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Pete Ricketts, Governor

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

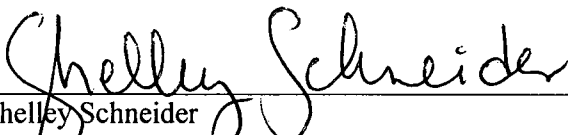
General NPDES Permit Number NER310000 Authorizing Storm Water Discharges to waters of the State from Small Municipal Separate Storm Sewer Systems Located in the State of Nebraska

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: **July 1, 2017**
Expiration Date: **June 30, 2022**

Pursuant to a Delegation Memorandum dated August 22, 2016, and signed by the Director, the undersigned hereby executes this document on behalf of the Director.

Signed this 29th day of June, 2017



Shelley Schneider
Water Permits Division Administrator



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Appendix A. Standard Conditions

Attachment #1 sMS4 – NOI – Reapplication – Notice of Intent

Attachment #2 sMS4 – NOI –Notice of Intent for New Permittees

Attachment #3 Signatory Authorization Form

Attachment #4 sMS4 Annual Report Format

Part I. Applicability

A. General Permit Program Area

This permit has application to the discharges from Small Municipal Separate Storm Sewer System (sMS4) waters within the State of Nebraska. A sMS4 is owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity.

B. Authorized Discharges

1. This permit shall authorize discharges of storm water 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 storm water and other authorized flows from within the sMS4. The discharges provided coverage under this permit are limited to the following:
 - a. Municipal storm water that originates from within the General Permit Program Area;
 - b. Storm water from areas outside the General Permit Program Area that flows into and through the sMS4;
 - c. Storm water 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-storm water 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 Storm Water Management Plan (SWMP); or
 - 3) Other allowable non-storm water discharges (See **Part IV.B.2.e**).

C. Limitations on Authorization

This permit does not authorize:

1. Discharges that are mixed with sources of non-storm water unless such non-storm water discharges are:
 - a. In compliance with a separate NPDES permit (e.g. non-contact cooling water);
 - b. Storm water discharges currently covered under another permit;
 - c. Determined not to be a substantial contributor of pollutants to waters of the State of Nebraska as determined by the Nebraska Department of Environmental Quality (hereafter referred to as the Department).
2. Storm water discharges associated with industrial activity as defined in NDEQ Title 119, Chapter 1 117.
3. Storm water discharges associated with construction activity as defined in NDEQ Title 119, Chapter 1 118.
4. Storm water 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. Compliance to the Maximum Extent Practicable

Pursuant to state regulation Title 119, Chapter 10 002.12A and federal regulation 40 CFR 122.34(a) this permit requires implementation of control measures and other management practices to reduce pollutants in storm water discharges to the maximum extent practicable. Narrative effluent limitations (a narrative description of the program elements and measurable Best Management Practices (BMP) goals) requiring implementation of BMPs will be used to reduce pollutants and protect water quality to the maximum extent practicable. Program elements will include management practices, control techniques, and system design and engineering methods and such other provisions that are appropriate.

E. 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 storm water from sMS4, you must submit a Notice of Intent (NOI) and your SWMP in accordance with the deadlines presented in this permit. Each currently-permitted sMS4 must fill out the sMS4 NOI (Attachment #1 – Notice of Intent). New sMS4 permittees which currently do not have a sMS4 permit must fill out the sMS4 NOI for new permittees (Attachment 2).
2. Permittees have the following options for authorization under this permit:
 - a. Individual sMS4 permit authorization under this general permit;
 - b. Co-permittees with one or more MS4 programs under this general permit; or
 - c. Coordinated permittees with one or more MS4 programs under this general permit.
3. Individual: A permittee may obtain authorization by filling out an NOI and receiving approval of the NDEQ. This permittee is responsible for the implementation of the SWMP and BMPs in its jurisdiction.
4. Co-permittee: A MS4 may be covered under this general permit as a co-permittee with one or more other neighboring MS4 programs. In order to be permitted as co-permittees, the original permittee and the other MS4 jurisdictions must submit an NOI with a set of BMPs for all co-permittees. Responsible officials of each participating jurisdiction must sign a single NOI. If measurable goals and implementation milestones vary, each co-permittee must submit its own goals and milestones as part of the SWMP. The description of permittee's Stormwater Management Program must clearly describe which permittees are responsible for implementing each of the control measures.
 - a. Each co-permittee is liable for:
 - (1) Permit compliance for discharges within its legal jurisdiction;
 - (2) Implementing the six minimum measures in portions of the jurisdiction where it is the operator and in areas within its legal jurisdiction; and
 - (3) If any permit conditions are established for specific portions of the MS4, co-permittees need only comply with the permit conditions relating to those portions of the MS4 for which they are the operator.
 - b. Each co-permittee is responsible as a group for compliance with the annual reporting requirements set forth in **Part VII** of this permit, though they are individually liable for parts of the annual report that exclusively deal with portions of the MS4 where it has jurisdiction.
 - c. Co-permittees are jointly liable for MS4 permit compliance:
 - (1) Where operational or Stormwater Management Program implementation authority over portions of the MS4 has been transferred from one co-permittee to another in accordance with legally binding interagency agreements, both the owner and operator may be jointly liable for permit compliance on those portions of the MS4; and
 - (2) Where one or more co-permittees jointly own or operate a portion of the MS4, each MS4 program is jointly liable for compliance with permit conditions on the shared portion of the MS4.
5. Coordinated permittees: MS4 programs may jointly fill out an MS4 NOI as coordinated permittees. They may share in the implementation of one or more control measures set forth in **Part IV** of the permit. One permittee may fully take over the measure for other permittees as a coordinated program, though this is only allowed if:
 - a. The particular control measure, or component of that measure, is at least as stringent as the corresponding permit requirement; and
 - b. The other entity agrees to implement the control measure on the permittee's behalf. Written acceptance of this obligation is required and must be detailed and managed 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 **Part VI** of this permit. If the other entity fails to implement the control measure on the permittee's behalf, then the permittee remains liable for any discharges due to that failure to implement the control measure or management practice.
6. You may partner with another MS4 program or programs to develop and implement your SWMP(s) as

coordinated permittees. You may also jointly submit NOIs with one or more MS4s, though each MS4 program must have its own certifying official. The description of your SWMP must clearly describe which permittees are responsible for implementing each Minimum Control Measure (MCM) BMP.

7. Unless notified by NDEQ to the contrary, dischargers who submit a NOI in accordance with the requirements of this permit are authorized to discharge storm water from SMS4s under the terms and conditions of this permit after public notice of the SWMP has been completed, and the SWMP has been approved by the Department. 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**).
8. 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 a NOI and the SWMP to the NDEQ within 180 calendar days after receipt of the notice.

C. Contents of the Alternative 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 Existing and New Dischargers

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 storm water MCM (See **Part IV.B**). Your time frame for implementing each of the BMPs, and the person(s) or job position(s) responsible for implementing or coordinating your SWMP.
7. If you are relying on another governmental entity regulated under the storm water 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. Current permittees must submit the previous five years of annual expenditures on the SMS4 program. This data will be utilized by the NDEQ to determine the maximum extent practicable for the best management practices of the permittee. New permittees must submit anticipated annual expenditures of the first 12 months after approval of NOI and SWMP, if available.
9. 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. Program and Resource Requirements

A. 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. The permittee must specifically develop ordinances or mechanisms to address the following SWMP components:
 - a. Illicit discharge and detection and elimination;
 - b. Construction requirements and control measures; and
 - c. Post-construction storm water management program(s).
2. Non-traditional permittees must consider the appropriateness and feasibility of the requirements in **Part III.A.3** of this permit. As a permittee, the non-traditional MS4 must have the legal authority to develop, implement, and enforce the program. Non-traditional MS4s must implement an adequate legal authority framework subject to review by the NDEQ.
3. To be considered adequate, this legal authority must, at a minimum, address the following:
 - a. Authority to prohibit illicit discharges
 - b. Allowable non-storm water 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. Interagency agreements where MS4 boundaries intersect

B. 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 storm water 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

C. 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 Surface Water Quality Integrated Report, available through the Department):

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

D. 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 storm water 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 VI.A.4** 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 VI.A.4** 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. If an impairment of a receiving waterbody is introduced during the permit term, the permittee shall evaluate their SWMP and its effectiveness in the annual report to determine if the existing BMPs or standards are adequate to meet the TMDL.

