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# CITY of NOVI CITY COUNCIL

**Agenda Item F**  
**January 22, 2008**

**SUBJECT:** Approval of a resolution in support of the Alliance of Rouge Communities' comments on the proposed National Pollutant Discharge Elimination System permit for stormwater discharges.

**SUBMITTING DEPARTMENT:** Engineering *RH*

**CITY MANAGER APPROVAL:** *[Signature]*

**BACKGROUND INFORMATION:**

A total maximum daily load, or TMDL, is defined as the maximum allowable amount of a pollutant that a water body can receive and still meet established water quality standards. Currently, the Michigan Department of Environmental Quality (MDEQ) is seeking to establish a TMDL in the Rouge River watershed for the pollutant *Escherichia Coli*, which is commonly referred to as *E. Coli* and is one of the members of the coliform groups of bacteria indicating fecal contamination.

MDEQ intends to include this new E. Coli TMDL in the City of Novi's general stormwater discharge permit, also referred to a National Pollutant Discharge Elimination System, or NPDES, permit. As indicated in the attached correspondence from the Alliance of Rouge Communities (ARC), the current version of the E. Coli TMDL is cost-prohibitive, restrictive and unattainable because it relies on testing that is unreliable and highly variable, as well as on other environmental factors that a municipality would have no control over (Jim Ridgway's October 1, 2007 letter, attached).

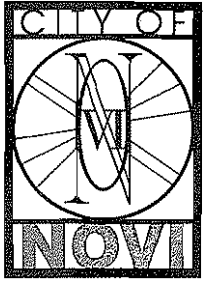
The City responded to MDEQ this past fall with a letter echoing the ARC's concerns (Clay Pearson's October 30, 2007, attached). Also, the City Attorney's office reviewed the language in the proposed permit after our receipt of a letter from the Oakland County Drain Commissioner's Office that reiterated the concerns communicated by the ARC (Beth Kudla's December 4, 2007 letter, attached).

The attached resolution formally requests that MDEQ considers: 1) allowing more flexible permit requirements; 2) targeting water quality issues at specific locations rather than over broad areas; and, 3) re-instituting the stormwater pollution prevention initiative, or SWPPI, process in which more local control is delegated to municipalities to assure water quality.

**RECOMMENDED ACTION:** Approval of a resolution in support of the Alliance of Rouge Communities' comments on the proposed National Pollutant Discharge Elimination System permit for stormwater discharges.

	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Capello				
Council Member Crawford				
Council Member Gatt				

	1	2	Y	N
Council Member Margolis				
Council Member Mutch				
Council Member Staudt				



**RESOLUTION**  
**In Support of the Alliance of Rouge Communities (ARC) Comments**  
**on the Proposed NPDES Wastewater Discharge General Permit, No.**  
**MIG61000**

**CITY COUNCIL**

Mayor  
David B. Landry

Mayor Pro Tem  
Kim Capello

Bob Gatt

Terry K. Margolis

Andrew Mutch

Kathy Crawford

Dave Staudt

City Manager  
Clay J. Pearson

City Clerk  
Maryanne Cornelius

**WHEREAS**, the Michigan Department of Environmental Quality (MDEQ) has proposed new watershed-based jurisdictional storm water general permits which regulate storm water discharges from Municipal Separate Storm Sewer Systems (MS4's) in compliance with the Federal Water Pollution Control Act; and,

**WHEREAS**, the proposed permit places new costly, cumbersome and prescriptive measures on communities and counties that will add to operating costs but will not allow ARC communities to continue their documented progress toward achieving water quality standards using the flexible practices incorporated to date; and,

**WHEREAS**, the proposed permit emphasizes extensive individual documentation and reporting rather than achieving measurable, watershed-wide improvements through innovative, cost-effective solutions with watershed partners; and,

**WHEREAS**, the proposed permit severely limits local control and decision-making that has been a guiding principle of the watershed permit while discouraging implementation of alternative, cost-effective approaches based on existing watershed conditions; and,

**WHEREAS**, many of the new requirements are time-consuming, expensive and will not allow communities to focus their limited resources on documented water quality challenges; and,

**WHEREAS**, municipal government budgets across the State are strained and these added duties constitute mandates on City departments that cannot be financially absorbed.

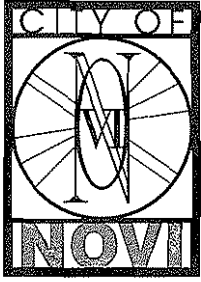
**NOW, THEREFORE, BE IT RESOLVED**, that the City of Novi requests that the MDEQ and its Director allow flexible, yet enforceable permit requirements that will lead to improved water quality.

**BE IT FURTHER RESOLVED**, that the MDEQ and its Director institute water quality control measures that target the water quality challenges at a given location.

**BE IT FURTHER RESOLVED**, that the MDEQ re-institute the existing Storm Water Pollution Prevention Initiative (SWPPI) process that allowed the MDEQ sufficient oversight and control to assure that all communities were making progress in improving water quality.

City of Novi  
45175 W. Ten Mile Road  
Novi, Michigan 48375  
248.347.0460  
248.347.0577 fax

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**BE IT FURTHER RESOLVED**, that the MDEQ return to a permit that allows sufficient flexibility to allow municipalities within the State's watersheds to identify their most pressing issues and address them.

### **CERTIFICATION**

I, Maryanne Cornelius, duly appointed Clerk of the City of Novi, do hereby certify that the foregoing is a true and complete copy of a Resolution adopted by the City Council of the City of Novi at a Regular meeting held this 22nd day of January, 2008.

**CITY COUNCIL**

**Mayor**  
David B. Landry

**Mayor Pro Tem**  
Kim Capello

Bob Gatt

Terry K. Margolis

Andrew Mutch

Kathy Crawford

Dave Staudt

**City Manager**  
Clay J. Pearson

**City Clerk**  
Maryanne Cornelius

---

Maryanne Cornelius  
City Clerk

**City of Novi**  
45175 W. Ten Mile Road  
Novi, Michigan 48375  
248.347.0460  
248.347.0577 fax

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October 30, 2007

Mr. Richard Powers, Chief - Water Bureau  
Michigan Department of Environmental Quality  
P.O. Box 30273  
Lansing, MI 48909

**CITY COUNCIL**

Mayor  
*David B. Landry*

Mayor Pro Tem  
*Kim Capello*

*Bob Gatt*

*Terry K. Margolis*

*Andrew Mutch*

*Toni Nagy*

*Lynne Paul*

City Manager  
*Clay J. Pearson*

City Clerk  
*Maryanne Cornelius*

Re: Proposed Total Maximum Daily Loads for E. Coli  
Middle One Rouge River Subwatershed

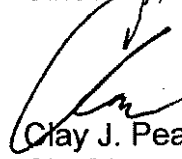
Dear Mr. Powers:

The purpose of this letter is to echo the same concerns communicated by Mr. James Ridgway in his October 1st letter to you attached in regard to proposed *Escherichia coli* (E. coli) Total Maximum Daily Loads and their anticipated negative impact on future stormwater permits, specifically as they relate to Novi's portion of the Middle One Rouge River Subwatershed.

The City of Novi is committed to improving water quality in the subwatershed, but like other Alliance of Rouge Communities members, we feel that the reliability of data resulting from E. coli analysis remains in question. The very real potential exists that Novi and other communities could be forced into an unnecessary position by this regulation if the issuance of storm water permits for development and other projects is made more difficult. Please allow the ARC to help develop reasonable alternative methods of E. coli measurement before the proposed TMDLs and the corresponding new Stormwater Phase II permits are finalized.

On behalf of the City of Novi, thank you for considering this request. Again, we endorse the Alliance of Rouge Communities' series of recommendations. Please feel free to contact City Engineer Rob Hayes (Ph: 248-735-5606) or me to discuss this matter further.

Sincerely,

  
Clay J. Pearson  
City Manager

cc: Mayor David Landry and Members of the City Council  
Mr. James Ridgway P.E., ARC Executive Director

45175 W. Ten Mile  
Novi, MI 48375  
(248) 347-0460  
(248) 347-0577 Fax  
www.ci.novi.mi.us



"Enhancing Novi's quality of life"



Working together, restoring the river

James W. Ridgway, P.E.  
Executive Director

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Auburn Hills  
Beverly Hills  
Bingham Farms  
Birmingham  
Bloomfield Hills  
Bloomfield Twp.  
Canton Twp.  
Commerce Twp.  
Dearborn  
Dearborn Heights  
Farmington  
Farmington Hills  
Franklin  
Garden City  
Inkster  
Lathrup Village  
Livonia  
Melvindale  
Northville  
Northville Twp.  
Novi  
Oak Park  
Oakland County  
Orchard Lake  
Plymouth  
Plymouth Twp.  
Pontiac  
Redford Twp.  
Rochester Hills  
Romulus  
Southfield  
Superior Twp.  
Troy  
Van Buren Twp.  
Walled Lake  
Washtenaw County  
Washtenaw County  
Commission  
Wayne  
Wayne County  
Wayne County Airport  
Authority  
West Bloomfield Twp.  
Westland  
Wixom

October 1, 2007

Mr. Richard Powers, Chief  
Water Bureau  
P. O. Box 30273  
Michigan Department of Environmental Quality  
Lansing MI 48909

Dear Mr. Powers:

I am writing to express the extreme concern of the municipalities of Southeast Michigan regarding the pending *E. coli* TMDLs and the pending stormwater permits. Together they will require these communities to sign a permit that will be in violation on the first day and every day thereafter. Needless to say, most communities will not sign these permits.

Before listing our specific concerns and requested actions, please allow me to frame our request.

- 1) The communities of Southeast Michigan demand fishable and swimmable surface waters.
- 2) These communities all agree that there is no place for sewage in our waterways.
- 3) The communities appreciate the need for strong enforcement policies against violators of our Water Quality Standards (WQS).
- 4) These communities do not oppose the Total Daily Maximum Load (TMDL) process.

We know, however, that the *E. coli* testing procedure is notoriously variable and an unreliable indicator of human sewage. An extensive body of scientific literature exists that demonstrates the existence, stability, and proliferation of *E. coli* in soils, sediments and algae. Such populations of *E. coli* have in some cases been found in locations where human sources are absent. These "background" levels of *E. coli* can be extremely high and have been shown to contribute significantly to water column *E. coli* densities. There is no literature that suggests that *E. coli* values below 300 counts are obtainable in urban areas. Thus, communities that agree to the proposed stormwater permits (either jurisdictional or watershed based) would be forced to

expend their limited resources to seek sewage contamination in areas where none exists. These communities would be better served by focusing these resources on practical/solvable problems rather than being forced to measure and track pollutants that are known to be "background" *E. coli* not associated with human sewage.

