge identification and elimination guidance available at [http://www.cwp.org/idde\\_verify.htm](http://www.cwp.org/idde_verify.htm). The CWP guidance includes illicit discharge field sampling guidance on how best to detect illicit discharges including recommended indicator parameters and associated levels of detection.*

- 6 If a field screening indicates that there is an illicit discharge into the MS4, the permittee shall conduct further investigations and follow up with potential sources in order to eliminate the illicit discharge.

B On-going dry weather field screening. Following the initial field screening, the permittee shall develop and implement a plan and schedule for on-going dry weather field screening of open drainage ditches and outfalls during the term of the permit. The drainage ditches and outfalls that will be evaluated and the field screening frequency shall be identified in the plan. In prioritizing drainage ditches and outfalls for field screening, consideration shall be given to hydrological conditions, size and characteristics of the drainage area, population density of the drainage area, traffic density, age of the structures or buildings in the area, history of the area and land use types.

If a field screening indicates that there is an illicit discharge into the MS4, the permittee shall conduct further investigations and follow up with potential sources in order to eliminate the illicit discharge.

C Procedures for responding to known or suspected illicit discharges. The Permittee must develop and follow procedures for addressing known or suspected illicit discharges. At a minimum, the procedures must include the following:

- 1 Investigating as soon as possible the MS4 drainage area where the results of field screening or other information indicate the potential for an illicit discharge(s).
- 2 Responding to and mitigating effects of spills that discharge into and/or from the MS4 including tracking and locating the source of the spill if unknown.
- 3 Preventing and containing spills that may discharge into or are already within the MS4.
- 4 Notifying the Brown County Emergency Management Department (920-391-7431), the Oneida Water Resource Specialist (920-496-5325), the EPA Spill Hotline (800-424-8802), and the Wisconsin Department of Natural Resources 24-hour spill hotline (800-943-0003) immediately in the event that the Permittee identifies a spill or release into surface waters.
- 5 To the maximum extent practicable, eliminating leakage from sanitary conveyance systems into the MS4.
- 6 Notifying a neighboring municipality(ies) if the Permittee detects an illicit discharge that originates within the Permittee's permitted area but discharges to a municipal separate storm sewer or property under the jurisdiction of another municipality. Notification of such illicit discharges shall occur within one working day of when the illicit discharge is detected.
- 7 Notifying the Oneida Water Resource Specialist and the Wisconsin Department of Natural Resources in advance of the time and location of dye testing.
- 8 The name, title and phone number of the individual(s) responsible for responding to reports of illicit discharges and spills shall be included in the illicit discharge response procedure.

4.2.3.2.4 The section of the SWMP addressing Illicit Discharge Detection and Elimination, or the section on Public Education and Outreach must include measures for informing public employees, businesses, and the general public about the hazards associated with illicit discharges and improper disposal of waste.

- 4.2.3.2.5 The Permittee must identify and include in the SWMP measurable goals for this minimum control measure. When developing Illicit Discharge Detection and Elimination Program goals, the Permittee should include metrics, indicators, and milestones that meaningfully characterize program implementation and results. In establishing the goals the Permittee should consider:
- A The storm sewer map required in Part 4.3 showing the locations of all outfalls and the names and locations of all receiving waters.
  - B The mechanism the Permittee will use to effectively prohibit illicit discharges to the MS4 and why the Permittee chose this mechanism.
  - C The Permittee's program to ensure through appropriate enforcement procedures that the County's illicit discharge ordinance or other regulatory mechanism is properly implemented.
  - D The Permittee's program to detect and address illicit discharges into the County's MS4, including discharges from illegal dumping and spills.
  - E How the Permittee plans to inform public employees, businesses, and the general public about the hazards associated with illicit discharges and improper waste disposal. How this effort will coordinate with public education minimum measure and the County's pollution prevention/good housekeeping minimum measure.

#### **4.2.4 Construction Site Stormwater Runoff Control**

##### 4.2.4.1 Objectives.

- A To develop and implement a program to reduce pollutants in stormwater runoff to the Permittee's MS4 from construction activities;
- B To reduce pollutant loading to the MEP through the development of an erosion and sediment control and stormwater management program.

##### 4.2.4.2 Requirements. To satisfy this minimum control measure, the Permittee must:

- 4.2.4.2.1 Consider construction-related potential water quality impacts of road improvement projects and other County construction projects, and plan for, design, and implement measures to minimize the discharge of pollutants from construction areas to the maximum extent practicable. Control measures to be implemented at County construction projects where 1 or more acres of land will be disturbed shall be in accordance with the current Federal NPDES General Permit for Stormwater Discharges from Construction Activities.

4.2.4.2.2 Provide training to County staff planning and overseeing construction projects on practices and requirements for effective stormwater management at construction sites.

4.2.4.3 Document in the SWMP the appropriate BMPs/procedures and measurable goals for this minimum control measure.

#### **4.2.5 Post-Construction Stormwater Management**

4.2.5.1 Objectives.

A To control the loadings of pollutants from sites after construction is completed at sites where the County implements construction projects.

4.2.5.2 To satisfy this minimum control measure, the Permittee must:

4.2.5.2.1 Consider potential post-construction water quality impacts in plans/designs for road improvement projects and other County construction projects, and plan for, design, and implement measures as part of the project to minimize the post-construction discharge of pollutants in stormwater from sites where construction occurs.

4.2.5.2.2 Consider long-term maintenance requirements for post-construction stormwater control measures and identify schedules and responsibilities for post-construction maintenance.