Part IV. Storm Water Management Plan (SWMP)

A. Requirements

1. The permittee must develop and implement a SWMP within 180 calendar 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 issued and approved.
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 calendar 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 following the requirements set forth in **Part VII.A** of this permit.
5. The SWMP shall reduce pollutants in storm water 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.B**) including:
 - a. The best management practices (BMPs) that you or another entity will implement for each of the storm water MCM.
 - b. The SWMP must detail how the MS4 program will evaluate and assess its effectiveness at implementing and maintaining BMPs. An effectiveness assessment must be submitted with the MS4 annual report as detailed in **Part VI.A.4**.
 - c. 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.
 - d. The rationale for the selection of each storm water management program BMPs and its measurable goals.
 - e. The person(s) or job position(s) responsible for implementing or coordinating the BMPs for SWMP.
 6. To support and add detail to BMPs described in the SWMP, permittees may utilize or reference existing storm water documents such as a Standard Operations and Procedures manual, Operation and Maintenance Plan, Spill Response Plan, or Storm Water Pollution Prevention Plan if that document includes the necessary information required to comply with the corresponding SWMP requirement(s). The permittee must submit supporting documents referenced in the SWMP with the sMS4 NOI. Supporting documents which describe specific BMPs, milestones, and schedules may be incorporated into the SWMP and may be publically noticed.
 7. For existing permittees, unless otherwise specified, all written procedures required in this section shall be completed no later than one year after the approval of the permittee NOI and SWMP, or as provided by the schedule implemented above. New permittees must have completed the requirements of this section within five (5) years.

B. 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 Storm Water Public Education, Outreach, and Involvement Program
 - 1) The permittee must develop and implement a comprehensive storm water 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 storm water 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 storm water controls; and
 - (c) Ensure the public can easily find information about the permittee's SWMP.
2. **Illicit Discharge Detection and Elimination (MCM 3)**
 - a. Illicit Discharge Detection and Elimination Program
 - 1) The permittee must develop (or maintain), implement, and enforce an Illicit Discharge Detection

- and Elimination (IDDE) Program to detect, investigate, and eliminate non-storm water discharges, including illegal dumping, into its system for the MS4. The IDDE program must include or address the following:
- (a) The permittee must, as part of the IDDE program, develop an enforcement plan or mechanism following the requirements of **Parts III.A and B** of this permit.
 - (b) A storm sewer system map showing the location of all outfalls and the names and location of all waters of the state that receive discharges from those outfalls. If the sMS4 system connects to another MS4 system, the outfall drainage areas can be limited to those that drain only to the permittee's system. Connections and interactions to other MS4 systems need to be delineated;
 - (c) 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.
 - (d) 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.
 - (e) Procedures for removing the source of the discharge using the Enforcement Response Plan in **Part III.B**:
 - (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-storm water discharge as soon as practicable;
 - (ii) The permittee must document all interactions with potentially responsible parties as well as follow-up investigations to confirm illicit discharges have been removed.
 - (f) The following categories of non-storm water 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 35.2005(20)), uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water (discharges from emergency firefighting activities are excluded from the effective prohibition against non-storm water and need only be addressed where they are identified as significant sources of pollutants to waters of the State of Nebraska).
 - (i) The permittee may also provide a list of other similar, occasional, and incidental non-storm water discharges that will not be addressed as illicit discharges (these incidental discharges are similar to those listed above in **Part IV.B. 2.e**). These non-storm water 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.
- (ii) You must document in your SWMP any local controls or conditions placed on additional exempt non-storm water discharges. You must include a provision prohibiting any individual non-storm water 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 or as soon as practicable.
 - 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.B.2.a.1.b-d**.
 - 4) Written procedures for implementing the IDDE Program, including those components described in **Part IV.B.2.a.1.b-d** must be incorporated into the SWMP document.
- b. Public Reporting of Non-Storm Water 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.
 - 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 notification regarding 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 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 identify the frequency or implement a strategy for training staff identified in **Part IV.B.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 (or maintain), implement, and enforce a program which requires operators of public or private "construction activities" to select, install, implement, and maintain storm water control measures that comply with local erosion and sediment control, pollution prevention, and other storm water 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 450.11(b)).
- b. The permittee must, as part of the construction requirements and control measures, develop an enforcement plan or mechanism following the requirements of **Parts III.A and B** of this permit.
 - c. The permittee must require each operator of a construction activity described in **Part IV.B.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 storm water 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.
 - 4) The permittee must maintain an inventory that is continually updated of all active public and private construction sites authorized by the permittee within the MS4 boundary.
 - d. **Construction Site Inspection and Enforcement**
 - 1) The permittee must inspect public and private construction activity according to local procedures with a strategy 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 storm water runoff, including the implementation and maintenance of designated MCM;
 - (d) Visually observe and record non-storm water discharges, potential illicit connections, potential discharge of pollutants in storm water runoff, and the receiving stream to determine if sediment has moved offsite;
 - (e) Provide education and outreach on storm water 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 III.B**. These follow-up and enforcement actions must be tracked and maintained for review by the permitting authority.
 - e. The permittee must ensure that the staff whose primary job duties are related to implementing the construction storm water program, including permitting, plan review, construction site inspections, and enforcement, are trained to conduct these activities. Training must be made available, sponsored, or required in a strategy established in the SWMP for erosion and sediment control/storm water inspectors, plan reviewers, and third-party inspectors and plan reviewers.

- f. Construction Site Operator Education and Public Involvement
 - 1) The permittee must make publically available educational materials to construction site operators in a strategy 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 installation, implementation and maintenance of storm water 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 provide information on the installation and maintenance of controls on the permittee's website or made publically accessible by whichever methods and procedures are determined appropriate by the permittee and approved by the NDEQ.
 - 2) Public Involvement – The permittee must have procedures for tracking complaints and submitting information by the public regarding construction projects and must also provide the permittee's response if a response is given.
- 4. **Post-Construction Storm Water Management Program (MCM 5)**
 - a. Post-Construction Storm Water Management Program Requirements
 - 1) The permittee must develop (or maintain), implement, and enforce program(s) to control storm water 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(s) must apply to private and public development sites, including roads.
 - 2) The permittee must, as part of the post-construction management programs, develop an enforcement plan or mechanism following the requirements of **Parts III.A and B** of this permit.
 - 3) The permittee may develop divergent standards for distinct categories of development (i.e., infrastructure projects, redevelopment, greenfield development, etc.), divergent standards are allowable but not required.
 - 4) Written procedures for implementing or maintaining the program(s) must be incorporated into the SWMP. New permittees must incorporate procedures in the SWMP within the permit term.
 - b. Site Performance Standards
 - 1) Within the permit term, new permittees must adopt local post construction storm water standards for designing, installing, implementing, and maintaining storm water control measures which include BMPs that infiltrate, evapotranspire, harvest, and/or use storm water 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 storm water discharge design standards that consider parameters such as site discharge volume, rate, duration, and frequency for new development and redevelopment sites. The local storm water discharge design standards must describe the site design strategies, control measures, and other practices deemed necessary by the permittee to protect pre-development 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.B.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) and modification when changes to an approved plan are desired; and
 - (b) A requirement for submittal of "as-built" certifications in a schedule defined in the SWMP and approved by the NDEQ.
 - d. Long-Term Maintenance of Post-Construction Storm Water Control Measures