These communities specifically request that the Michigan Department of Environmental Quality (MDEQ):

- 1) Remove all references to any *E. coli* TMDL in the pending general stormwater permits.
- 2) Recognize that the *E. coli* test (on its own) is inappropriate for use in enforcement and/or permit compliance.
- 3) Support efforts to legislatively revisit the designated uses of storm drainage facilities (ponds, ditches, and storm drains). This would require an amendment to R 323.1100 of the Part 4 rules, WQS, promulgated under Part 31, Water Resources Protection, of the Water Resources and Environmental Protection Act, 1994 PA 451, as amended.
- 4) Seek a better, more reliable indicator of human sewage in the waterways of the state.

Stated simply, fairly low level *E. coli* measurements that exceed state water quality standards can be obtained in the absence of human derived sewage. Review of recent TMDLs prepared for some Rouge Communities set the *E. coli* levels of stormwater at 300 counts. The newly drafted stormwater permit requires that discharge limits be established to meet TMDL requirements. Our reading of these documents suggests that communities will be asked to seek permits that set *E. coli* discharge limits at 300 counts. I believe that we all agree that this level is unobtainable in urban areas. The communities have assembled a great deal of data that confirms this belief.

The ARC requests the opportunity to meet with the MDEQ and possibly the MDEQ *E. coli* working group to express our concerns. I ask that we be given that opportunity before the finalization of the Rouge *E. coli* TMDLs and/or the newly worded NPDES Stormwater Phase II permits.

I thank you for your consideration.

Sincerely,

**ALLIANCE OF ROUGE COMMUNITIES**

James W. Ridgway, P.E.  
Executive Director



December 4, 2007

30903 Northwestern Highway  
P.O. Box 3040  
Farmington Hills, MI 48333-3040  
Tel: 248-851-9500  
Fax: 248-851-2158  
www.secretwardle.com

Tim Sikma, Water and Sewer Manager  
CITY OF NOVI  
45175 West Ten Mile Road  
Novi, Michigan 48375-3024

Elizabeth M. Kudla  
Direct: 248-539-2846  
bkudla@secretwardle.com

**Re: Storm Water Discharges from Municipal Separate Storm Sewer  
Systems (MS4s) – Watershed General Permit  
Our File No. 55142.NOV**

Dear Mr. Sikma:

We have reviewed the materials you received from the Oakland County Drain Commissioner and provided to us on November 19, 2007 regarding the State of Michigan's National Pollutant Discharge Elimination System Wastewater Discharge General Permit regarding Storm Water Discharges from Municipal Separate Storm Sewer Systems (MS4s) – Watershed General Permit. The materials *have not been provided to request to approval or disapproval of the Permit itself*, but instead are provided to gather support for the Drain Commissioner's recommend changes, and provide for extra time for comment.

As you know, the City of Novi and other municipalities are currently subject to the State of Michigan's National Pollutant Discharge Elimination System (NPDES) Wastewater Discharge General Permit authorizing the City to discharge its municipal storm sewer system run-off into the surface waters of the State. The Permit addresses discharges the nature of which would not violate federal or state water quality standards--specifically, those discharges that are generally safe to support continued use of the surface waters for agriculture, navigation and public water supply. More harmful discharges, such as discharge coming directly from industrial users, are subject to and addressed in different and/or additional permits by the state and federal governments.

The State's current Wastewater Discharge General Permit is set to expire on April 8, 2008. The State of Michigan Department of Environmental Quality (MDEQ) has proposed a new permit, *with additional and/or different inspection, enforcement and planning requirements to be followed by the City*, beyond those included in the current Wastewater Discharge General Permit. Because the Permit will impose new regulations, MDEQ has provided the opportunity for review and comment on the proposed Permit by those who will be affected by it. The time period for review and comment by the City and other Permittees will expire on December 12, 2007. The Drain Commissioner has requested that the City and other municipalities pass a resolution supporting his objections and requesting that the Michigan Department of Environmental Quality allow additional time to comment on policy changes.

The MDEQ, in its "Public Notice," states that the policy changes from the existing Wastewater Discharge General Permit include the following:

Discharge points must be identified by the permittee in the Notice of Intent or in application updates in order to be authorized. Monitoring requirements will take effect for selected discharge points where total maximum daily load restrictions are in effect. Plans for storm water best management practices to meet permit requirements must still be submitted by the permittee, but plan review and approval by the MDEQ is no longer necessary, except where alternative approaches are proposed by the permittee. Standard permit requirements are more clearly defined. Flexibility is provided by allowing alternative approach submittal. Watershed management plans may still include permittee commitments, but the commitments are no longer tied to the storm water pollution prevention initiative. Progress reports will be required in years two and four of the permit term, instead of annually.

Though we have not analyzed the policy changes between the existing and proposed Wastewater Discharge General Permits, it appears that the Drain Commissioner's Office has done so, and has made specific recommendations. The enclosed resolution provided by the Drain Commissioner is for the purpose of both indicating support for the Drain Commissioner's recommended policy changes, and to support an extension of the comment period beyond the December 12, 2007 cut-off date.

The Drain Commissioner's objections appear to relate specifically to pollution testing requirements indicating, generally, that they are too costly and ineffective.

It is our understanding that the City's engineers have analyzed the affect of the policy changes pertaining to the Permit and agree with the policy objections identified by the Drain Commissioner. As such, the City may wish to place the resolution on the next City Council Agenda for approval. Alternatively, in the event that the City wishes to have its engineers or consultants further investigate the affect of the policy changes contained in the Permit, the City may wish to modify the resolution to request only an additional time period to comment.

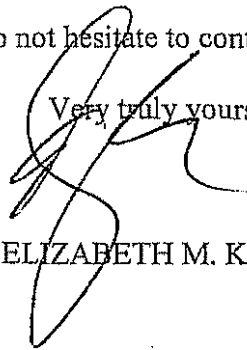


Tim Sikma, Water and Sewer Manager  
December 4, 2007  
Page 3

Though we have not analyzed its content, we are providing, and enclosed please find, the existing Wastewater Discharge General Permit should the City choose to support the Drain Commission's comments or provide its own.

Should you have any questions, please do not hesitate to contact us.

Very truly yours,



ELIZABETH M. KUDLA

EMK

Cc Maryanne Cornelius, Clerk  
Clay Pearson, City Manager  
Benny McCusker, DPW Director  
Rob Hayes, City Engineer  
Brian Coburn, Civil Engineer  
Ben Croy, Civil Engineer  
Lynn Norman, Department of Public Works  
Thomas R. Schultz, Esquire

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PERMIT NO. MIG619000

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
WASTEWATER DISCHARGE GENERAL PERMIT

Storm Water Discharges from Municipal Separate Storm Sewer Systems (MS4s) Subject to Watershed Plan Requirements

In compliance with the provisions of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq; the "Federal Act"), Michigan Act 451, Public Acts of 1994, as amended (the "Michigan Act"), Parts 31 and 41, and Michigan Executive Orders 1991-31, 1995-4 and 1995-18, storm water and non-storm water (as specified in Part 1.A.1.) is authorized to be discharged from the separate storm water drainage systems of those permittees specified in individual "certificates of coverage" in accordance with the conditions set forth in this general National Pollutant Discharge Elimination System (NPDES) permit (the "permit").

The applicability of this permit shall be limited to point source discharges of storm water and non-storm water (as specified in Part 1.A.1.) from municipal separate storm water drainage systems which have requested coverage under this general permit and have not been determined by the Michigan Department of Environmental Quality (the "Department") to need an individual NPDES permit or coverage under the NPDES general permit "Storm Water Discharges from MS4s Subject to the Six Minimum Measures." Discharges which may cause or contribute to a violation of a water quality standard are not authorized by this permit.

In order to constitute a valid authorization to discharge, this permit must be complemented by a certificate of coverage issued by the Department. The following will be identified in the certificate of coverage:

- The watershed boundaries that are to be covered by a Watershed Management Plan (WMP),
- The submittal date for the process to facilitate the involvement of the watershed jurisdictions and the public in the development of the WMP,
- The submittal dates for the Illicit Discharge Elimination Plan (IDEP) and the Public Education Plan (PEP) (or a revised IDEP or PEP),
- The submittal date for the WMP,
- The submittal date for the Storm Water Pollution Prevention Initiative (SWPPI) and implementation schedule,
- Any deferred areas for a portion of a permittee's urbanized area,
- The submittal date for the Annual Progress Reports,
- The submittal date for the revised WMP (or a written determination not to revise the WMP), and
- The submittal date for the revised SWPPI (or a written determination not to revise the SWPPI).

Unless specified otherwise, all contact with the Department required by this permit shall be to the position(s) indicated in the certificate of coverage, and all Department approvals specified in this permit shall be by the position(s) indicated in the certificate of coverage.

In accordance with Section 324.3118 of the Michigan Act, the permittee shall make payment of an annual storm water fee to the Department. In response to the Department's annual notice, the permittee shall submit the fee, which shall be postmarked no later than March 15 of each year.

The terms and conditions of this general permit shall apply to the permittee on the effective date of a certificate of coverage issued to the permittee. The Department may grant a contested case hearing on this general permit in accordance with the Michigan Act. Any person who is aggrieved by this permit may file a sworn petition with the Office of Administrative Hearings of the Michigan Department of Environmental Quality, setting forth the conditions of the permit which are being challenged and specifying the grounds for the challenge. The Department may grant a contested case hearing on the certificate of coverage issued to the permittee under this general permit in accordance with Rule 2192(c) (Rule 323.2192 of the Michigan Administrative Code).

This general permit shall take effect April 1, 2003. The provisions of this permit are severable. After notice and opportunity for a hearing, this permit may be modified, suspended or revoked in whole or in part during its term in accordance with applicable laws and rules.

This general permit shall expire at midnight, April 1, 2008.

Issued December 5, 2002.

Original signed  
D. Steven Eldredge  
Chief, Surface Water Permits Section  
Water Division

## PART I

## Section A. Authorizations and Coverage Provisions

## 1. Authorized Discharges

## a. Eligible Permittees

Except as excluded below, any governmental entity that has ownership or control of discharges through separate storm water drainage systems may be eligible for coverage under this general permit including, but not limited to, a county, a city, a village, a township, a county road commission, an entity with jurisdiction under the Drain Code for an inter-county or intra-county drain, a public school district, a public college or university, a department or agency of the state, and a department or agency of the federal government.

