

**STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER RESOURCES DIVISION**

In the matter of:

ACO-000230

Date Entered:

4-8-2014

West Bloomfield Charter Township
4550 Walnut Lake Road
West Bloomfield, Michigan 48325

ADMINISTRATIVE CONSENT ORDER

The Department of Environmental Quality (DEQ), Water Resources Division (WRD) and West Bloomfield Charter Township (Township) located at 4550 Walnut Lake Road, West Bloomfield, Michigan, agree to the entry of an Administrative Consent Order (Consent Order). The Township is a person, as defined by Section 301 of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA).

The Township and the DEQ stipulate as follows:

I. STIPULATIONS

The Township and the DEQ stipulate as follows:

- 1.1 The NREPA MCL 324.101 *et seq.*, is an act that controls pollution to protect the environment and natural resources in the state.
- 1.2 Pollution Control, Part 31, Water Resources Protection, of the NREPA (Part 31), MCL 324.3101 *et seq.*, and the rules promulgated pursuant thereto, provides for the protection, conservation, and the control of pollution of the water resources of the state.
- 1.3 The DEQ is authorized by Section 3112(4) of Part 31 of the NREPA to enter orders requiring persons to abate pollution, and the director of the DEQ may delegate this authority to a designee under Section 301(b) of the NREPA, MCL 324.301(b).
- 1.4 The Township consents to the issuance and entry of this Consent Order and stipulates that the entry of this Consent Order constitutes a final order of the DEQ and is

enforceable as such under Section 3112(4) of Part 31. The Township agrees not to contest the issuance of this Consent Order, and that the resolution of this matter by the entry of this Consent Order is appropriate and acceptable. It is also agreed that this Consent Order shall become effective on the date it is signed by the chief of the WRD, delegate of the director, pursuant to Section 301(b) of the NREPA.

- 1.5 The signatory to this Consent Order on behalf of the Township agrees and attests that he or she is fully authorized to assure that the Township will comply with all requirements under this Consent Order.
- 1.6 The Township shall achieve compliance with the regulations in accordance with the requirements contained in Section III, Compliance Program, of this Consent Order.

II. FINDINGS

- 2.1 The Township owns or operates a Municipal Separate Storm Sewer System (MS4) that discharges storm water to surface waters of the state in an urbanized area. On December 16, 2003, the Township obtained Certificate of Coverage (COC) No. MIG610022 issued pursuant to MS4 General Watershed Permit No. MIG619000, authorizing the discharge of storm water through their MS4 to surface waters of the state.
- 2.2 On May 22, 2008, the DEQ issued MS4 General Jurisdictional Permit No. MIS049000 and MS4 General Watershed Permit No. MIG610000.
- 2.3 On December 21, 2009, the Township obtained COC No. MIS040102 issued pursuant to MS4 General Jurisdictional Permit No. MIS049000, authorizing the discharge of storm water through their MS4 to surface waters of the state.
- 2.4 MS4 General Jurisdictional Permit No. MIS049000 and MS4 General Watershed Permit No. MIG610000 are the subject of a contested case hearing. As such, the DEQ never made a final agency decision regarding these permits.

- 2.5 On November 30, 2010, the DEQ elected to withdraw the MS4 General Jurisdictional Permit No. MIS049000 and MS4 General Watershed Permit No. MIG610000 to resolve the contested case. Therefore, the Township's COC No. MIS040102 issued under MS4 General Jurisdictional Permit No. MIS049000 is rendered void.
- 2.6 The Township filed a timely application on November 18, 2009 with the DEQ to continue the Township's authorization under COC No. MIG610022 pursuant to MS4 General Watershed Permit No. MIG619000 to discharge storm water from their MS4 to surface waters of the state. Based on this timely application, your authorization to discharge storm water from your MS4 to surface waters of the state remains in effect.
- 2.7 On November 15, 2013, the DEQ received a request from the Township to change from their 2003 MS4 General Watershed Permit Coverage to the Jurisdictional Permit Requirements. The 2003 MS4 General Jurisdictional Permit No. MIS040000 by its terms expired in the year 2008. Thus, the Township cannot obtain new permit coverage under the 2003 MS4 General Jurisdictional Permit No. MIS040000. In order for the Township to operate and adhere to the Jurisdictional Permit Requirements, the requirements must be incorporated by reference into a legally binding Consent Order.
- 2.8 In order for Township to be appropriately authorized to discharge storm water from their MS4 to surface waters of the state the Township must enter an order with the DEQ pursuant to Section 3112(4) of Part 31. Section 3112(4) of Part 31 states, "If the department determines that a person is causing or about to cause unlawful pollution of the waters for the state, the department may notify the alleged offender of its determination and enter an order requiring the person to abate the pollution or refer the matter to the attorney general for legal actions, or both."

III. COMPLIANCE PROGRAM

IT IS THEREFORE AGREED AND ORDERED THAT Township shall take the following actions to prevent violations of Part 31:

- 3.1 On the effective date of this Consent Order and each day thereafter, the Township shall comply and implement the provisions of Exhibit A attached to this Consent Order.
- 3.2 On the effective date of this Consent Order, the Township is no longer obligated to comply with COC No. MIG610022 issued under MS4 General Watershed Permit No. MIG619000.
- 3.3 The Township shall submit an approvable Storm Water Management Program (SWMP) in accordance with Exhibit A to the DEQ not later than **90 days after the effective date of this Consent Order.**
- 3.4 The Township shall implement and comply with all provisions of the approved SWMP, including but not limited to, any necessary updates to the SWMP in accordance with Exhibit A.
- 3.5 The Township shall submit their Progress Report to the DEQ on or before **March 31, 2014, and every two years thereafter** in accordance with Exhibit A, unless the Department determines a different schedule is appropriate.
- 3.6 The Township shall pay the applicable annual discharge permit fee required by Part 31. An invoice will be sent to the Township in accordance with the schedule contained in Part 31.
- 3.7 The Township shall submit an administratively complete permit application to obtain an individual NPDES permit for their storm water discharges through their MS4 to surface waters of the state not later than **April 1, 2016.**
- 3.8 The Township shall submit all reports, work plans, specifications, schedules, or any other writing required by this section to the Southeast Michigan District Supervisor, WRD, DEQ, 27700 Donald Court, Warren, Michigan 48902. The cover letter with each submittal shall identify the specific paragraph and requirement of this Consent Order that the submittal is intended to satisfy.