- 1) Procedures must be established to assure all structural storm water control measures installed and implemented meet the approved plans and are maintained in perpetuity.
- 2) The permittee must establish procedures to respond to complaints and notifications to ensure the long-term maintenance of structural controls.
- e. Tracking Post-Construction Storm Water Control Measures
 - 1) The permittee must maintain a current inventory of certified post-construction structural storm water control measures installed and implemented at new development and redeveloped sites, including both public and private sector sites located within the permit area.
 - 2) A survey or number of new post-construction BMPs sorted by type (bio-retention, catch basins, etc.) must be included in the annual report.
 - 3) Based on inspections conducted under **Part IV.B.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 Storm Water Inspection and Enforcement
 - 1) The permittee must conduct post-construction inspections for completed project sites covered under **Part IV.B.4** to verify that performance standards have been met, in a strategy defined in the SWMP. A description of inspection and reporting procedures be developed and kept of file for review.
 - 2) The permittee must document and maintain records of inspection findings and any enforcement actions taken and make them available for review by the permitting authority.
5. **Pollution Prevention and Good Housekeeping (MCM 6)**
 - a. Municipal Facility and Control Inventory
 - 1) The permittee must develop and maintain an inventory of municipally-owned or operated facilities and storm water 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.B.5.a**. The strategy and description of the assessment procedure must be included in the annual report.
 - 2) The permittee must identify “high-priority” facilities that have a high potential to generate storm water pollutants. High priority facilities are facilities which have the high potential to generate storm water pollutants. A description of the evaluation criteria for determining “high-priority” must be included in the annual report.
 - 3) The permittee must document the results of the assessments and maintain copies of all site evaluation documents used to conduct the assessment.
 - c. Development of Facility-Specific Storm Water Management Standard Operating Procedures and Implementation of Facility Storm Water Controls (Runoff Control Plans, or RCPs)
 - 1) The permittee must develop and maintain facility-specific Runoff Control Plans for “high priority” facilities to control the contribution of pollution in storm water runoff.
 - (a) For each “high priority” facility or operation identified in **Part IV.B.5.b**, the permittee must develop or maintain a site-specific RCP that identifies storm water control measures, inspection strategy, and visual monitoring procedures.
 - (b) A copy of the facility-specific Runoff Control Plan must be maintained and be available for review by the permitting authority. The RCP must be kept on-site at each of the municipally owned or operated facilities’ offices for which it was completed. The RCP must be updated as necessary.
 - 2) All “high priority” municipally-owned or operated facility Runoff Control Plans must include provisions for general good housekeeping practices, storage of de-icing materials, fueling operations, vehicle maintenance, and equipment and vehicle washing.

- d. Storm Sewer Maintenance Activities
 - 1) MS4 storm water inlets and catch basin maintenance
 - (a) The permittee must develop a strategy to inspect and clean storm water inlets as needed in the SWMP. The results of the implementation of this strategy shall be included in the annual report.
 - (b) The permittee must have a plan to label inlets with a legible storm water awareness message.
 - (c) The permittee must visually monitor permittee-owned open channels and other drainage structures for debris and evidence of ongoing dumping in a strategy defined in the SWMP.
 - (d) The permittee shall include a plan for the removal of trash and debris from permittee-owned open channels and other drainage structures. The plan shall be detailed in the SWMP and approved by the NDEQ. The permittee must 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 storm water.
 - (b) All pollution prevention measures implemented at municipal facilities must be visually inspected in a strategy defined 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 sweep municipally-owned and maintained streets, roads, and public parking lots in accordance with a strategy defined in the SWMP.
 - (b) 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.
 - 4) Maintenance of Municipally-Owned and/or Maintained Structural Storm Water Controls
 - (a) The permittee must inspect and maintain if necessary municipally-owned or maintained structural storm water controls in accordance with a frequency provided in the SWMP.
 - (b) The permittee must also maintain 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 that have the potential to impact storm water quality must be contractually required and overseen by the permittee to ensure compliance with all of the storm water control measures, good housekeeping practices, and facility-specific Runoff Control Plans 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

The Permittee shall submit an annual report no later than April 1 of each year. The annual report period will cover January 1 to December 31 of the previous year. The annual report will at a minimum include:

1. The status of implementing and maintaining the components of the SWMP that are established as permit conditions;
2. Proposed changes to the SWMP programs that are established as a permit condition;
3. Any changes in legal authority or jurisdiction;
4. If available, a summary of data, including any monitoring and quantitative data, that is accumulated throughout the reporting year including wet weather monitoring information;
5. An evaluation of program effectiveness. This evaluation will assess the effectiveness of each minimum control measure in the SWMP and the implementation of the SWMP as a whole. The evaluation will use appropriate environmental and administrative indicators to the maximum extent practicable as described below:
 - a. Environmental Indicators: If available, the permittee must use any monitoring data or data collected by other parties to evaluate the impact of the MS4 program on physical, hydrological, biological, and water quality indicators;
 - b. Administrative Indicators: The permittee must evaluate the effectiveness of the MS4 program using data such as social, programming, and website indicators; and
 - c. Any other indicators that assess a BMP's effectiveness at maintaining water quality and complying with permit requirements.
6. Document the MS4 permittee's compliance with permit conditions and progress towards achieving measurable goals in the SWMP. This compliance report may be used in conjunction with the evaluation assessment to identify modification and improvements needed to maximize SWMP effectiveness. If a permittee is not in compliance with the MS4 SWMP and/or permit, they must detail the reasons for this deficiency in the annual report;
7. A summary describing the number and nature of enforcement actions, inspections, and public education programs; and
8. A summary of proposed storm water activities that the permittee will undertake in the next year.

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. If requested by the NDEQ, the permittee must submit an amendment or SWMP modification within 90 days.
2. Any such amendments must comply with the applicable Federal requirements set forth in NDEQ Title 119, Chapter 24 006.

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 calendar 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 calendar 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. The original permit and SWMP requirements are effective until changes are approved by the Department, and if deemed major, through public notice.

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.

D. 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.

E. 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.

F. Electronic Reporting

The National Pollutant Discharge Elimination System (NPDES) Electronic Reporting Rule requires electronic reporting of NPDES information rather than the currently required paper based reports from the permitted facilities. To comply with the federal rule, permittees will be required to submit reports and monitoring data electronically by December 21, 2020.

Appendix A

Conditions Applicable to all MS4 NPDES Permits

The following conditions apply to all NPDES permits:

1. Information Available

All permit applications, fact sheets, permits, discharge data, monitoring reports, and any public comments concerning such shall be available to the public for inspection and copying, unless such information about methods or processes is entitled to protection as trade secrets of the owner or operator under Neb. Rev. Stat. §81-1527, (Reissue 1999) and NDEQ Title 115, Chapter 4.

2. Duty to Comply

- a. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Federal Clean Water Act and the Applicable State Statutes and Regulations and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.
- b. The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement.

3. Violations of this Permit

- a. Any person who violates this permit may be subject to penalties and sanctions as provided by the Clean Water Act.
- b. Any person who violates this permit may be subject to penalties and sanctions as provided by the Nebraska Environmental Protection Act.

4. 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 apply for and obtain a new permit.

5. Need to Halt or Reduce Activity not a Defense

It shall not be a defense for a 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.

6. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

7. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes effective performance based on designed facility removals, effective management, adequate operator staffing and training, adequate process controls, adequate funding that reflects proper user fee schedules, adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary

facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

8. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee 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. Property Rights

This permit does not convey any property rights of any sort, or any exclusive privilege.

10. Duty to Provide Information

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

11. Inspection and Entry

The permittee shall allow the Director, or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon presentation of credentials and other documents as may be required by law, to:

- a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- d. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

12. Monitoring and Records

- a. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- b. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR Part 503), the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time.
- c. Records of monitoring information shall include:
 - i) The date(s), exact place, time and methods of sampling or measurements;
 - ii) The individual(s) who performed the sampling or measurements;
 - iii) The date(s) analyses were performed;
 - iv) The individual(s) who performed the analyses;
 - v) The analytical techniques or methods used; and

- vi) The results of such analyses.
- d. Monitoring must be conducted according to test procedures approved under NDEQ Title 119, Chapter 27 002 unless another method is required under 40 CFR Subchapters N – Effluent Guidelines and Standards Parts 425 to 471 or O – Sewer Sludge Parts 501 and 503.
- e. Falsifies, Tamperers, or Knowingly Renders Inaccurate
 - i) On actions brought by EPA, the Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction: be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both.
 - ii) On action brought by the State, The Nebraska Environmental Protection Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished pursuant to Neb. Stat. §81-1508.01.