4.2.5.2.3 Implement post-construction structural BMPs to control the discharge of pollutants to the MEP, including, as appropriate: storage practices such as wet ponds and extended detention outlet structures; filtration practices such as grassed swales, bioretention cells, sand filters and filter strips; and infiltration practices such as infiltration basins and infiltration trenches.

4.2.5.2.4 Implement post-construction non-structural BMPs to control the discharge of pollutants to the MEP, including, as appropriate: policies and contract mechanisms that provide requirements and standards to protect sensitive areas such as wetlands and riparian areas, maintain and/or increase open space, provide buffers along sensitive water bodies, minimize impervious surfaces, and minimize disturbance of soils and vegetation; policies and ordinances that encourage infill development in higher density urban area, and areas with existing storm sewer infrastructure; and other measures such as minimization of the percentage of impervious area after development.

4.2.5.2.5 Post-construction stormwater performance for all County projects, including road construction projects, where 1 or more acres of land is disturbed must meet the performance standards enumerated in Appendix A of this permit.

#### **4.2.6 Pollution Prevention /Good Housekeeping for County Operations**

4.2.6.1 Objective. To develop and implement an operation and maintenance program for County roads and associated operations with the goal of preventing or reducing pollutant discharges from the MS4 to the MEP.

4.2.6.2 Requirements. To satisfy this minimum control measure, the Permittee must implement the Pollution Prevention /Good Housekeeping measures described in the approved SWMP.

4.2.6.2.1 The section of the SWMP addressing Pollution Prevention /Good Housekeeping for Municipal Operation must, at a minimum, include the following:

A Procedures, responsibilities, and schedules for proper inspection and maintenance of County-owned or operated structural stormwater management facilities to maintain their pollutant removal operating efficiency.

B Procedures, responsibilities, and schedules for inspecting conveyance systems such as drainage ditches and culverts and for conducting maintenance/repairs as necessary to ensure the functionality of these systems.

*Maintenance of structural stormwater management facilities and conveyance systems may involve management of invasive species, such as phragmites, if the invasive species are impairing the functionality of the structural stormwater management facilities or conveyance systems.*

C Procedures, responsibilities, and application rates/criteria for de-icing roadways and County parking areas. Salt storage areas shall be designed and operated to minimize the discharge of salts / chlorides to the maximum extent practicable. When road salt or other deicers are applied by the Permittee, no more shall be applied than necessary to maintain public safety.

D Procedures for the proper disposal of litter and waste removed from the MS4 and County operations, including dredge spoil, accumulated sediments, floatables, and other debris.

E Procedures, responsibilities, and schedules for routine street sweeping and cleaning of catch basins with sumps where appropriate.

F Stormwater pollution prevention planning for County garages, storage areas and other sources of stormwater pollution from County facilities.

G Procedures, responsibilities, and application rates/criteria for application of lawn and garden fertilizers on County-controlled properties, with pervious surfaces over 5 acres, in accordance with a site-specific nutrient application rates based on appropriate soil tests.

- H Measures to reduce County sources of stormwater contamination within source water protection areas.
- I Employee training on how to incorporate pollution prevention/good housekeeping techniques in County operations such as park and open space maintenance, fleet and building maintenance, new construction and land disturbances, and stormwater system maintenance. Describe any existing, available materials the Permittee plans to use. Describe how this training program will be coordinated with the outreach programs developed for the public education minimum measure and the illicit discharge minimum measure. *To minimize duplication of effort and conserve resources, the Permittee can use training materials that are available from EPA or other relevant organizations.*
- J The appropriate BMPs and measurable goals for this minimum control measure.

4.2.6.3 When developing Pollution Prevention/Good Housekeeping program goals, the Permittee should use metrics, indicators, and milestones that meaningfully characterize program implementation and results. In establishing the goals for this minimum measure the Permittee should consider:

- A The Permittee's operation and maintenance activities and procedures to prevent or reduce pollutant runoff from County properties and operations.
- B How the Permittee will evaluate the success of this minimum measure.

#### **4.2.8 Austin Straubel International Airport**

*Reserved*

#### **4.3 Storm Sewer System Map**

- 4.3.1 The Permittee shall develop and maintain a MS4 map. The County storm sewer system map shall include:
  - A Identification of the name and classification of receiving water(s), including identification of whether the receiving water is an Outstanding Resource Water, or Exceptional Resource Water, or a water body listed as an impaired water under § 303(d) of the Clean Water Act.
  - B Identification of all MS4 outfalls discharging to surface waters and other MS4s. Outfalls shall be uniquely identified.
  - C Identification of stormwater drainage basin boundaries ("sewersheds") for each MS4 outfall.

- D Location of municipally-owned or operated structural stormwater management facilities including detention basins, infiltration basins, and manufactured treatment devices. If the Stormwater Management Program includes structural control measures owned/operated by non-municipal entities (e.g., a retention basin operated by a homeowners association) such measures must be identified on the map.
- E Location of any known discharge to the MS4 that has been issued permit coverage under the National Pollutant Discharge Elimination System. *Note: The Envirofacts Data Warehouse is an online database developed by EPA and allows users to identify facilities with both NPDES permits and WDPES permits, by zip code, city, state, or county. The Envirofacts Data Warehouse is available at the following link: <http://www.epa.gov/enviro>.*
- F Identification of publicly-owned parks, recreational areas and other open lands.
- G Location of municipal garages, storage areas and other public works facilities.
- H Identification of major streets.