IV. GENERAL PROVISIONS

- 4.1 With respect to any provision not specifically addressed and resolved by this Consent Order, the DEQ reserves the right to pursue any other remedies to which it is entitled for any failure on the part of Township to comply with the requirements of the NREPA and its rules.
- 4.2 The DEQ and the Township consent to enforcement of this Consent Order in the same manner and by the same procedures for all final orders entered pursuant to Part 31, MCL 324.3101 *et seq.*; and enforcement pursuant to Part 17, Michigan Environmental Protection Act, of the NREPA, MCL 324.1701 *et seq.*
- 4.3 This Consent Order in no way affects the Township's responsibility to comply with any other applicable state, federal, or local laws or regulations.
- 4.4 The WRD reserves its right to pursue appropriate action, including injunctive relief to enforce the provisions of this Consent Order, and at its discretion, may also seek statutory fines for any violation of this Consent Order.
- 4.5 Nothing in this Consent Order is or shall be considered to affect any liability the Township may have for natural resource damages caused by the Township's ownership and/or operation of the facility. The State of Michigan or any of its departments does not waive any rights to bring an appropriate action to recover such damages to the natural resources.
- 4.6 The provisions of this Consent Order shall apply to and be binding upon the parties to this action, and their successors and assigns.

V. TERMINATION

- 5.1 This Consent Order shall remain in full force and effect until the date the DEQ issues a final decision on the Township's application pursuant to paragraph 3.7.

Signatories

The undersigned CERTIFY they are fully authorized by the party they represent to enter into this Consent Order to comply by consent and to EXECUTE and LEGALLY BIND that party to it.

DEPARTMENT OF ENVIRONMENTAL QUALITY

William Creal
William Creal, Chief
Water Resources Division

4/8/2014
Date

WEST BLOOMFIELD CHARTER TOWNSHIP

Catherine Stoughnessy
By:
CLERK

Title
3/24/2014
Date

APPROVED AS TO FORM:

Tonatzin M. Alfaro Maiz
By: Tonatzin M. Alfaro-Maiz, Assistant Attorney General
For: S. Peter Manning, Chief
Environment, Natural Resources, and Agriculture Division
Michigan Department of Attorney General

April 2, 2014
Date

Exhibit A

1. Authorized Discharges

a. Eligible Permittees

Except as excluded below, any public body that has ownership or control of discharges through separate storm water drainage systems ("drainage systems") may be eligible for coverage under this general permit.

A city, village, or township (primary jurisdiction) permittee may have, within its political or territorial boundaries, "nested" drainage systems owned or operated by public bodies that include, but are not limited to, public 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.

b. Ineligible Entities

Non-governmental entities, such as individuals, private institutions, or industrial or commercial entities are not eligible for coverage under this general permit.

c. Storm Water Discharges by the Permittee

This general permit authorizes the discharge of storm water from municipal separate storm water drainage systems to the waters of the state. Following approval of the storm water management program plan (Part I.B.), the discharge of storm water from newly constructed point sources operated by the permittee are authorized only if the permittee controls the discharge of pollutants from those point sources to the maximum extent practicable in accordance with the approved storm water management program plan.

d. Discharges Authorized under other NPDES Permits

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

e. Non-Storm Water Discharges

The following non-storm water discharges 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:

- 1) water line flushing,
- 2) landscape irrigation runoff,
- 3) diverted stream flows,
- 4) rising groundwaters,
- 5) uncontaminated groundwater infiltration [as defined by 40 CFR 35.2005(20)],
- 6) pumped groundwater (except for groundwater cleanups not specifically authorized by NPDES permits),
- 7) discharges from potable water sources,
- 8) foundation drains,
- 9) air conditioning condensate,
- 10) irrigation water,
- 11) springs,
- 12) water from crawl space pumps,
- 13) footing drains,

PART I

Section A. Authorizations and Coverage Provisions

- 14) lawn watering runoff,

- 15) water from non-commercial car washing,
- 16) flows from riparian habitats and wetlands,
- 17) residential swimming pool water and other dechlorinated swimming pool water providing any filter backwash water that is present is treated,
- 18) 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 a storm sewer or to waters of the state without specific NPDES permit authorization from the Department.

PART I

Section A. Authorizations and Coverage Provisions

2. Discharges Requiring Separate Authorizations

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

This general permit does not authorize the discharge of water additives without approval from the Department. Water additives include any material that is added to water discharged through the drainage system to condition or treat the water.

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. 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, 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 LC50 or EC50 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.

c. Waste Load Allocations

Where a total maximum daily load (TMDL) establishes effluent limitations for the permittee's storm water based on a waste load allocation, the permittee shall seek authorization for the discharge of storm water under an individual NPDES permit or an alternative general permit within 180 days of receipt of notice, unless the Department approves a later date.

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Section B. Storm Water Management Program – Minimum Measures

The permittee shall develop, implement and enforce a storm water management program designed to reduce the discharge of pollutants from the drainage system to the Maximum Extent Practicable (MEP), to protect the designated uses of the waters of the state, to protect water quality and to satisfy the appropriate water quality requirements of the Federal Act and the Michigan Act.