13. Signatory requirements

- a. All applications, reports, or information submitted to the Director shall be signed and certified.
 - i) All permit applications shall be signed as follows:
 - (a) For a corporation
 - (i) By a responsible corporate officer: For the purpose of this section, a responsible corporate officer means:
 - (a) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or
 - (b) The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - (b) For a partnership or sole proprietorship
 - (i) By a general partner or the proprietor.
 - (c) For a municipality, State, Federal, or other public agency
 - (i) By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes:
 - (a) The chief executive officer of the agency, or
 - (b) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).
- b. Reports and Other Information
 - i) All reports required by permits, and other information requested by the Director shall be signed by a person described in this section [paragraphs 13. a. i) (a),(b), or (c)], or by a duly authorized representative of that person. A person is a duly authorized representative only if:

- (a) The authorization is made in writing by a person described in paragraphs 13. a. i) (a),(b), or (c);
- (b) 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 plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company, (a duly authorized representative may thus be either a named individual or any individual occupying a named position) and;
- (c) The written authorization is submitted to the Director.

c. Changes to Authorization

If an authorization of paragraphs 13. a. i) (a),(b), or (c) is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of this section must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.

d. Certification

All applications, reports and information submitted as a requirement of this permit shall contain the following certification statement:

- i) 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, 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.

e. False Statement, Representation, or Certification

- i) The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.
- ii) The Nebraska Environmental Protection Act provides criminal penalties and sanctions for false statement, representation, or certification in any application, label, manifest, record, report, plan, or other document required to be filed or maintained by the Environmental Protection Act, the Integrated Solid Waste Management Act, the Livestock Waste Management Act or the rules or regulations adopted and promulgated pursuant to such acts.

14. Reporting Requirements

a. Planned Changes

- i) The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:
 - (a) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in NDEQ Title 119, Chapter 4 and 8.
 - (b) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under NDEQ Title 119, Chapter 15.
 - (c) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions

that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan. The sludge program is not delegated to the State so notification to the EPA Regional Administrator in addition to the State is required.

b. Anticipated Noncompliance

The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

c. Transfers

This permit is not transferable to any person except after notice to the Director. The Director 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 NDEQ Title 119, Chapter 24 in some cases, modification or revocation and reissuance is mandatory.

d. Monitoring Reports

- i) Monitoring results shall be reported at the intervals specified elsewhere in this permit.
- ii) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Director.
- iii) Monitoring results shall be submitted on a quarterly basis using the reporting schedule set forth below, unless otherwise specified in this permit or by the Department.

Monitoring Quarters

DMR Reporting Deadlines

January - March	April 28
April - June	July 28
July - September	October 28
October - December	January 28

- iv) For reporting results of monitoring of sludge use or disposal practices
- v) Additional reports may be required by the EPA Regional Administrator.
- vi) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved in NDEQ Title 119, Chapter 27 002, or another method required for an industry-specific waste stream under 40 CFR Subchapters N – Effluent Guidelines and Standards Parts 425 to 471 and O – Sewer Sludge Parts 501 and 503, the results of such monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Director or EPA Regional Administrator.
- vii) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Director in the permit.

e. Compliance Schedules

Reports of compliance or noncompliance 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.

f. Twenty-four Hour Reporting

- i) The permittee shall report any noncompliance which may endanger human health or the environment. Any information shall be provided orally 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.

- ii) The following shall be included as information which must be reported within 24 hours under this paragraph.
 - (a) Any unanticipated bypass which exceeds any effluent limitation in this permit.
 - (b) Any upset which exceeds any effluent limitation in this permit.
 - (c) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in the permit to be reported within 24 hours.
- g. The Director may waive the written report on a case-by-case basis for reports under section 14. f. ii) (a), (b) and (c) if the oral report has been received within 24 hours.
- h. Other noncompliance

The permittee shall report all instances of noncompliance not reported under paragraphs d., e., and f. of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph f. of this section.
- i. Other information

Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.
- j. Noncompliance Report Forms
 - i) Noncompliance Report Forms are available from the Department and shall be submitted with or as the written noncompliance report.
 - ii) The submittal of a written noncompliance report does not relieve the permittee of any liability from enforcement proceedings that may result from the violation of permit or regulatory requirements.

15. Bypass

- a. Definitions
 - i) Bypass means the intentional diversion of waste streams from any portion of a treatment facility.
 - ii) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- b. Bypass Not Exceeding Limitations

The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs 15.c. and d. of this section.
- c. Notice
 - i) Anticipated Bypass

If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.
 - ii) Unanticipated Bypass

The permittee shall submit notice of an unanticipated bypass as required in paragraph 14.f. of this section (24-hour notice).
- d. Prohibition of Bypass

Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:

- i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - iii) The permittee submitted notices as required under paragraph 15.c. of this section.
- e. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in paragraph 15.d.

16. Upset

a. Definition

Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

b. Effect of an Upset

An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph 16.c. of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

c. Conditions Necessary for a Demonstration of Upset.

A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- i) An upset occurred and that the permittee can identify the cause(s) of the upset;
- ii) The permitted facility was at the time being properly operated;
- iii) The permittee submitted notice of the upset as required in paragraph 14.f. ii) (a), of this section (24-hour notice).
- iv) The permittee complied with any remedial measures required under paragraph (d) of this section.

d. Burden of Proof

In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

17. Other Rules and Regulations Liability

The issuance of this permit in no way relieves the obligation of the permittee to comply with other rules and regulations of the Department.

18. Severability

If any provision of this permit is held invalid, the remainder of this permit shall not be affected.

19. Other Conditions that Apply to NPDES and NPP Permits

a. Land Application of Wastewater Effluent

The permittee shall be permitted to discharge treated domestic wastewater effluent by means of land application in accordance with the regulations and standards set forth in NDEQ Title 119, Chapter 12 002.

The Wastewater Section of the Department must be notified in writing if the permittee chooses to land apply effluent.

b. Toxic Pollutants

The permittee shall not discharge pollutants to waters of the state that cause a violation of the standards established in NDEQ Titles 117, 118 or 119. All discharges to surface waters of the state shall be free of toxic (acute or chronic) substances which alone or in combination with other substances, create conditions unsuitable for aquatic life outside the appropriate mixing zone.

c. Oil and Hazardous Substances/Spill Notification

Nothing in this permit shall preclude the initiation of any legal action or relieve the permittee from any responsibilities, liabilities or penalties under section 311 of the Clean Water Act. The permittee shall conform to the provisions set forth in NDEQ Title 126, Rules and Regulations Pertaining to the Management of Wastes. If the permittee knows, or has reason to believe, that oil or hazardous substances were released at the facility and could enter waters of the state or any of the outfall discharges authorized in this permit, the permittee shall immediately notify the Department of a release of oil or hazardous substances. During Department office hours (i.e., 8:00 a.m. to 5:00 p.m., Monday through Friday, except holidays), notification shall be made to the Nebraska Department of Environmental Quality at telephone numbers (402) 471-2186 or (877) 253-2603 (toll free). When NDEQ cannot be contacted, the permittee shall report to the Nebraska State Patrol for referral to the NDEQ Immediate Response Team at telephone number (402) 471-4545. It shall be the permittee's responsibility to maintain current telephone numbers necessary to carry out the notification requirements set forth in this paragraph.

