

**Authorization to Discharge Under the
National Pollutant Discharge Elimination System
(NPDES)**

**General NPDES Permit Number NER310000 Authorizing Stormwater Discharges to waters of the
State from Small Municipal Separate Storm Sewer Systems
Located in the State of Nebraska**

In compliance with the provisions of the Federal Water Pollution Control Act (33 U.S.C. Sections. 1251 et. seq. as amended to date), the Nebraska Environmental Protection Act (Neb. Rev. Stat. Sections 81-1501 et. seq. as amended to date), and the Rules and Regulations promulgated pursuant to these Acts, the Director of the Nebraska Department of Environmental Quality is hereby issuing this general permit authorizing the discharge of pollutants to waters of the State and excluding tribal lands within the State of Nebraska. This general permit establishes prohibitions, limitations and other conditions pertaining to these discharges. This general permit does not relieve permittees of other duties and responsibilities under the Nebraska Environmental Protection Act, as amended, or established by regulations promulgated pursuant thereto.

NPDES Permit No.: **NER310000**
Permittee: **Small Municipal Separate Storm Sewer Systems (sMS4) as defined in the
NDEQ Title 119, Chapter 10 002.10 within the State of Nebraska**
Facility Location: **Within the State of Nebraska**
Effective Date: **Assigned Prior to Issuance**
Expiration Date: **Assigned Prior to Issuance**

Pursuant to a Delegation Memorandum dated December 28, 2015 and signed by the Director, the undersigned hereby executes this document on behalf of the Director.

Signed this _____ day of _____, _____

Steven M. Goans
Deputy Director – Water

Table of Contents

Part I. Applicability	3
A. General Permit Program Area	3
B. Eligibility	3
C. Limitations on Coverage	3
D. Reopener Clause	3
Part II. Notice of Intent Requirements	3
A. Obtaining Authorization	3
B. Designation after Permit Issuance	4
C. Contents of the Notice of Intent for Existing Dischargers/Previously Permitted Entities	4
D. Contents of the Notice of Intent for New Dischargers/Previously Unpermitted Entities	4
E. Where to Submit	5
A. Discharges to Water Quality Impaired Waters	5
B. Total Maximum Daily Load (TMDL) Allocations	5
Part IV. Stormwater Management Plan (SWMP)	6
A. Requirements	6
B. Adequate Legal Authority	6
C. Enforcement Measures and Tracking	7
Part V. Sharing Responsibility	15
A. Implementation of the Minimum Measures	15
B. The Other Entity Responsibility	15
Part VI. Reporting Requirements	15
A. Annual Report	15
B. Amendment of Reporting Requirements	15
C. Immediate Reporting Requirements	15
Part VII. Amendment Procedures and Requirements	16
A. Amendment Procedures	16
B. Endangered and Threatened Species	16
C. Total Maximum Daily Loads (TMDLs)	16
Part VIII. Evaluation and Assessment Requirements	16
A. Development of a Comprehensive Evaluation and Assessment Program	16
B. Evaluation of Overall Program Effectiveness	17
C. Coordination of Information	17
D. Additional Monitoring by Permittee	17
Appendix A. Standard Conditions	
Appendix B. Example Storm Water Management Plan (SWMP)	
Attachment #1 sMS4 – Notice of Intent	
Attachment #2 sMS4 – NOI – Reapplication – Notice of Intent	
Attachment #3 40 CFR Part 122.34(b)	
Attachment #4 Physical Characteristics Examination	
Attachment #5 sMS4-SEMR – Storm Event Monitoring	
Attachment #6 Signatory Authorization Form	
Attachment #7 sMS4 Report Form	

Part I. Applicability

A. General Permit Program Area

This permit has application to the Small Municipal Separate Storm Sewer System (sMS4) discharges to waters within the State of Nebraska.

B. Eligibility

1. This permit shall authorize discharges of stormwater from sMS4s designated for coverage in accordance with the criteria defined in NDEQ Title 119, Chapter 10 002.10. Regulation of discharges under the terms and conditions of this general permit shall apply to those located fully or partially within an urbanized area as determined by the most current Decennial Census by the Bureau of Census, or are designated by the permitting authority pursuant to NDEQ Title 119, Chapter 10 002.06.
2. This permit authorizes point-source discharges of municipal stormwater and other authorized flows from within the sMS4. The discharges provided coverage under this permit are limited to the following:
 - a. Municipal Stormwater that originates from within the General Permit Program Area;
 - b. Stormwater from areas outside the General Permit Program Area that flows into and through the sMS4;
 - c. Stormwater discharges associated with industrial activity as defined in NDEQ Title 119, Chapter 1 117 and 118 that are authorized under a separate NPDES permit or that are in compliance with the No Exposure Certification requirements;
 - d. Non-Stormwater discharges that are either;
 - 1) Authorized under a separate NPDES permit;
 - 2) Being addressed in accordance with the Illicit Discharge Identification procedures set forth in the municipal entity's Stormwater Management Plan (SWMP); or
 - 3) Other allowable Non-Stormwater discharges (**See Part IV.D.2.e**).