If a water body has a Total Maximum Daily Load (TMDL) established by the Department for a particular pollutant and a corrective action plan has been developed so as to achieve the TMDL, the appropriate water quality requirements for that pollutant are defined in the corrective action plan. In that event, and except for cases where the TMDL establishes effluent limitations for the permittee's storm water based on a waste load allocation, MEP includes, but is not limited to, the development, implementation and enforcement of storm water controls designed to meet the permittee's responsibilities defined in the corrective action plan to achieve the TMDL.

The permittee shall implement Best Management Practices (BMPs) to comply with the six minimum measures identified in this section, and any corrective action plans for TMDLs if applicable. Minimum measures shall be carried out in a manner that is environmentally beneficial, technically feasible, and within the permittee's legal authority. If the permittee does not have the power or authority to comply with all minimum measures or parts thereof, the permittee may rely on another permittee to carry out minimum measures or parts of minimum measures on the permittee's behalf. A description of the specific measure(s) and the area or portion of the drainage system that will be addressed by another permittee shall be identified in the annual progress report [see Part I.C.1.a.6)]. The MEP requirement shall be met by the following:

- 1) implementation of BMPs to comply with the minimum measures in Part I.B., including cooperation with other permittees as necessary to assure compliance;
- 2) implementation of BMPs to comply with storm water related requirements established for the permittee under any corrective action plans to meet TMDLs if applicable; and
- 3) demonstration of effectiveness or environmental benefit for each BMP implemented by the permittee [see Part I.C.1.a.1)b)].

An approvable storm water management program plan shall be submitted with the first annual progress report in accordance with Part I.C.1.a. (the Department may specify a different submittal date on the COC for the storm water management plan in accordance with Part I.C.8. or as it deems appropriate). Upon Departmental approval of the BMPs for public education and illicit discharge elimination (see Parts I.B.1. and I.B.3.), the permittee shall begin implementation of those plans. If the Department does not approve or comment on the plans for public education and illicit discharge elimination 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. The permittee shall submit written certification of the changes to the Department as part of the annual progress report.

The permittee shall begin implementation of the BMPs for the remaining four minimum measures in Part I.B. not later than one year after submittal of the plan. The Department may specify a different implementation schedule during review and approval of these minimum measures. The permittee shall fully develop and implement the storm water management program within 5 years of the effective date of the certificate of coverage issued under this general permit.

1. Education and Outreach on Storm Water Impacts - Public Education Program

The permittee shall have a program to promote, publicize, and facilitate education for the purpose of encouraging the public to reduce the discharge of pollutants in storm water. The public education program may involve combining or coordinating existing programs for public stewardship of water resources. Pollution prevention shall be encouraged. Appropriate BMPs for this minimum measure and measurable goals for each BMP shall be submitted to the Department in accordance with Part I.C.1.a.

"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, public employees, businesses, industries, and construction contractors and developers.

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Section B. Storm Water Management Program – Minimum Measures

The public education program shall be designed to:

- a. Educate the public on the following, as appropriate based on the potential impact on receiving waters:
 - 1) Hazards associated with illicit discharges and improper disposal of waste. Encourage public reporting of the presence of illicit discharges or improper disposal of materials into the permittee's drainage system, and develop and publicize a hotline for public reporting. Common illicit discharges are construction site wastes and sediment, carpet cleaner wastes, household wastes and motor vehicle fluids from home owners, septage and other commercially transported wastes, and commercial power washing (except street washing that is exempted from prohibition under Part I.A.1.e.).
 - 2) The water body that would be potentially impacted by improper actions at or near a person's home.
 - 3) The availability, location and requirements of facilities for collection and/or disposal of household hazardous wastes, travel trailer sanitary wastes, chemicals, grass clippings, leaf litter, animal wastes, and motor vehicle fluids.
 - 4) Acceptable application and disposal of pesticides, herbicides, and fertilizers.
 - 5) Preferred car cleaning agents and procedures for non-commercial car washing.
 - 6) Proper septic system maintenance.
 - 7) Management of riparian lands to protect water quality.
 - 8) Public responsibilities and stewardship in their watershed.
 - 9) The water quality impacts of residential de-icer use and how to minimize the impacts.
 - 10) The role of native vegetation on residential properties as a ground cover alternative to turfgrass.
- b. Educate commercial, industrial and institutional entities likely to have significant storm water impacts. At a minimum, educate commercial food service entities to prevent grease and litter discharges to storm drains.

2. Public Involvement and Participation

Public input shall be encouraged in all aspects of the storm water management program. Appropriate BMPs for this minimum measure and measurable goals for each BMP shall be submitted to the Department in accordance with Part I.C.1.a. 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 storm water management program must be implemented. Copies of the approvable storm water management plan shall be available for public inspection, and the public shall be notified of when and where it is available.
- b. The permittee shall participate in a citizen advisory committee for the purpose of encouraging public involvement in all aspects of the storm water management program. The permittee may participate in an existing citizen advisory committee or may establish and implement its own.
- c. The permittee shall pursue cooperation with local stream or watershed protection organizations, if any exist, by informing them of activities under the storm water management program, providing copies of the storm water management program plan and pursuing input on the plan, seeking volunteer assistance including water quality monitoring assistance, and seeking ways to meet general permit requirements by assisting the local organizations with their ongoing programs for water resource protection and enhancement.

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Section B. Storm Water Management Program – Minimum Measures

3. Illicit Discharge Elimination Program

The permittee shall develop, implement and enforce a program to prohibit and effectively eliminate illicit discharges, including discharges of sanitary wastewater, to the permittee's drainage system as defined in Part I.B.3.a. Appropriate BMPs for this minimum measure and measurable goals for each BMP shall be submitted to the Department in accordance with Part I.C.1.