d. Removed Substances

- i) Solids, sludge, filter backwash or other pollutants removed in the course of treatment or control of wastewater shall be disposed of at a site and in a manner approved by the Nebraska Department of Environmental Quality.
 - (a) The disposal of nonhazardous industrial sludges shall conform to the standards established in or to the regulations established pursuant to 40 CFR Part 257.
 - (b) The disposal of sludge shall conform to the standards established in or to the regulations established pursuant to 40 CFR Part 503.
 - (c) If solids are disposed of in a licensed sanitary landfill, the disposal of solids shall conform to the standards established in NDEQ Title 132.
- ii) Publicly owned treatment works shall dispose of sewage sludge in a manner that protects public health and the environment from any adverse effects which may occur from toxic pollutants as defined in Section 307 of the Clean Water Act.
- iii) This permit may be modified or revoked and reissued to incorporate regulatory limitations established pursuant to 40 CFR Part 503.

e. Representative Sampling

- i) Samples and measurements taken as required within this permit shall be representative of the discharge. All samples shall be taken at the monitoring points specified in this permit and, unless otherwise specified, before the effluent joins or is diluted by any other waste stream, body of water, or substance. Monitoring points shall not be changed without notification to the Department and with the written approval of the Director.
- ii) Composite sampling shall be conducted in one of the following manners;
 - (a) Continuous discharge - a minimum of one discrete aliquot collected every three hours,
 - (b) Less than 24 hours - a minimum of hourly discrete aliquots or a continuously drawn sample shall be collected during the discharge, or

- (c) Batch discharge - a minimum of three discrete aliquots shall be collected during each discharge.
 - (d) Composite samples shall be collected in one of the following manners:
 - (i) The volume of each aliquot must be proportional to either the waste stream flow at the time of sampling or the total waste stream flow since collection of the previous aliquot,
 - (ii) A number of equal volume aliquots taken at varying time intervals in proportion to flow,
 - (iii) A sample continuously collected in proportion to flow, and
 - (e) Where flow proportional sampling is infeasible or non-representative of the pollutant loadings, the Department may approve the use of time composite samples.
 - (f) Grab samples shall consist of a single aliquot collected over a time period not exceeding 15 minutes.
- iii) All sample preservation techniques shall conform to the methods adopted in NDEQ Title 119, Chapter 21 006 unless:
- (a) In the case of sludge samples, alternative techniques are specified in 40 CFR Part 503, or
 - (b) Other procedures are specified in this permit.
- iv) Flow Measurements
- Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be used to insure the accuracy and reliability of measurements. The devices shall be installed, calibrated and maintained to insure the accuracy of the measurements. The accepted capability shall be consistent with that type of device. Devices selected shall be capable of measuring flows with a maximum deviation of +/- 10%. The amount of deviation shall be from the true discharge rates throughout the range of expected discharge volumes. Guidance can be obtained from the following references for the selection, installation, calibration and operation of acceptable flow measurement devices:
- (a) "Water Measurement Manual," U.S. Department of the Interior, Bureau of Reclamation, Third Edition, Revised Reprint, 2001.
(Available online at <http://www.usbr.gov/tsc/techreferences/mands/wmm/index.htm>)
 - (b) "NPDES Compliance Flow Measurement Manual," U.S. Environmental Protection Agency, Office of Water Enforcement, Publication MCD-77, September 1981, 147 pp.
(Available online at <http://www.epa.gov/nscep>, and enter 'NPDES Compliance Flow Measurement Manual, Publication MCD-77' in the search box)
- f. Changes of Loadings to Publicly Owned Treatment Works (POTWs)
- All POTWs must provide adequate notice to the Director of the following:
- i) Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to NDEQ Title 119, Chapter 26, if it were directly discharging those pollutants;
 - ii) Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
 - iii) For purposes of this paragraph, adequate notice shall include information on the quality and quantity of effluent introduced into the POTW, and any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

20. Definitions

Authorized Representative: Individual or position designated the certifying official to submit reports, notifications, or other information requested by the Director on behalf of the owner under the circumstances that the authorization is made in writing by the owner, the authorization specifies the individual or position that is duly authorized, and the authorization is submitted by the Director.

Best Management Practices (BMPs): Schedules of activities, practices (and prohibitions of practices), structures, maintenance procedures, and other water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing degradation of surface water, including avoidance of impacts, construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, and other management practices published by state of designated area-wide planning agencies.

Certifying Official:

- For a corporation, by a reasonable corporate office, which means:
 - A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation, or
 - The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- For a partnership or sole proprietorship: By a general partner or proprietor respectively
- For a municipality, state, federal, or other public agency:
 - By either a principal executive officer of the agency, or
 - A senior executive officer having responsibility for the operations of a principal geographic unit of the agency

Combined Sewer System (CSO): Defined as a collection system that collects both storm water and sanitary wastewater with outfalls directly discharging into Waters of the State.

Common Plan of Development or Sale: A contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, on different schedules, but under one proposed plan. One plan is broadly defined to include design, permit application, advertisement, or physical demarcation indicating that land-disturbing activities may occur.

Construction Activity: Includes large construction activity and small construction activity. This includes a disturbance to the land that results in a change in the topography, existing soil cover (both vegetative and non-vegetative), or the existing soil topography that may result in accelerated storm water runoff, leading to soil erosion and movement of sediment into waters of the state or urban drainage systems. Construction activity includes the disturbance of less than one (1) acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb one (1) acre or more and includes all areas of support activity.

Coverage: A permittee status of compliant operation under the terms and conditions of this general permit once a discharge authorization number has been obtained until that authorization is terminated.

Department: The Nebraska Department of Environmental Quality.

Dependent: Construction activity with direct relation to the stream such as bank stabilization, bridge construction activity, culvert construction, if the permittee is required to have a US Army Corps of Engineers 404 permit, etc.

Director: The Director of the Nebraska Department of Environmental Quality.

Discharge Authorization Number: A specific authorization number (NER 1xx xxx) issued to a specific permittee that meets the application requirements for coverage under this general permit.

Erosion Prevention: Measures employed to prevent sediment from moving from its existing location including but not limited to: soil stabilization practices, limited grading, mulch, temporary or permanent cover, and construction phasing.

Final Stabilization: Condition where all soil disturbing activities at the site have been completed and a uniform perennial vegetative cover with a minimum density of 70 percent of the native background vegetative cover has been established on all non-impervious surfaces and areas not covered by permanent structures unless equivalent permanent stabilization measures have been employed (e.g., riprap, gabions, or geotextiles).

Impervious Surface: A constructed hard surface that either prevents or retards the entry of water into the soil and caused water flow off the surface in greater quantities and at an increased rate of flow than prior to development (e.g., streets, sidewalks, parking lots, roofs, and in some cases highly compacted soil).

Infeasible: No technologically possible, or not economically practicable and achievable in light of best industry practices.

Large Construction Activity: This activity is the clearing, grading, and excavating resulting in a land disturbance that will disturb equal to or greater than five (5) acres of land or will disturb less than five (5) acres of total land area but is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than five (5) acres. Large construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic captivity, or original purpose of the site.

Major Municipal Separate Storm Sewer Outfall: A municipal separate storm sewer outfall that discharges from a single pipe with an inside diameter of 36 inches or more or its equivalent (discharge from a single conveyance other than circular pipe which is associated with a drainage area of more than 50 acres); or for municipal separate storm sewers that receive storm water from lands zoned for industrial activity (based on comprehensive zoning plans or the equivalent), an outfall that discharges from a single pipe with an inside diameter of 12 inches or more or from its equivalent (discharge from other than a circular pipe associated with a drainage area of 2 acres or more).

Municipal Separate Storm Sewer System (MS4): A separate storm water sewer system in urbanized cities and counties as having populations of 10,000 or greater as determined by the Bureau of Census 2010 Decennial Census.

National Pollutant Discharge Elimination System (NPDES): Program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits under the Clean Water Act (Sections 301, 318, 402, and 405) and CFR Title 33, Sections 1317, 1328, 1342, and 1345.

Notice of Termination (CSW-NOT): Note to terminate coverage under this permit after construction is completed, the site has undergone final stabilization, and maintenance agreements for all permanent facilities have been established, in accordance with all applicable conditions of this permit.