C. Limitations on Coverage

This permit does not authorize:

1. Discharges that are mixed with sources of non-stormwater unless such non-stormwater discharges are:
 - a. In compliance with a separate NPDES permit (e.g. non-contact cooling water);
 - b. Stormwater discharges currently covered under another permit;
 - c. Determined not to be a substantial contributor of pollutants to waters of the State of Nebraska.
2. Stormwater discharges associated with industrial activity as defined in NDEQ Title 119, Chapter 1 117.
3. Stormwater discharges associated with construction activity as defined in NDEQ Title 119, Chapter 1 118.
4. Stormwater discharges that may impact threatened or endangered species or their habitat.
5. Discharges that do not comply with the state's anti-degradation policy for water quality standards. State anti-degradation policies can be obtained from the NDEQ web site.

D. Reopener Clause

This permit may be modified during the course of the permit cycle by the Department.

Part II. Notice of Intent Requirements

A. Obtaining Authorization

1. To be authorized to discharge stormwater from sMS4, you must submit a Notice of Intent (NOI) and a description of your SWMP in accordance with the deadlines presented in this permit.

2. You may partner with another NPDES program MS4 to develop and implement your SWMP. You may also jointly submit an NOI with one or more MS4s. Each sMS4 must fill out the sMS4 NOI (Attachment #1 – Notice of Intent) for a sMS4. The description of your SWMP must clearly describe which permittees are responsible for implementing each Minimum Control Measure (MCM) BMP.
3. Unless notified by NDEQ to the contrary, dischargers who submit a NOI in accordance with the requirements of this permit are authorized to discharge stormwater from SMS4s under the terms and conditions of this permit thirty days after the date that the NOI was postmarked. Dischargers who submitted an NOI (including an alternate NOI as in **Part II.C**) prior to authorization of this permit will be authorized to discharge storm water from sMS4s upon authorization of this permit. The Department may deny coverage under this permit and require submittal of an application for an individual NPDES permit based on a review of the NOI or other information (**See Appendix A, Part A.15**).
4. Where the operator changes, or where a new operator is added after submittal of a NOI, a new Signatory Authorization Form must be submitted (**See Appendix A, Part B**).

B. Designation after Permit Issuance

If the NDEQ determines that a sMS4 meets the applicability requirements of this part and sends notice after this permit issuance date, the sMS4 must seek coverage under this permit by submitting an NOI and the SWMP to the NDEQ within 180 days after receipt of the notice.

C. Contents of the Notice of Intent for Existing Dischargers/Previously Permitted Entities

Entities which have previously been permitted under either a general or individual permit for sMS4 discharges may submit an alternate Notice(s) of Intent in compliance with Interpretive Policy Memorandum on Reapplication for Municipal Storm Sewer Systems (FR Vol.61, No. 155, Friday, August 9, 1996 (pg. 41698)). The alternate notice shall be included within the fourth year annual report and must include:

1. The name of your municipal entity/state agency/federal agency, mailing address, and telephone number:
2. The names and title of the primary administrative and technical contacts for the municipal permittee(s):
3. A brief summary of major planned program changes for the next five year permit cycle. These summaries need not include extensive details. (Example: The city will be shifting responsibility for construction to the planning and zoning department and implementing a local permit.):
4. A map with sufficient detail to display: the known receiving waters, sMS4 permitted area, and all currently known major outfalls.

D. Contents of the Notice of Intent for New Dischargers/Previously Unpermitted Entities

The Notice(s) of Intent must be signed in accordance with the signatory requirements (**See Appendix A, Part B**). The following information about the permittee must be included:

1. The name of your municipal entity/state agency/federal agency, mailing address, and telephone number:
2. The names and titles of the primary administrative and technical contacts for the municipal permittee(s):
3. Information on the Municipal Separate Sewer System:
4. The Urbanized Area or Core Municipality (if you are not located in an Urbanized Area) where your system is located, the name of your organization, county where your sMS4 is located, and the latitude and longitude of an approximate center for your Small Municipal Storm Sewer System(sMS4):

5. The name of the major receiving water(s) and an indication of whether any of your receiving waters are on the latest CWA §303(d) list of impaired waters. If you have discharges to 303(d) waters, a certification that your SWMP complies with the requirements of **Part III**:
6. Information on your chosen best management practices (BMPs) and the measurable goals for each of the stormwater MCM (**See Part IV.D**). Your time frame for implementing each of the BMPs, and the person or persons responsible for implementing or coordinating your SWMP.
7. If you are relying on another governmental entity regulated under the stormwater regulations NDEQ Title 119, Chapter 10 002.11C to satisfy one or more of your permit obligations, the entity identity and the element(s) they will be implementing shall be identified (**See Part V**): and
8. Certification of whether you have met eligibility criteria for protection of threatened or endangered species, critical habitat, and historic properties.

E. Where to Submit

Authorization to discharge under this general permit may be applied for by submitting a Notice of Intent (NOI) using sMS4-NOI, or an equivalent format approved by the Department. Your NOI must be signed in accordance with the signatory requirements (**See Appendix A, Part B.**). The sMS4-NOI can be obtained by contacting the NDEQ. The current addresses and telephone number at the time of permit issuance are:

Wastewater Section
Nebraska Department of Environmental Quality
1200 N Street, The Atrium, Suite 400
P.O. Box 98922
Lincoln, Nebraska 68509-8922
Telephone 402-471-4220

Part III. Special Conditions

A. Discharges to Water Quality Impaired Waters

The following conditions may be required; if the sMS4 discharges into impaired receiving waters or to protect threatened or endangered species or their habitat (impaired waters are identified within the latest Integrated Report):