“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, but are not limited to, 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.

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

At a minimum, the illicit discharge elimination program shall include the following:

- a. The permittee shall submit a listing or map of the known storm water point sources for which coverage is requested and identify the receiving waters to which these point sources discharge. This element of the program shall be submitted with the Notice of Intent. City, village, or township permittees may take into account that certain MS4s within their political or territorial boundaries are operated by other entities (nested jurisdictions). Location of such MS4s shall be identified in the Notice of Intent for this general permit, with a final list identified in the first annual progress report in accordance with Part I.C.1.a.5).
- b. A schedule for providing, as expeditiously as practicable, a map showing the location of all point source discharges the permittee operates (this includes outfalls to waters of the state and points of discharge into another MS4), a description of the conveyances leading to these point sources, and the names and location of all waters of the state that receive discharges from the drainage system operated by the permittee.
- c. A program to find, prioritize, and eliminate illicit connections and minimize illicit discharges to the municipal drainage system or waters of the state from commercial, industrial, private educational, public, and residential sources. Unless the Department approves an alternative approach, the program to find illicit discharges and illicit connections shall include:
 - 1) a strategy to conduct routine dry weather screening of enclosed storm water point sources (i.e., outfalls from the separate storm water drainage system to waters of the state and point sources discharging into separate storm water drainage systems operated by other public bodies); and
 - 2) a plan to reinspect each storm water point source every five years.
- d. A program to limit infiltration of seepage from sanitary sewers and on-site sewage disposal systems into the drainage system, if applicable.

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Section B. Storm Water Management Program – Minimum Measures

- e. The legal authority to prohibit discharges into the drainage system operated by the permittee. The permittee shall have the legal authority, which may be a combination of state statute, municipal statute, ordinance, permit, order, rules, regulations, or other means available to the permittee, for the purpose of:
- 1) regulating the contribution of pollutants to the drainage system;
 - 2) prohibiting and requiring the elimination of illicit connections and illicit discharges including the direct dumping or disposal of materials other than storm water into the drainage system;
 - 3) requiring compliance with ordinances, permits issued by the permittee, contracts or orders; and
 - 4) conducting all inspection, surveillance and monitoring procedures necessary to determine compliance with ordinances, permits issued by the permittee, contracts, orders, and the terms and conditions of this general permit.

4. 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 discharges into the drainage system 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 would disturb one acre or more. 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 in accordance with Part I.C.1.a.

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 across the permittee's entire urbanized area to protect the designated uses in all receiving waters 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.

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Section B. Storm Water Management Program – Minimum Measures

- 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. The ordinances or other regulatory mechanisms shall include the following:
- 1) 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, bioinfiltration, infiltration trenches, rain gardens, and infiltration islands in parking lots.
 - 2) Requirements for adequate long-term operation and maintenance of BMPs.
 - 3) Requirements to control sediment discharges from new developments and redevelopments that result from soil erosion after the local soil erosion and sedimentation permit and the State of Michigan's Permit by Rule are no longer in effect.
 - 4) 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.

5. Construction Storm Water Runoff Control

Storm water discharges from construction activity that results in land disturbance of greater than or equal to one acre, or disturb less than one acre but are part of a larger common plan of development or sale that would disturb one acre or more, shall be controlled.

- a. **Qualifying Local and State Soil Erosion and Sedimentation Controls**
The permittee shall prohibit storm water discharges into MS4s from construction activities that are not in compliance with the following requirements of the State of Michigan's Permit by Rule (Rule 323.2190):
- 1) The construction site developer or recorded easement holder shall be subject to soil erosion and sedimentation control requirements under Part 91 of the Michigan Act.
 - 2) The construction site developer or recorded easement holder shall control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality.
 - 3) Potential water quality impacts shall be considered during site plan reviews for construction activities.
 - 4) Sites shall be inspected during construction and control measures shall be enforced.

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Section B. Storm Water Management Program – Minimum Measures

b. **Additional Construction Controls**

The permittee shall develop, implement and enforce a program to address storm water runoff from areas of construction activity that discharge into the permittee's separate storm water drainage system. Appropriate BMPs for this minimum measure and measurable goals for each BMP shall be submitted to the Department in accordance with Part I.C.1.a.

Under the Construction Storm Water Runoff Control Program, the permittee shall:

- 1) Notify the appropriate Soil Erosion and Sedimentation Control Agency and the Department verbally, within 24 hours, if a construction activity results in a deposit or imminent threat to deposit solids or other waste materials into the drainage system that may endanger health or the environment. Any other soil erosion or sedimentation violations at regulated construction sites shall be reported in accordance with Part I.C.2.a. of this general permit.
- 2) Review preliminary site plans to ensure that adequate space will be allotted for soil erosion and sedimentation controls during construction as well as permanent storm water controls, as appropriate.
- 3) Have a procedure to receive and provide follow up on complaints or other information submitted by the public regarding construction site storm water runoff leading to the drainage system. This requirement may be met in conjunction with the illicit discharge reporting hotline in Part I.B.1.a.

6. Pollution Prevention/Good Housekeeping for Municipal Operations

Municipal operations cover a wide variety of activities and land uses that are potential sources of storm water pollutants. These include but are not limited to roadways; parking lots; transportation and equipment garages; warehouses; stockpiles of salt and other raw materials; open ditches and storm sewers; turf and landscaping for administrative, recreational, and park lands; and waste handling and disposal areas.