*To meet the Storm Sewer System Map requirements the Permittee may develop and maintain a map of its entire MS4 system within and exterior to the Oneida Reservation, vs. developing a map only for the portions of the MS4 system within the Oneida Reservation, if that is more workable for the Permittee.*

#### **4.4 Reviewing Program Implementation and Updating the Stormwater Management Program**

##### 4.4.1 Stormwater Management Program Review:

The Permittee must complete an annual review of the Stormwater Management Program. This review shall examine the extent to which the elements of the SWMP have been implemented and gauge progress toward the measurable goals identified in the SWMP. The review shall also evaluate the appropriateness of BMPs and the effectiveness of the Stormwater Management Program. A report summarizing the Stormwater Management Program Review must be submitted to EPA as part of the annual report required under Part 5.3 of this permit.

##### 4.4.2 SWMP Updates

- 4.4.2.1 Following the annual Stormwater Management Program Review, the Permittee must determine what revisions/updates are appropriate for the SWMP, if any. The Permittee should consider what SWMP control measures have worked well, and where additional or better tailored BMPs are warranted. The Permittee shall update the SWMP, based on the findings of the Stormwater Management Program Review

by June 30 of each year. If components of the SWMP update cannot be completed by this date, the Permittee shall notify EPA and propose a schedule for completing the necessary SWMP updates. Unless disapproved by EPA, changes shall be deemed approved and must be implemented beginning no later than August 31 of each year.

- 4.4.2.2 The Permittee may review, update, and/or revise the SWMP at times during the year other than following the annual review, as appropriate. The Permittee may change the SWMP during the life of the permit in accordance with the following procedures:
- A. Changes adding (but not subtracting or replacing) components, controls, or requirements to the Program may be made at any time upon written notification to EPA Region 5 office at the address indicated in Part 1.2.2.3 of this Permit.
  - B Changes replacing an ineffective or unfeasible BMP specifically identified in the Program with an alternate BMP may be requested at any time to EPA Region 5 office at the address indicated in Part 1.2.2.3 of this Permit. Unless denied by EPA, changes proposed in accordance with the criteria below shall be deemed approved and implemented 60 days from submittal of the request. If the request is denied, EPA will send a written response giving a reason for the decision. The modification requests must include the following:
    - 1 An analysis of why the current BMP is ineffective or infeasible (including cost prohibitive);
    - 2 Expectations on the effectiveness of the replacement BMP;
    - 3 An analysis of why the replacement BMP is expected to achieve the goals of the BMP to be replaced.
    - 4 Change requests or notifications must be made in writing and signed in accordance with Part 9.9 of this permit.

*Note: Addition of components, controls, or requirements by the Permittee (s) and replacement of an ineffective or infeasible BMP implementing a required component of the Program with an alternate BMP expected to achieve the goals of the original BMP shall be considered quality improvement changes to the Stormwater Management Program are not modifications to the permit.*

#### **4.5 Changes to Service Area, Ownership, or Operational Authority related to the Stormwater Management Program**

- 4.5.1 The Permittee must implement all non-structural elements of the Stormwater Management Program on all new areas added to the existing MS4 as described in Part 1.1 (or for which the Permittee becomes responsible for implementation of stormwater quality controls) beginning on the date when ownership/operational

responsibility comes to the County. Structural elements of the Stormwater Management Program shall be implemented in new areas as expeditiously as practicable, but not later than 1 year from addition of the new MS4 areas. Implementation may be accomplished in a phased manner to allow additional time for controls that cannot be implemented immediately.

4.5.1.1 Information on all new annexed areas and any resulting updates to control measures planned in the SWMP must be included in the annual report.

4.5.2 At the time of a transfer of ownership, operational authority, or responsibility for stormwater management program implementation to the Permittee, the Permittee must have a plan and schedule for implementing the Stormwater Management Program on all affected areas. The program and schedule shall be submitted to EPA. The program for ensuring continued stormwater program coverage of all MS4 areas must be implemented according to the established schedule.

#### **4.6 Sharing Responsibility**

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

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

4.6.2 The particular control measure, or component being implemented by the collaborating organization is at least as stringent as the corresponding permit requirement.

4.6.3 The other entity agrees to implement the control measure on the Permittee's behalf. Written acceptance of this obligation should be documented in the SWMP. If the other entity agrees to report on the minimum measure, the Permittee must supply the other entity with the reporting requirements contained in this permit. If the other entity fails to implement the control measure on the Permittee's behalf, then the Permittee remain liable for any non-compliance due to that failure to implement.

*Note: EPA encourages the Permittee to enter into a legally binding agreement with that entity if the Permittee wishes to minimize any uncertainty about compliance with this permit.*

### **5. Monitoring, Recordkeeping, and Reporting**

#### **5.1 Monitoring**

5.1.1 The Permittee must plan and conduct monitoring as necessary to evaluate program effectiveness, the appropriateness of identified BMPs, and progress toward achieving

identified measurable goals. If the Permittee discharges to a water body for which a TMDL has been approved, the Permittee will describe a monitoring program to determine whether the stormwater controls are adequate to meet the waste load allocation or other performance requirements of the TMDL.