A city, village, or township (primary jurisdiction) permittee may have, within its political or territorial boundaries, smaller "nested" drainage systems owned or operated by public bodies such as school districts, public universities, or county, state, or federal agencies. If the primary jurisdiction and the nested jurisdiction agree to cooperate in carrying out the responsibilities for control of the drainage system, the nested jurisdiction does not need to apply for a separate storm water drainage system permit. Otherwise, the nested jurisdiction shall apply for a permit.

The Department will determine eligibility on a case-by-case basis. Coverage will be granted only if the Department determines there is a sufficient number of participating watershed partners to ensure implementation of an effective WMP.

Non-governmental entities (such as individuals, private schools, private colleges and private universities, or industrial and commercial entities) are explicitly not eligible for coverage under this general permit. However, these entities are encouraged to participate in WMP development within their watershed.

## b. Storm Water Discharges by the Permittee

This permit authorizes the discharge of storm water from municipal separate storm water drainage systems to the waters of the state. Following approval of the SWPPI (Part I.B.2.a.), the discharge of storm water from new point source discharges in the permittee's separate storm water drainage system are authorized only if in accordance with the approved SWPPI.

## c. Discharges Authorized under other NPDES Permits

The discharge of storm water commingled with discharges authorized under other NPDES permits is authorized under this permit.

## d. Non-Storm Water Discharges

The following non-storm water discharges are not authorized in this document, but do not need to be prohibited by the permittee, unless they are identified as significant contributors of pollutants to the regulated separate storm water drainage system:

- water line flushing,
- landscape irrigation runoff,
- diverted stream flows,
- rising groundwaters,
- uncontaminated groundwater infiltration (as defined by 40 CFR 35.2005(20)),
- pumped groundwaters (except for groundwater cleanups not specifically authorized by NPDES permits),
- discharges from potable water sources,
- foundation drains,
- air conditioning condensates,
- irrigation waters,
- springs,
- water from crawl space pumps,
- footing drains and basement sump pumps,
- lawn watering runoff,
- waters from non-commercial car washing,
- flows from riparian habitats and wetlands.

## PART I

### Section A. Authorizations and Coverage Provisions

- residential swimming pool waters and other permitted, dechlorinated swimming pool waters without untreated filter backwash, and
- residual street wash waters.

Discharges or flows from emergency fire fighting activities are exempt from prohibition by the permittee, but shall be addressed by the permittee if they are identified as significant sources of pollutants to waters of the state.

A swimming pool operated by the permittee shall not be discharged to the storm water drainage system, or directly to waters of the state, without specific NPDES authorization from the Department.

### 2. Application Requirements

The applicant shall submit an application to the Department when requesting coverage under this general permit. The applicant shall provide the following information:

- a. The applicant's legal name, mailing address, storm water program manager, watershed name, and proposed watershed partners.
- b. A map showing the boundary for the proposed watershed (this may be a watershed or sub-watershed).
- c. The location of any known point source discharges of storm water and the receiving water(s) within the applicant's regulated area, unless the Department accepts an alternate submission that still adequately represents the applicant's known MS4s. This requirement can be satisfied by providing an existing map of the separate storm water drainage system.
- d. A map of the applicant's political/territorial boundaries and regulated area, indicating the hydrologic boundaries and the approximate square mileage for both the drainage and urbanized areas (for urbanized areas where WMPs are deferred, the map shall define the boundaries of the urbanized area within the applicant's political or territorial boundaries and include that area for coverage under the permit).
- e. A primary jurisdiction shall submit to the Department: 1) the name and general description of each nested jurisdictional area or drainage system for which a cooperative agreement has been reached to carry out storm water discharge responsibilities; and 2) the name of other nested jurisdictional areas or drainage systems within their political or territorial boundaries for which they have information that indicates a separate storm water drainage system permit may be required. Additionally, the primary jurisdiction may submit documentation of its efforts to notify the nested jurisdictions that they need to either get their own permits or work cooperatively under one permit. The primary jurisdiction shall be responsible for assuring compliance with this general permit for those nested jurisdictions with which they have entered into an agreement and listed as part of the application for this permit.
- f. Any permittee eligible for coverage under the NPDES general permit "Storm Water Discharges from MS4s Subject to the Six Minimum Measures" who applies for this general permit within a watershed where a WMP has already been developed and submitted to the Department, in accordance with NPDES Permits MIG610000 or MIG619000, shall submit an approvable SWPPI and implementation schedule (Part I.B.2. of this general permit) to the Department as part of the application, or in accordance with another schedule set by the Department.

### 3. IDEP and PEP Submittal

Within one year after the effective date of the certificate of coverage, the permittee shall submit to the Department an approvable IDEP and PEP, or updates for existing Plans to comply with current permit requirements. The submission shall include the following:

**PART I****Section A. Authorizations and Coverage Provisions****a. Illicit Discharge Elimination Plan (IDEP)**

The applicant shall submit an IDEP, or an update to an existing IDEP, to prohibit and effectively eliminate illicit discharges (including the discharge of sanitary wastewater) to the applicant's separate storm water drainage system for the regulated area. At a minimum, the IDEP shall include the following:

- 1) a program to find, prioritize and eliminate illicit discharges and illicit connections identified during dry weather screening activities;
- 2) a description of a program to minimize infiltration of seepage from sanitary sewers and on-site sewage disposal systems into the applicant's separate storm water drainage system;
- 3) a method for determining the effectiveness of the illicit discharge elimination activities which shall, at a minimum, result in the inspection of each storm water point source every five years unless the Department approves an alternative schedule (an alternative schedule may focus efforts on urbanized areas and cover other regulated areas less frequently, based on watershed goals); and
- 4) an updated map of the location of each known storm water point source and the respective receiving water or drainage system (the Department may accept an alternate submission if the permittee demonstrates that the submission will be sufficient in the effective elimination of illicit discharges).

"Illicit connection" means a physical connection to the separate storm water drainage system that 1) primarily conveys illicit discharges into the system and/or 2) is not authorized or permitted by the local authority (where a local authority requires such authorization or permit).

"Illicit discharge" means any discharge (or seepage) to the separate storm water drainage system that is not composed entirely of storm water or uncontaminated groundwater. Examples of illicit discharges include dumping of motor vehicle fluids, household hazardous wastes, grass clippings, leaf litter, or animal wastes, or unauthorized discharges of sewage, industrial waste, restaurant wastes, or any other non-storm water waste into a separate storm water drainage system.

**b. Public Education Plan (PEP)**

The applicant shall submit a PEP, or an update to an existing PEP. The PEP shall promote, publicize, and facilitate watershed education for the purpose of encouraging the public to reduce the discharge of pollutants in storm water to the maximum extent practicable. The PEP may involve combining with or coordinating existing programs for public stewardship of water resources. Pollution prevention shall be encouraged. The PEP shall describe a method for determining the effectiveness of the various public education activities.

"Public" shall be defined to include all persons who potentially could affect the quality of storm water discharges, including, but not limited to, residents, visitors to the area, businesses, commercial operations, and construction activities.

The PEP shall be designed to accomplish, at a minimum, the following as appropriate based on the potential impact on the watershed:

- 1) education of the public about their responsibility and stewardship in their watershed;
- 2) education of the public on the location of residential separate storm water drainage system catch basins, the waters of the state where the system discharges, and potential impacts from pollutants from the separate storm water drainage system;
- 3) encouragement of public reporting of the presence of illicit discharges or improper disposal of materials into the applicant's separate storm water drainage system.

## PART I

### Section A. Authorizations and Coverage Provisions

- 4) education of the public on the need to minimize the amount of residential, or non-commercial, wastes washed into nearby catch basins (this should include the preferred cleaning materials and procedures for car, pavement, or power washing; the acceptable application and disposal of pesticides and fertilizers; and the effects caused by grass clippings, leaf litter, and animal wastes that get flushed into the waterway).
- 5) education of the public on the availability, location and requirements of facilities for disposal or drop-off of household hazardous wastes, travel trailer sanitary wastes, chemicals, yard wastes, and motor vehicle fluids; and
- 6) education of the public concerning management of riparian lands to protect water quality.

Upon Departmental approval, the permittee shall begin implementation of the IDEP and PEP. If the Department does not take action to approve or comment on the Plans within 90 days of submittal, the permittee shall begin implementation of these Plans as submitted. The Department may notify the permittee at any time that the Plans do not meet minimum requirements. Such notification shall identify why the Plan does not meet minimum requirements. The permittee shall make the required changes to the Plans within 90 days after such notification from the Department. The permittee shall submit written certification of the changes to the Department as part of the annual report.

#### 4. Identification of Additional Point Source Discharges of Storm Water

If the permittee becomes aware of any separate storm water drainage system discharges which were not identified in the application, the permittee shall provide the following information to the Department as part of the annual progress report (Part I.B.3.):

- a. the location of the discharge of storm water for which coverage is requested,
- b. the receiving water for the discharge, and
- c. any necessary updates to the map of the drainage area indicating the hydrologic boundary and approximate square miles of the coverage area (originally submitted with the application).

These requirements can be satisfied by providing an updated map of the permittee's separate storm water drainage system.

#### 5. Expiration and Reissuance

If the permittee wishes to continue a discharge authorized under this permit beyond the permit's expiration date, the permittee shall submit a completed application, and any other documents requested by the Department, to the Department on or before October 1, 2007. A person holding a valid certificate of coverage under an expired general permit shall continue to be subject to the terms and conditions of the expired permit until the permit is terminated, revoked, or reissued. Coverage under a reissued permit can only begin on the effective date of the reissued permit.

If this permit is modified or reissued, the permittee shall: a) request coverage under the modified or reissued permit, b) apply for an individual NPDES permit, c) apply for another general NPDES permit, or d) request termination of discharge authorization. Lacking an adequate response, the permittee's authorization to discharge shall expire on the effective date of the reissued or modified permit.

If this permit is terminated or revoked, all authorizations to discharge under the permit shall expire on the date of termination or revocation.

**PART I**

**Section A. Authorizations and Coverage Provisions**

**6. Requirement to Obtain an Individual Permit**

The Department may require any person who is authorized to discharge by a certificate of coverage and this permit, to apply for and obtain an individual NPDES permit if any of the following circumstances apply:

- a. the discharge is a significant contributor to pollution as determined by the Department on a case-by-case basis;
- b. the discharger is not complying or has not complied with the conditions of the permit;
- c. a change has occurred in the availability of demonstrated technology or practices for the control or abatement of waste applicable to the point source discharge;
- d. effluent standards and limitations are promulgated for point source discharges subject to this permit; and
- e. the Department determines that the criteria under which the permit was issued no longer apply.