The permittee shall develop, implement, and ensure compliance with a program of operation and maintenance BMPs with the ultimate goal of preventing or reducing pollutant runoff from municipal operations to the maximum extent practicable. The permittee shall ensure that employees properly handle wastes, recyclables, chemicals, and equipment used on the job; maintain a clean work area; regularly maintain storm water controls; and identify and report various storm water pollution sources including illicit discharges, malfunctioning post-construction controls, and poor soil erosion and sedimentation controls at construction sites. The permittee shall provide guidance or operation manuals, employee training and testing, equipment, and any other resources necessary to prevent and reduce storm water pollution through proper implementation of BMPs in accordance with this minimum measure. The program may be developed and implemented using BMP guidance and training materials that are available from federal, state or local agencies, or other organizations. Appropriate BMPs for this minimum measure and measurable goals for each BMP shall be submitted to the Department in accordance with Part I.C.1.a.

The program, and all approved updates, shall meet the following requirements:

a. **Structural Controls**

Structural controls such as storm drain catch basins, vegetated swales, infiltration basins, sedimentation basins, and any controls installed or operated by the permittee to remove pollutants from storm water shall have routine maintenance, maintenance schedules, and long-term inspection procedures adequate to provide pollution removal effectiveness to the maximum extent practicable. Structural controls and cleaning schedules may need to be added or enhanced in the future if existing structural or non-structural measures fail to adequately reduce the discharge of sediments, floatables and other pollutants that may be found in or discharging to or from drainage systems.

The permittee shall describe and implement procedures for the proper disposal of operation and maintenance waste such as dredge spoil, accumulated sediments, floatables, and other debris the permittee removes from the drainage system. Wastes removed from a catch basin sump or other parts of a storm water drainage system shall not be discharged in a manner that would result in a violation of water quality standards.

PART I

Section B. Storm Water Management Program – Minimum Measures

b. Roadways

The permittee shall construct, operate and maintain its streets, roads, highways, parking lots and other large paved surfaces in a manner so as to reduce the discharge of pollutants, including those related to deicing activities, into the drainage system.

The permittee shall, at a minimum, maintain effective street cleaning and catch basin maintenance programs. The street cleaning and maintenance program, catch basin maintenance program, and illicit discharge elimination program shall be parts of an overall plan to reduce the discharge of sediments, floatables, and associated pollutants into the roadway drainage system. Salt and sand applied for improved traction shall be prevented from entering receiving streams to the maximum extent practicable. Good housekeeping shall be required at salt and sand storage facilities to eliminate discharge of salt and sand from these areas.

The permittee shall not discharge to waters of the state any wastewater generated from cutting, grinding, drilling or hydrodemolition of concrete or asphalt without authorization under an NPDES wastewater discharge permit.

c. Fleet Maintenance

The permittee shall assure that vehicle maintenance activities do not pollute storm water runoff. Vehicle maintenance activities include adding or changing fluids including fuel, lubrication, mechanical repairs, parts degreasing, and vehicle or equipment washing. Discharge of wash water is not authorized by this general permit. Vehicles and equipment shall be maintained for clean and effective operation to prevent impacts on storm water quality.

d. Storm Sewer Labeling

The permittee shall provide permanent identification (e.g., label, color coding, or other identifying characteristic) for any outfall structure that the permittee constructs or installs after March 10, 2004, that discharges storm water to waters of the state. Following the addition of permanent identification, the primary operator of the drainage system shall be readily identifiable by observation of the outfall structure.

e. Flood Control Projects

The permittee shall ensure that new flood management projects assess the impacts on the water quality of the receiving water and, whenever possible, shall examine existing projects for incorporation of additional water quality protection BMPs.

f. Pesticides and Fertilizers

The permittee shall minimize the discharge of pollutants related to the storage, handling and use of pesticides, herbicides, and fertilizers on land that the permittee manages. BMPs required under this measure include a turf management plan for maintaining public lands and parks, employee training, and soil testing for nutrients (nitrogen/phosphorus/potassium) to determine appropriate fertilizer usage on all lands that the permittee maintains by adding fertilizers. Fertilizers shall be applied only in accordance with recommendations based on soil test results.

PART I

Section C. Program Assessment and Reporting

1. Submittals and Reporting

a. First Year Progress Report

Approximately one year after the effective date of the certificate of coverage (by the date specified in the certificate of coverage), the first annual progress report shall be submitted to the Department for approval. The report shall include all of the following. If an approvable storm water management program plan [Part I.C.1.a.1)] was submitted earlier according to a date specified in the certificate of coverage, or with the Notice of Intent in accordance with Part I.C.8., then this requirement of the first annual progress report has already been fulfilled.

1) Storm Water Management Program Plan

An approvable storm water management program plan shall consist of descriptions and schedules for BMPs and measurable goals.

a) BMPs

The storm water management program plan shall include a listing of the BMPs that will be or have been implemented for each of the minimum measures identified in Part I.B. of this general permit. The submittal shall also identify the years (and months as appropriate) that proposed BMPs will be implemented, and the frequency of actions, such as the maintenance frequency for structural BMPs and the implementation frequency of non-structural BMPs.

b) Measurable Goals (interim and final)

The storm water management program plan shall include a description of the measurable goals for each listed BMP. Every BMP shall have a final measurable goal, and may have one or more interim milestones for tracking progress toward the final measurable goal.

(1) Final Measurable Goals

Final measurable goals shall demonstrate results that relate to an environmental benefit. Examples of results that relate to an environmental benefit include the number and types of illicit connections identified and corrected; survey results showing a change in public awareness of storm water issues; the mass or volume of solids removed during street sweeping and catch basin cleaning operations, or measured improvements in water quality.

(2) Interim Milestones

Interim milestones may be reported as interim results or may be descriptions of actions taken.

- Interim results means results received prior to meeting the final measurable goal. For examples, see Part I.C.1.a.1)b)(1) "Final Measurable Goals".
- Descriptions of actions taken means a quantifiable, if possible, description of the BMP implementation. Example descriptions of actions include: number of outfalls or buildings inspected for illicit discharges; number of fliers mailed or informational programs conducted for public education; number of volunteers for in-stream biological surveys or extent of stream surveyed; and number of streets swept or catch basins cleaned as a pollution prevention activity.