Operator: Person (often the general contractor) designated by the owner, who has day-to-day operational control and/or the ability to modify project plans and specifications related to the SWPPP. The person shall be knowledgeable in those areas of the permit for which the operator is responsible.

Outfall: A discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants from construction activity are or may be discharged to waters of the state. A **Major Outfall** is a **major municipal separate storm sewer outfall**.

Owner: Person or party possessing the title of the land on which the construction activities will occur; or if the construction activity is for a lease holder, the party or individual as the lease holder; or the contacting government agency responsible for the construction activity.

Permittee: Person(s), firm, or governmental agency or other institution that signs the application submitted to the Department and is responsible for compliance with the terms and condition of this permit.

Pre-Development Hydrology: The combination of runoff, infiltration and evapotranspiration rates, volumes, durations and temperatures that typically existed on the site with natural soils and vegetation before human-induced land disturbance occurred. In the context of requirements in this permit the environmental objective is a stable, natural hydrologic site condition that protects or restores to the degree relevant for that site, stable hydrology in the receiving water, which will not necessarily be the hydrologic regime of that receiving water prior to any human disturbance in the watershed.

Qualified Personnel: A person knowledgeable in the principles and practice of erosion and sediment controls that possesses the skills to implement and assess the effectiveness of any erosion and sediment control measures. The qualified personnel must possess the skills to assess conditions at the construction site that could impact storm water quality, and possess the skills to assess the effectiveness of any storm water controls selected and installed to meet the requirements of this permit.

Receiving Waters: A general term used to describe all waters of the state.

Responsible Corporate Officer: The owner or operator meeting either of the following conditions: A president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or the manager of one of more manufacturing, production, or operating facilities. Provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental law and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

Sediment Control: Methods employed to prevent sediment from leaving the construction site after it has eroded from its existing location. Sediment control practices include silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, pipe slope drains, storm drain inlet protection, and temporary or permanent sedimentation basins.

Small Construction Activity: This activity is the clearing, grading, and excavation that result in land disturbance of equal to or greater than one (1) acre and less than five (5) acres including disturbance of less than one acre of total land area that is part of a larger common plan of development of sale if the larger common plan will ultimately disturb equal to or greater than one (1) and less than five (5) acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

Spill Prevention Control and Countermeasure Plan (SPCC): Federal regulation set forth in 40 CFR Part 112.1 requiring a SPCC plan to be developed for temporary or permanent facilities that store oil in vessels that have following storage capacity:

- A single above ground oil storage with 660 gallons or more capacity.
- Two or more above ground storage vessels with an aggregate of 1320 gallons or more capacity.
 - Include storage vessels stored above ground with a capacity of 55 gallons or more with the aggregate total capacity.
- Below ground oil storage vessels of 42,000 gallons or more.

For the SPCC, oil refers to any kind or in any form including, but not limited to, petroleum, fuel oil, sludge, oil refuse and oil mixed with wastes.

Stabilized: Exposed ground surface has been covered by appropriate materials such as mulch, staked sod, riprap, wood fiber blanket, established grass bed, or other material that prevents erosion from occurring.

Steep Slope: Generally any slope greater than 15° or has significant potential for erosion.

Storm Water: Storm water runoff, snow melt runoff, and surface runoff and drainage.

Storm Water Pollution Prevention Plan (SWPPP): A plan for storm water discharge that includes erosion prevention measures and sediment controls that, when implemented, will decrease soil erosion on a parcel of land and decrease offsite, non-point source pollution.

Support Activity: Associated construction activity that is directly related to the construction site (such as disposal areas or borrow areas) required to have NPDES permit coverage for discharges of storm water that may be located on site or in a remote location, but is not a commercial operation serving multiple unrelated construction projects by different operators nor operates beyond the completion of the construction activity at the last construction project it supports.

Temporary Erosion Protection: Methods employed to temporarily prevent erosion during the construction sequence or while final stabilization is being established. Examples of temporary erosion protection include: straw, mulch, wood chips, and erosion netting.

Total Maximum Daily Load (TMDL): The sum of the individual wasteload allocations (WLAs) for point sources and load (load allocations) for nonpoint sources and natural background levels for a specific pollutant. The Department establishes TMDLs that are expressed in terms of either mass per unit of time, relative level of toxicity, or other appropriate measure.

Toxic Pollutant: Pollutants or combination of pollutants, including disease-causing agents, after discharge and upon exposure, ingestion, inhalation, or assimilation into an organism, either directly from the environment or indirectly by ingestion through food chains will, on the basis of information available to the Department, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunction (including malfunctions in reproduction) or physical deformations, in such organisms or their offspring.

Waters of the State: All waters within the jurisdiction of this state including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, situated wholly or partly within or bordering upon the state.

21. Abbreviations

CFR: Code of Federal Regulations

kg/Day: Kilograms per Day

MGD: Million Gallons per Day

mg/L: Milligrams per Liter

NOI: Notice of Intent

NDEQ: Nebraska Department of Environmental Quality

NDEQ Title 115: Rules of Practice and Procedure

NDEQ Title 117: Nebraska Surface Water Quality Standards

NDEQ Title 118: Ground Water Quality Standards and Use Classification

NDEQ Title 119: Rules and Regulations Pertaining to the Issuance of Permits under the National Pollutant Discharge Elimination System

NDEQ Title 126: Rules and Regulations Pertaining to the Management of Wastes

NDEQ Title 132: Integrated Solid Waste Management Regulations

NPDES: National Pollutant Discharge Elimination System

NPP: Nebraska Pretreatment Program

POTW: Publicly Owned Treatment Works

µg/L: Micrograms per Liter

WWTF: Wastewater Treatment Facility



DEPT. OF ENVIRONMENTAL QUALITY

NPDES Section

The Atrium Building, Suite 400, 1200 N Street
PO Box 98922
Lincoln, NE 68509-8922
Tel. (402) 471-4220

NPDES Small Municipal Separate Storm Sewer System Notice of Intent
For Small MS4s Previously Permitted (sMS4 – NOI)

(Revised: December 19, 2016)

This form is designed for use by cities, counties and other governmental bodies seeking coverage under the General NPDES Small Municipal Separate Storm Sewer System (sMS4) Permit pursuant to NDEQ Title 119, Chapter 10 002.11A.

Existing NPDES sMS4 authorization number: _____ Facility ID number: _____

1. Identification of Applicant and Designation of Certifying Official¹

Name of Applicant: _____

Certifying Official¹: _____

Title of Certifying Official: _____

Mailing Address: _____

Telephone: () _____

¹ The Certifying Official will need to sign page 4 of this application, and must meet the following qualifications:

All permit applications submitted to the Department shall be signed:

002.01 In the case of corporation, by a responsible corporate officer (defined in 002.01A or 002.01B);

002.02 In the case of a partnership of a sole proprietorship, by a general partner or proprietor; and

002.03 In the case of a municipal, State or other public facility by either a principal executive officer or ranking elected official.

2. Designation of Authorized Representative²

Completion of this section is not required if the Certifying Official is to be the sole contact concerning this application.

Name of Authorized Representative: _____

Title of Authorized Representative: _____

Employer of Authorized Representative (if not the applicant): _____

Mailing Address: _____

Telephone: () _____

² The "authorized representative" is the primary facility contact for correspondence and monitoring reporting, and must meet the requirements set forth in NDEQ Title 119 Chapter 13.003. All other correspondence, reports and SEMR's shall be signed by a person designated in 002.01 through 002.03 or a duly authorized representative if such representative is responsible for the overall operation of the facility from which the discharge originates; the authorization is made in writing by the person designated under 002.01 through 002.03 and the written authorization is submitted to the Director.

