

**OKLAHOMA POLLUTANT DISCHARGE ELIMINATION SYSTEM**  
**DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**FACT SHEET**

For the Oklahoma Pollutant Discharge Elimination System (OPDES) Permit No. OKS000101 for the Oklahoma City Municipal Separate Storm Sewer System (MS4) to discharge stormwater to waters of the state.

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**1. NOTICE OF INTENT TO ISSUE A PERMIT**

The Oklahoma Department of Environmental Quality (DEQ) has made a tentative determination to reissue a permit for the discharge of stormwater from the Oklahoma City MS4 described in the application. Permit requirements are based on the Clean Water Act (33 U.S.C. § 1251 *et seq.*), hereinafter referred to as the Act, and OPDES regulations OAC 252:606-1-3(b)(3)(L), adopting and incorporating by reference 40 C.F.R. § 122.26, as amended.

**2. PERMITTING AUTHORITY**

Oklahoma Department of Environmental Quality  
P.O. Box 1677  
Oklahoma City, OK 73101-1677

**3. APPLICANT(S)**

City of Oklahoma City  
420 W. Main Ave.  
Oklahoma City, OK 73102

Oklahoma Department of  
Transportation (ODOT)  
200 N.E. 21<sup>st</sup> Street  
Oklahoma City, OK 73105-3204

Oklahoma Turnpike Authority  
(OTA)  
3500 N. Martin Luther King  
Oklahoma City, OK 73136-0357

All applicants corporately or individually own or operate portions of the Oklahoma City MS4. The City of Oklahoma City, ODOT, and OTA have been operating under co-permittee status and DEQ wishes to encourage the cooperative efforts of these owners of portions of the Oklahoma City MS4. DEQ will include ODOT and OTA as co-permittees in the final permit provided the City of Oklahoma City, ODOT, and OTA continue the Memorandum of Agreement in principle to be co-permittees.

**4. DESCRIPTION OF THE MUNICIPAL SEPARATE STORM SEWER SYSTEM**

As authorized by section 402(p) of the Act, this permit is being proposed on a system basis. This permit covers all areas located within the corporate boundary of the City of Oklahoma City (hereafter referred to as Oklahoma City) served by, or otherwise contributing to, discharges from the MS4 owned or operated by the applicant(s) listed above.

**5. DISCHARGES AUTHORIZED BY THIS PERMIT**

**a. Stormwater**

Except for discharges prohibited under Part 5.c. below, this permit authorizes all existing or new stormwater point source discharges to waters of the state from the MS4.

**b. Non-stormwater**

This permit authorizes the discharge of stormwater commingled with flows contributed by process wastewater, non-process wastewater, or Stormwater Associated with Industrial Activity, provided such discharges are authorized under separate OPDES or National Pollutant Discharge Elimination System (NPDES) permits. In addition, certain types of non-stormwater listed in OPDES regulations OAC 252:606-1-3(b)(3)(L), adopting and incorporating by reference 40 C.F.R. § 122.26(d)(2)(iv)(B)(1), are allowable if appropriately addressed in the Stormwater Management Program (SWMP). Specific authorized non-stormwater discharges are described in Part I.B.2 of the permit.

There is a difference between the Act's statutory requirements for discharges from municipal storm sewers and industrial sites:

- i. Section 402(p)(3)(B) of the Act requires permits for stormwater discharges from MS4s to effectively prohibit non-stormwater discharges into the MS4 and to require controls to reduce the discharge of pollutants from the MS4 to the Maximum Extent Practicable (MEP).
- ii. Section 402(p)(3)(A) of the Act requires permits for stormwater discharges associated with industrial activity to meet all applicable provisions of sections 402 and 1311. Section 1311 requires application of the Best Available Technology Economically Achievable (BAT).

Because of the difference in the statutory requirements, and the fact that the Act does not exempt Stormwater Associated with Industrial Activity from the requirement to obtain a separate OPDES permit, these stormwater discharges cannot be authorized by the MS4 permit. Such discharges require a separate OPDES permit. However, the permittees are responsible for the quality of the combined discharge and have a vested interest in locating uncontrolled and unpermitted illicit and industrial stormwater discharges.

**c. Limitations on Coverage**

- i. Discharges mixed with non-stormwater are unauthorized unless such discharges are in compliance with a separate OPDES or NPDES permit, or determined not to be a substantial contributor of pollutants to waters of the state.
- ii. Stormwater discharges associated with industrial activity, as defined in 40 C.F.R. § 122.26(b)(14), are unauthorized.
- iii. Stormwater discharges associated with construction activity, as defined in 40 C.F.R. § 122.26(b)(15), are unauthorized except as provided in the permit.
- iv. Stormwater discharges currently covered under another permit are unauthorized.
- v. Discharges exceeding WQS are unauthorized. The SWMP must include a description of all necessary Best Management Practices (BMPs) and other measures that the permittee(s) will be using to ensure that discharges, or future discharges, will not cause, have the reasonable potential to cause, or contribute to an exceedance of WQS. DEQ may require corrective action or an application for an individual permit or alternative general permit if the MS4 is determined to cause, have the reasonable potential to cause, or contribute to an exceedance of WQS.
- vi. Discharges not consistent with a TMDL are unauthorized. Discharge of a pollutant into any water for which a TMDL, or watershed plan in lieu of a TMDL, for that pollutant has been either established or approved by DEQ or U.S. Environmental Protection Agency (EPA) is prohibited, unless the discharge is consistent with that TMDL, or watershed plan. Permittee(s) must incorporate into their SWMP any conditions necessary to ensure discharges are consistent with the assumptions and requirements of any such TMDL or watershed plan. For discharges not eligible for coverage under this permit, the permittee(s) must apply for and obtain a separate individual permit or other applicable general OPDES permit.
- vii. Discharges of materials resulting from a spill are unauthorized. If discharges from a spill are necessary to prevent imminent threat to human life, personal injury, or severe property damage, the permittees have the responsibility to ensure the party responsible for the spill takes reasonable and prudent measures to minimize the impact of discharges on human health and the environment. These responsibilities may be in the form of a spill prevention and response plan or through implementation and legal enforcement of BMPs.
- viii. This permit does not transfer liability for discharging without, or in violation of, an OPDES or NPDES permit from the responsible party of the discharge to the permittee. The requirements in this permit must provide compliance with WQS.