Data on interim milestones shall be reported in annual progress reports.

PART I

Section C. Program Assessment and Reporting

2) Receiving Water Quality Status

The permittee shall provide a description of the status of the water quality in the waters of the state within the permittee's political, territorial, property, or right of way boundaries. The description of water quality status may be narrative or numeric, or both. Narrative descriptions may include but are not limited to reports of unnatural physical properties such as turbidity, color, oil film, floating solids, foams, settleable solids, suspended solids, or deposits, presence or absence of indicator animals, algae or bacteria; presence of trash and floatables; and streambank and streambed conditions. For numeric descriptions, the Department encourages the permittee to seek alternatives to instream water chemistry monitoring or to limit chemical monitoring to a small number of parameters. Biological indices are acceptable numeric descriptions. The permittee may gather its own information; join a group to gather information; or report information collected by someone else, including county, state or federal governments.

3) Receiving Water Quality Stresses

The permittee shall identify and prioritize the stresses on the waters of the state within the permittee's political, territorial, property, or right of way boundaries. Stresses are negative impacts on surface water quality, navigation, industrial water supply, public water supply at the point of water intake, fish and other indigenous aquatic life and wildlife, human body contact recreation (i.e., public health violations), and agricultural uses. Water quality stress reporting shall consist of descriptions of the known or suspected pollutant sources leading to water quality concerns, if any, that were reported under Part I.C.1.a.2).

4) Upcoming Activities

The permittee shall provide a summary of the storm water activities scheduled for implementation during the next annual reporting cycle.

5) Notice of Drainage System Operators Nested Within Community Boundaries

A city, village, or township (primary jurisdiction) shall update the list that was originally submitted with the Notice of Intent for this general permit, which identified the nested jurisdictional areas or drainage systems that should have their own permit authorization for discharges through a separate storm water drainage system. Additionally, the primary jurisdiction may submit documentation of its efforts to notify the nested jurisdictions that they need to either get their own permit authorization or work cooperatively under one permit authorization. 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 Notice of Intent for this general permit. County drainage districts, county roadways, and Michigan Department of Transportation roadways may be nested jurisdictions but do not need to be reported by the primary jurisdiction under this paragraph.

6) Nested Jurisdictions as Associated Permittees

In some cases, a primary jurisdiction and a nested jurisdiction will each have a permit but either may lack the individual power or authority to comply with all terms and conditions of its permit. In this case, permit responsibilities may be shared, and each permittee shall report the permit responsibilities that will be shared and shall identify the other permittee with whom they will be shared. Failure to report under this part, if applicable, is a violation of this general permit.

a) Notice of Reliance on Another Permittee.

The permittee shall notify the Department of all permitted drainage system operators that will be relied upon to satisfy terms and conditions of this general permit for the permittee. Notification shall include the name of the other permittee (or other MS4 operator in cases where the operator has not yet received permit coverage) and a description of the general permit terms and conditions for which the other permittee or MS4 operator will be responsible. One example of reliance on another permittee or MS4 operator is a drain commissioner that relies on a township to seek out and eliminate sources of illicit discharges which originate outside the county drain right-of-way. Conversely, a township may rely on a drain commissioner to do the dry weather screening in the outfalls of the drainage system through which the township discharges.

PART I

Section C. Program Assessment and Reporting

The permittee is solely responsible for meeting the terms and conditions of this general permit unless a notice as described in this part is received by the Department. The permittee shall also send a copy of the notice to the other permittee or MS4 operator named therein.

- b) **Notice of Obligation to Another Permittee.**
The permittee shall notify the Department if it has agreed to be responsible for any terms and conditions of a permit held by another permittee. Notification shall include the name of the other permittee and a description of the general permit terms and conditions for which the permittee will take responsibility.

The permittee shall send a copy of the notice to the other permittee named therein.

b. Mid-Year Progress Reports

- 1) On or before six months after the effective date of the certificate of coverage, the permittee shall submit identification of general permit responsibilities that will be shared with other permittees [see description under Part I.C.1.a.6)]. Identification of the permitted entities with which responsibilities will be shared shall also be submitted at that time if that information is known.
- 2) On or before one and one-half years after the effective date of the certificate of coverage, and annually thereafter, a mid-year progress report shall be completed and retained by the permittee. The mid-year progress report shall include a brief summary of compliance information collected in accordance with Part I.C.1.c.1) for the period following the latest annual progress report.

c. Subsequent Annual Progress Reports

A progress report shall be submitted to the Department on or before two years after the effective date of the certificate of coverage, and annually thereafter. The Department may approve an alternate date for annual progress report submittal if requested and adequately justified by the permittee. The annual progress reports shall contain the following information:

- 1) **Compliance Assessment**
The permittee shall describe the status of compliance with general permit conditions for public education, public involvement and participation, illicit discharge elimination, post construction storm water management, construction storm water runoff control, and pollution prevention/good housekeeping for municipal operations. The report shall include a description of illicit discharges and illicit connections removed, shall assess the appropriateness of all identified BMPs, and shall describe the progress towards achieving the identified measurable goals for each of the BMPs.

Failure to attain a measurable goal for a BMP implemented to meet a minimum measure (Part I.B.) is not a violation of this general permit if the Department has not provided or issued a menu of BMPs for that minimum measure. If no menu of BMPs is provided or issued, the permittee shall comply with other requirements of this general permit, including good faith implementation of BMPs designed to comply with the minimum measures.

- 2) **Water Quality Assessment**
The permittee shall provide an updated assessment of the water quality conditions within their jurisdiction. Use of data collected by other sources or participation in a group monitoring program is encouraged. Narrative descriptions or a combination of narrative and numeric descriptions may be submitted. The purpose of this update is to show any obvious changes in the receiving waters since the previous progress report.