Any person may request the Department to take action pursuant to the provisions of Rule 2191 (Rule 323.2191 of the Michigan Administrative Code).



**PART I****Section A. Authorizations and Coverage Provisions****7. Discharges Requiring Separate Authorization****a. Tracer Dye Discharges**

This general permit does not authorize the discharge of tracer dyes without approval from the Department. Requests to discharge tracer dyes shall be submitted to the Department in accordance with Rule 1097 (Rule 323.1097 of the Michigan Administrative Code).

**b. Water Treatment Additives**

In the event a permittee proposes to discharge water additives, the permittee shall submit a request to discharge water additives to the Department for approval. Such requests shall be sent to the Surface Water Quality Assessment Section, Water Division, Department of Environmental Quality, P.O. Box 30273, Lansing, Michigan 48909, with a copy to the Department contact listed on the certificate of coverage. Instructions to submit a request electronically may be obtained via the Internet (<http://www.michigan.gov/deq> and on the left side of the screen click on Water, Water Quality Monitoring, and Assessment of Michigan Waters; then click on the Water Treatment Additive List which is under the Information banner). Written approval from the Department to discharge such additives at specified levels shall be obtained prior to discharge by the permittee. Additional monitoring and reporting may be required as a condition for the approval to discharge the additive.

A request to discharge water additives shall include all of the following water additive usage and discharge information:

- 1) Material Safety Data Sheet;
- 2) the proposed water additive discharge concentration;
- 3) the discharge frequency (i.e., number of hours per day and number of days per year);
- 4) the monitoring point from which the product is to be discharged;
- 5) the type of removal treatment, if any, that the water additive receives prior to discharge;
- 6) product function (i.e. microbiocide, flocculant, etc.);
- 7) a 48-hour LC<sub>50</sub> or EC<sub>50</sub> for a North American freshwater planktonic crustacean (either *Ceriodaphnia sp.*, *Daphnia sp.*, or *Simocephalus sp.*); and
- 8) the results of a toxicity test for one other North American freshwater aquatic species (other than a planktonic crustacean) that meets a minimum requirement of Rule 323.1057(2) of the Water Quality Standards.

Prior to submitting the request, the permittee may contact the Surface Water Quality Assessment Section by telephone at 517-335-4184 or via the Internet at the address given above to determine if the Department has the product toxicity data required by items 7) and 8) above. If the Department has the data, the permittee will not need to submit product toxicity data.

## PART I

### Section B. Watershed Management

#### 1. Watershed Management Plan (WMP)

The permittee shall participate in the development and implementation of a WMP. The purpose of the WMP is to identify and execute the actions needed to resolve water quality and water quantity concerns by fostering cooperation among the various public and private entities in the watershed. Those concerns related to Total Maximum Daily Loads (TMDLs) established within the watershed should be included and details for those actions specific to storm water controls shall be listed in the WMP (the Department recognizes that some of the actions required to meet the goals of some TMDLs may involve actions outside of the authorization of this general storm water permit). The emphasis of the WMP shall be to mitigate the undesirable impacts caused by wet weather discharges from separate storm water drainage systems.

Those people most affected by management decisions should participate in the development of the WMP and shape key decisions. By the date specified in the certificate of coverage, the process to facilitate the involvement of the watershed jurisdictions and the public (i.e., "the Public Participation Process") in the development of the WMP shall be submitted to the Department for approval. A person, group, or agency responsible for coordinating the development of the WMP shall be identified. Where multiple permittees are responsible for submittal of a WMP for the same watershed, one coordinated public participation process shall be submitted by all of the permittees.

The WMP shall cover the watershed(s) identified on the certificate of coverage. By the date specified in the certificate of coverage, the permittee shall submit the WMP to the Department. (Note: the WMP requirement may be deferred until a later time for a portion of the permittee's jurisdiction. The WMP shall not be deferred for the permittee's entire urbanized area. Any portion of the jurisdiction that is deferred will be indicated on the certificate of coverage.) Significant components of the WMP which do not have complete agreement of the participants shall be detailed in an appendix to the WMP [including a description of the WMP component, identification of participants who disagreed with the component, reasons for disagreement (if provided), and suggested alternatives (if provided)]. Procedures for revising the WMP shall be identified. Where multiple permittees are responsible for submittal of a WMP for the same watershed, one WMP shall be submitted on behalf of all the permittees. Comments provided by the Department within 90 days of submittal of the WMP should be addressed by the participants.

The permittee may choose to demonstrate that a watershed(s) other than that specified on the certificate of coverage is appropriate. This demonstration shall be submitted to the Department for approval.

The WMP should be developed based on sound guiding principles. EPA's "Watershed Approach Framework" (EPA 840-S096-001, June 1996) and MDEQ's "Developing a Watershed Management Plan for Water Quality: An Introductory Guide" (February 2000) may be helpful in establishing a framework for a WMP. Collectively, WMP participants should employ sound scientific data, tools, and techniques in an iterative decision making process. The typical steps in a watershed planning process, that may be used to develop a WMP, are as follows:

- 1) assessment and characterization of the natural resources and the communities that depend upon them,
- 2) goal setting and identification of environmental objectives based on the condition or vulnerability of resources and the needs of the aquatic ecosystem and the people within the community,
- 3) identification of priority problems and opportunities (including any TMDL established for a parameter within the watershed that may be affected by storm water),
- 4) development of specific management options and action plans,
- 5) implementation of the action plans, and
- 6) evaluation of effectiveness and revision of plans, as needed.

The permittee shall use the WMP to develop a SWPPI that specifies the permittee's obligations under the WMP. In order to produce an approvable SWPPI, as a minimum, a WMP shall contain:

- an assessment of the nature and status of the watershed ecosystem to the extent necessary to achieve the purpose of the WMP;
- short-term measurable objectives for the watershed;
- long-term goals for the watershed (which shall include both the protection of designated uses of the receiving waters as defined in Michigan's Water Quality Standards, and attaining compliance with any TMDL established for a parameter within the watershed);
- determination of the actions needed to achieve the short-term measurable objectives for the watershed;

## PART I

**Section B. Watershed Management**

- determination of the actions needed to achieve the long-term goals for the watershed;
- assessment of both the benefits and costs of the actions identified above (a "cost/benefit analysis" is not required);
- commitments, identified by specific permittee or others as appropriate, to implement actions by specified dates necessary to achieve the short-term measurable objectives;
- commitments, identified by specific permittee or others as appropriate, to implement actions by specified dates necessary to initiate achievement of the long-term goals; and
- methods for evaluation of progress, which may include chemical or biological indicators, flow measurements, erosion indices, and public surveys.

The permittee-specific commitments shall be elaborated upon and included in the SWPPI (Part I.B.2.a.) and may include modifications to the previously submitted IDEP and PEP.

Watershed Management is an iterative process of decision making. Therefore, revisions to the WMP are expected from time to time. By the date specified in the certificate of coverage, a revised WMP (or a written determination not to revise the WMP) shall be submitted to the Department for comment.

**2. Storm Water Pollution Prevention Initiative (SWPPI)**

## a. SWPPI Submission

By the date specified in the certificate of coverage, the permittee shall submit an approvable SWPPI and implementation schedule to the Department. The SWPPI shall be designed and implemented to reduce the discharge of pollutants to the maximum extent practicable, shall be consistent with the WMP developed under Part I.B.1., shall include those actions expected to be implemented over the term of this permit, shall identify methods for determining the effectiveness of the actions to be implemented, and may cover urbanized areas (with a deferred WMP) outside of the watershed boundary included in the WMP. The SWPPI shall be implemented upon approval of the Department.

- 1) The submission of the SWPPI shall, at a minimum, include the following:
  - a) The actions required of the permittee in the WMP in accordance with the dates specified, taking into account any specific disagreements to the WMP which were provided by the permittee and included in the appendix to the WMP. (Note: if the WMP requirement has been deferred until a later time, as indicated on the certificate of coverage, the SWPPI shall initially be developed without consideration of the WMP.)
  - b) The evaluation and implementation of pollution prevention and good housekeeping activities, as appropriate. This item shall include a training and inspection program for staff and contractors employed by the permittee in activities that may affect storm water runoff.

The permittee shall include the following activities for inclusion in the SWPPI, or explain why the activities do not apply:

- (1) maintenance activities, maintenance schedules, and inspection procedures for storm water structural controls to reduce pollutants (including floatables) in discharges from the permittee's separate storm water drainage system;
- (2) controls for reducing or eliminating the discharges of pollutants from streets, roads, highways, parking lots, and maintenance garages;
- (3) procedures for the proper disposal of operation and maintenance waste from the separate storm water drainage system (dredge spoil, accumulated sediments, floatables, and other debris);
- (4) ways to ensure that flood management projects assess the impacts on the water quality of the receiving waters and, whenever possible, examine existing water quantity structures for incorporation of additional water quality protection devices or practices; and

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## Section B. Watershed Management

(5) implementation of controls to reduce the discharge of pollutants related to application of pesticides, herbicides, and fertilizers applied in the permittee's regulated area.

- c) The development, implementation, and enforcement of a comprehensive storm water management program for post-construction controls for areas of new development and significant redevelopment. The goal is to protect the designated uses in the receiving water from the effects commonly associated with urbanization. These effects include: "flashiness" (higher peak flows and lower base flows), stream-bank erosion, increased stream temperature and pollutant load, reduced bank vegetation, and degraded fish and other aquatic habitats.

The permittee shall evaluate and implement site appropriate, cost-effective structural and nonstructural best management practices (BMPs) that prevent or minimize the impacts on water quality. Common controls for urbanization include: policies and ordinances to direct growth to identified areas, to limit the rate and volume of storm water discharged to pre-developmental hydrologic levels, to protect sensitive areas such as wetlands and riparian areas, and to maintain and/or increase open spaces (including a dedicated funding source for open space acquisition); encouraging infill development in higher density urban areas and areas with existing infrastructure; establishing in-stream maximum flow targets designed to minimize stream bank erosion and maintain healthy aquatic populations; and coordinating release volumes and rates from detention basins to achieve in-stream maximum flow targets. These controls shall have associated requirements for their long-term operation and maintenance to retain the level of water quality protection over time.

- d) The methods of assessing progress in storm water pollution prevention.