**6. RECEIVING STREAM SEGMENTS AND DISCHARGE LOCATIONS**

The discharges from the Oklahoma City MS4 are into the Canadian River Basin as follows:

Waterbody Name	Waterbody ID(s)
Canadian River	OK520610020010_00, OK520610010010_20
Deep Fork of the Canadian River	OK520710020060_00, OK520710020010_00, OK520710010010_00
North Canadian River	OK520530000010_00, OK520520000250_00, OK520520000210_00, OK520520000010_50, OK520520000010_40, OK520520000010_30, OK520520000010_20, OK520520000010_10
Hefner Lake	OK620910040200_00
Overholser Lake	OK520520000260_00
Silver Lake	OK620910040190_00, OK620910020240_00?
Stanley Draper Lake	OK520810000130_00
Airport Heights Creek	OK520520000350_00
Belle Isle Creek	OK520710020160_00
Bennett Creek	OK520610020050_00
Bluff Creek	OK620910040140_00
Britton Creek	OK520710020070_00
Brock Creek	OK520520000170_00
Campbell Creek	OK520520000230_00
Chapel Hill Creek	OK620910040230_00
Cherry Creek	OK520520000110_00
Chisholm Creek	OK620910040100_10
Cow Creek	OK520610010230_00
Crooked Oak Creek	OK520520000150_00
Crutcho Creek	OK520520000090_00, OK520520000070_10
Deer Creek	OK620910040120_10
Dry Creek	OK620910040150_00
Edmond Creek	OK620910040110_00
Foreman Creek	OK520610020060_00
Hog Creek (thence to Lake Thunderbird)	OK520810000030_00
Kitchen Creek	OK520810000150_00
Lightning Creek	OK520520000160_00

Lost Creek	OK520610010220_00
Mustang Creek	OK520520000240_00
Nichols Creek	OK520710020150_00
Shell Creek	OK520530000030_00
Silver Creek	OK520520000050_00
Spring Creek	OK620910040170_00
Walnut Creek	OK620910040210_00
West Elm Creek (thence to Lake Thunderbird)	OK520810000140_00
Wynn Creek	OK520710020050_00

and the tributaries thereto, in accordance with effluent limitations, monitoring requirements, and other conditions set forth in Parts I - VII of this permit.

**7. EFFECTIVE DATES**

Compliance with permit conditions is required on the effective date of the permit (refer to Section 12 of this Fact Sheet).

**8. PUBLIC NOTICE**

Upon publication of the public notice and this fact sheet, a 30-day public comment period shall begin. During this period, any interested person may submit written comments on the draft permit to the DEQ point of contact listed below. Also, during this period, any person may request a public meeting to clarify issues involved in the permit decision. A request for a public meeting shall be in writing and shall state the nature of the issues proposed to be raised. A public meeting will be held if DEQ determines there is a significant degree of public interest in the draft permit.

**9. POINT OF CONTACT**

For information contact:

Cailyn Prather, Administrative Assistant  
Municipal Discharge and Stormwater Permits Section  
Water Quality Division  
Oklahoma Department of Environmental Quality  
P.O. Box 1677  
Oklahoma City, OK 73101-1677  
Phone: (405) 702-8238  
E-mail: cailyn.prather@deq.ok.gov

**10. BASIS FOR PERMIT CONDITIONS**

**a. Statutory Basis for Permit Conditions**

The reapplication process for this permit is in accordance with the MS4 Permit Reapplication Policy of May 17, 1996. The conditions established by this permit are based on section 402(p)(3)(B) of the Act, which mandates that a permit for discharges from MS4s must effectively prohibit the discharge of non-stormwater to the MS4; and require controls to reduce pollutants in discharges from the MS4 to the MEP. This includes BMPs, control techniques, system, design and engineering methods, and other such provisions determined to be appropriate. MS4s are not exempt from compliance with WQS. Section 301(b)(1)(C) of the Act requiring

that OPDES permits include limitations, including those necessary to meet WQS, applies. The intent of the permit conditions is to meet the statutory mandate of the Act.

As authorized by OPDES regulations OAC 252:606-1-3(b)(3)(Z), adopting and incorporating by reference 40 C.F.R. § 122.44(k), the permit will be utilizing structural controls, BMPs, and a comprehensive SWMP as the mechanisms to implement the statutory requirements. Section 402(p)(3)(B)(iii) of the Act includes structural controls as a component of the MEP requirement. DEQ has encouraged permittees to explore opportunities for pollution prevention measures, while reserving the more costly structural controls for high priority locations, or where pollution prevention measures are infeasible or ineffective.

#### **b. Regulatory Basis for Permit Conditions**

As a result of the statutory requirements of the Act, DEQ promulgated OPDES permit application regulations in OAC Title 252, Chapter 606. In addition, OAC 252:606-1-3(b)(3)(L) adopts and incorporates by reference 40 C.F.R. § 122.26 (stormwater discharges). These regulations are described in detail for the permit application requirements for operators of MS4s. The information in the application, the previous permit, and submitted reports were utilized by DEQ to develop the permit conditions and determine the permittee status in relationship to these conditions.

#### **c. Discharge Requirements**

- i. The following requirements apply to discharges from MS4s and were considered in review of the existing SWMP and in preparation of the draft permit. In implementing the SWMP, the permittees are required to meet the following requirements:
  - (a) No discharge of toxic pollutants in toxic amounts. It is the national policy that the discharge of toxics in toxic amounts be prohibited according to section 101 (a)(3) of the Act. OAC 252:730-5-12(f)(6)(A) states, "Surface waters of the state shall not exhibit acute toxicity and shall not exhibit chronic toxicity outside the chronic regulatory mixing zone."
  - (b) No discharge of pollutants in quantities that would cause, have the reasonable potential to cause, or contribute to a violation of state WQS. OAC 252:606-1-3(b)(3)(Z), adopting and incorporating by reference 40 C.F.R. § 122.44(d)(5), requires that OPDES permits "[i]ncorporate any more stringent limitations, treatment standards, or schedule of compliance requirements established under Federal or State law or regulations in accordance with section 301(b)(1)(C) of the Act." Implementation of the SWMP is reasonably expected to provide for protection of state WQS.
  - (c) No discharge of floatable debris, oils, scum, foam, or grease in other than trace amounts. Oklahoma WQS (OAC 252:730-5-9) require waters of the state to "...be maintained so as to be essentially free of floating debris, bottom deposits, scum, foam and other materials, including suspended substances of a persistent nature, from other than natural sources."
  - (d) No discharge of non-stormwater from the municipal separate storm sewer system, except in accordance with Part I.B.2. of the permit. Permits issued to MS4s are specifically required by section 402(p)(3)(B) of the Act to "...include a requirement to effectively prohibit non-stormwater discharges into the storm sewers..." The OPDES regulations OAC 252:606-1-3(b)(3)(L), adopting and incorporating by reference 40 C.F.R. § 122.26(d)(2)(iv)(B)(1), allows the permittee to accept certain non-stormwater discharges, where they have not been identified as significant sources of pollutants. Any discharge subject to its own OPDES or NPDES permit is not subject to the ban on non-stormwater discharges.
  - (e) No impairment or loss of state-designated beneficial uses of receiving waters as a result of stormwater discharges from the MS4. No degradation of receiving waters as a result of stormwater discharges from the MS4, except as authorized by the state in accordance with the state's anti-degradation policy (Part I.E.5.). The State of Oklahoma has adopted an anti-degradation policy as part of the WQS in OAC 252:730-3-1 *et seq.* This Policy requires maintenance of existing in-stream water uses or existing water quality levels where existing water quality exceeds the levels necessary to support propagation