- 3) **Water Quality Stress Update**
The permittee shall provide a description of any water quality stresses newly identified since the previous annual progress report.

PART I

Section C. Program Assessment and Reporting

4) Data and Results

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

5) Upcoming Activities

The permittee shall provide a summary of the storm water activities to be implemented during the next annual reporting cycle. The summary shall include schedules for elimination of any illicit connections identified but not disconnected prior to annual progress report submittal.

6) BMP and Measurable Goal Changes

The permittee shall describe any planned changes in identified BMPs or measurable goals for any of the minimum measures. The permittee shall change or add measurable goals if the Department provides a list of measurable goals for BMPs that the permittee is implementing or proposes to implement, and those measurable goals were not available within a reasonable timeframe to have them identified in the previous annual progress report.

7) Notice of Changes in Reliance on Permitted Drainage System Operators.

The permittee shall describe any changes in the need to rely on other permitted drainage system operators to satisfy the terms and conditions of this general permit, as defined in Part I.C.1.a.6). A city, village or township permittee shall also identify any nested jurisdictions that enter into or terminate permit agreements with the permittee following the first annual progress report [see Part I.C.1.a.5)].

8) Storm Water Drainage System Changes

The permittee shall provide an update on areas added to the drainage system due to annexation or other statutory processes (if applicable).

9) 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) 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)].

c) 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

d. Contact Person

The permittee shall notify the Department within ten days after the replacement of the storm water contact person.

e. Signatory Requirements

All reports required by this general permit and other information requested by the Department shall be signed by either a principal executive officer or ranking elected official, or by a duly authorized representative of that person in accordance with 40 CFR 122.22(b).

PART I

Section C. Program Assessment and Reporting

2. Notification Requirements

a. Regulated Discharges into the Drainage System

The permittee shall notify the Department, verbally, within 24 hours of becoming aware of any discharges to the municipal separate storm water drainage system that the permittee suspects may endanger health or the environment if the discharges are from facilities/sites that are not complying or will be unable to comply with the following:

- 1) requirements of an NPDES permit, including an individual permit, a general permit, or the Permit-by-Rule for storm water discharges from construction sites;
- 2) requirements of a State of Michigan permit for soil erosion and sedimentation control pursuant to Part 91 of P.A. 451 of 1994;
- 3) requirements of a State of Michigan permit for discharge of liquid wastes to groundwater pursuant to the Michigan Act;
- 4) requirements of Part 5 Rules for polluting materials (Rules 324.2001 through 324.2009 of the Michigan Administrative Code); or
- 5) Water Quality Standards.

Notification should include (if known) the name of the regulated discharger, location of the discharge into the storm water drainage system and location of the outfall from that portion of the system, nature of the discharge and the pollutants, clean-up and recovery measures taken or planned. If the notice is provided after regular working hours call the Department of Environmental Quality's 24-hour Pollution Emergency Alerting System telephone number, 1-800-292-4706. Non-compliance as described above that does not pose imminent danger to health or the environment, shall be reported by the permittee, either verbally or in writing, within five (5) days of the time the permittee becomes aware of it.

b. Non-Compliance Notification

The permittee shall submit written documentation to the Department within five (5) days of having knowledge of any reason the permittee is not complying with or will be unable to comply with any condition specified in this general permit. Written documentation shall include the following information:

- 1) a description of the circumstances, including the type of noncompliance;
- 2) the period of noncompliance (if known), including dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate and prevent recurrence of the noncompliance; and
- 3) for illicit discharges to the system, the estimated volume of discharge, a description of the type of pollutants in the discharge, the location of the discharge into the system, the location of the municipal outfall from which the discharge enters waters of the state, identification of the parties responsible for the discharge, if known, and the facility or the construction site from which the discharge originated, if known.

c. Untreated Sewage Discharge Notification

If untreated sewage or partially treated sewage is discharged from the drainage system, the permittee shall comply with Section 324.3112a of the Michigan Act, including notification of the Department, the local health department, and one or more daily newspapers of general circulation within 24 hours after the discharge begins.

PART I

Section C. Program Assessment and Reporting

3. 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 Illicit Discharge Elimination Plan (Part I.B.3), the permittee shall provide the following information to the Department as part of the annual progress report (Part I.C.1.c.):

- 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 coverage area.

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

4. Recordkeeping

The latest approved version of the storm water management program plan developed in accordance with this general permit shall be retained by the permittee and available for inspection in accordance with Part II.D.7. of this general permit. All records and information resulting from the preparation of previous storm water management program plans, or the annual or mid-year progress reports, including all records of analyses performed and calibration and maintenance of instrumentation and recordings from continuous monitoring instrumentation, shall be retained by the permittee for a minimum of three years, or longer if requested by the Department or the Regional Administrator.

5. Storm Water Management Program Modification

- a. **Modifications Requested by the Permittee**
The approved storm water management program may be modified by the permittee as follows:
 - 1) Modifications adding (but not replacing or subtracting) components, controls, or requirements to the approved storm water management program may be made by the permittee at any time upon written notification to the Department. Notification shall include a description of the modification.
 - 2) Modifications replacing an ineffective or unfeasible BMP specifically identified in the storm water management program with an alternative BMP may be requested at any time by written notification to the Department. Unless denied by the Department, the modification shall be deemed approved and may be implemented by the permittee 60 days from submittal of the request. Such requests must include the following:
 - a) an analysis of why the BMP is ineffective or unfeasible (including cost prohibitive);
 - b) a measurable goal for the replacement BMP; and
 - c) an analysis of why the replacement BMP is expected to achieve the goals of the BMP to be replaced.
 - 3) Modifications subtracting an ineffective or unfeasible BMP specifically identified in the storm water management program may be requested by written notification to the Department. The identified BMP shall not be subtracted from the storm water management program unless the subtraction is approved by the Department. The request shall include the following:
 - a) an analysis of why the BMP is ineffective or unfeasible (including cost prohibitive);
 - b) an analysis of why the subtraction of the BMP will not hinder the permittee's ability to comply with the minimum measures of the general permit, or achieve a TMDL if applicable.