1. SWMP changes;
2. Monitoring requirements; and
3. Reporting requirements.

B. Total Maximum Daily Load (TMDL) Allocations

1. If a TMDL has been approved for the sMS4 receiving waters, the SWMP must address the Waste Load Allocation (WLA) for the pollutants of concern. All actions taken to meet TMDL requirements shall conform to the Federal Clean Water Act and the November 26, 2014 Memorandum published by EPA establishing guidance for TMDL WLAs for stormwater sources and NPDES permit requirements based on those WLAs.
2. To comply with any TMDL requirements, the sMS4 must address Water Quality Standards or implement BMPs under conditions in **Part IV** for the SWMP. If BMPs alone, selected in accordance with 40 CFR 122.44(k)(2) & (3), adequately meet the WLAs, then additional controls are not necessary.
 - a. When a permittee elects to achieve Water Quality Standards in the form of BMPs, the permittee shall also specify BMP performance evaluation necessary to assess if the expected load reductions attributed to the BMPs implementation are achieved. Unless specified by NDEQ, the Evaluation and Assessment Plan developed according to **Part VIII.A** shall satisfy this monitoring requirement.

- b. When a permittee elects or NDEQ requires that Water Quality Standards are achieved in the form of mass or volume discharge reductions, the permittee shall submit the details of the monitoring plan as an attachment to the Evaluation and Assessment Plan specified in **Part VIII.A** for approval by NDEQ.
3. Each annual Review of the MS4 permit shall consider any adjustments to the required BMPs implemented to achieve Water Quality Standards as necessary to ensure their adequate performance.

Part IV. Stormwater Management Plan (SWMP)

A. Requirements

1. The permittee must develop and implement a SWMP within 180 days of permit issuance for existing permittees or from the date of designation notice as described in **Part II.B**. Existing permittees must continue to implement their existing SWMP until a revised SWMP is adopted.
2. New permittees designated in accordance with **Part II.B** shall include a development and implementation schedule (not to exceed five (5) years) for all requirements within this part while existing permittees shall continue to implement and improve their SWMP and include a development and implementation schedule for all SWMP provisions that were not previously required.
3. The NDEQ may notify the permittee of the need to modify the SWMP document to comply with the permit, in which case the permittee will have 90 days to submit such changes to the SWMP.
4. The permittee is required to keep the SWMP document up to date during the term of the permit. Where the permittee determines that modifications are needed to address any procedural, protocol, or programmatic change, such changes must be made as soon as practicable, but not later than 90 days.
5. The SWMP shall reduce pollutants in stormwater runoff to the Maximum Extent Practicable (MEP) to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act, and include management practices, control techniques and system design, and engineering methods for each of the MCMs of the SWMP described in this permit (**See Part IV.D**) including:
 - a. The best management practices (BMPs) that you or another entity will implement for each of the stormwater MCM.
 - b. The measurable goals for each of the BMPs including, as appropriate; the months and years in which you will undertake required actions; this includes interim milestones and the frequency of the action.
 - c. The rationale for the selection of each storm water management program BMPs and its measurable goals.
 - d. The person or persons responsible for implementing or coordinating the BMPs for SWMP.
6. Unless otherwise specified, all written procedures required in this section shall be completed no later than the date of the first annual report due date, or as provided by the schedule implemented above, but no later than 5 years.

B. Adequate Legal Authority

1. The permittee must enact relevant ordinances or other regulatory mechanisms that provide it with adequate legal authority to control pollutant discharges into and from its MS4, and to meet the requirements of this permit.
2. To be considered adequate, this legal authority must, at a minimum, address the following:
 - a. Authority to Prohibit Illicit Discharges
 - b. Allowable Non-Stormwater Discharges
 - c. Authority to Prohibit Spills or Other Releases
 - d. Authority to Require Compliance
 - e. Authority to Require Installation, Implementation, and Maintenance of Control Measures

- f. Authority to Receive and Collect Information
- g. Authority to Inspect
- h. Time-specific Response to Violations
- i. Administrative and Financial Penalties
- j. Civil/Criminal Penalties
- k. Interagency Agreements where MS4 boundaries intersect

C. Enforcement Measures and Tracking

1. The permittee must develop and implement an Enforcement Response Plan (ERP), which sets out the permittee's potential responses to violations and addresses repeat and continuing violations through progressively stricter responses as needed to achieve compliance. The permittee must consider the local feasibility and appropriateness of the following enforcement measures when developing the local ERP:
 - a. Verbal Warnings
 - b. Written Notices of Violation
 - c. Escalated Enforcement Measures including:
 - 1) Citations (with fines);
 - 2) Stop Work Orders;
 - 3) Withholding of Plan Approvals or Other Authorizations;
 - 4) Payment Against Bonds;
 - 5) Assessment for Work and Materials Against Property.
 - d. The permittee must track instances of non-compliance either in hard-copy files or electronically. For each violation, the enforcement case documentation must include, at a minimum, the following:
 - 1) Name of owner/operator of facility or site of violation;
 - 2) Location of stormwater source and type (i.e., construction project, industrial facility);
 - 3) Description of violation;
 - 4) Required schedule for returning to compliance;
 - 5) Description of enforcement response used, including escalated responses if repeat violations occur, if violations are not resolved in a timely manner;
 - 6) Accompanying documentation of enforcement response (e.g., notices of noncompliance, notices of violations);
 - 7) Any referrals to different departments or agencies; and
 - 8) Date violation was resolved