2) If the WMP has been deferred for a portion of a permittee's urbanized area, as indicated on the certificate of coverage, the permittee's submission of the SWPPI shall include requirements for those urbanized areas not covered by the WMP. The permittee shall select one of the following two options for covering urbanized areas with deferred WMPs:

- a) Option 1: The permittee shall submit a request to extend the coverage of an existing SWPPI throughout the permittee's urbanized areas where a WMP has been deferred. The permittee shall be aware that additional actions may be required in this area. Under this option, the permittee shall perform a cursory assessment of the watershed(s) in the urbanized areas where a WMP is deferred, and identify concerns that are not addressed under the existing SWPPI prepared consistent with the WMP. These concerns may be inferred from significant differences between watershed characteristics in the two areas. Some examples of categories to consider include: stream type (main channel vs. headwaters), land use (agricultural vs. residential vs. industrial/commercial), age of development, historical impacts on the watershed, topography, and soil type. If the comparison shows that the two areas are significantly different, the permittee's SWPPI submission shall include additional approvable actions to address the deficiencies of the SWPPI in the deferred area.
- b) Option 2: The permittee shall submit additional information as necessary to comply with the following requirements for urbanized areas where the WMP has been deferred:

(1) Public Involvement and Participation

Public input shall be encouraged in areas where the WMP is deferred. Appropriate BMPs for this minimum measure and measurable goals for each BMP shall be submitted to the department as part of the annual report. The following minimum actions shall be taken to encourage public input:

- (a) The permittee shall follow local public notice requirements, as appropriate, when notifying the public that a SWPPI must be implemented. Copies of the permittee's SWPPI shall be available for public inspection, and the public shall be notified of when and where it is available.
- (b) The permittee shall establish and implement a citizen advisory committee for the purpose of encouraging public involvement in all aspects of the SWPPI.

**PART I****Section B. Watershed Management**

- (c) The permittee shall pursue cooperation with local stream or watershed protection organizations, if any, by informing them of activities under the SWPPI, providing copies of the preliminary and final SWPPI and pursuing input on the SWPPI, seeking volunteer assistance including water quality monitoring assistance, and seeking ways to meet permit requirements by assisting the local organizations with their ongoing programs for water resource protection and enhancement.

(2) Post-Construction Storm Water Management Program for New Development and Redevelopment Projects

The permittee shall develop, implement and enforce a program to address storm water runoff from new development and redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale, that discharge into the drainage system. The program shall ensure that controls are in place that will prevent or minimize water quality impacts. Appropriate BMPs for this minimum measure and measurable goals for each BMP shall be submitted to the department as part of the annual report.

Under the program for new development and redevelopment projects the permittee shall:

- (a) Develop and implement a comprehensive storm water management plan for development, implementation, and enforcement of controls watershed-wide or jurisdiction-wide to protect the designated uses in all receiving waters within urbanized areas from the effects commonly associated with urbanization. Common effects of urbanization to be considered under the comprehensive management plan include stream "flashiness" (higher peak flow and lower base flow), stream-bank erosion, increased stream temperature and pollutant load, reduced stream-bank vegetation, and degraded fish and aquatic habitat. Example comprehensive management plan controls for prevention of impacts from urbanization include policies and ordinances that provide requirements and standards for directing growth to identified areas, protecting sensitive areas such as wetlands and riparian areas, maintaining and/or increasing open space (including a dedicated funding source for open space acquisition), encouraging infill development in higher density urban areas and areas with existing infrastructure, establishing in-stream maximum flow targets designed to minimize stream bank erosion and maintain healthy fish populations, and coordinating release volumes and rates from detention basins to achieve in-stream maximum flow targets.
- (b) Develop and implement ordinances or other regulatory mechanisms to address post construction storm water runoff from new development and redevelopment projects to the extent allowable under state or local law. Objectives of the ordinances or other regulatory mechanisms should be to protect receiving water quality from the impacts of development and limit the rate and volume of storm water discharges from any specific site during and following development or redevelopment. The ordinances or other regulatory mechanisms shall include the following:
- (i) Requirements for implementation of appropriate non-structural and/or structural BMPs. Non-structural BMPs are preventative actions that involve management and source controls. Examples include: buffer preservation along water bodies, establishment of easements for vegetative filters and infiltration, education programs for developers and the public about project designs that minimize water quality and quantity impacts, minimum disturbance of soils and vegetation, planting native vegetation, restrictions on directly connected impervious areas, and incentives for reducing imperviousness. Structural BMPs are physical controls that improve water quality, including storage practices. Examples of structural BMPs include: wet ponds and extended-detention outlet structures; vegetative buffers; filtration practices such as grassed swales, sand filters and filter strips; and infiltration practices such as infiltration basins, infiltration trenches, rain gardens, and infiltration islands in parking lots.
- (ii) Requirements for adequate long-term operation and maintenance of BMPs.

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## Section B. Watershed Management

(iii) Requirements to control sediment discharges from new developments and redevelopments that result from soil erosion after the local soil erosion and sedimentation permit and federal permit by rule are no longer in effect.

(iv) Requirements for regulating the rate at which storm water flows into the drainage system.

(c) Develop and implement a process for review of post-construction storm water BMPs in initial site plans, as applicable.

(d) Minimize the occurrence of illicit discharges and spills into the drainage system by reviewing site plans for commercial operations to ensure that storm drain inlets are adequately isolated from pollutant sources. Equipment washing and waste material handling shall not result in discharge of wastes to the drainage system. Polluting materials, as defined in the Part 5 Rules (Rules 324.2001 through 324.2009 of the Michigan Administrative Code), shall be stored only in areas that provide secondary containment in accordance with state and federal law.

(3) Additional BMPs and Measurable Goals

If requested by the Department, the permittee shall submit appropriate BMPs, and measurable goals for each BMP, as part of the annual report. The Department may request specific information and implementation schedules for any or all of the following minimum measures:

(a) illicit discharge elimination program.

(b) public education program, and

(c) pollution prevention/good housekeeping for municipal operations.

b. SWPPI Revisions

By the date specified in the certificate of coverage, a revised SWPPI (incorporating current permit requirements or a written determination, with support, not to revise the SWPPI) shall be submitted to the Department for approval. The revised SWPPI shall be consistent with revisions made to the WMP.

c. Designated Contact Person

The permittee may replace the storm water program manager at any time and shall notify the Department within ten days after the replacement.

d. Retention of Records

The latest approved version of the SWPPI shall be retained until at least three years after coverage under this permit terminates. All records and information resulting from the assessment of SWPPI effectiveness, including all records of analyses performed and calibration and maintenance of instrumentation and recordings from continuous monitoring instrumentation, shall be retained for a minimum of three years or longer if requested by the Department or the Regional Administrator.

## PART I

## Section B. Watershed Management

## 3. Annual Progress Report

By the date indicated on the certificate of coverage, a report shall be submitted to the Department on the implementation status of this permit and the progress of pollution prevention. The progress report shall cover all of the decisions, actions, and results performed as part of this permit during the previous year. Annually thereafter, the permittee shall submit progress reports to the Department, unless a different reporting cycle is specified by the Department.

At a minimum, the progress reports shall cover the following subjects:

## a. IDEP

1) The permittee shall provide documentation of the actions taken to eliminate illicit discharges and evaluate the effectiveness of the program. For significant illicit discharges, the permittee shall list the pollutant(s) of concern, the estimated volume and load discharged, and the locations of the discharge into both the permittee's separate storm water sewer system and the receiving water. The permittee shall include certification of any changes made to the IDEP as requested by the Department in Part I.A.3.

2) The permittee shall summarize the status of the program to minimize seepage from sanitary sewers and on-site sewage disposal systems into the permittee's separate storm water drainage system.

3) The permittee shall provide schedules for elimination of illicit connections that have been identified but have yet to be eliminated.

## b. PEP

The permittee shall provide documentation of the public education effort and a summary of the evaluation of its effectiveness. The permittee shall include certification of any changes made to the PEP as requested by the Department in Part I.A.3.

## c. New Point Source Discharges of Storm Water

The permittee shall provide the information requested in Part I.A.4. of this permit on the discovery of new storm water point sources to the separate storm water drainage system.

## d. SWPPI

The permittee shall provide the following information:

1) The permittee shall describe the compliance status of the permittee-specific SWPPI actions and implementation schedules for the permittee's regulated areas. This review shall cover all of the permittee's commitments from the WMP, and the SWPPI's conditions for pollution prevention/good housekeeping and post-construction BMPs.

2) If the permittee has urbanized areas with a deferred WMP and selected Option 1, the permittee shall describe the status of any additional requirements for any areas with a deferred WMP.

3) If the permittee has urbanized areas with a deferred WMP and selected Option 2, the permittee shall describe the status for each of the three requirements listed in Part I.B.2.a.2) b). This shall include a listing of the BMPs that will be or have been implemented, descriptions of the measurable goals for each BMP, progress made towards meeting the measurable goals, upcoming actions, and any changes or updates to the BMPs or measurable goals to which the permittee has previously committed to do or meet.

**PART I****Section B. Watershed Management**

4) The effectiveness of the actions shall be discussed and the methods for this determination shall be reviewed. The permittee shall also include any proposed revisions to the SWPPI.

5) The permittee shall report on the status of any watershed planning decisions for the permittee's regulated area where a WMP has been deferred.

6) If necessary, the permittee may update both the characterization of the watershed(s) in the deferred area, and the comparison to the jurisdiction's watershed that is covered by the WMP. The permittee shall update any additional actions that have been included as part of the SWPPI as a result of any significant discrepancy between the watersheds.

e. Other Actions

The permittee shall submit any information for any other actions taken to reduce the discharge of pollutants in storm water.

f. Nested Drainage System Agreements

Permittees which are primary jurisdictions shall update the list of each nested jurisdictional area or drainage system that should have its own separate storm water drainage system permit, originally submitted as part of the application requirements in Part 1.A.2. of this permit.

g. Special Reporting Requirements

The University of Michigan (Ann Arbor Campus), the Michigan Department of Transportation, and the Cities of Ann Arbor, Flint, Grand Rapids, Livonia, Sterling Heights, and Warren shall submit the following additional information:

a) Environmental Impacts [40 CFR 122.42(c)(7)]

The permittee shall provide an assessment of the pollution reduction and probable receiving water quality impacts associated with program implementation. When applicable, a statement shall be included regarding any negative water quality impacts that may have occurred as a result of any illicit discharges or accidental spills during the report cycle.

b) Data and Results [40 CFR 122.42(c)(4)]

The permittee shall provide a summary of all information collected and analyzed, including monitoring data, if any, during the report cycle.

c) BMP Changes [40 CFR 122.42(c)(2)]

The permittee shall describe any planned changes in identified BMPs or measurable goals for those BMPs.

d) Revised Fiscal Analysis [40 CFR 122.42(c)(3)]

The permittee shall provide a summary of revisions, if necessary, to the fiscal analysis reported during the previous permit, pursuant to permit application requirements [40 CFR 122.26(d)(2)(vi)].

e) Annual Budget [40 CFR 122.42(c)(5)]

The permittee shall provide the previous reporting cycle's expenditures and proposed budget for the reporting cycle following the report.