3. Standard Industrial Classification (SIC) Codes

Check or list the SIC codes that apply to the applicant. At least one SIC code must be checked or listed. See examples:

- ___ 9111 - Executive Offices (i.e., Government Administration)
- ___ 9411 - Public Education Program
- ___ 9431 - Public Health Program
- ___ 9511 - Environmental Quality Program (e.g., water resource mgmt. including storm water transport)
- ___ 9532 - Urban Planning and Development
- ___ 9621 - Public Administration of Transportation Programs
- ___ 9711 - National Security

Other (list): _____

Example 1: A city that anticipates both its public works and planning departments having responsibilities under the NPDES permit for SMS4 discharges would check 9111, 9511 and 9532.

Example 2: A county that anticipates both its health and roads and planning departments having responsibilities under the NPDES permit for SMS4 discharges would check 9111, 9431, 9532 and 9621.

Example 3: A public university that operates its own SMS4 would check 9411.

4. Identification of the Small Municipal Separate Storm Sewer System (SMS4) Area

- a. **Attach a map (or maps) of the Small Municipal Separate Storm Sewer System (SMS4) that shows the location of all outfalls identified to date (Also see "c" below) and the receiving water to which they discharge. The receiving waters may be identified either on the map or in an associated map index or attachment.**
- b. **What is the approximate size of the Small Municipal Separate Storm Sewer System (SMS4) area in square miles?** _____
- c. **Provide an explanation (below or in the map or associated index/attachment) as to the extent to which the map identifies all storm water outfalls. See examples below.**

Example 1: It is believed that the attached map identifies all storm sewer discharge points that exist in the Small Municipal Separate Storm Sewer System (SMS4).

Example 2: The attached map identifies all storm sewer discharge points constructed since 1950, and all known discharge points that were constructed prior to 1950. There may be unidentified outfalls in the older areas of the city and if such discharges exist they will be identified as part of the Illicit Discharge Detection and Elimination efforts to be carried-out under the permit.

5. Shared Responsibilities

a. Check the appropriate statement below. Only one may be checked.

Completion of this section does not preclude the applicant from changing plans relative to coordinated programs or co-permittee implementation efforts. If such a change occurs, the applicant (or a representative of the coordinated group) needs to provide the NDEQ with a written notification of the change.

- (1) ___ At this time, the applicant is implementing all provisions and requirements of the NPDES permit without entering any cooperative agreements with other public or private entities.
- (2) ___ At this time, the applicant is implementing the provisions and requirements of the NPDES permit in conjunction with the other public entities identified below as coordinated programs as detailed in Part II of the permit.
- (3) ___ At this time, the applicant is implementing the provisions and requirements of the NPDES permit in conjunction with the other public entities identified below as co-permittees as detailed in Part II of the permit.
- (4) ___ Other - Provide explanation below (See Additional Information).

b. Coordinated Programs or Co-permittees: If (2), (3) or (4) were checked, identify the cooperative partners or potential partners.

c. Additional Information: Provide any other information that may be pertinent. If (5) was checked, provide an explanation in the following spaces.

6. Storm Water Management Plan (SWMP) and Monitoring Plan Implementation

Include the following information as an attachment to this application.

- a. Identify the best management practices (BMPs) or SWMP elements that are proposed for implementing each of the Minimum Control Measures set forth in NDEQ Title 119, Chapter 10 002.12B through 002.12E.
- b. Establish measurable goals for each of the BMPs or SWMP elements (Examples of measurable goals: Pass local regulations establishing construction site erosion control requirements; Cause the words “No Dumping” to appear on 20% of curb inlets each year; Hold public information meetings on storm water protection once each year; Conduct a stream/lake-side clean-up day each year).
- c. Provide a proposed implementation schedule for the BMPs or SWMP elements. Implementation needs to be completed within the 5-year permit term.
- d. Provide a justification of all proposed BMP's.³

³ BMP justification and measurable goal proposals are in lieu of wet-weather monitoring, unless monitoring is requested by the permittee or required by the NDEQ.

7. Supporting Documents

In an attachment to this NOI include a list of supporting documents used to implement and detail the sMS4 SWMP. Permittees may utilize and reference these documents in the SWMP. These documents must be submitted with the NOI and SWMP for review by the NDEQ. Supporting documents may be **submitted electronically**. Examples of supporting documents include standard operating procedures manuals, storm water pollution prevention plans, maintenance plans, etc.

8. MS4 Annual Expenditures

Please list the previous five (5) years of MS4 annual expenditures in the sMS4 NOI. The data from annual expenditures will be used by the NDEQ to aid in determining the maximum extent practicable of the sMS4 BMPs. If the permittee has determined that a breakdown of annual expenditures is required to detail program implementation and maintenance, an annual expenditure report may be attached to the NOI.

9. 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, 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.

Certifying Official's Signature⁴

Date Signed

Certifying Official's Printed Name

Certifying Official's Title

⁴ The Certifying Official identified in Section 1 of this application must sign above.

10. Completeness Review:

- Have the NOI sections 1 thru 6 been completed?**
- Was the proper signature provided in NOI Section 6?**
- Is a map of the Small Municipal Separate Storm Sewer System (sMS4) as required in NOI Section 4 attached?**
- Is the SWMP and Monitoring Plan information as required in Section 6 attached?**



DEPT. OF ENVIRONMENTAL QUALITY

NPDES Section

The Atrium Building, Suite 400, 1200 N Street
PO Box 98922
Lincoln, NE 68509-8922
Tel. (402) 471-4220

NPDES Small Municipal Separate Storm Sewer System Notice of Intent
For Small MS4s New Permittees (sMS4 – NOI)
(Revised: December 19, 2016)

This form is designed for use by cities, counties and other governmental bodies seeking coverage under the
General NPDES Small Municipal Separate Storm Sewer System (sMS4) Permit pursuant to NDEQ Title 119,
Chapter 10 002.11A.

1. Identification of Applicant and Designation of Certifying Official^1

Name of Applicant:
Certifying Official^1:
Title of Certifying Official:
Mailing Address:
Telephone: ()

^1 The Certifying Official will need to sign page 4 of this application, and must meet the following qualifications:

All permit applications submitted to the Department shall be signed:

- 002.01 In the case of corporation, by a responsible corporate officer (defined in 002.01A or 002.01B);
002.02 In the case of a partnership of a sole proprietorship, by a general partner or proprietor; and
002.03 In the case of a municipal, State or other public facility by either a principal executive officer or ranking
elected official.

2. Designation of Authorized Representative^2

Completion of this section is not required if the Certifying Official is to be the sole contact concerning this
application.

Name of Authorized Representative:
Title of Authorized Representative:
Employer of Authorized Representative (if not the applicant):
Mailing Address:
Telephone: ()

^2 The "authorized representative" is the primary facility contact for correspondence and monitoring reporting, and must
meet the requirements set forth in NDEQ Title 119 Chapter 13.003. All other correspondence, reports and SEMR's
shall be signed by a person designated in 002.01 through 002.03 or a duly authorized representative if such
representative is responsible for the overall operation of the facility from which the discharge originates; the
authorization is made in writing by the person designated under 002.01 through 002.03 and the written authorization is
submitted to the Director.

3. Standard Industrial Classification (SIC) Codes

Check or list the SIC codes that apply to the applicant. At least one SIC code must be checked or listed. See examples:

- ___ 9111 - Executive Offices (i.e., Government Administration)
- ___ 9411 - Public Education Program
- ___ 9431 - Public Health Program
- ___ 9511 - Environmental Quality Program (e.g., water resource mgmt. including storm water transport)
- ___ 9532 - Urban Planning and Development
- ___ 9621 - Public Administration of Transportation Programs
- ___ 9711 - National Security

Other (list): _____

Example 1: A city that anticipates both its public works and planning departments having responsibilities under the NPDES permit for sMS4 discharges would check 9111, 9511 and 9532.

Example 2: A county that anticipates both its health and roads and planning departments having responsibilities under the NPDES permit for sMS4 discharges would check 9111, 9431, 9532 and 9621.

Example 3: A public university that operates its own sMS4 would check 9411.