D. Minimum Control Measures

The Minimum Control Measures (MCM) that must be included in your SWMP are:

1. **Public Education, Outreach and Involvement (MCM 1 & 2)**
 - a. Comprehensive Stormwater Public Education, Outreach, and Involvement Program
 - 1) The permittee must develop and implement a comprehensive stormwater education and outreach program for the MS4. The SWMP must, at a minimum:
 - (a) Define the goals and objectives of the program based on defined high priority, community-wide issues;
 - (b) Define the target audience(s);
 - (c) Maintain and update appropriate messages for targeted residential, construction, industrial, and commercial issues;
 - (d) Define methods and process of distribution; and
 - (e) Distribute appropriate educational materials and media to the target audience each year, using whichever methods and procedures determined appropriate by the permittee.

- 2) The permittee must provide a comprehensive stormwater public involvement program that involves the public in the planning and implementation of programs and activities related to the development and implementation of the SWMP. At a minimum, the permittee must:
 - (a) Provide public notice of opportunities to review and comment on all new rules, ordinances, regulations and SWMP revisions drafted by the MS4;
 - (b) Create opportunities for citizens to participate in the implementation of stormwater controls; and
 - (c) Ensure the public can easily find information about the permittee's SWMP
 - 3) The permittee must include written procedures for implementing the education, outreach, and involvement program into the SWMP document so that the permittee can assess its stormwater education, outreach, and implementation program annually.
 - 4) The permittee must adjust its education, outreach and involvement approach including educational materials and the delivery of such materials to address updated program needs identified as a result of each annual assessment.
2. **Illicit Discharge Detection and Elimination (MCM 3)**
- a. Illicit Discharge Detection and Elimination Program
 - 1) The permittee must develop and implement an Illicit Discharge Detection and Elimination (IDDE) Program to detect, investigate, and eliminate non-stormwater discharges, including illegal dumping, into its system for the MS4. The IDDE program must include or address the following:
 - (a) A storm sewer system map that receives continual updates. The storm sewer map must show the following at a minimum:
 - (i) The geographic location and identification number of all known MS4 outfalls and the boundary of drainage areas contributing to those outfalls;
 - (ii) The location of all state-designated waters receiving direct discharges from MS4 outfall pipes;
 - (iii) Dry-weather field screening locations;
 - (iv) Storm drain infrastructure and collection system;
 - (v) Permanent water quality BMP locations; and
 - (vi) Land use within outfall drainage area boundaries.
 - (b) Outfall field screening procedures and priority locations to investigate for detecting illicit discharges;
 - (i) The permittee must document written dry weather field screening and analytical monitoring procedures which are to be used at a number of outfall locations specified in the SWMP each year to detect discharges to the MS4;
 - (ii) The screening procedures must identify the minimum staff, equipment, and discharge evaluation process used by the permittee; and
 - (iii) The permittee must document the basis for its selection of each priority location and maintain a current list of all priority locations identified in the system.
 - (c) Procedures, staff, and equipment required for investigating and tracing the source of all identified illicit discharge;
 - (i) The permittee must report immediately the occurrence of any dry weather flows believed to be an immediate threat to human health or the environment to NDEQ by calling 402-471-2186 or 402-471-4545 after business hours, weekends, and holidays; and

- (ii) The permittee must document all investigations to track at a minimum the date(s) the illicit discharge was observed; the results of the investigation; any follow-up of the investigation; and the date the investigation was closed.
- (d) Procedures for removing the source of the discharge using the Enforcement Response Plan in **Part IV.C**:
 - (i) Once the source of the illicit discharge has been determined, the permittee must take immediate action so the responsible party of the problem can be notified, and require the responsible party to conduct all necessary corrective actions to eliminate the non-stormwater discharge in a timely manner;
 - (ii) The permittee must document all interactions with potentially responsible parties as well as follow-up investigations to confirm illicit discharges have been removed.
- (e) The following categories of non-stormwater discharges or flows (i.e., illicit discharges) shall be addressed only if they are identified as significant contributors of pollutants to your sMS4: routine water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (as defined in 40 CFR 35.20059(20)), uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water (discharges from emergency firefighting activities are excluded from the effective prohibition against non-stormwater and need only be addressed where they are identified as significant sources of pollutants to water of the State of Nebraska).
 - (i) The permittee may also provide a list of other similar, occasional, and incidental non-stormwater discharges that will not be addressed as illicit discharges. These non-stormwater discharges must not be reasonably expected to be significant sources of pollutants to the MS4, because of either the nature of the discharges or conditions you have established for allowing these discharges to your MS4. You must document in your SWMP any local controls or conditions placed on additional exempt non-stormwater discharges. You must include a provision prohibiting any individual non-stormwater discharges that is determined to be contributing significant amounts of pollutants to your MS4.
- 2) If illicit connections or illicit discharges are observed related to an adjacent MS4 operator's municipal storm sewer system then the permittee must notify the other operator within 48 hours of discovery.
- 3) If another operator notifies the permittee of an illegal connection or illicit discharge to the municipal separate storm sewer system then the permittee must follow the requirements specified in **part IV.D.2.a.1.b-d**.
- 4) Written procedures for implementing the IDDE Program, including those components described in **Part IV.D.2.a.1.b-d** must be incorporated into the SWMP document.
- b. Public Reporting of Non-Stormwater Discharges and Spills
 - 1) The permittee must promote, publicize, and facilitate public reporting of illicit discharges or water quality impacts associated with discharges into or from MS4s through a central contact point, including phone numbers for complaints and spill reporting, and publicize to both internal permittee staff and the public.

