

**Preparation of the Storm Water Assessment Section
Technical Summary Report (TSR) for an
Environmental License Agreement (ELA)**

General Information

The Michigan Department of Transportation (MDOT) is authorized to discharge storm water from its regulated Municipal Separate Storm Sewer System (MS4) to surface waters of the state in accordance with an individual National Pollution Discharge Elimination System (NPDES) MS4 permit. As a condition of the NPDES permit, MDOT is required to implement and enforce a program to prohibit and effectively eliminate illicit discharges to its regulated MS4. Consequently, MDOT's prohibition program has an obligatory zero-tolerance rule for all hazardous substances entering into MDOT's MS4.

An illicit discharge means any discharge to, or seepage into, a separate storm sewer that is not composed entirely of storm water or uncontaminated groundwater. Property owners/liable parties that own/operate contaminated sites that have caused MDOT controlled property to be adversely and negatively affected due to offsite migration of contamination, which are pursuing or have previously obtained an MDOT Environmental License Agreement (ELA), *shall not* have an illicit discharge into MDOT's MS4 at any time.

To comply with the requirements of MDOT's discharge permit, a well-documented storm water assessment must be provided in the Technical Summary Report (TSR) for each ELA application submitted to MDOT. This assessment shall contain information and data to support any assumptions made regarding all known or potential impacts to MDOT's storm water system. If detailed information is not submitted, the application will not be processed by MDOT. The requirements for the assessment are identified on page 3 of this document.

MDOT staff will review the application package, including the storm water assessment section of the TSR, as part of the review of any potential or known construction risks present for MDOT, utility workers, and third parties, due to the contamination in the right-of-way (ROW). If there are no impacts to MDOT's storm water system, as described in the Definitions Section at the end of this document, the application will be processed under regular MDOT procedures. For example, regular procedures would apply if the following example scenarios are met:

- Contaminated groundwater present in MDOT ROW is beneath the depth all utilities
- The storm water system is not located within the 'Area of Contamination'
- Contaminated groundwater is not present beneath MDOT controlled property
- A municipal combined sewer system serves the area

If potential or known impact to MDOT's MS4 is apparent, MDOT will require the inclusion of site-specific license conditions as part of the final ELA (example language is provided in the following section). The MDEQ – Remediation and Redevelopment Division (RRD) will audit/review Part 213 risk-based Closure Reports (CR) and Part 201 No Further Action (NFA) requests for impacts to waters of the state, including the storm water assessment for MDOT's MS4

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in the ELA, which will be an attachment to the closure documentation. MDEQ-RRD will inform MDOT as to whether a CR/NFA submittal meets the risk-based regulatory criteria for the protection of waters of the state and if the CR/NFA submittal was approved or denied. MDEQ is reportedly required to audit all CR/NFAs that include a MDOT ELA as an alternate institutional control mechanism.

Site-Specific License Conditions that May Be Required

Based on the statements and data provided in the ELA, MDOT may include a conditional license statement in the site-specific license conditions section (page 2 of Form 3760B) of the ELA. The site-specific license conditions would only be utilized when there is a source of contamination, either potentially or knowingly, adversely affecting MDOT's storm water system. The site-specific license conditions language will be as follows:

LICENSOR is issuing this LICENSE with this condition because there is a potential or known storm water impact to MDOT's storm water system. MDOT is requiring that the Michigan Department of Environmental Quality (MDEQ) review and determine acceptance of this section of the Technical Summary Report TSR. This condition will remain in effect until all of the following occurs:

- a. The applicant submits a Closure Report for Part 213 site or a No Further Action Report for a Part 201 facility to the MDEQ within one year of the issuance of the LICENSE. The one year time frame begins on _____, the date of issuance of this LICENSE.*
- b. The MDEQ completes the review within the statutory required time frame and determines if the report is acceptable under the appropriate environmental statutes.*
- c. The MDEQ determines the contaminant and/or the contaminants are naturally attenuating over time.*

**If conditions a, b and c are met, MDOT will remove this condition.*

**If conditions a and b are met but not c the LICENSEE will be required to remove the contaminant from the MDOT system through additional remediation or obtain an NPDES permit to discharge wastewater. This must be completed one year from the date of the DEQ determination listed in item b. above.*

**If conditions a, b, and c are not met because the Closure Report or the No Further Action report is denied by MDEQ for any reason in the MDOT ROW, or MDOT determines that the site has impacted MDOT's storm water system in a manner that warrants additional action, MDOT will take appropriate action against the LICENSEE, including but not limited to revoking this LICENSE.*

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Section format and required information

The storm water assessment section format shall include the following:

1. Have an initial statement indicating whether or not there is an impact to MDOT's storm water system or non-compliance with MDOT's NPDES permit.
2. An executive summary describing no impact, potential impact, or known contaminant in MDOT's MS4. The executive summary shall contain a complete description, data tables, maps, and figures as an explanation of current conditions and issues. Maps, data, figures, and tables can be referenced in the summary, but need to be attached to the TSR or included as a separate appendix to the TSR.
3. If it is demonstrated that there is a potential for contaminant infiltration or there is known contaminants in the MS4 from the site, the ELA application will be placed on 'Hold' until the applicant submits a corrective action, as per Part 31 Water Resources Protection rules, of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, as amended.

Definitions, Terms, and Additional Information

- MDOT's storm water system includes storm sewer, open ditches, culverts, and other surface water conveyance mechanisms, as well as, storage and treatment facilities.
- MDOT's discharge points include: lakes, streams, river, creeks, county drains, wetlands, and ditches. The applicant needs to provide the discharge point as part of description of potential or known impacts in the storm water assessment section of the TSR.
- Parts 201 and 213 are from the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, as amended.
- MDOT "construction risk review" determines if there are any additional costs, time, or worker safety issues that MDOT would have to deal with regarding construction, maintenance activities, or other MDOT activities that might occur within the MDOT right of way.
- MDOT's construction risk zone is typically defined as 12 to 15 feet in depth in the ROW.