PART I

Section C. Program Assessment and Reporting

b. **Modifications Required by the Permitting Authority:**

The Department may require the permittee to modify the storm water management program as needed to:

- 1) address contributions by the drainage system discharges which impair receiving water quality;
- 2) include more stringent requirements necessary to comply with new state or federal statutory or regulatory requirements; or
- 3) include such other conditions deemed necessary by the Department to comply with the goals and requirements of the Federal Act or the Michigan Act, including the requirement to reduce the discharge of pollutants from the drainage system to the maximum extent practicable.

6. Expiration and Reissuance

If the permittee wishes to continue a discharge authorized under this general permit beyond the general permit's expiration date, the permittee shall submit a written request to the Department on or before October 4, 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 general permit until the general permit is terminated, revoked, or reissued.

If this general permit is modified or reissued, the permittee shall: a) request coverage under the modified or reissued general permit, b) apply for an individual NPDES permit, or c) 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 general permit.

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

7. Requirement to Obtain Individual Permit

The Department may require any person who is authorized to discharge by a certificate of coverage and this general 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 general 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 general permit; and
- e. the Department determines that the criteria under which the general 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).

8. Switching from Another MS4 General Permit

Any permittee who has coverage under another MS4 general permit such as the Watershed Based General Permit (Permit No. MIG610000 or Permit No. MIG619000), under which a watershed management plan was already developed and submitted to the Department as a permit requirement, and wishes to seek coverage under this general permit instead, shall submit an approvable storm water management program plan as described in Part I.C.1.a. of this general permit to the Department as part of the Notice of Intent for coverage under this general permit, or in accordance with another schedule set by the Department.

PART II

Section A. Definitions

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

Best Management Practices means structural devices or nonstructural 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.

Department means the Michigan Department of Environmental Quality.

Division of Health Facility Services -- Health Facility Evaluation Section, Michigan Department of Consumer and Industry Services mailing address is P.O. Box 30195, Lansing, Michigan 48909.

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

Municipal Separate Storm Water Drainage System Operator means a public body that owns a separate storm water drainage system, or has the power or authority to implement or carry out any of the minimum measures for storm water pollution control as listed in Part I.B. of this general permit. There may be multiple drainage system operators within the same geographic area or for the same separate storm water drainage system.

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 facility.

Phase I Permittees include the cities of Ann Arbor, Flint, Grand Rapids, Livonia, Sterling Heights, and Warren, the University of Michigan - Ann Arbor campus, and the Michigan Department of Transportation for its rights-of-way within the political or territorial boundaries of the Phase I cities and university.

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.

POTW is a publicly owned treatment works as defined at 40 C.F.R. §403.3.

Public Body means the United States, the State of Michigan, city, village, township, county, public school district, public college or university, single purpose governmental agency; or any other governing body which is created by federal or state statute or law.

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

Separate Storm Water Drainage System means a system (including but not limited to roads, catch basins, curbs, gutters, parking lots, ditches, conduits, pumping devices, or man-made channels) that is designed or used for collecting or conveying storm water; is not a combined sewer where storm water mixes with sanitary wastes; and is not part of a POTW. The term does not include separate storm water drainage conveyances that serve an individual building or comparable discrete area. The system may convey the non-storm water discharges specified in Part I.A.1.d. and e.

Storm water means storm water runoff, snow melt runoff, and surface runoff and drainage.

PART II

Section A. Definitions

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

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.

PART II

Section B. Monitoring Procedures

1. Representative Samples

Samples and measurements shall be representative of the volume and nature of the monitored discharge or water body.

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 general permit. Requests to use test procedures not promulgated under 40 CFR Part 136 for pollutant monitoring required by this general 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 general 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) all analytical results.

5. Monitoring by Permittee

If the permittee monitors any pollutant from the storm water point source discharges identified in the Notice of Intent or in the map pursuant to Part I.B.3.a., the results of such monitoring shall be provided to the Department with the annual progress reports required by Part I.C.1.

PART II

Section C. Reporting Requirements

1. Compliance Dates Notification

Within 14 days of every compliance date specified in this general 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.

2. 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-hours 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.

3. 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 identified in the individual certificate of coverage, or if the notice is provided after regular working hours call the Department of Environmental Quality'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 reoccurrence of similar releases.

4. 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.

5. 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 general permit 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 general permit. The discharge of any pollutant identified in this general permit more frequently than or at a level in excess of that authorized shall constitute a violation of the general permit.

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

2. 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 general permit. Proper operation and maintenance includes adequate laboratory controls and appropriate quality assurance procedures.

3. Power Failures

In order to maintain compliance with the effluent limitations of this general 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 general 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 general 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 general permit.

4. 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 this general permit including, but not limited to, such accelerated or additional monitoring as necessary to determine the nature and impact of the discharge in noncompliance.

5. 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

6. 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 storm water, 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.

7. Right of Entry

The permittee shall allow the Michigan Department of Environmental Quality, 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 general 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 general permit; to inspect process facilities, treatment works, monitoring methods and equipment regulated or required under this general permit; and to sample any discharge of pollutants.

8. 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 general 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 general 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 general 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 Facility Services -- Health Facility Evaluation Section, Michigan Department of Consumer and Industry Services upon request.

3. Civil and Criminal Liability

Nothing in this general 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 general 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 general 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 general permit 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 as may be required by law.