of fish, wildlife, and recreation, in and on, the water. The exception is where the state has determined that lowering water quality is necessary to accommodate important economic or social development in the area where the waters are located as well as existing water quality where high quality waters constitute an outstanding natural resource (e.g., waters of national and state parks and wildlife refuges or exceptional recreational or ecological significance), and compliance with section 316 of the Act where potential water quality impairment is associated with a thermal discharge.

- (f) Reduction of pollutants to the MEP, detailed in Part II of the permit. MEP is the technology-based discharge standard for MS4s to reduce pollutants in stormwater discharges that was established by section 402(p) of the CWA.
- ii. No numeric discharge limitations are proposed at this time. In accordance with OPDES regulations, OAC 252:606-1-3(b)(3)(Z), adopting and incorporating by reference 40 C.F.R. § 122.44(k), DEQ has required a series of BMPs, in the form of a comprehensive SWMP, in lieu of numeric limitations.

## 11. STORMWATER MANAGEMENT PROGRAM

The existing SWMP developed by the permittees shall continue to be implemented and revised as necessary and shall contain program elements for each of the items in Table A. Note: These program elements have been reorganized to ensure they are as consistent as possible and at least as stringent as the requirements for small and medium MS4s in DEQ's OKR04 Small MS4 General Permit.

**Table A - Stormwater Management Program Components/Control Measures**

Required Program Component/Control Measure	Permit Parts	Applicable subsection(s) of 40 C.F.R. § 122.26
Public education and involvement	II.A.1.	(d)(2)(iv)(A)(6), (B)(5), (B)(6), and (D)(4)
Employee education	II.A.2.	(d)(2)(iv)(A)(6), (B)(5), (B)(6), and (D)(4)
Industrial stormwater runoff control	II.A.3.	(d)(2)(iv)(A)(5) and (C), (B)(4) and (7)
Illicit discharges detection and elimination	II.A.4.	(d)(2)(iv)(B)(1) - (7)
Spill prevention and response	II.A.4.f.	(d)(2)(iv)(B)(4)
Used oil and hazardous materials	II.A.4.g.	(d)(2)(iv)(B)(6)
Construction site stormwater runoff control	II.A.5.	(d)(2)(iv)(D)
Post-construction management in new development and significant redevelopment	II.A.6.	(d)(2)(iv)(A)(2) and (D)
Pollution Prevention/Good Housekeeping for MS4 Operations	II.A.7.	(d)(2)(iv)(A) and (B)
Structural controls	II.A.7.d.	(d)(2)(iv)(A)(1)
Roadways	II.A.7.e.	(d)(2)(iv)(A)(3)
Flood control projects	II.A.7.f.	(d)(2)(iv)(A)(4)
PFAS management	II.A.7.h.	(d)(2)(iv)(A) and (B)
Pesticides, herbicides, and fertilizers application	II.A.7.i.	(d)(2)(iv)(A)(6) and (C)
Monitoring program	II.A.8.	(d)(2)(iii); (iv)(A)(5), (B)(2), (C)(2)



DEQ regulations found in OAC 252:606-1-3(b)(3)(L), adopting and incorporating by reference 40 C.F.R. § 122.26(d)(2)(iv), authorize separate proposed programs for co-permittees, and imposition of controls for different areas of the MS4 on a watershed, jurisdiction, or individual outfall basis. Due to differences in climate, topography, historical development patterns, legal authority, sensitivity of receiving waters, and many other factors, DEQ believes some flexibility in prioritizing the scope and timing of individual program elements must be afforded the permittee(s). The standard of reducing the pollutants to the MEP is therefore applied to the SWMP rather than to each individual program element. DEQ believes this approach is in accordance with section 402(p)(3)(B) of the Act and the intent of Congress. For the purposes of this document, the SWMP is considered a single document attached to the permit with each permittee's individual SWMP constituting a "chapter." All references to SWMP refer to this single "combined" document.

The following summarizes the SWMP components/control measures submitted by the permittee(s) to satisfy permit requirements.

**a. Public Education and Involvement**

A public education program shall continue to be implemented and revised as necessary, including the following elements (including elements that have been consolidated from other program areas):

- i. Promote, publicize, and facilitate implementation and maintenance of BMPs such as minimizing exposure, good housekeeping, preventive maintenance, spill preventions and response, and erosion and sediment controls at industrial facilities;
- ii. Promote, publicize, and facilitate public education on the hazards associated with illicit discharges and improper disposal of waste, as well as public reporting of the presence of illicit discharges or improper disposal of materials, including floatables, into the MS4, or water quality impacts associated with discharges from the MS4;
- iii. Promote, publicize, and facilitate implementation and maintenance of erosion and sediment controls at construction sites;
- iv. Promote, publicize, and facilitate an education program to make developers and the public aware of project designs that minimize water quality impacts, including Low Impact Development (LID) strategies;
- v. Promote, publicize, and facilitate the proper management and disposal of used oil and toxic materials, including motor vehicle fluids and household hazardous wastes, and publicize a list of recyclers of household hazardous wastes, used motor oils, and tire disposal facilities;
- vi. Promote, publicize, and facilitate the proper use, application, and disposal of pesticides, herbicides, and fertilizers by the public and commercial and private applicators and distributors;
- vii. Promote, publicize, and facilitate opportunities for public involvement and participation in the implementation of the SWMP, including opportunities for public participation in updating the SWMP. This shall include a process by which public comments on the SWMP are received and reviewed by the person(s) responsible for the SWMP. Permittees must comply with state and local public notice requirements when implementing their program; and
- viii. Assess changes in public awareness and behavior resulting from implementation of the program using mechanisms such as surveys, direct evaluations, interviews, or other mechanisms the permittee determines appropriate. Adjust educational materials and delivery of such materials as necessary to address any shortcomings found as a result of this assessment.