## PART II

### Section A. Definitions

This list of definitions may include terms not applicable to this permit.

**Acute toxic unit (TU<sub>a</sub>)** means 100/LC<sub>50</sub> where the LC<sub>50</sub> is determined from a whole effluent toxicity (WET) test which produces a result that is statistically or graphically estimated to be lethal to 50% of the test organisms.

**Best management practices (BMPs)** means structural devices or non-structural practices that are designed to prevent pollutants from entering into storm water flows, to direct the flow of storm water, or to treat polluted storm water flows.

**Bioaccumulative chemical of concern (BCC)** means a chemical which, upon entering the surface waters, by itself or as its toxic transformation product, accumulates in aquatic organisms by a human health bioaccumulation factor of more than 1000 after considering metabolism and other physiochemical properties that might enhance or inhibit bioaccumulation. The human health bioaccumulation factor shall be derived according to R 323.1057(5). Chemicals with half-lives of less than 8 weeks in the water column, sediment, and biota are not BCCs. The minimum bioaccumulation concentration factor (BAF) information needed to define an organic chemical as a BCC is either a field-measured BAF or a BAF derived using the biota-sediment accumulation factor (BSAF) methodology. The minimum BAF information needed to define an inorganic chemical as a BCC, including an organometal, is either a field-measured BAF or a laboratory-measured bioconcentration factor (BCF). The BCCs to which these rules apply are identified in Table 5 of R 323.1057 of the Water Quality Standards.

**Biosolids** are the solid, semisolid, or liquid residues generated during the treatment of sanitary sewage or domestic sewage in a treatment works. This includes, but is not limited to, scum or solids removed in primary, secondary, or advanced wastewater treatment processes and a derivative of the removed scum or solids.

**Bulk biosolids** means biosolids that are not sold or given away in a bag or other container for application to a lawn or home garden.

**Chronic toxic unit (TU<sub>c</sub>)** means 100/MATC or 100/IC<sub>25</sub>, where the maximum acceptable toxicant concentration (MATC) and IC<sub>25</sub> are expressed as a percent effluent in the test medium.

**Class B biosolids** refers to material that has met the Class B pathogen reduction requirements or equivalent treatment by a Process to Significantly Reduce Pathogens (PSRP) in accordance with the Part 24 Rules. Processes include aerobic digestion, composting, anaerobic digestion, lime stabilization and air drying.

**Daily concentration** is the sum of the concentrations of the individual samples of a parameter divided by the number of samples taken during any calendar day. If the parameter concentration in any sample is less than the quantification limit, regard that value as zero when calculating the daily concentration. The daily concentration will be used to determine compliance with any maximum and minimum daily concentration limitations (except for pH and dissolved oxygen). When required by the permit, report the maximum calculated daily concentration for the month in the "MAXIMUM" column under "QUALITY OR CONCENTRATION" on the Discharge Monitoring Reports (DMRs).

For pH, report the maximum value of any individual sample taken during the month in the "MAXIMUM" column under "QUALITY OR CONCENTRATION" on the DMRs and the minimum value of any individual sample taken during the month in the "MINIMUM" column under "QUALITY OR CONCENTRATION" on the DMRs. For dissolved oxygen, report the minimum concentration of any individual sample in the "MINIMUM" column under "QUALITY OR CONCENTRATION" on the DMRs.

**Daily loading** is the total discharge by weight of a parameter discharged during any calendar day. This value is calculated by multiplying the daily concentration by the total daily flow and by the appropriate conversion factor. The daily loading will be used to determine compliance with any maximum daily loading limitations. When required by the permit, report the maximum calculated daily loading for the month in the "MAXIMUM" column under "QUANTITY OR LOADING" on the DMRs.

**Department** means the Michigan Department of Environmental Quality.

**Detection level** means the lowest concentration or amount of the target analyte that can be determined to be different from zero by a single measurement at a stated level of probability.

**PART II****Section A. Definitions**

**District Supervisor of the Water Division** is identified in the individual certificate of coverage.

**Drainage System Operator:** See "Municipal Separate Storm Water Drainage System Operator".

**EC<sub>50</sub>** means a statistically or graphically estimated concentration that is expected to cause 1 or more specified effects in 50% of a group of organisms under specified conditions.

**Fecal coliform bacteria 7-day** is the geometric mean of the samples collected in any 7-day period. The calculated 7-day value will be used to determine compliance with the maximum 7-day fecal coliform bacteria limitations. When required by the permit, report the maximum calculated 7-day concentration for the month in the "MAXIMUM" column under "QUALITY OR CONCENTRATION" on the DMRs.

**Fecal coliform bacteria monthly** is the geometric mean of the samples collected in a calendar month (or 30 consecutive days). The calculated monthly value will be used to determine compliance with the maximum monthly fecal coliform bacteria limitations. When required by the permit, report the calculated monthly value in the "AVERAGE" column under "QUALITY OR CONCENTRATION" on the DMRs.

**Flow proportioned sample** is a composite sample with the sample volume proportional to the effluent flow.

**Grab sample** is a single sample taken at neither a set time nor flow.

**IC<sub>25</sub>** means the toxicant concentration that would cause a 25% reduction in a nonquantal biological measurement for the test population.

**Interference** is a discharge which, alone or in conjunction with a discharge or discharges from other sources, both:  
1) inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and  
2) therefore, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or, of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA)), and including state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act. [This definition does not apply to sample matrix interference.]

**LC<sub>50</sub>** means a statistically or graphically estimated concentration that is expected to be lethal to 50% of a group of organisms under specified conditions.

**Land application** means spraying or spreading biosolids or a biosolids derivative onto the land surface, injecting below the land surface, or incorporating into the soil so that the biosolids or biosolids derivative can either condition the soil or fertilize crops or vegetation grown in the soil.

**MGD** means million gallons per day.

**Maximum acceptable toxicant concentration (MATC)** means the concentration obtained by calculating the geometric mean of the lower and upper chronic limits from a chronic test. A lower chronic limit is the highest tested concentration that did not cause the occurrence of a specific adverse effect. An upper chronic limit is the lowest tested concentration which did cause the occurrence of a specific adverse effect and above which all tested concentrations caused such an occurrence.

## PART II

### Section A. Definitions

**Maximum extent practicable:** The Maximum Extent Practicable (MEP) requirement shall be met by adherence to the requirements of the approved Illicit Discharge Elimination Plan, the approved Public Education Plan and the approved Storm Water Pollution Prevention Initiative (SWPPI), in a manner that is environmentally beneficial, technically feasible, and within the permittee's legal authority. The various components of the approved Plans and SWPPI, taken as a whole (rather than individually), shall be sufficient to meet the MEP requirements.

**Monthly concentration** is the sum of the daily concentrations determined during a reporting month (or 30 consecutive days) divided by the number of daily concentrations determined. The calculated monthly concentration will be used to determine compliance with any maximum monthly concentration limitations. When required by the permit, report the calculated monthly concentration in the "AVERAGE" column under "QUALITY OR CONCENTRATION" on the DMRs.

For minimum percent removal requirements, the monthly influent concentration and the monthly effluent concentration shall be determined. The calculated monthly percent removal, which is equal to 100 times the quantity [1 minus the quantity (monthly effluent concentration divided by the monthly influent concentration)], shall be reported in the "MINIMUM" column under "QUALITY OR CONCENTRATION" on the DMRs.

**Monthly frequency of analysis** refers to a calendar month. When required by this permit, an analytical result, reading, value or observation must be reported for that period if a discharge occurs during that period.

**Monthly loading** is the sum of the daily loadings of a parameter divided by the number of daily loadings determined in the reporting month (or 30 consecutive days). The calculated monthly loading will be used to determine compliance with any maximum monthly loading limitations. When required by the permit, report the calculated monthly loading in the "AVERAGE" column under "QUANTITY OR LOADING" on the DMRs.

**Municipal Separate Storm Water Drainage System Operator** means a public body or statutory housing authority that owns a separate storm water drainage system, or has the power of authority to implement or carry out any of the requirements for storm water pollution control. There may be multiple drainage system operators within the same geographic area or for the same separate storm water drainage system.

**NOAEL** means the highest tested dose or concentration of a substance that results in no observed adverse effect in exposed test organisms where higher doses or concentrations result in an adverse effect.

**National Pretreatment Standards** are the regulations promulgated by or to be promulgated by the Federal Environmental Protection Agency pursuant to Section 307(b) and (c) of the Federal Act. The standards establish nationwide limits for specific industrial categories for discharge to a POTW.

**Noncontact cooling water** is water used for cooling which does not come into direct contact with any raw material, intermediate product, by-product, waste product or finished product.

**Nondomestic user** is any discharger to a POTW that discharges wastes other than or in addition to water-carried wastes from toilet, kitchen, laundry, bathing or other facilities used for household purposes.

**On-site sewage disposal system** means a natural system or mechanical device used to collect, treat, and discharge or reclaim wastewater from one or more dwelling units without the use of community-wide sewers or a centralized treatment system.

**POTW** is a publicly owned treatment works.

**Point source** means an outfall from a drainage system to waters of the state, or a point where a storm water drainage system discharges into a system operated by another public body.

**Pretreatment** is reducing the amount of pollutants, eliminating pollutants, or altering the nature of pollutant properties to a less harmful state prior to discharge into a public sewer. The reduction or alteration can be by physical, chemical, or biological processes, process changes, or by other means. Dilution is not considered pretreatment unless expressly authorized by an applicable National Pretreatment Standard for a particular industrial category.

## PART II

### Section A. Definitions

**Quantification level** means the measurement of the concentration of a contaminant obtained by using a specified laboratory procedure calculated at a specified concentration above the detection level. It is considered the lowest concentration at which a particular contaminant can be quantitatively measured using a specified laboratory procedure for monitoring of the contaminant.

**Quarterly frequency of analysis** refers to a three month period, defined as January through March, April through June, July through September, and October through December. When required by this permit, an analytical result, reading, value or observation must be reported for that period if a discharge occurs during that period.

**Regional Administrator** is the Region 5 Administrator, U.S. EPA, located at R-19J, 77 W. Jackson Blvd., Chicago, Illinois 60604.