- 2) The permittee must develop a written spill/dumping response procedure, and a flow chart or phone tree, or similar list for internal use, that shows the procedures for responding to public notices of illicit discharges, the various responsible agencies and their contacts, and who would be involved in illicit discharge incidence response, even if it is a different entity other than the permittee.
- 3) The permittee must conduct reactive inspections in response to complaints and follow-up inspections as needed to ensure that corrective measures have been implemented by the responsible party to achieve and maintain compliance.
- c. **Illicit Discharge Education and Training**
 - 1) The permittee must develop and implement a training program for all municipal field staff, which, as part of their normal job responsibilities, may come into contact with or otherwise observe an illicit discharge or illicit connection to the storm sewer system. Training program documents must be available for review by the permitting authority.
 - 2) The SWMP must include a schedule for training all staff identified in **Part IV.D.2.c.1** above on the identification of an illicit discharge or connection. The permittee must document and maintain records of the training provided and the staff trained.
3. **Construction Requirements and Control Measures (MCM 4)**
 - a. The permittee must develop and implement a program which requires operators of public or private “construction activities” to select, install, implement, and maintain stormwater control measures that comply with local erosion and sediment control, pollution prevention, and other stormwater requirements, including applicable construction storm water general permit, state, and local requirements. “Construction activity” for this permit includes, at a minimum, all public and private construction sites that result in a total land disturbance of one or more acres or that result in a total land disturbance of less than one acre if part of a larger common plan of development or sale. The permittee’s construction program must ensure the following minimum requirements are effectively implemented for all construction activity discharging to its MS4:
 - 1) **Erosion and Sediment Controls.** Design, install, and maintain effective erosion controls and sediment controls to minimize the discharge of pollutants.
 - 2) **Soil Stabilization.** Temporary and permanent stabilization must be completed within a period of time determined by the permittee in accordance with 40 CFR Part 450 – Construction and Development Point Source Category.
 - 3) **Dewatering.** Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, are prohibited unless managed by appropriate controls.
 - 4) **Pollution Prevention Measures.** Design, install, implement, and maintain effective pollution prevention measures to minimize the discharge of pollutants from all sources found on the construction sites that pose a threat to water quality.
 - 5) **Prohibited discharges.** The permittee shall define all prohibited discharges that are considered a violation of local regulations.
 - 6) **Surface Outlets.** When discharging from basin and impoundments, utilize outlet structures that withdraw water from the surface, unless infeasible as defined in 40 CFR Part 450.
 - b. The permittee must maintain an inventory of all active public and private construction sites authorized by the permittee within the MS4 boundary. The inventory must be continually updated as new projects are permitted or approved and projects are completed. The inventory must contain relevant contact and location information for each project, the date the permittee approved the local erosion and sediment control/stormwater plan, and the project tracking number. The permittee must make it available to the permitting authority upon request.

- c. The permittee must require each operator of a construction activity described in **Part IV.D.3.a** to prepare and submit for review an erosion and sediment control plan prior to the disturbance of land for the permittee's review and written authorization. The permittee must implement site plan review procedures that meet the following minimum requirements:
 - 1) The permittee must not approve any erosion and sediment control plan unless it contains appropriate site-specific construction site control measures that meets the minimum local requirements for stormwater protection of construction activity.
 - 2) The permittee must use qualified individuals, knowledgeable in the technical review of erosion and sediment control plans to conduct such reviews.
 - 3) The permittee must document its review of erosion and sediment control plan using a checklist or similar process.
- d. Construction Site Inspection and Enforcement
 - 1) The permittee must inspect public and private construction activity according to local procedures at a frequency documented in the SWMP.
 - 2) The permittee must provide trained and qualified inspectors for municipal inspections. The permittee must also develop and implement written procedures outlining the local inspection and enforcement procedures. Inspections of construction sites must, at a minimum:
 - (a) Check for coverage under the NDEQ NPDES general construction permit by requesting a copy of any application or Notice of Intent (NOI) or other relevant application form during initial inspections;
 - (b) Review the applicable erosion and sediment control plan and conduct a thorough site inspection to determine if control measures have been selected, installed, implemented, and maintained according to the plan;
 - (c) Assess compliance with the permittee's ordinances and permits related to stormwater runoff, including the implementation and maintenance of designated MCM;
 - (d) Visually observe and record non-stormwater discharges, potential illicit connections, potential discharge of pollutants in stormwater runoff, and the receiving stream to determine if sediment has moved offsite;
 - (e) Provide education and outreach on stormwater pollution prevention, as needed; and
 - (f) Provide a written or electronic inspection report generated from findings in the field.
 - 3) The permittee must track the number of inspections for the inventoried construction sites throughout the reporting period. Inspection findings must be documented and maintained for review by the permitting authority.
 - 4) Based on site inspection findings, the permittee must take all necessary follow-up actions (i.e., re-inspection, enforcement) to ensure compliance in accordance with the permittee's Enforcement Response Plan required in **Part IV.C**. These follow-up and enforcement actions must be tracked and maintained for review by the permitting authority.
- e. The permittee must ensure that all staff whose primary job duties are related to implementing the construction stormwater program, including permitting, plan review, construction site inspections, and enforcement, are trained to conduct these activities. Training must be provided, sponsored, or required at a frequency established in the SWMP for erosion and sediment control/stormwater inspectors, plan reviewers, and third-party inspectors and plan reviewers.
- f. Construction Site Operator Education and Public Involvement
 - 1) The permittee must provide educational materials to construction site operators at a frequency outlined in the SWMP.
 - (a) The permittee must either provide information on existing training opportunities or develop new training for construction operators on control measure selection, installation, implementation, and maintenance as well as overall program compliance.