4. Identification of the Small Municipal Separate Storm Sewer System (sMS4) Area

- a. **Attach a map (or maps) of the Small Municipal Separate Storm Sewer System (sMS4)** that shows the location of all outfalls identified to date (Also see "c" below) and the receiving water to which they discharge. The receiving waters may be identified either on the map or in an associated map index or attachment.
- b. **What is the approximate size of the Small Municipal Separate Storm Sewer System (sMS4) area in square miles?** _____
- c. **Provide an explanation** (below or in the map or associated index/attachment) as to the extent to which the map identifies all storm water outfalls. See examples below.

Example 1: It is believed that the attached map identifies all storm sewer discharge points that exist in the Small Municipal Separate Storm Sewer System (sMS4).

Example 2: The attached map identifies all storm sewer discharge points constructed since 1950, and all known discharge points that were constructed prior to 1950. There may be unidentified outfalls in the older areas of the city and if such discharges exist they will be identified as part of the Illicit Discharge Detection and Elimination efforts to be carried-out under the permit.

5. Shared Responsibilities

a. Check the appropriate statement below. Only one may be checked.

Completion of this section does not preclude the applicant from changing plans relative to coordinated programs or co-permittee implementation efforts. If such a change occurs, the applicant (or a representative of the coordinated group) needs to provide the NDEQ with a written notification of the change.

- (1) ___ At this time, the applicant anticipates implementing all provisions and requirements of the NPDES permit without entering any cooperative agreements with other public or private entities.
- (2) ___ At this time, the applicant will implement the provisions and requirements of the NPDES permit in conjunction with the other public entities identified below as coordinated programs as detailed in Part II of the permit.
- (3) ___ At this time, the applicant anticipates implementing the provisions and requirements of the NPDES permit in conjunction with the other public entities identified below as co-permittees as detailed in Part II of the permit.
- (4) ___ Other - Provide explanation below (See Additional Information).

b. Coordinated Programs or Co-permittees: If (2), (3) or (4) were checked, identify the cooperative partners or potential partners.

c. Additional Information: Provide any other information that may be pertinent. If (5) was checked, provide an explanation in the following spaces.

9. 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, 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.

Certifying Official's Signature⁴

Date Signed

Certifying Official's Printed Name

Certifying Official's Title

⁴ The Certifying Official identified in Section 1 of this application must sign above.

10. Completeness Review:

- ___ **Have the NOI sections 1 thru 6 been completed?**
- ___ **Was the proper signature provided in NOI Section 6?**
- ___ **Is a map of the Small Municipal Separate Storm Sewer System (sMS4) as required in NOI Section 4 attached?**
- ___ **Is the SWMP and Monitoring Plan information as required in Section 6 attached?**

NPDES/NPP SIGNATORY AUTHORIZATION FORM

This form is to be used to identify or update information pertaining to the facility. This form must be signed by the Certifying Official. The Certifying Official and the Authorized Representative can be the same person.

Facility Name _____	Program/Permit# NE _____
Address _____	City _____ Zip _____ County _____
Location (Street/Directions to) _____	
Phone _____	

PERMITTEE

List the *NAME* of the company, business, governmental entity, or person that owns the facility and that will be responsible for the permit compliance:

CERTIFYING OFFICIAL

This person is responsible for the permit, signing reapplications, signing DMRs or designating someone to sign DMRs (Authorized Representative) and other correspondence. For a municipal, only the principal executive officer or ranking elected official may sign as the Certifying Official. *See page two for requirements.*

Name _____	Title _____		
*Mailing Address _____ City _____			
State _____	Zip _____	Phone _____	Email _____

AUTHORIZED REPRESENTATIVE/SIGNATORY (Do not complete if same as Certifying Official)

This person is designated by the Certifying Official and is responsible for receiving, completing and signing DMRs, and receiving other correspondence (i.e., city clerk, plant operator). *See page two for requirements.*

Name _____	Title _____		
*Mailing Address _____ City _____			
State _____	Zip _____	Phone _____	Email _____

If you represent this Facility as/for a Contractor, list: Contractor's Name _____

Contractor's Address _____ Phone _____

OPERATOR This person is responsible for the operation and maintenance of the plant. *See page two for requirements.*

Name _____	Title _____	Certification # _____	
Mailing Address _____		City _____	
State _____	Zip _____	Phone _____	Email _____

If you represent this Facility as/for a Contractor, list: Contractor's Name _____

Contractor's Address _____ Phone _____

***Mailing Address:** DMRs will be mailed to this address. **DO NOT** use home or personal address unless necessary. Please use city/village office address or facility/corporate address, etc. This address should remain the same, even with changes in the facility's Certifying Official or Authorized Representative.

(COMPLETE and SIGN PAGE 2)

Facility Name: _____ Permit No. NE _____

COMMENTS

CERTIFYING OFFICIAL SIGNATURE _____ DATE _____

PRINTED NAME OF CERTIFYING OFFICIAL _____

SIGNATORY AUTHORIZATION FORM REQUIREMENTS

Certifying Official. Nebraska Department of Environmental Quality, Title 119, *Rules and Regulations Pertaining to the Issuance of Permits under the National Pollutant Discharge Elimination System*, Chapter 13.

- 002 All permit applications submitted to the Department shall be signed as follows:
- 002.01 for a corporation, by a responsible corporate officer;
- 002.02 for a partnership or sole proprietorship, by a general partner or proprietor, respectively;
- 002.03 for a municipal, State, Federal, or other public agency, by either a principal executive officer or ranking elected official.

Authorized Representative. Nebraska Department of Environmental Quality, Title 119, *Rules and Regulations Pertaining to the Issuance of Permits under the National Pollutant Discharge Elimination System*, Chapter 13.

- 003 All reports required by permits, and other information requested by the Director shall be signed by a person designated in 002 above, or by a duly authorized representative if such a representative is responsible for the overall operation of the regulated facility; the authorization is made, in writing, by the person designated under 002 above; and the written authorization is submitted to the Director.

Changes to Authorization. Nebraska Department of Environmental Quality, Title 119, *Rules and Regulations Pertaining to the Issuance of Permits under the National Pollutant Discharge Elimination System*, Chapter 13.

- 004 If an authorization above is no longer accurate, a new authorization satisfying the requirements must be submitted to the Director prior to, or together with any reports, information, or applications.

Operator. Nebraska Department of Environmental Quality, Title 123, *Rules and Regulations for the Design, Operation and Maintenance of Wastewater Works*, Chapter 11.

- 002 All wastewater works shall be operated and maintained by a competent, designated operator. Facilities requiring certified operators shall meet the requirements of Title 197, *Rules and Regulations for the Certification of Wastewater Treatment Facility Operators of Nebraska*.

Nebraska Department of Environmental Quality
ATTN: Staff Assistant, NPDES Permits Unit
Suite 400, 1200 N Street, The Atrium
PO Box 98922
Lincoln, Nebraska 68509-8922
Telephone (402) 471-4220 Fax (402) 471-2909
<http://deq.ne.gov>

Attachment #4 – SMS4 Annual Report and Evaluation Assessment Sample Format

Requirement (List the Minimum Control Measure)			
Reference	In this section, list the SMS4 permit reference or SWMP reference number for the Requirement		
Responsible	List who is responsible for this activity (e.g., stormwater coordinator, maintenance staff, construction staff)	Date of Last Review	(Date measure was last reviewed)
Strategy/Frequency	List the strategy or frequency for the operations performed for this requirement	Date of Last Update	(Date of last SWMP update)
Report	<p>In this section, detail the actions, observations, work performed, and any data obtained that would satisfy the SWMP or permit requirement. If administrative indicators (such as survey results, permits issued, permit violation fixes, etc.) are available which would display the effectiveness of this control measure, please describe.</p>	Activity Satisfied	Yes <input type="checkbox"/> No <input type="checkbox"/>
Evaluation: Environmental Indicators	If environmental indicators (such as test or monitoring results, studies, etc.) are available which would display the effectiveness of this control measure, please describe. If not available, enter "None" or "NA."		