Oklahoma City shall continue a series of public education activities that include general awareness of stormwater quality; car washing and auto maintenance; proper use and storage of herbicides, pesticides, fertilizers, etc.; compliance with local development and construction site controls; illicit discharges and improper disposal (including a stormwater hotline); and requirements of the Stormwater Management Program. Oklahoma City anticipates using public meetings, brochures, public access TV, classroom

instruction materials, etc., as part of the public education program. ODOT and OTA shall be expected to cooperate in these efforts.

Implementation of a public education program on illicit discharge detection and elimination, including improper disposal is required. Oklahoma City and any co-permittees are required to submit a list of non-stormwater discharges that are allowed or not allowed to discharge to the MS4 and reasons for these determinations.

Oklahoma City also implemented a public education program aimed at proper management and disposal of household hazardous waste and used motor fluids. Semi-annually, Oklahoma City will be holding collection events for household hazardous wastes. It has been providing and shall continue to provide a program and facility that includes opportunities for the public to drop off certain materials on a daily basis.

Oklahoma City has begun education efforts aimed at both city personnel and the regulated community. A formalized construction site runoff pollution prevention program, including permitting of construction sites and operators, is in place. Any updated program shall be reported in the annual report.

In addition, a public education program was developed to increase public awareness on the impacts of improper storage and use of herbicides, pesticides, and fertilizers. The permit requires permittees to implement annual training and education of employees on herbicide, pesticide, and fertilizer use. The use, storage, disposal, and transportation of herbicides, pesticides, and fertilizers, and their containers must comply with the regulations of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. § 136 *et seq.*), and 40 C.F.R. Parts 150-189.

Oklahoma City, ODOT, and OTA shall continue to create public volunteer stewardship opportunities and events and/or partner with existing organizations to encourage residents to participate in stormwater-related activities such as stream cleanups, adopt-a-street, stream teams, storm inlet marking, volunteer monitoring, riparian planting, and other education activities. Examples include Oklahoma City's Adopt-a-City Street and Waterway Clean Sweep Programs.,

#### **b. Employee Education**

Oklahoma City, ODOT, and OTA shall continue to implement and revise as necessary a program to educate appropriate employees on internal policies and procedures, including education for engineers, specialists, and inspectors on the rules and regulations for permit compliance and other municipal ordinances/agency policies. A program to educate contractors responsible for herbicide, pesticide, and fertilizer application, landscape specialists and other lawn care providers specifically on the proper use of chemicals, disposal thereof and spill prevention procedures shall also be implemented.

#### **c. Industrial Stormwater Runoff Control**

A program to identify and control pollutants in stormwater discharges to the MS4 from municipal landfills; other treatment, storage, or disposal facilities for municipal waste (e.g. transfer stations, incinerators, etc.); hazardous waste treatment, storage, disposal and recovery facilities and facilities that are subject to section 313 of the Emergency Planning and Community Right-to-know Act (EPCRA) (Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986), and "Toxic Chemical Release Reporting: Community Right-to-Know," 40 C.F.R. Part 372; and any other industrial or commercial discharge the permittee determines are contributing a substantial pollutant loading to the MS4 shall be implemented. The program shall include inspections, a monitoring program (described in Part II.A.8.c. of the permit), and a list of industrial stormwater sources discharging to the MS4 that shall be maintained and updated, as necessary.

Oklahoma City has implemented a stormwater permitting program for high-risk runoff, complete with enforcement and inspection programs. ODOT and OTA are not expected to have any high-risk facilities discharging into their storm sewers that are not addressed under the Oklahoma City program.

**d. Illicit Discharges Detection and Elimination**

An ongoing program to detect and eliminate illicit discharges and improper disposal into the MS4 is required. Non-stormwater discharges shall be effectively prohibited. However, the permittee may allow certain non-stormwater discharges as listed in 40 C.F.R. § 122.26(d)(2)(iv)(B)(1) and Part II.A.4. of the permit. The SWMP shall identify any allowed non-stormwater discharges, along with any conditions placed on such discharges.

Each permittee shall prevent (or require the operator of the sanitary sewer to eliminate) unpermitted discharges of dry and wet weather overflows and the infiltration of seepage from sanitary sewers into the MS4.

Oklahoma City currently implements a program for maintenance of the sanitary sewer system. Oklahoma City is required to include a program for limiting seepage from sanitary sewers into separate storm sewers. Neither OTA nor ODOT operate any sanitary sewers.

The discharge of floatables (e.g., litter and other human generated solid refuse) into the MS4 shall be reduced. The permit requires permittees to implement a floatables control education program.

The discharge or disposal of used motor vehicle fluids, household hazardous wastes, grass clippings, leaf litter, and animal wastes into the MS4 shall be prohibited. The permittees shall ensure the implementation of programs to collect used motor vehicle fluids (at a minimum, oil and antifreeze) for recycle, reuse, or proper disposal and to collect household hazardous waste materials (including paint, solvents, pesticides, herbicides, and other hazardous materials) for recycle, reuse, or proper disposal.

ODOT and OTA address used motor vehicle fluids at their vehicle maintenance yards. It is not anticipated that OTA and ODOT would participate in public education on household hazardous waste, but would serve in more of a support capacity (e.g., traffic control, signs, public service announcements, other contributions of resources, etc.) for collection events.

A program to locate and eliminate illicit discharges and improper disposal into the MS4 shall continue to be implemented and revised, as necessary. This program shall include dry weather screening activities to locate portions of the MS4 with suspected illicit discharges and improper disposal. Follow-up activities to eliminate illicit discharges and improper disposal may be prioritized on the basis of the magnitude and nature of the suspected discharge, sensitivity of the receiving water, and/or other relevant factors. This program shall establish schedules for dry-weather screening (described in Parts II.A.4.c. and II.A.8.a. of the permit) of at least one (1) time per year at high-priority areas; at least 40% of MS4 outfalls in other areas at least one (1) time per year; and all MS4 outfalls at least two (2) times during the permit term. Facility inspections may be carried out in conjunction with other permittee programs (e.g., pretreatment inspections of industrial users, health inspections, fire inspections, etc.), but must include random inspections for facilities not normally visited by the permittee.