5.1.2 Discharge Monitoring. At a minimum, to evaluate compliance with the effluent limitations in Section 2.3, parts A, B, C, and E, monitoring must include visual observations/assessments of discharges during or soon after precipitation events. *For example, fish kills may be a sign of toxicity in stormwater discharges; algal blooms may be an indication of effects of nutrient contributions, etc.*

5.1.2.1 Stormwater Discharge Visual Observation/Assessment Locations and Frequency

The Permittee must conduct visual observations and assessments of at least 20% of the MS4 outfalls (discharge locations) each year during the spring, summer, or fall during or after a measurable storm event. The outfalls to be assessed should rotate from year to year, vs. conducting assessments at the same outfall each year. Visual observations/assessments must be conducted within ½ day after the start of a measurable storm event. *Note: A “measurable storm event” is any rain event measuring at least 0.1 inches or greater.*

*Note: Safety of personnel and accessibility should be considered in selecting dates and sites for visual assessments.*

5.1.2.2 Stormwater Discharge Observation/Assessment Procedures

5.1.2.2.1 The Permittee must examine the stormwater discharge, if still occurring, and the receiving water. The Permittee shall examine in the discharge and receiving waters the following water quality characteristics:

- Color;
- Odor;
- Clarity;
- Floating solids;
- Settled solids;
- Suspended solids;
- Foam;
- Oil sheen; and
- Other obvious indicators of stormwater pollution.

5.1.2.2.2 The Permittee shall also examine the outfall, the spillway, rip rap or other flow/energy dissipating systems (if present), and/or any land area over which the discharge flows before entering the water. The Permittee check these features for:

- Non-natural discoloration;

- Odor;
- Trash
- Settled solids;
- Foam;
- Oil sheen; and
- Other obvious indicators of stormwater pollution.

5.1.2.3 Visual Observation/Assessment Documentation. The Permittee must document the results of stormwater discharge observations/assessments and maintain this documentation with the SWMP. The Permittee is not required to submit observation/assessment findings to EPA, unless specifically requested to do so. At a minimum, discharge observation/assessment documentation must include:

- Observation/Assessment dates, times, and locations;
- Precipitation information regarding the storm on that date(s);
- Results of observations of the stormwater discharge, including any indicators of stormwater pollution;
- Probable sources of any observed stormwater contamination;
- Personnel performing inspection and their signature.

Follow-up actions should be implemented to investigate and address the sources of pollutants where a visual observation/assessment indicates the presence of pollutants in the stormwater (e.g., foam, oil sheen). Follow-up investigations and corrective actions may be integrated with stormwater management program control measures undertaken pursuant to Section 4 of this Permit. Documentation of follow-up actions should be maintained with the SWMP.

5.1.2.4 Snowmelt. In addition to conducting visual assessments/observations during and after storm events, as specified in sub-paragraphs 5.1.2.1 - 5.1.2.3, at least once each year the Permittee shall conduct a visual observation/assessment of snowmelt discharges from the MS4. *The purpose of conducting visual assessments of snowmelt discharges each year is to ascertain if the snowmelt discharges contain harmful loadings of pollutants, including oil and grease from roadways and parking areas. Chlorides from de-icing of streets may also be present in snowmelt discharges.*

5.1.2.4.1 Visual observations/assessments of snowmelt discharges shall be conducted in the late winter or spring when accumulated winter snow is melting or has melted and snowmelt is being discharged from a MS4 outfall.

5.1.2.4.2 Visual observations/assessments of snowmelt discharges shall be conducted in accordance with the procedures specified in sub-paragraph 5.1.2. 2, and shall be documented as specified in sub-paragraph 5.1.2.3.

- 5.1.3 Other sampling/monitoring. When the Permittee conducts analytical monitoring the following are required:
- 5.1.3.1 Field and laboratory measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- 5.1.3.2 Sampling/monitoring must be conducted according to test procedures approved under 40 CFR Part 136.
- 5.1.3.3 Documentation of sampling/monitoring plans and protocols and results, must be maintained with the SWMP. Documentation must include
- The date, exact place, and time of sampling or measurements;
  - The names(s) of the individual(s) who performed the sampling or measurements;
  - The date(s) analyses were performed;
  - The names of the individuals who performed the analyses;
  - The analytical techniques or methods used; and
  - The results of such analyses.

*Note: Section 5.1.3 applies to sampling and monitoring conducted by the Permittee to implement provisions of this Permit, and may include testing of discharges identified through the Permittee's Illicit Discharge Detection and Elimination program.*

- 5.1.4 Documentation of discharge observations/assessments and all other sampling/monitoring plans and protocols and results, must be maintained with the SWMP.

*Discharge observation/assessment documentation and other sampling/monitoring data shall be maintained and be available for compliance inspections/audits, and should be summarized in the Annual Report. However, discharge observation/assessment documentation and other sampling/monitoring data do not need to be submitted to EPA unless information is specifically requested by EPA.*

## **5.2 Recordkeeping**

- 5.2.1 The Permittee must retain records of all monitoring activities, protocols, and results, including, all calibration and maintenance records, copies of Discharge Monitoring Reports (if applicable), a copy of the NPDES permit and the SWMP, and records of all data used to complete the application 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 EPA at any time.

- 5.2.2 The Permittee must submit documentation or records to EPA Region 5 office, at the address indicated in Part 1.2.2.3, when specifically asked to do so. The Permittee must retain a full copy of the SWMP at a location accessible to the federal officials. The Permittee must make records and the SWMP available to the public if requested to do so, in writing.

### **5.3 Reporting**

*Annual Reports.* Each year the Permittee must submit to EPA an annual report on the Stormwater Management Program. Annual reports are due March 31 each year of the permit term. Annual reports must be submitted to EPA, Region 5 office, at the address indicated in Part 1.2.2.3 of this permit.