**Regulated areas** means urbanized areas and areas identified by the permit applicant to be subject to a watershed planning process.

**Separate storm water drainage system** means drainage systems that convey storm water to waters of the state excluding combined sewer systems and sanitary sewer systems (separate storm water drainage systems are not intended to carry sanitary wastewater). The conveyance may be opened or enclosed, and may contain the non-storm water discharges specified in Part I.A.1.c. and d.

**Significant industrial user** is a nondomestic user that: 1) is subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N; or 2) discharges an average of 25,000 gallons per day or more of process wastewater to a POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the permittee as defined in 40 CFR 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's treatment plant operation or violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)).

**Storm water** includes storm water runoff, snow melt runoff, and surface runoff and drainage.

**Tier I value** means a value for aquatic life, human health or wildlife calculated under R 323.1057 of the Water Quality Standards using a tier I toxicity database.

**Tier II value** means a value for aquatic life, human health or wildlife calculated under R 323.1057 of the Water Quality Standards using a tier II toxicity database.

**Toxicity reduction evaluation (TRE)** means a site-specific study conducted in a stepwise process designed to identify the causative agents of effluent toxicity, isolate the sources of toxicity, evaluate the effectiveness of toxicity control options, and then confirm the reduction in effluent toxicity.

**Urbanized area** means a place and the adjacent densely populated territory that together have a minimum population of fifty thousand (50,000) people, as defined by the United States Bureau of the Census and as determined by the latest available decennial census.

**Water Quality Standards** means the Part 4 Water Quality Standards promulgated pursuant to Part 31 of Act No. 451 of the Public Acts of 1994, as amended, being Rules 323.1041 through 323.1117 of the Michigan Administrative Code.

**Waters of the state** means all of the following, but does not include drainage ways and ponds used solely for wastewater conveyance, treatment, or control:

- The Great Lakes and their connecting waters.
- All inland lakes,
- Rivers,
- Streams,
- Impoundments,
- Open drains, and

**PART II****Section A. Definitions**

- Other surface bodies of water within the confines of the state.

**Weekly frequency of analysis** refers to a calendar week which begins on Sunday and ends on Saturday. When required by this permit, an analytical result, reading, value or observation must be reported for that period if a discharge occurs during that period.

**Yearly frequency of analysis** refers to a calendar year beginning on January 1 and ending on December 31. When required by this permit, an analytical result, reading, value or observation must be reported for that period if a discharge occurs during that period.

**24-Hour composite sample** is a flow proportioned composite sample consisting of hourly or more frequent portions that are taken over a 24-hour period.

**3-Portion composite sample** is a sample consisting of three equal volume grab samples collected at equal intervals over an 8-hour period.

**7-day concentration** is the sum of the daily concentrations determined during any 7 consecutive days in a reporting month divided by the number of daily concentrations determined. The calculated 7-day concentration will be used to determine compliance with any maximum 7-day concentration limitations. When required by the permit, report the maximum calculated 7-day concentration for the month in the "MAXIMUM" column under "QUALITY OR CONCENTRATION" on the DMRs.

**7-day loading** is the sum of the daily loadings of a parameter divided by the number of daily loadings determined during any 7 consecutive days in a reporting month. The calculated 7-day loading will be used to determine compliance with any maximum 7-day loading limitations. When required by the permit, report the maximum calculated 7-day loading for the month in the "MAXIMUM" column under "QUANTITY OR LOADING" on the DMRs.

### Preventing Pollution is the Best Solution

The Michigan Department of Environmental Quality (DEQ) encourages you to consider pollution prevention alternatives. In some cases pollution prevention may allow you to avoid the need to discharge pollutants which would otherwise require permit limitations -- or even avoid the need for permits altogether! Pollution prevention can:

- Save Money
- Reduce Waste
- Aid Permit Compliance
- Protect Our Environment
- Improve Corporate Image
- Reduce Liability

The DEQ is helping Michigan's industries save money, reduce waste and protect our environment through pollution prevention. DEQ staff can provide pollution prevention assistance through telephone consultations, technical workshops and seminars, and informational publications. They can also put you directly in touch with local support networks and national pollution prevention resources. For more information, contact the Michigan Department of Environmental Quality, Environmental Science and Services Division, at 1-800-662-9278 or visit our homepage at <http://www.michigan.gov/deq>.

**PART II****Section B. Monitoring Procedures****1. Representative Samples**

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge.

**2. Test Procedures**

Test procedures for the analysis of pollutants shall conform to regulations promulgated pursuant to Section 304(h) of the Federal Act (40 CFR Part 136 - Guidelines Establishing Test Procedures for the Analysis of Pollutants), unless specified otherwise in this permit. Requests to use test procedures not promulgated under 40 CFR Part 136 for pollutant monitoring required by this permit shall be made in accordance with the Alternate Test Procedures regulations specified in 40 CFR 136.4. These requests shall be submitted to the Chief of the Surface Water Permits Section, Water Division, Michigan Department of Environmental Quality, P.O. Box 30273, Lansing, Michigan, 48909-7773. The permittee may use such procedures upon approval.

The permittee shall periodically calibrate and perform maintenance procedures on all analytical instrumentation at intervals to ensure accuracy of measurements. The calibration and maintenance shall be performed as part of the permittee's laboratory Quality Control/Quality Assurance program.

**3. Instrumentation**

The permittee shall periodically calibrate and perform maintenance procedures on all monitoring instrumentation at intervals to ensure accuracy of measurements.

**4. Recording Results**

For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following information: 1) the exact place, date, and time of measurement or sampling; 2) the person(s) who performed the measurement or sample collection; 3) the dates the analyses were performed; 4) the person(s) who performed the analyses; 5) the analytical techniques or methods used; 6) the date of and person responsible for equipment calibration; and 7) the results of all required analyses.

**5. Records Retention**

All records and information resulting from the monitoring activities required by this permit including all records of analyses performed and calibration and maintenance of instrumentation and recordings from continuous monitoring instrumentation shall be retained for a minimum of three (3) years, or longer if requested by the Regional Administrator or the Department.

**PART II****Section C. Reporting Requirements****1. Start-up Notification**

If the permittee will not discharge during the first 60 days following the effective date of the facility's certificate of coverage, the permittee shall notify the Department within 14 days following the effective date of the certificate of coverage, and then 60 days prior to the commencement of the discharge.

**2. Submittal Requirements for Self-Monitoring Data**

Unless instructed on the effluent limits page to conduct "retained self-monitoring," the permittee shall submit self-monitoring data on the Environmental Protection Agency's Discharge Monitoring Report (DMR) forms (monthly summary information) and the Department's Daily Discharge Monitoring Report forms (daily information) to PCS-Data Entry, Water Division, Michigan Department of Environmental Quality, P.O. Box 30273, Lansing, Michigan, 48909-7773, for each calendar month of the authorized discharge period(s). The forms shall be postmarked no later than the 10th day of the month following each month of the authorized discharge period(s).

Alternative Daily Discharge Monitoring Report formats may be used if they provide equivalent reporting details and are approved by the Department. For information on electronic submittal of this information, contact the Department.

**3. Retained Self-Monitoring Requirements**

If instructed on the effluent limits page (or otherwise authorized by the Department in accordance with the provisions of this permit) to conduct retained self-monitoring, the permittee shall maintain a year-to-date log of retained self-monitoring results and, upon request, provide such log for inspection to the staff of the Department (Department as defined on the certificate of coverage). Retained self-monitoring results are public information and shall be promptly provided to the public upon written request from the public.

The permittee shall certify, in writing, to the Department, on or before January 10th of each year, that: 1) all retained self-monitoring requirements have been complied with and a year-to-date log has been maintained; and 2) the application on which this permit is based still accurately describes the discharge. With this annual certification, the permittee shall submit a summary of the previous year's monitoring data. The summary shall include maximum values for samples to be reported as daily maximums and/or monthly maximums and minimum values for any daily minimum samples.

Retained self-monitoring may be denied to a permittee by notification in writing from the Department. In such cases, the permittee shall submit self-monitoring data in accordance with Part II.C.2., above. Such a denial may be rescinded by the Department upon written notification to the permittee.

Reissuance or modification of this permit or reissuance or modification of a permittee's authorization to discharge shall not affect previous approval or denial for retained self-monitoring unless the Department provides notification in writing to the permittee.

**4. Additional Monitoring by Permittee**

If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit, using approved analytical methods as specified above, the results of such monitoring shall be included in the calculation and reporting of the values required in the Discharge Monitoring Report. Such increased frequency shall also be indicated.

Monitoring required pursuant to Part 41 of the Michigan Act or Rule 35 of the Mobile Home Park Commission Act (Act 96 of the Public Acts of 1987) for assurance of proper facility operation shall be submitted as required by the Department.

**PART II****Section C. Reporting Requirements****5. Compliance Dates Notification**

Within 14 days of every compliance date specified in this permit, the permittee shall submit a written notification to the Department indicating whether or not the particular requirement was accomplished. If the requirement was not accomplished, the notification shall include an explanation of the failure to accomplish the requirement, actions taken or planned by the permittee to correct the situation, and an estimate of when the requirement will be accomplished. If a written report is required to be submitted by a specified date and the permittee accomplishes this, a separate written notification is not required.

**6. Noncompliance Notification**

Compliance with all applicable requirements set forth in the Federal Act, Parts 31 and 41 of the Michigan Act, and related regulations and rules is required. All instances of noncompliance shall be reported as follows:

- a. 24-hour reporting - Any noncompliance which may endanger health or the environment (including maximum daily concentration discharge limitation exceedances) shall be reported, verbally, within 24 hours from the time the permittee becomes aware of the noncompliance. A written submission shall also be provided within five (5) days.
- b. other reporting - The permittee shall report, in writing, all other instances of noncompliance not described in a. above at the time monitoring reports are submitted; or, in the case of retained self-monitoring, within five (5) days from the time the permittee becomes aware of the noncompliance.

Written reporting shall include: 1) a description of the discharge and cause of noncompliance; and 2) the period of noncompliance, including exact dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and the steps taken to reduce, eliminate and prevent recurrence of the noncomplying discharge.

**7. Spill Notification**

The permittee shall immediately report any release of any polluting material which occurs to the surface waters or groundwaters of the state, unless the permittee has determined that the release is not in excess of the threshold reporting quantities specified in the Part 5 Rules (Rules 324.2001 through 324.2009 of the Michigan Administrative Code), by calling the Department at the number indicated in the certificate of coverage, or if the notice is provided after regular working hours call the Department's 24-hour Pollution Emergency Alerting System telephone number, 1-800-292-4706 (calls from out-of-state dial 1-517-373-7660).