Each permittee shall continue to conduct an on-going system-wide dry weather screening program for the MS4. ODOT and OTA are included in this program.

Each permittee shall require the elimination of illicit discharges as soon as possible and the immediate ending of improper disposal practices upon identification of responsible parties. Where elimination of an illicit discharge within thirty (30) days is not possible, the permittee(s) shall require an expeditious schedule for removal of the discharge. In the interim, the permittee(s) shall require the operator of the illicit discharge to take all reasonable and prudent measures to minimize the discharge of pollutants to the MS4.

**e. Spill Prevention and Response**

A program to prevent, contain, and respond to spills that may discharge into the MS4 shall continue to be implemented and revised, as necessary. The spill response program may include a combination of spill response actions by the permittees (and/or another public or private entity), and legal requirements for private entities within the permittee(s)' jurisdiction.

Oklahoma City currently implements a spill response program as part of general public protection. ODOT and OTA also participate in spill response on their roadway rights-of-way. The permit requires incorporation of spill response procedures as part of the SWMP under the Illicit Discharge and Improper Disposal program, which will reduce materials discharging into the MS4.

**f. Construction Site Stormwater Runoff**

A program to reduce the discharge of pollutants from construction sites shall continue to be implemented and revised, as necessary. This program shall include requirements for the use and maintenance of appropriate structural and non-structural control measures to reduce pollutants discharged to the MS4 from construction sites; inspection of construction sites and enforcement of control measures requirements; appropriate education and training measures for construction site operators; and notification of appropriate building permit applicants of their potential responsibilities under the OPDES permitting program for construction site runoff.

OTA and ODOT are already subject to stormwater permitting requirements for construction sites. Incorporation of a comprehensive program for controlling and reducing sediment and runoff from roadway projects during construction should follow the same schedule/process proposed for Oklahoma City.

Oklahoma City shall be authorized by this permit to discharge stormwater and certain non-stormwater from municipal construction activities where Oklahoma City is the construction site operator. This provision does not apply to OTA or ODOT, who are co-permittees. Oklahoma City shall include appropriate requirements associated with municipal construction activity in the SWMP and maintain compliance with the terms and conditions of the most recent OKR10 general permit for stormwater discharges from construction activities, excluding NOI, NOT, and permit fee submittal requirements. The SWMP shall be updated to include

- i. a description of how construction activities will generally be conducted by Oklahoma City, including local conditions and other site-specific considerations;
- ii. a description of how Oklahoma City will implement the narrative and numeric effluent limitations to comply with Part 4 of the latest OKR10 permit; and
- iii. a description of how Oklahoma City will ensure that the Stormwater Pollution Prevention Plan (SWP3) requirements are properly implemented and maintained at construction sites; or how Oklahoma City will ensure that contractors obtain separate authorization under the latest OKR10 general permit from DEQ for stormwater discharges for each project; and conditions and procedures to include site-specific BMPs to account for local considerations.

**g. Post-Construction Management for New Development and Redevelopment**

Permittee(s) shall continue to implement, revise, and enforce a comprehensive master planning process (or equivalent) to minimize the discharge of silt, scrap, trash, and other pollutants from areas of new development and significant 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, after construction is completed.

Oklahoma City shall incorporate LID and other green design strategies into existing ordinances regulating development. The policy described in the SWMP includes reliance on existing ordinances and policies for permitting development and construction. Oklahoma City has established a master plan for development. Oklahoma City has promoted LID and other green design strategies as effective BMPs to minimize the impact of urban runoff discharges from those areas on the receiving streams. Oklahoma City shall create and implement an LID design criteria manual and educate building inspectors and the regulated community on current and future local requirements.

**h. Pollutant Prevention/Good Housekeeping for MS4 Operations**

Permittee(s) shall continue to implement, update, and enforce an operation and maintenance program that includes a training component and has the goal of preventing or reducing pollutant runoff from MS4 operations such as streets, roads, highways, parking lots, maintenance and storage yards, fueling areas, bulk

fuel receiving areas, waste transfer stations, fleet or maintenance shops, salt/sand storage locations, and snow disposal areas.

**i. Structural and Non-structural Controls and Stormwater Collection System Operation**

The MS4 and any stormwater structural and non-structural controls shall be operated and maintained in a manner to ensure that the discharge of pollutants is reduced to the MEP.

Oklahoma City will maintain and inspect the structural controls within the MS4 that it owns or operates. Permittee(s) will update the SWMP to include operations and maintenance procedures for stormwater structural and non-structural controls, as needed.

**j. Roadways**

Public streets, roads, and highways shall be operated and maintained in a manner to minimize discharge of pollutants, including those pollutants related to deicing or sanding activities and curb inlet cleaning.

The permittee(s) may have contracts with private contractors for the operation and maintenance of public roadways. These contracts must be reviewed to see that they include appropriate provisions to ensure compliance with the SWMP and the permit. The current program includes, among other things, sweeping of streets for the removal of trash and sediment and a litter and debris removal program. The Oklahoma City Public Education Program will include elements for litter prevention.

**k. Flood Control Projects**

Impacts on receiving water quality shall be assessed for all new flood control projects. The feasibility of retrofitting existing structural flood control devices to provide additional pollutant removal from stormwater shall also be evaluated.

Permittees are required to prepare criteria to assure that flood control projects are assessed for the projects' impact on water quality and evaluate existing flood control devices to determine if retrofitting is feasible. The Flood Control Program is already part of the SWMP and is being implemented. A list of flood management projects and how each project assessed the impact on water quality must be included in the annual report.

**l. PFAS Management**

Permittee(s) shall implement measures to minimize discharges of PFAS during emergency firefighting activities and post-emergency activities, including clean-up. Protocols shall be established for minimizing the resuspension, conveyance, and discharge of PFAS in the MS4, both during normal operations and during all maintenance and remediation activities. These activities shall be documented in the SWMP and a summary shall be included in the annual report.

**m. Pesticide, Herbicide, and Fertilizer Application**

Permittee(s) shall implement controls to reduce the discharge of pollutants related to the storage and application of pesticides, herbicides, and fertilizers applied by the permittee(s)' employees or contractors.

**n. Monitoring Programs**

The following monitoring programs shall be implemented (see Part IV of the permit for a description of additional monitoring requirements).