- 5.3.1 Annual reports must include the following:
- 5.3.1.1 Information on the status of Stormwater Management Program implementation, including a complete description of the findings, conclusions, and recommendations resulting from the Stormwater Management Program Review conducted pursuant to Section 4.4.1 of this permit.
  - 5.3.1.2 An assessment of the Permittee's compliance with the provisions of this Permit and progress toward achieving the statutory mandate of reducing the discharge of pollutants to the MEP.
  - 5.3.1.3 Results of inspections conducted and any sampling/monitoring conducted (including discharge observations/assessments) during the reporting period, including monitoring data used to assess the success of the program at reducing the discharge of pollutants to the MEP;
  - 5.3.1.4 A change in any identified best management practices or measurable goals for any of the minimum control measures;
  - 5.3.1.5 A summary of the stormwater activities the Permittee plans to undertake during the next reporting cycle if different from what is spelled out in the SWMP;
  - 5.3.1.6 Notice that the Permittee is relying on another government entity to satisfy some of the Permittee 's permit obligations (if applicable).

*Note that following the annual review of the Stormwater Management Program and submittal of the annual report, the Permittee may need to revise/update the SWMP. Program revisions/updates must be completed and submitted to EPA by June 30 of each year, pursuant to Section 4.4.2.1 of this permit.*

## **6 Compliance Schedule**

In accordance with federal regulations codified at 40 CFR 122.47, the Permittee must implement minimum control measures according to the schedule below. A summary of the compliance schedule is provided in Appendix B.

6.1 **Public Outreach and Education**

The Permittee shall submit the proposed public education and outreach minimum control measure as part of the SWMP to be submitted to EPA for approval. The Permittee shall implement the public education and outreach program beginning within 18 months of permit issuance.

6.2 **Public Involvement and Participation**

The Permittee shall submit the proposed public involvement and participation program as part of the SWMP to be submitted to EPA for approval. The Permittee shall implement the public involvement and participation program beginning within 18 months of permit issuance.

6.3 **Illicit Discharge Detection and Elimination**

6.3.1 The initial field screening of major/priority outfalls during dry weather periods must be completed within 12 months of permit issuance.

6.3.2 The permittee shall complete proposed illicit discharge response procedures within 12 months of permit issuance.

6.3.3 The Permittee shall complete a plan for on-going dry weather field screening within 18 months of permit issuance.

6.3.4 The Permittee shall implement the on-going field screening program beginning no later than 30 months after permit issuance.

6.4 **Construction Site Stormwater Runoff Control**

6.4.1 The Permittee shall implement stormwater management control measures specified in section 4.2.4.2 of this permit at County construction sites/projects beginning on the date of permit issuance.

6.5 **Post-Construction Stormwater Management**

6.5.1 The Permittee shall implement stormwater management control measures specified in section 4.2.5.2 and Appendix A of this permit at County construction sites/projects beginning on the date of permit issuance.

6.6 **Pollution Prevention/Good Housekeeping**

The Permittee shall submit the proposed pollution prevention minimum control

measure as part of the SWMP to be submitted to EPA for approval. The Permittee shall implement the pollution prevention minimum control measure beginning within 18 months of permit issuance.

6.7 **Storm Sewer System Map**

The Permittee shall submit the storm sewer system map within 12 months of permit issuance.

7 **SWMP Amendments**

7.1 The Permittee shall amend its SWMP if the Permittee becomes aware that it does not meet a requirement of this permit.

7.2 The Permittee shall amend its SWMP if notified by EPA that a BMP or minimum control measure is insufficient or ineffective in meeting a requirement of this permit. EPA notice to the Permittee may include a deadline for amending and implementing the amendment.

8 **Re-opener Clause**

This permit may be re-opened and modified during the term of the permit consistent with the Federal regulations at 40 CFR 122.62, 122.63, 122.64, and 124.5.

8.1 **Water Quality**

If there is evidence indicating that the stormwater program being carried out under this permit is not protecting water quality, and/or is not satisfying the appropriate water quality requirements of the CWA, the permit may be modified to include new or different limitations and/or requirements.

8.2 **Endangered Species**

If there is evidence indicating that stormwater discharges authorized under this permit is later determined to adversely affect any federally listed endangered or threatened species or critical habitat, the permit may be modified to include different requirements which are protective of endangered or threatened species or critical habitat.

8.3 **Historic Properties**

If there is evidence indicating that stormwater discharges authorized under this permit is later determined to affect properties listed or eligible for listing on the National Register of Historic Places, the permit may be modified to include requirements which are protective of historic properties.

## **9. Standard Permit Conditions**

### **9.1 Duty to Comply**

9.1.1 The Permittee 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.

#### 9.1.2 *Penalties for Violations of Permit Conditions.*

EPA Region 5 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 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 1994.

##### 9.1.2.1 *Criminal Violations.*

9.1.2.1.1 *Negligent Violations.* The CWA provides that any person or entity that *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.

9.1.2.1.2 *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.

9.1.2.1.3 *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.

9.1.2.1.4 *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).

#### 9.1.2.2 *Civil 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 a civil penalty not to exceed \$27,500 per day for each violation.

#### 9.1.2.3 *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:

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

9.1.2.3.2 *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.

## **9.2 Duty to reapply**

If the Permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the Permittee must submit a permit application at least 180 days prior to the expiration date of this permit, and obtain a new permit.

## **9.3 Need to Halt or Reduce Activity Not a Defense**

It shall not be a defense for the Permittee 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.

## **9.4 Duty to Mitigate**

The Permittee 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.

## **9.5 Duty to Provide Information**

The Permittee must furnish to the EPA, within a reasonable time, any information which EPA may request to determine whether cause exist for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The Permittee shall also furnish to EPA upon request, copies of records required to be kept by this permit.

## **9.6 Reporting noncompliance**

The Permittee shall report all instances of noncompliance (including but not limited to noncompliance with the compliance schedule established in Section 6 of this permit) as part of the annual report to EPA pursuant to Section 5 of this permit.