- (b) The permittee must develop or utilize existing outreach tools (i.e., brochures, posters, website, plan notes, manuals etc.) aimed at educating construction operators on appropriate selection, installation, implementation and maintenance of stormwater controls, as well as overall program compliance.
 - (c) The permittee must make available appropriate outreach materials to all construction operators who will be disturbing land within the MS4 boundary.
 - (d) The permittee must include information on appropriate selection, installation, implementation, and maintenance of controls, as well as overall program compliance, on the permittee's existing website.
 - 2) Public Involvement – The permittee must provide procedures for receipt and consideration of information submitted by the public regarding construction projects.
- 4. **Post-Construction Stormwater Management Program (MCM 5)**
 - a. Post-Construction Stormwater Management Program Requirements
 - 1) The permittee must develop and implement a program to control stormwater discharges from new development and redeveloped sites that result in a total land disturbance of one or more acres or that result in a total land disturbance of less than one acre if part of a larger common plan of development or sale that discharge into the MS4. The program must apply to private and public development sites, including roads.
 - 2) Written procedures for implementing this program must be incorporated into the SWMP document within the permit term.
 - b. Site Performance Standards
 - 1) Within the permit term, new permittees must adopt local post construction stormwater standards for designing, installing, implementing, and maintaining stormwater control measures which include BMPs that infiltrate, evapotranspire, harvest, and/or use stormwater discharges. Existing permittees must review their current ordinances to ensure compliance with the permit in one year.
 - 2) Within the permit term, new permittees must adopt local stormwater discharge design standards that consider site discharge volume, rate, duration, and frequency for new development and redevelopment sites. The local stormwater discharge design standards must describe the site design strategies, control measures, and other practices deemed necessary by the permittee to protect naturally-occurring hydrology to the maximum extent practicable. Existing permittees must review their current ordinances to ensure compliance with the permit in one year.
 - c. Post-Construction Site Plan Review
 - 1) To ensure that all applicable new development and redeveloped sites conform to the performance standards required in **Part IV.D.4.b** the permittee must conduct project review, approval, and enforcement procedures that include:
 - (a) Procedures for the site plan review and approval process(es) that include inter-departmental consultations, as needed, and a required re-approval process when changes to an approved plan are desired; and
 - (b) A requirement for submittal of “as-built” certifications within 90 days of completion of a project.
 - 2) The permittee must conduct site plan reviews and consider how the project applicant meets the performance standards developed pursuant to **Part IV.D.4.b** and how the project will ensure long-term maintenance as required in **Part IV.D.4.d**.
 - d. Long-Term Maintenance of Post-Construction Stormwater Control Measures
 - 1) All structural stormwater control measures installed and implemented to meet the performance standards developed pursuant to **Part IV.D.4.b** must be maintained in perpetuity by the permittee or the owner/operator of a new development or redevelopment site.

- 2) Written procedures for ensuring long-term maintenance of post-construction stormwater control measures must be incorporated into the SWMP document. The permittee must ensure the long-term maintenance of structural stormwater control measures installed according to this part.
- e. Tracking Post-Construction Stormwater Control Measures
 - 1) The permittee must maintain a current inventory of all post-construction structural stormwater control measures installed and implemented at new development and redeveloped sites, including both public and private sector sites located within the permit area.
 - 2) Based on inspections conducted under **Part IV.D.4.f**, the permittee must update the inventory as appropriate where changes occur in property ownership or the specific control measures implemented at the site. This inventory must be maintained and available for review by the permitting authority.
- f. Post-Construction Stormwater Inspection and Enforcement
 - 1) The permittee must conduct inspections for each project site covered under **Part IV.D.4.b** performance standards, at a frequency defined in the SWMP. A description of inspection and reporting procedures must be included in the SWMP document.
 - 2) The permittee must conduct a post-construction inspection of any project required to meet the **Part IV.D.4.b** performance standards to verify that the permittee's performance standards have been met.
 - 3) The permittee must maintain inspection findings in an inspection report.
 - 4) The permittee must document and maintain records of inspection findings and enforcement actions and make them available for review by the permitting authority.
5. **Municipal Good Housekeeping and Pollution Prevention (MCM 6)**
 - a. Municipal Facility and Control Inventory
 - 1) The permittee must develop and maintain an inventory of municipally-owned or operated facilities and stormwater controls that is available for review by the permitting authority.
 - 2) The permittee must identify on a map where the municipally-owned or operated facilities are located within the MS4. The map must be maintained and updated regularly and be available for review by the permitting authority.
 - b. Municipally-Owned or Operated Facility Assessment
 - 1) The permittee must maintain current assessments of all municipally-owned or operated facilities identified in **Part IV.D.5.a**. A description of the assessment process and frequency must be included in the SWMP document.
 - 2) The permittee must identify "high-priority" facilities that have a high potential to generate stormwater pollutants. A description of the evaluation criteria for determining "high-priority" must be included in the SWMP.
 - 3) The permittee must document the results of the assessments and maintain copies of all site evaluation checklists used to conduct the comprehensive assessment.
 - c. Development of Facility-Specific Stormwater Management SOPs and Implementation of Facility Stormwater Controls
 - 1) The permittee must develop and maintain facility-specific stormwater management standard operating procedures (SOPs) for "high priority" facilities to control the contribution of pollution in stormwater runoff.
 - (a) For each "high priority" facility or operation identified in **Part IV.D.5.b**, the permittee must develop a site-specific SOP that identifies stormwater control measures, inspection frequency, visual monitoring procedures, and schedule.
 - (b) A copy of the facility-specific stormwater management SOP must be maintained and be available for review by the permitting authority. The SOP must be kept on-site at each of the municipally owned or operated facilities' offices for which it was completed. The SOP must be kept current.