- i. *Dry Weather Field Screening Program.* As discussed above under illicit discharges and improper disposal, the permittee(s) shall screen high-priority areas at least one (1) time per year, at least 40% of MS4 outfalls in other areas at least one (1) time per year; and all MS4 outfalls at least two (2) times during the permit term.
- ii. *Watershed Characterization Program.* Oklahoma City proposes to conduct in-stream monitoring at 15 locations within selected representative drainages within Oklahoma City corporate boundaries. The watershed characterization projects will provide a comprehensive assessment of the appropriateness of the

identified BMPs, progress toward achieving the statutory goal of reducing the discharge of pollutants to the MEP, and progress toward achieving the measurable goals for each control measure.

- (a) Permittee(s) shall continue to identify, investigate, and address areas within their jurisdiction that may contribute excessive levels of pollutants to the MS4. An analytical monitoring program shall be conducted within the five-year term of the permit. Oklahoma City has proposed to replace the existing wet weather monitoring program with a trend and load-based monitoring program. The trend and load-based monitoring program will provide long-term stream quality information that will assist the permittee to determine if programmatic changes are creating any measurable changes within the drainages monitored. This program is intended to bring the monitoring efforts to a level that active and future TMDLs will require for assessment of pollutant loading. The program considers all hydrologic conditions through flow-paced sampling efforts. This program will be instituted in representative drainages throughout Oklahoma City. Select parameters will be monitored continuously. Flow-weighted samples shall be collected at a frequency necessary to meet appropriate holding times and analytical procedures shall be in accordance with 40 C.F.R. Part 136. Oklahoma City will use automatic samplers, sondes, and flow sensors to collect continuous flow-weighted samples and calculate discharge. Duration of the sampling event, total discharge, total rainfall, and consistent concentrations will be recorded for each sampling event. Oklahoma City has selected total suspended solids, total nitrogen, and total phosphorus as the “primary parameters” to continuously monitor. Other parameters termed “secondary parameters” may be added if supporting data is required. The capital investment and station development will take several years to bring the anticipated 15 stations to active status, as laid out in the schedule in Part III.A.5.a - d.
- (b) Analytical monitoring requirements, including parameters sampled and types of samples, are listed in Part IV of the permit. Aquatic habitat surveys and biological monitoring, including benthic macro-invertebrate and fish collections, shall be conducted according to the requirements specified in Parts II.A.8.b.ii., II.A.9.8.b., and IV.A.2. of the permit for at least 15 in-stream locations that are representative location and continuously support valid biological communities.
- iii. *Industrial Stormwater Runoff Control Program.* Oklahoma City shall continue an Industrial and High-Risk Runoff Monitoring Program. The program will be reviewed annually, revised as necessary, and reported in the annual report.

## **12. STORMWATER MANAGEMENT PROGRAM COMPLIANCE**

Compliance with Part II.A. of the permit shall be accomplished by the implementation of and compliance with the described activities of the various elements of the permittee(s)' SWMP. Permittee(s) must fully implement the SWMP beginning on the effective date of the permit. All the required support and initiation procedures for the program elements shall be established and the elements' activities performed as described and scheduled.

## **13. ROLES AND RESPONSIBILITIES OF PERMITTEES**

OAC 252:606-1-3(b)(3)(L), adopting and incorporating by reference 40 C.F.R. § 122.26(d)(2)(vii), requires permittees to describe the roles and responsibilities of each entity applying for the permit to ensure effective coordination. Interagency Agreements are how the permittees propose to implement the SWMP and monitoring program. Each of the permittees plans to implement their individual programs on the portion of the system that they own and operate. Permittees are accountable for understanding their roles and responsibilities regarding permit conditions.

## **14. PERMITTEES' LEGAL AUTHORITY**

Each permittee is required to continue to maintain the legal authority necessary to control discharges to and from those portions of the MS4 over which it has jurisdiction and to successfully implement, enforce, and complete the various activities described in the permit and SWMP. Oklahoma City, ODOT, and OTA stated in the application that adequate legal authority exists or is being sought for controlling the contribution of pollutants to, and quality of, stormwater from industrial sites contributing to the storm sewer system; prohibiting illicit discharges to the storm sewer system; controlling spills, dumping, or improper disposal to the storm sewer system; controlling the

contribution of pollutants from one portion of the storm sewer system to the other; requiring compliance with ordinances; and performing site inspections and monitoring.

## **15. PERMITTEES' RESOURCES**

Part II.E. of the permit requires each permittee to provide adequate support capabilities to implement its activities under the SWMP. Compliance with Part II.E. will be demonstrated by the permittee(s)' ability to fully implement the SWMP, monitoring programs, and other permit requirements. The permit does not require specific funding or staffing levels, thus providing the permittees the ability and incentive to adopt the most efficient and cost-effective methods to comply with permit requirements.

## **16. TYPES AND QUANTITY OF POLLUTANT PARAMETERS DISCHARGED**

The permittee(s) have established a watershed characterization program, which consists of analytical and biological monitoring components. Monitoring locations will be selected to provide comprehensive data for select parameters in at least 15 representative locations within Oklahoma City corporate boundaries. Parameters sampled include total suspended solids, total nitrogen, and total phosphorus as primary parameters, and additional secondary parameters if supporting data is required. DEQ reviewed existing monitoring information during the permitting process. Monitoring data was intended to be used by the permittees to assist in their determination of appropriate stormwater management practices. DEQ used the data to review the application and to determine pollutants of concern discharging from the MS4 that should be monitored during the permit term. The permit requires characterizing discharges from areas of new development or significant redevelopment and demonstrating that LID and other green designs would result in a substantial cost savings while adequately protecting the water quality and reducing discharge pollutants and volume.

### **a. 303(d) List of Impaired Waters**

The Oklahoma City Storm Sewer System discharges into various waterbodies that are listed on the latest Oklahoma List of Impaired Waters, or 303(d) list. This list of waterbodies is updated biennially and contains information regarding the reason, or cause, for the impairment.

The Oklahoma City MS4 permit contains conditions that are sufficient to prevent further impairment of these 303(d)-listed waterbodies.