## **9.7 Twenty-four hour reporting**

The Permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally (by telephone) within 24 hours from the time the Permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the Permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is

expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

Telephone reports (first 24 hours) should be directed to (312) 886-0981. Written reports must be sent to the address below:

EPA, Region 5  
NPDES Programs Branch (WN-16J)  
Stormwater Program  
77 West Jackson Boulevard  
Chicago, Illinois 60604

## **9.8 Other Information**

If the Permittee becomes aware that it has failed to submit any relevant facts in the permit application, or has submitted incorrect information in any other report to EPA, the Permittee must promptly submit such facts or information.

## **9.9 Signatory Requirements**

All applications, reports, certifications, or information submitted to the EPA, or that this permit requires be maintained by the Permittee shall be signed and certified as follows:

**For a municipality, State, Federal, or other public agency.** By either a principal executive officer or ranking elected official.

9.9.1 *Reports and other information.* All reports required by the permit 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:

9.9.1.1 *Signed authorization.* The authorization is made in writing by a person described above and included with other documentation as part of the SWMP.

9.9.1.2 *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 superintendent or position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the public agency. *A duly authorized representative may thus be either a named individual or any individual occupying a named position.*

9.9.2 *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 9.9.1 above must be submitted to the EPA prior to or together with any reports or information to be signed by an authorized representative.

- 9.9.3 *Certification.* Any person (as defined above in (9.9 and 9.9.1)) signing documents under part 9.9 of this permit 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.”

## **9.10 Property Rights**

The issuance of this permit does not convey any property rights of any sort, or any exclusive privilege.

## **9.11 Proper Operation and Maintenance**

The Permittee must at all times properly operate and maintain all facilities and systems of treatment, conveyance, and control (and related appurtenances) which are installed or used by the Permittee to achieve compliance with the conditions of this permit and to implement the SWMP. 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 the Permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

## **9.12 Inspection and Entry**

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

- 9.12.1 Enter upon the Permittee’s facilities/premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit;
- 9.12.2 Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

- 9.12.3 Inspect at reasonable times any facilities, equipment (including monitoring and control equipment) practices, or operations regulated or required under this permit; and
- 9.12.4 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.

**9.13 Permit Actions**

This permit may be modified, revoked and reissued, or terminated for cause. The 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.

**9.14 Permit Transfers**

This permit is not transferable to any person except after notice to the EPA. The EPA 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.

## **9.15 Anticipated Noncompliance**

The Permittee must give advance notice to the EPA of any planned changes in the permitted MS4 or activity which may result in noncompliance with this permit.

## **9.16 Other Applicable Laws**

9.16.1 Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the Permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable laws or regulations under authority preserved by section 510 of the Act.

9.16.2 No condition of this permit releases the Permittee from any responsibility or requirements under other environmental statutes or regulations.

## **9.17 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.

## **9.18 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 unless otherwise specified herein.

## **9.19 Compliance Schedules**

Reports of compliance or non-compliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

## **10. Definitions**

All definitions 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 event of a conflict, the definition found in the Statute or Regulation takes precedence.

*Best Management Practices (BMPs)* means activities, prohibitions of practices, maintenance procedures, and other management practices or structural controls to prevent or reduce the discharge of pollutants to 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 or the Federal Water Pollution Control Act, 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.

*Discharge-related activities* include: activities which cause, contribute to, or result in stormwater point source pollutant discharges; and measures to control stormwater discharges, including the siting, construction and operation of best management practices (BMPs) to control, reduce or prevent stormwater pollution.

*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 stormwater, except discharges authorized under an NPDES permit (section 1.2.2.2) and discharges resulting from fire fighting activities.

*Increased MS4 Discharge of Pollutants* means an increase in an MS4’s discharge to a surface water to which the MS4 discharged on or before coverage under this permit, including, but not limited to, increased flows due to stormwater drainage from expansion of an MS4, new outfalls, new areas which drain to existing outfalls.

*Major Outfall* is a municipal separate storm sewer outfall that meets one of the following criteria:

- a. a single pipe with an inside diameter of thirty six inches or more or equivalent conveyance (cross sectional area of 1,018 square inches) which is associated with a drainage area of more than fifty acres.
- b. A single pipe with an inside diameter of twelve inches or more or equivalent conveyance (cross sectional area of 113 square inches) which receives stormwater runoff from land zoned for industrial activity with two or more acres of industrial activity, but not land zoned for industrial activity that does not have any activity present.

*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.

*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, stormwater, 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 stormwater; (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.

*New MS4 discharge of pollutants* means an MS4 discharge that would first occur after the Permittee's start date of coverage under this permit to a Water of the United States to which the MS4 did not previously discharge stormwater, and does not include an increase in an MS4's discharge to a surface water to which the MS4 discharged on or before coverage under this permit.

*Stormwater* is defined at 40 CFR 122.26(b)(13) and means stormwater runoff, snow melt runoff, and surface runoff and drainage.

*SWMP* is an acronym for "Stormwater Management Program."

## Appendix A

### Performance Standards for Post-Construction Stormwater Management At Development/Redevelopment Sites in the MS4 Service Area

These post-construction site performance standards set minimum levels of control of runoff pollution from construction sites after construction is completed and final stabilization has occurred. These standards address:

- Total Suspended Solids Control;
- Peak Discharge Rate; and
- Infiltration/Hydrology.