- 2) All “high priority” municipally-owned or operated facility SOPs must include provisions for general good housekeeping practices, storage of de-icing materials, fueling operations, vehicle maintenance, and equipment and vehicle washing.
 - 3) All “high priority” municipally-owned or operated facilities must receive routine and comprehensive inspections and visual monitoring according to a schedule provided in the SWMP.
- d. Storm Sewer Maintenance Activities
- 1) MS4 catch basin maintenance
 - (a) The permittee must inspect and clean catch basins in accordance with a schedule provided in the SWMP and maintain a log of all maintenance performed.
 - (b) The permittee must ensure to the extent practicable that each catch basin includes a legible stormwater awareness message.
 - (c) The permittee must visually monitor permittee-owned open channels and other drainage structures for debris and evidence of ongoing dumping at a frequency defined in the SWMP.
 - (d) The permittee shall include the removal of trash and debris from open channels and other drainage structures as soon as practicable and document drainage structure maintenance activity in a log that is to be made available for review by the permitting authority upon request.
 - (e) The permittee must develop a procedure to dewater and dispose of materials extracted from catch basins so that water removed during the catch basin cleaning process and waste material will not reenter the MS4.
 - 2) Municipal activities and operations
 - (a) The permittee must implement a set of pollution prevention measures that, when applied during municipal O&M activities, will reduce the discharge of pollutants in stormwater.
 - (b) All pollution prevention measures implemented at municipal facilities must be visually inspected at a frequency listed in the SWMP to ensure they are working properly; a log of inspections must be maintained and made available for review by the permitting authority upon request.
 - 3) Street Sweeping and Cleaning
 - (a) The permittee must evaluate the sweeping frequency, timing, and efficiency of existing street sweeping efforts on all municipally-owned streets, roads, and public parking lots within their jurisdiction.
 - (b) The permittee must sweep streets, roads, and public parking lots in accordance with a frequency provided in the SWMP.
 - (c) The permittee must provide a procedure to dewater and dispose of street sweeper waste material. This procedure must ensure that water and material will not reenter the MS4.
 - (d) A description of the street sweeping program shall be included with the SWMP.
 - 4) Maintenance of Municipally-Owned and/or Maintained Structural Stormwater Controls
 - (a) The permittee must inspect and maintain if necessary all municipally-owned or maintained structural stormwater controls in accordance with a frequency provided in the SWMP.
 - (b) The permittee must also maintain all municipally-owned or maintained green infrastructure practices through regularly scheduled maintenance activities.
- e. Training and Education
- The permittee must develop and implement an employee training program for employees involved in implementing pollution prevention and good housekeeping practices in this part. The permittee must also identify and track all personnel requiring training and records must be maintained. The training program and target audience must be described in the SWMP.

- f. **Contractor Requirements and Oversight**
Any contractors hired by the permittee to perform municipal maintenance activities must be contractually required and overseen by the permittee to ensure compliance with all of the stormwater control measures, good housekeeping practices, and facility-specific stormwater management SOPs described above. The contract must also state who is responsible for overall management and implementation of your pollution prevention/good housekeeping program and, if different, who is responsible for each of the BMPs identified for this program.

Part V. Sharing Responsibility

A. Implementation of the Minimum Measures

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

1. The other entity, in fact, implements the control measure;
2. The particular control measure, or component of that measure, is at least as stringent as the corresponding permit requirement.

B. The Other Entity Responsibility

The other entity agrees to implement the control measure on your behalf. Written acceptance of this obligation is expected. This obligation must be maintained as part of the description of your SWMP. If the other entity agrees to report on the minimum measures, you must supply the other entity with the reporting requirements contained in **Part IV.A** of this permit. If the other entity fails to implement the control measure on your behalf, then you remain liable for any discharges due to that failure to implement.

Part VI. Reporting Requirements

A. Annual Report

1. The permittee shall submit annual reports on or before April 1 for the reporting period January 1 – December 31. The permittee must use the NDEQ Summary MS4 Annual Report template to document a summary of the past year activities. All of the information required on this form must be completed.
2. The permittee must also submit a detailed annual report for information not addressed by **Part VI.A.1** that addresses, for the activities described in the SWMP document required in **Part IV.A**, the following:
 - a. A summary of past year activities, including where available, specific quantities achieved and summaries of enforcement actions;
 - b. A description of the effectiveness of each SWMP program component or activity consistent with **Part VIII.B**;
 - c. Planned activities and changes for the next reporting period, for each SWMP program component or activity; and
 - d. An estimate of SWMP implementation costs.
3. The annual report must clearly refer to the permit requirements and describe the status of activities undertaken to comply with each requirement.