If the permittee(s) discharge to waters identified on the latest CWA section 303(d) list of impaired waters, the permittee(s) must implement and maintain all necessary BMPs that will ensure that the impairment caused by the identified pollutants of concern (POCs) in the permittee(s)' receiving waters will not cause, have the reasonable potential to cause, or contribute to an in-stream exceedance of WQS. The permittee(s) must continue to provide the following when revising the SWMP:

- i. A plan that lists the BMPs the permittee(s) have implemented or will implement to reduce the POCs. The plan must describe how the permittee(s) expect the selected controls to reduce the POCs;
- ii. Outreach programs that are directed toward targeted groups of commercial, industrial, and institutional entities likely to have significant stormwater impacts on the permittee(s)' impaired water(s);
- iii. Identification of, and proposed controls for, any non-stormwater discharges that contribute significant pollutants to the permittee(s)' impaired water(s);
- iv. Identification and location of those areas likely to have illicit discharges. The permittee(s) must conduct inspections based on the priority areas in the watershed of the impaired water(s);
- v. Operation and maintenance procedures for any structural and non-structural stormwater controls to reduce pollutants discharged into the impaired water(s);
- vi. A list of flood management projects and how each project assessed the impacts on water quality. The permittee(s) must ensure that new flood management projects assess the impacts on water quality and examine existing projects to determine if incorporating additional water quality protection devices and practices are necessary;

- vii. BMPs chosen from EPA's menu or others that can be used for managing the identified pollutants in the permittee(s)' discharges. Information on such BMPs can be found on EPA's website; and
- viii. If the POC is bacteria, a list of identified BMPs addressing the areas below, as applicable, in the SWMP and appropriate implementation. The permittee(s) must include these BMPs under each associated control measure or activity under Part II.A. BMPs must address the sanitary sewer system, on-site sewage facilities, illicit discharges and dumping, animal sources, and residential education programs.

**b. Established TMDL Allocations**

Discharge of a pollutant into any water for which a TMDL or watershed plan in lieu of a TMDL for that pollutant has been either established or approved by DEQ or EPA is prohibited unless the discharge is consistent with that TMDL or watershed plan. Where a TMDL or watershed plan in lieu of a TMDL is established for receiving waters within the MS4, the permittee(s) will be required to incorporate any wasteload allocations (WLAs), as well as any other TMDL limitations, conditions, monitoring, and other requirements applicable to the permittee(s)' discharges into the SWMP. The permittee(s) will also be required to develop a TMDL Pollutant Reduction Plan for the pollutants identified in the TMDL and a TMDL Pollutant Monitoring Program (either a coordinated regional plan or an individual plan) designed to establish the effectiveness of the BMPs and demonstrate progress toward achieving the reduction goals of the TMDL and eventual attainment of WQS.

Although discharges of pollutants into the water quality-limited receiving waters are authorized by this permit, the permittees must develop and implement their TMDL pollutant reduction and monitoring plans within any timeframes established in the TMDL. These expected pollutant reductions allow DEQ to authorize such discharges from the MS4 without causing adverse impacts to water quality-limited receiving waters. The permit also requires permittees to document the monitoring and reporting of the discharges to ensure compliance with the TMDL.

**17. MONITORING AND REPORTING**

**a. Reports Required**

Permittees are required by OAC 252:606-1-3(b)(3)(X), adopting and incorporating by reference 40 C.F.R. § 122.42(c)(1), to contribute to the preparation of an annual system-wide report including the status of implementing the SWMP and status of compliance with any schedules established under the permit. The annual report must include proposed changes to the SWMP; revisions, if necessary, to the assessment of controls and the fiscal analysis reported in the permit application; a summary of the data, including monitoring data, which is accumulated throughout the reporting year; annual expenditures and the budget for the following year; a summary describing the number and nature of enforcement actions, inspections, and public education programs; and identification of any water quality improvements or degradation.

The permittees are required to perform annual evaluations on the effectiveness of the SWMP, and institute or propose revisions necessary to meet the overall permit standard of reducing the discharge of pollutants to the MEP. In order to allow the orderly collection of budgetary and monitoring data, it was determined to allow the annual report submittal date to relate to the permittees' annual fiscal year and monitoring seasons. Oklahoma City's fiscal year runs from January 1<sup>st</sup> to December 31<sup>st</sup>; the annual report is due each April 15<sup>th</sup>. Copies of these reports shall be available to the public.

**b. Monitoring**

The permittees are required by OAC 252:606-1-3(b)(3)(L), adopting and incorporating by reference 40 C.F.R. §§ 122.26(d)(2)(iii)(C) and (D) to monitor the MS4 to provide data necessary to assess the effectiveness and adequacy of SWMP control measures; and identify water quality improvements or degradation. The permittees are responsible for conducting any additional monitoring necessary to accurately characterize the quality and quantity of pollutants discharged from the MS4.



Due to the variability of stormwater discharges, the cost of the monitoring program needs to be balanced with the monitoring objectives and the more important goal of implementing controls that will directly affect the quality of the stormwater discharged. The permit requires three types of monitoring: Dry Weather Field Screening, Watershed Characterization, and Floatables Monitoring.

- i. *Dry Weather Field Screening Monitoring.* Permittees shall continue ongoing efforts to detect and remove any illicit connections and improper discharges to the MS4. Permittees shall conduct field screening at the frequencies specified under 11.d above. At minimum, a field screening analysis shall include a narrative description of visual observations made during a dry weather period. For such samples, a narrative description of the color, odor, turbidity, the presence of oil sheen or surface scum, as well as any other relevant observations regarding the potential presence of non-stormwater discharges or illegal dumping shall be provided.
- ii. *Watershed Characterization Monitoring.* Permittees are required to use this watershed monitoring to characterize the physical, chemical, and biological properties of the receiving waters.
  - (a) Analytical Monitoring conducted under the trend and load-based monitoring program will provide information on the water quality of receiving streams from the MS4, and a mechanism to evaluate reductions in pollutants discharged from the MS4. Results from the monitoring program will be submitted annually. The permittees are required to monitor for the following parameters throughout the permit term:

PARAMETERS		REPORT FOR EACH MONITORING PERIOD (each sample type)			SAMPLE TYPE(S)
		No. Samples	Total Discharge	Annual Load	
	*Priority				
Discharge/Flow (cfs)	Primary	N/A	Yes	N/A	Continuous
Five-Day Biochemical Oxygen Demand (BOD <sub>5</sub> ) (mg/L)	Secondary	*	*	*	Composite
Chemical Oxygen Demand (COD) (mg/L)	Secondary	*	*	*	Composite
Oil and Grease (mg/L)	Secondary	*	*	*	Grab
Total Suspended Solids (TSS) (mg/L)	Primary	Yes	Yes	Yes	Composite
Total Dissolved Solids (TDS) (mg/L)	Secondary	*	*	*	Composite
Total Nitrogen (mg/L)	Primary	Yes	Yes	Yes	Composite
Total Kjeldahl Nitrogen (TKN) (mg/L)	Secondary	*	*	*	Composite
Total Phosphorus (mg/L)	Primary	Yes	Yes	Yes	Composite
Dissolved Phosphorus (mg/L)	Secondary	*	*	*	Composite
Total Cadmium (ug/L) (MQL 1 µg/L) <sup>1</sup>	Secondary	*	*	*	Composite
Total Copper (ug/L) (MQL 1 µg/L) <sup>1</sup>	Secondary	*	*	*	Composite
Total Lead (ug/L) (MQL 0.5 µg/L) <sup>1</sup>	Secondary	*	*	*	Composite
Total Mercury (ug/L) (MQL 0.05 µg/L) <sup>1</sup>	Secondary	*	*	*	Composite
Total Thallium (ug/L) (MQL 0.5 µg/L) <sup>1</sup>	Secondary	*	*	*	Composite
Total Zinc (ug/l) (MQL 20 µg/L) <sup>1</sup>	Secondary	*	*	*	Composite
<i>E. coli</i> (colonies/100 mL)	Secondary	*	*	*	Grab
pH (S.U.)	Secondary	*	*	*	Grab
Hardness (as CaCO <sub>3</sub> ) (mg/L)	Secondary	*	*	*	Composite
Turbidity (NTU)	Secondary	*	*	*	Composite

PARAMETERS		REPORT FOR EACH MONITORING PERIOD (each sample type)			SAMPLE TYPE(S)
	*Priority	No. Samples	Total Discharge	Annual Load	
Specific Conductance (µS/cm)	Secondary	*	*	*	Composite
Temperature (°C)	Secondary	*	*	*	Composite
Dissolved Oxygen (mg/L)	Secondary	*	*	*	Grab

\* Primary parameters are selected for long-term continuous monitoring as the key constituents for determining annual loading and trends. Secondary parameters may be added as needed to support additional monitoring needs.

<sup>1</sup>. If any individual analytical test result is less than the minimum quantification level (MQL) listed for that parameter, then a value of zero may be used for that test result for the calculation and reporting requirements.

DEQ has established the above permit parameter monitoring requirements based on the information available regarding stormwater discharges and potential impacts of these discharges. The basic parameter list allows satisfaction of the regulatory requirement of OAC 252:606-1-3(b)(3)(L), adopting and incorporating by reference 40 C.F.R. § 122.26(d)(2)(iii)(A)(4).

- (b) Biological Monitoring shall be conducted at least once per permit year within identified watersheds. Permittees shall obtain all necessary aquatic wildlife collection permits from appropriate federal and/or state agencies. Permittees shall follow the procedures contained in Oklahoma's Standardized Bioassessment Protocol while conducting these collections (habitat, benthic macro-invertebrate, and fish).
- iii. *Floatables Monitoring.* Installation of five floatables monitoring stations shall be accomplished to investigate trends in water quality issues related to manmade debris and floatables. The comparison of yearly monitoring results should allow the permittees and DEQ to assess the impact of the SWMP elements as they relate to the reduction and elimination of floatables discharged from the MS4.

## 18. PERMIT MODIFICATIONS

### a. Re-opener Clause

DEQ may reopen and require modifications to the permit (including the SWMP) based on

- i. changes in the state's Water Quality Management Plan and state or federal requirements,
- ii. adding permittees,
- iii. SWMP changes impacting compliance with permit requirements,
- iv. additional stormwater controls identified in a TMDL that may be necessary to maintain applicable WQS, and/or
- v. other modifications deemed necessary by DEQ to adhere to the requirements of the Clean Water Act.

These modification shall comply with OAC 252.606-1-3(b)(3)(HH), adopting and incorporating by reference 40 C.F.R. § 122.63, which states, "Upon the consent of the permittee, the Director may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this section, without following the procedures of part 124. Any permit modification not processed as a minor modification under this section must be made for cause and with part 124 draft permit and public notice as required in § 122.62."

### b. Other Changes

The SWMP is a document prepared by the permittee(s) to address the regulatory requirements for large MS4s. The document is intended as a functioning mechanism for the permittee(s)' use. Therefore, changes and adjustments to the various SWMP elements are expected and desired. Incorporating this form of document into an OPDES permit has some inherent conflicts. The regulatory rules concerning permit changes and modifications do not easily translate to the changes that will need to occur to the various elements during the permit term. The changes may be necessary to more successfully adhere to the true intent of the permit to reduce pollutants to the MEP. DEQ has determined that these shall not be considered permit modifications as defined in the regulations. The permit must address the incorporation of the SWMP, multiple entities as permittees, and the permit covering an entire municipality subject to changes in boundaries and responsibilities. DEQ has attempted to develop permit language to clarify the permit requirements concerning possible changes to the SWMP, permittee(s)' status, and other changes inherently caused by these issues.

- i. *Modifying an Existing Phase I Permit.* The process to cover additional co-permittees may occur with negotiated agreements of Phase II MS4 communities.
- ii. *New or Terminated Permittees.* The process to cover any new permittee(s) under the permit will require a modification to the permit pursuant to OAC 252:606-1-3(b)(3)(GG), (HH), or OAC 252.606-1-3(b)(4)(D) adopting and incorporating by reference 40 C.F.R. §§ 122.62, 122.63 and 124.5. The process for

terminating coverage for an existing permittee shall adhere to the regulations OAC 252:606-1-3(b)(3)(II) adopting and incorporating by reference 40 C.F.R. § 122.64. A notice to terminate will be issued in accordance with permit procedures.

- iii. *SWMP Changes.* Part II.F. of the permit describes the procedures for the permittee(s) to perform updates to the SWMP, including BMP replacement and updates required by DEQ. This section in no way implies that the permittee(s) are allowed to impact or change elements that directly related to permit conditions for the SWMP.
- iv. *Additions.* It is the intent of DEQ to allow the permittees to annex lands and accept the transfer of operational authority over portions of the MS4 without mandating a permit modification. Implementation of appropriate SWMP elements for these additions (annexed land or transferred authority) is required within 90 days of a transfer of ownership, operational authority, or responsibility.

#### **19. CONSIDERATIONS UNDER FEDERAL LAW**

The discharges that are being controlled by the terms and conditions of this permit are the result of natural precipitation, and as such would continue to be discharged regardless of DEQ action represented here. The terms of this permit require that the permittees minimize or reduce to the MEP, pollutants in stormwater runoff.

DEQ has made a tentative determination that issuance of this permit will not adversely affect any listed endangered or threatened species, and/or their critical habitat.