#### **Performance Standards for new development and redevelopment**

- 1) Stormwater Management Program. A written post-construction stormwater management program shall be developed and implemented for each construction site where 1 or more acres of land is disturbed, and shall incorporate and ensure compliance with the requirements of this Appendix.
- 2) Requirements. The program required under 1) above shall address:
  - a) *Total suspended solids*. Best management practices shall be selected, designed, installed and maintained to control total suspended solids carried in runoff from the post-construction site as follows:
    1. For new development, by design, reduce to the maximum extent practicable, the total suspended solids load by 80%, based on average annual precipitation, as compared to no runoff management controls.
    2. For redevelopment, by design, reduce to the maximum extent practicable, the total suspended solids load by 40%, based on average annual precipitation, as compared to no runoff management controls.
    3. For infill development less than 5 acres, reduce to the maximum extent practicable, the total suspended solids load by 40%, based on average annual precipitation, as compared to no runoff management controls.
    4. For infill development with a site size of 5 acres or greater, reduce to the maximum extent practicable, the total suspended solids load by 80%, based on average annual precipitation, as compared to no runoff management controls.
    5. Notwithstanding sub-sections 1.- 4., if the design cannot achieve the applicable total suspended solids reduction specified, the stormwater management plan shall include a site-specific explanation why that level of reduction is not practicable and the selected design shall ensure the total suspended solids load shall be reduced to the maximum extent practicable.

*Note: Pollutant loading models such as SLAMM, P8 or equivalent methodology may be used to evaluate the efficiency of the design in reducing total suspended solids. Information on how to access SLAMM and P8 is available at: <http://www.dnr.state.wi.us/org/water/wm/nps/slamm>.*

- b) *Peak discharge.* By design, BMPs shall be employed to maintain or reduce the peak runoff discharge rates, to the maximum extent practicable, as compared to pre-development conditions for the 2-year, 24-hour design storm applicable to the post-construction site. Pre-development conditions shall assume "good hydrologic conditions" for appropriate land covers as identified in TR-55 (Urban Hydrology for Small Watersheds Manual, United States Department of Agriculture, Natural Resources Conservation Service, Conservation Engineering division, 210-VI-TR-55, Second Edition, June 1986) or an equivalent methodology. The meaning of "hydrologic soil group" and "runoff curve number" are as determined in TR-55. When pre-development land cover is tilled agricultural cropland, the runoff curve numbers in Table 1 below shall be used:

**Table 1**  
**Maximum Pre-Development Runoff Curve Numbers for Cropland Areas**

Hydrologic Soil Group	A	B	C	D
Runoff Curve Number	56	70	79	83

- c) *Infiltration.* BMPs shall be designed, installed and maintained to infiltrate runoff during the post-construction period to the maximum extent practicable in accordance with the following:
1. For residential developments one of the following shall be met:
    - a. Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 90% of the pre-development infiltration volume, based on average annual precipitation. When designing appropriate infiltration systems to meet this requirement, no more than 1% of the project site is required as an effective infiltration area. Or
    - b. Infiltrate 25% of the post-development runoff volume from the 2-year, 24-hour design storm with a type II distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes and not composite curve numbers as defined in TR-55. When designing appropriate infiltration systems to meet this requirement, no more than 1% of the project site is required as an effective infiltration area.
  2. For non-residential development, including commercial, industrial and institutional development, stormwater from the rooftop and parking lot areas of the site shall be managed to meet one of the following performance standards:
    - a. Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60% of the pre-development infiltration volume, based on average annual precipitation. When designing appropriate infiltration systems to meet this requirement, no more than 2% of the project site is required as an effective infiltration area.

- b. Infiltrate 10% of the post-development runoff volume from the 2-year, 24-hour design storm with a type II distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes and not composite curve numbers as defined in TR-55. When designing infiltration systems to meet this requirement, no more than 2% of the project site is required as an effective infiltration area.
- 3. Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater. Pretreatment options may include, but are not limited to, oil/grease separation, sedimentation, biofiltration, filtration, swales or filter strips.
- 4. *Exemptions:* The following are not required to meet the requirements of 2)c) of this Appendix:
  - a. Areas where the infiltration rate of the soil is less than 0.6 inches/hour measured at the bottom of the infiltration system.
  - b. Parking areas and access roads less than 5,000 square feet for commercial and industrial development.
  - c. Redevelopment post-construction sites.
  - d. Infill development areas less than 5 acres.
- 5. *Exclusions:* The runoff from the following areas is excluded from meeting the requirements of Section 2)c) of this Appendix and stormwater shall not be infiltrated without specific approval from EPA:
  - a. Areas associated with tier 1 industrial facilities, including storage, loading, rooftop and parking.
  - b. Storage and loading areas of tier 2 industrial facilities.
  - c. Fueling and vehicle maintenance areas.
  - d. Areas within 1,000 feet upgradient or within 100 feet downgradient of karst features.
  - e. Areas with less than 3 feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock.
  - f. Areas with runoff from industrial, commercial and institutional parking lots and roads and residential arterial roads with less than 5 feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock.
  - g. Areas within 400 feet of a community water system well or within 100 feet of a private water supply well.
  - h. Areas where contaminants of concern, as defined in ch. NR 720.03 (2) Wisconsin Administrative Code, are present in the soil through which infiltration will occur.
  - i. Any area where the soil does not exhibit one of the following characteristics between the bottom of the infiltration system and the seasonal high groundwater and top of bedrock: at least a 3-foot soil layer with 20% fines or greater; or at least a 5-foot soil layer with 10%

finer or greater. This subpart does not apply where the soil medium within the infiltration system provides an equivalent level of protection.