Within ten (10) days of the release, the permittee shall submit to the Department a full written explanation as to the cause of the release, the discovery of the release, response (clean-up and/or recovery) measures taken, and preventative measures taken or a schedule for completion of measures to be taken to prevent recurrence of similar releases.

**8. Upset Noncompliance Notification**

If a process "upset" (defined as 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) has occurred, the permittee who wishes to establish the affirmative defense of upset, shall notify the Department by telephone within 24-hours of becoming aware of such conditions; and within five (5) days, provide in writing, the following information:

- a. that an upset occurred and that the permittee can identify the specific cause(s) of the upset;
- b. that the permitted wastewater treatment facility was, at the time, being properly operated; and
- c. that the permittee has specified and taken action on all responsible steps to minimize or correct any adverse impact in the environment resulting from noncompliance with this permit.

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



**PART II****Section C. Reporting Requirements****9. Bypass Prohibition and Notification**

- a. Bypass Prohibition - Bypass is prohibited unless:
  - 1) bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - 2) 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 backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass; and
  - 3) the permittee submitted notices as required under 9.b. or 9.c. below.
- b. Notice of Anticipated Bypass - If the permittee knows in advance of the need for a bypass, it shall submit prior notice to the Department, if possible at least ten (10) days before the date of the bypass, and provide information about the anticipated bypass as required by the Department. The Department may approve an anticipated bypass, after considering its adverse effects, if it will meet the three (3) conditions listed in 9.a. above.
- c. Notice of Unanticipated Bypass - The permittee shall submit notice to the Department of an unanticipated bypass by calling the Department at the number indicated in the certificate of coverage (if the notice is provided after regular working hours, use the following number: 1-800-292-4706) as soon as possible, but no later than 24 hours from the time the permittee becomes aware of the circumstances.
- d. Written Report of Bypass - A written submission shall be provided within five (5) working days of commencing any bypass to the Department, and at additional times as directed by the Department. The written submission shall contain a description of the bypass and its cause; the period of bypass, including exact dates and times, and if the bypass has not been corrected, the anticipated time it is expected to continue; steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass; and other information as required by the Department.
- e. 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 9.a., 9.b., 9.c., and 9.d., above. This provision does not relieve the permittee of any notification responsibilities under Part II.C.10. of this permit.
- f. Definitions
  - 1) Bypass means the intentional diversion of waste streams from any portion of a treatment facility.
  - 2) 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.

**PART II****Section C. Reporting Requirements****10. Notification of Changes in Discharge**

The permittee shall notify the Department, in writing, within 10 days of knowing, or having reason to believe, that any activity or change has occurred or will occur which would result in the discharge of: 1) detectable levels of chemicals on the current Michigan Critical Materials Register, priority pollutants or hazardous substances set forth in 40 CFR 122.21, Appendix D, or the Pollutants of Initial Focus in the Great Lakes Water Quality Initiative specified in 40 CFR 132.6, Table 6, which were not acknowledged in the application or listed in the application at less than detectable levels; 2) detectable levels of any other chemical not listed in the application or listed at less than detection, for which the application specifically requested information; or 3) any chemical at levels greater than five times the average level reported in the complete application (see the first page of this permit for the date(s) the complete application was submitted). Any other monitoring results obtained as a requirement of this permit shall be reported in accordance with the compliance schedules.

**11. Changes in Facility Operations**

Any anticipated action or activity, including but not limited to facility expansion, production increases, or process modification, which will result in new or increased loadings of pollutants to the receiving waters must be reported to the Department by a) submission of an increased use request (application) and all information required under Rule 323.1098 (Antidegradation) of the Water Quality Standards or b) by notice if the following conditions are met: 1) the action or activity will not result in a change in the types of wastewater discharged or result in a greater quantity of wastewater than currently authorized by this permit and certificate of coverage; 2) the action or activity will not result in violations of the effluent limitations specified in this permit; 3) the action or activity is not prohibited by the requirements of Part II.C.12.; and 4) the action or activity will not require notification pursuant to Part II.C.10. Following such notice, the certificate of coverage may be modified according to applicable laws and rules to specify and limit any pollutant not previously limited.

**12. Bioaccumulative Chemicals of Concern (BCC)**

Consistent with the requirements of Rules 323.1098 and 323.1215 of the Michigan Administrative Code, the permittee is prohibited from undertaking any action that would result in a lowering of water quality from an increased loading of a BCC unless an increased use request and antidegradation demonstration have been submitted and approved by the Department.

**13. Transfer of Ownership or Control**

In the event of any change in control or ownership of facilities from which the authorized discharge emanates, the permittee shall notify the succeeding owner or controller of the existence of this permit and certificate of coverage by letter, a copy of which shall be forwarded to the Department 30 days prior to the actual transfer of ownership or control.

**PART II****Section D. Management Responsibilities****1. Duty to Comply**

All discharges authorized herein shall be consistent with the terms and conditions of this permit and the facility's certificate of coverage (COC). The discharge of any pollutant identified in this permit and/or the facility's COC more frequently than or at a level in excess of that authorized shall constitute a violation of the permit.

It is the duty of the permittee to comply with all the terms and conditions of this permit and the facility's COC. Any noncompliance with the Effluent Limitations, Special Conditions, or terms of this permit or the facility's COC constitutes a violation of the Michigan Act and/or the Federal Act and constitutes grounds for enforcement action; for COC termination, revocation and reissuance, or modification; or denial of an application for permit or COC renewal.

**2. Operator Certification**

The permittee shall have the waste treatment facilities under direct supervision of an operator certified at the appropriate level for the facility certification by the Department, as required by Sections 3110 and 4104 of the Michigan Act.

**3. Facilities Operation**

The permittee shall, at all times, properly operate and maintain all treatment or control facilities or systems installed or used by the permittee to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance includes adequate laboratory controls and appropriate quality assurance procedures.

**4. Power Failures**

In order to maintain compliance with the effluent limitations of this permit and prevent unauthorized discharges, the permittee shall either:

- a. provide an alternative power source sufficient to operate facilities utilized by the permittee to maintain compliance with the effluent limitations and conditions of this permit; or
- b. upon the reduction, loss, or failure of one or more of the primary sources of power to facilities utilized by the permittee to maintain compliance with the effluent limitations and conditions of this permit, the permittee shall halt, reduce or otherwise control production and/or all discharge in order to maintain compliance with the effluent limitations and conditions of this permit.

**5. Adverse Impact**

The permittee shall take all reasonable steps to minimize any adverse impact to the surface waters or groundwaters of the state resulting from noncompliance with any effluent limitation specified in this permit including, but not limited to, such accelerated or additional monitoring as necessary to determine the nature and impact of the discharge in noncompliance.

**6. Containment Facilities**

The permittee shall provide facilities for containment of any accidental losses of polluting materials in accordance with the requirements of the Part 5 Rules (Rules 324.2001 through 324.2009 of the Michigan Administrative Code). For a Publicly Owned Treatment Work (POTW), these facilities shall be approved under Part 41 of the Michigan Act.

**PART II****Section D: Management Responsibilities****7. Waste Treatment Residues**

Residuals (i.e. solids, sludges, biosolids, filter backwash, scrubber water, ash, grit or other pollutants) removed from or resulting from treatment or control of wastewaters, shall be disposed of in an environmentally compatible manner and according to applicable laws and rules. These laws may include, but are not limited to, the Michigan Act, Part 31 for protection of water resources, Part 55 for air pollution control, Part 111 for hazardous waste management, Part 115 for solid waste management, Part 121 for liquid industrial wastes, Part 301 for protection of inland lakes and streams, and Part 303 for wetlands protection. Such disposal shall not result in any unlawful pollution of the air, surface waters or groundwaters of the state.

**8. Treatment System Closure**

In the event that discharges from a treatment system are planned to be eliminated, the permittee shall submit a closure plan to the Department for approval. The closure plan shall include characterization of any wastewater and residuals which will remain on-site after the discharges are eliminated, along with disposal methods, proposed schedule, and any other relevant information as required by the Department. Closure activities involving waste treatment residuals shall be consistent with Part II.D.7. of this permit.

The permittee shall implement the closure activities in accordance with the approved plan. Any wastewater or residual disposal inconsistent with the approved plan shall be considered a violation of this permit. After proper closure of the treatment system, the certificate of coverage may be terminated.

**9. Right of Entry**

The permittee shall allow the Department, any agent appointed by the Department or the Regional Administrator, upon the presentation of credentials:

- a. to enter upon the permittee's premises where an effluent source is located or in which any records are required to be kept under the terms and conditions of this permit; and
- b. at reasonable times to have access to and copy any records required to be kept under the terms and conditions of this permit; to inspect process facilities, treatment works, monitoring methods and equipment regulated or required under this permit; and to sample any discharge of pollutants.

**10. Availability of Reports**

Except for data determined to be confidential under Section 308 of the Federal Act and Rule 2128 (Rule 323.2128 of the Michigan Administrative Code), all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department and the Regional Administrator. As required by the Federal Act, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal penalties as provided for in Section 309 of the Federal Act and Sections 3112, 3115, 4106 and 4110 of the Michigan Act.

**PART II****Section E. Activities Not Authorized by This Permit****1. Discharge to the Groundwaters**

This permit does not authorize any discharge to the groundwaters. Such discharge may be authorized by a groundwater discharge permit issued pursuant to the Michigan Act.

**2. Facility Construction**

This permit does not authorize or approve the construction or modification of any physical structures or facilities. Approval for such construction for a POTW must be by permit issued under Part 41 of the Michigan Act. Approval for such construction for a mobile home park, campground or marina shall be from the Water Division, Michigan Department of Environmental Quality. Approval for such construction for a hospital, nursing home or extended care facility shall be from the Division of Health Facilities and Services, Michigan Department of Consumer and Industry Services upon request.

**3. Civil and Criminal Liability**

Except as provided in permit conditions on "Bypass" (Part II.C.9. pursuant to 40 CFR 122.41(m)), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance, whether or not such noncompliance is due to factors beyond the permittee's control, such as accidents, equipment breakdowns, or labor disputes.

**4. Oil and Hazardous Substance Liability**

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee may be subject under Section 311 of the Federal Act except as are exempted by federal regulations.

**5. State Laws**

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by Section 510 of the Federal Act.

**6. Property Rights**

The issuance of this permit and certificate of coverage does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize violation of any federal, state or local laws or regulations, nor does it obviate the necessity of obtaining such permits or approvals from other units of government as may be required by law.