B. Amendment of Reporting Requirements

The reporting requirements set forth above may be amended in accordance with procedures set forth in **Part VII**.

C. Immediate Reporting Requirements

The permittee shall immediately report to the Department by telephone upon becoming aware of any of the following:

1. Evidence that a discharge or sludge may be causing distress to fish, aquatic life, plant life, wildlife, or livestock; and/or
2. According to NDEQ Title 126 Chapter 18, new knowledge of spills, leaks or contamination that could impact authorized discharges to surface or ground waters.

Part VII. Amendment Procedures and Requirements

A. Amendment Procedures

1. Either the Department or the municipal entity may propose amendments to the SWMP, monitoring requirements and reporting requirements. Amendments may be proposed either formally or informally. Proposed amendments shall not be implemented without agreement from both the permittee and the Department.
2. Any such amendments must comply with the applicable Federal requirements set forth in NDEQ Title 119, Chapter 10 002.12K2.
3. Amendments that are mutually agreeable shall be implemented in accordance with written Department approval.
4. To further pursue proposed amendments that are not mutually agreeable, a written amendment request shall be forwarded to the other party. A reasonable time of at least 30 days shall be provided for the other party to review the proposals, and prepare comments, alternatives, and/or objections. A written response shall be provided within 90 days. If a final opinion is not possible during that time frame, preliminary comments will be provided.
5. After a period of at least 90 days from receipt of a written amendment request, either party may request or initiate a permit modification to resolve any SWMP amendment proposals that cannot be resolved by the procedure set forth above.

B. Endangered and Threatened Species

Changes to the SWMP, monitoring requirements and reporting requirements may be required to protect threatened or endangered species or their habitat.

C. Total Maximum Daily Loads (TMDLs)

Changes to the SWMP, monitoring requirements and reporting requirements may be required to comply with any future TMDL requirements that may be established pursuant to the requirements of the Federal Clean Water Act.

Part VIII. Evaluation and Assessment Requirements

A. Development of a Comprehensive Evaluation and Assessment Program

1. The permittee must provide a comprehensive evaluation and assessment program that utilizes narrative effluent limitations requiring implementation of BMPs to satisfy permit requirements and protect water quality. A description of this program must be submitted to NDEQ along with the update SWMP within 180 days of this permit issuance date for existing permittees or from the date of designation notice as described in **Part II.B**. A current version of the evaluation and assessment plan must be included in the SWMP document. The evaluation and assessment program must be designed to meet the following objectives:
 - a. Assess compliance with this permit;
 - b. Measure the effectiveness of the permittee's SWMP through performance measures and effectiveness measures defined for each minimum control measure;
 - c. Evaluate the appropriateness of identified BMPs using appropriate administrative and environmental assessment indicators; and
 - d. Assess progress toward achieving measureable goals that describe timelines for implementation, interim milestones and frequency of actions.
2. The permittee must describe in the evaluation and assessment program how water quality considerations are made for the following criteria:

- a. The chemical, physical, and biological impacts to receiving waters resulting from stormwater discharges;
 - b. Stormwater discharge characteristics;
 - c. Source identification of specific pollutants; and
 - d. Overall health and long-term trends in receiving water quality.
3. These monitoring requirements may be amended in accordance with procedures set forth in **Part VII**.

B. Evaluation of Overall Program Effectiveness

1. The annual effectiveness assessment must:
 - a. Use the evaluation and assessment data described in **Part IX.A** to specifically assess the effectiveness of each minimum control measure of the SWMP and implementation of the SWMP as a whole.
 - b. Use appropriate environmental indicators and administrative indicators as described below:
 - 1) Environmental Indicators: As part of the comprehensive evaluation and assessment program, the permittee must identify and track indicators that represent each of the representative environmental categories: physical and hydrologic indicators; biological indicators; water quality indicators. The permittee may rely on information collected by others for the fulfillment of this part (e.g., NDEQ Integrated Report)
 - 2) Administrative Indicators: As part of the comprehensive evaluation and assessment program, the permittee must identify and track indicators that represent each of the representative administrative categories: social indicators; programmatic indicators; site indicators.
 - c. Document the permittee's compliance with permit conditions and progress towards achieving measureable goals.
2. Based on the results of the effectiveness assessment, the permittee must annually review its activities or control measures to identify modifications and improvements needed to maximize SWMP effectiveness, as necessary to achieve compliance with this permit. These revisions must be included with the annual report of MS4 activities along with revised timelines for implementation.

C. Coordination of Information

The permittee and NDEQ shall share and coordinate relevant monitoring data. Data collected by other governmental entities can be used by the permittee to help assess the effectiveness of BMPs. The data may be used to meet the evaluation and assessment requirements of this permit.

D. Additional Monitoring by Permittee

1. The permittee may request to use analytical monitoring to supplement the comprehensive evaluation and assessment program where practical. Nothing in this section shall be construed to preclude the use of analytical monitoring as an evaluation and assessment method.
2. If the permittee seeks to use analytical monitoring, the procedures set forth in **Part VII** shall be used for the approval of a monitoring program.