6. Infiltration performance standards apply year-round, except periods when the soil on the site is frozen.
  7. Where alternative uses of runoff are employed, such as for toilet flushing, laundry or irrigation, such alternate use shall be given equal credit toward the infiltration volume required by this paragraph. Such alternate measures must be fully documented in the post-construction stormwater management program for the site.
  8. Infiltration systems designed in accordance with this Appendix shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater.
- d) *Protective areas.*
1. In this sub-section [2)d)], "protective area" means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface. The minimum widths of protective areas are enumerated below. However, in this sub-section "protective area" does not include any area of land adjacent to any stream enclosed within a pipe or culvert, such that runoff cannot enter the enclosure at this location.
    - a. For outstanding resource waters and exceptional resource waters, and for wetlands in areas of special natural resource interest, 75 feet.
    - b. For perennial and intermittent streams identified on a United States geological survey 7.5-minute series topographic map, or a county soil survey map, whichever is more current, 50 feet.
    - c. For lakes, 50 feet.
    - d. For highly susceptible wetlands, 50 feet. Highly susceptible wetlands include the following types: fens, sedge meadows, bogs, low prairies, conifer swamps, shrub swamps, other forested wetlands, fresh wet meadows, shallow marshes, deep marshes and seasonally flooded basins. This paragraph does not apply to wetlands that have been completely filled in accordance with applicable statutes, regulations, and permits.
    - e. For less susceptible wetlands, 10% of the average wetland width, but no less than 10 feet nor more than 30 feet. Less susceptible wetlands include degraded wetlands dominated by invasive species such as reed canary grass. This paragraph does not apply to wetlands that have been completely filled in accordance with applicable statutes, regulations, and permits.
    - f. For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.
  2. The following requirements shall apply within protective areas:
    - a. Impervious surfaces shall be kept out of the protective area to the maximum extent practicable. The stormwater management program

- shall contain a written site-specific explanation for any parts of the protective area that are disturbed during construction.
- b. Where land disturbing construction activity occurs within a protective area, and where no impervious surface is present, adequate sod or self-sustaining vegetative cover of 70% or greater shall be established and maintained. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion on steep slopes or where high velocity flows occur.
  - c. Best management practices such as filter strips, swales or wet detention basins that are designed to control pollutants from nonpoint sources may be located in the protective area.
3. Exemptions. This sub-section does not apply to:
- a. Redevelopment post-construction sites.
  - b. Infill development areas less than 5 acres.
  - c. Structures that cross or access surface waters such as boat landings, bridges and culverts.
  - d. Post-construction sites from which runoff does not enter the surface water, except to the extent that vegetative ground cover is necessary to maintain bank stability.
- e) *Fueling and vehicle maintenance areas.* Fueling and vehicle maintenance areas shall, to the maximum extent practicable, have BMPs designed, installed and maintained to reduce petroleum in runoff, such that the runoff that enters waters of the U.S. contains no visible petroleum sheen.
  - f) *Location.* To comply with the standards established in this Appendix, BMPs may be located on-site or off-site as part of a regional stormwater device, practice or system.
  - g) *Timing.* The BMPs that are required pursuant to this Appendix shall be installed before the construction site has undergone final stabilization.

## Appendix B

### Compliance Schedule Summary

<b>PERMIT CONDITION</b>	<b>ACTIVITY</b>	<b>DUE TO EPA</b>	<b>IMPLEMENT</b>
SWMP Section 4.1	Complete SWMP and submit to EPA	Within 12 months of permit issuance	Upon approval
Public Education and Outreach – Sections 4.2.1 and 6.1	Submit public education and outreach minimum measure	With SWMP to be submitted to EPA (within 12 months of permit issuance)	Within 18 months of permit issuance
Public Involvement and Participation – Sections 4.2.2 and 6.2	Submit public involvement and participation minimum measure	With SWMP to be submitted to EPA (within 12 months of permit issuance)	Within 18 months of permit issuance
Illicit Discharge Detection and Elimination – Sections 4.2.3 and 6.3	<ol style="list-style-type: none"> <li>1. Initial Field Screening</li> <li>2. Illicit discharge response procedures</li> <li>3. Plan for on-going field screening</li> <li>4. Begin implementation of on-going field screening</li> </ol>		<ol style="list-style-type: none"> <li>1. Within 12 months of permit issuance</li> <li>2. Within 12 months of permit issuance</li> <li>3. Within 18 months of permit issuance</li> <li>4. Within 24 months of permit issuance</li> </ol>
Construction Site Stormwater Runoff Control – Sections 4.2.4 and 6.4	1. Implement stormwater management control measures at construction sites where 1 or more acres of land is disturbed		Beginning on the date of permit issuance
Post-Construction Stormwater Management - Sections 4.2.5 and 6.5	1. Implement stormwater management control measures specified in section 4.2.5.2 and Appendix A		Beginning on the date of permit issuance
Pollution Prevention /Good House-keeping - Sections 4.2.6 and 6.6	Submit pollution prevention minimum measure	With SWMP to be submitted to EPA (within 12 months of permit issuance)	Within 18 months of permit issuance
Storm Sewer System Map – Sections 4.3 and 6.7	Submit MS4 map	Within 12 months of permit issuance	

### Other Requirements

<b>PERMIT CONDITION</b>	<b>ACTIVITY</b>	<b>DUE TO EPA</b>	<b>IMPLEMENT</b>
SWMP Amendments – Section 7	Update SWMP	By June 30	Implement by August 31
Annual Report – Section 5.3	Submit annual report	By March 31 each year	
Reapplication for Permit Coverage	Submit Reapplication. <i>Note: The Reapplication Package should include Form 3510-1 and the Information Required Under 40 Cfr 122.34(D).</i>	180 Days Prior to Expiration of the Permit	