



Oregon

Theodore R. Kulongoski, Governor

Department of Environmental Quality

Western Region - Salem Office

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Salem, OR 97301-1039

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May 8, 2007

Benton County
Greg Verret
360 SW Avery Ave
Corvallis, OR 97333-1139

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

RE: Issuance NPDES Permit Number 102912
File Number: 113609
EPA No. ORS11-3609
Facility: Benton County Municipal Stormwater, MS4, Municipal Stormwater Area
Benton County

Dear Mr. Verret:

DEQ has completed the public review process for the Phase II Municipal Separate Storm Sewer System permit for Benton County. DEQ is issuing the enclosed National Pollutant Discharge Elimination System Permit. The associated Permit Evaluation Report is also enclosed for your records.

If you are dissatisfied with the conditions or limitations of this permit, you have 20 days to request a hearing before the Environmental Quality Commission or its authorized representative. Any such request shall be made in writing to the Director and shall clearly state the grounds for the request.

You are urged to carefully read the permit and take all possible steps to comply with conditions established.

Should you have any questions regarding this permit, please contact Greg Geist at (503) 229-6991.

Sincerely,


John J. Ruscigno
Water Quality Manager
Western Region North

RECEIVED
MAY 09 2007

BENTON COUNTY AVERY FACILITY

Enclosure: NPDES Permit
Permit Evaluation Report

cc: Rachel Burr, DEQ-Eugene
Greg Geist, DEQ-WQ
Annette Liebe, DEQ-WQ
EPA, Seattle



NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
STORMWATER DISCHARGE PERMIT

Department of Environmental Quality
811 Southwest Sixth Avenue, Portland, OR 97204
Telephone: (503) 229-5630 or 1-800-452-4011 toll free in Oregon
Issued pursuant to ORS 468B.050 and The Federal Clean Water Act

ISSUED TO: Benton County

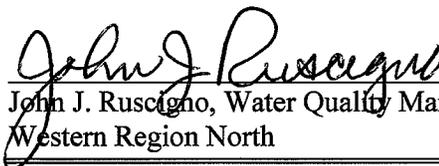
MAJOR RECEIVING STREAMS: Willamette River (RM 131), Oak Creek, Newton Creek, Frasier Creek, Jackson Creek.

WASTE LOAD ALLOCATIONS (if any): A Total Maximum Daily Load (TMDL) that includes Waste Load Allocations for urban stormwater has been established for the Willamette Subbasin. The TMDL was approved by EPA on September 29, 2006. Waste Load Allocations for urban stormwater are addressed in Schedule D of this permit.

SOURCES COVERED BY THIS PERMIT:

All existing and new discharges of stormwater from the municipal separate storm sewer system to waters of the state within the urban services boundary of Benton County.

Issued in response to Application No. 982296 received March 18, 2003. EPA reference # ORS113609


John J. Rusciigno, Water Quality Manager
Western Region North

Issued: May 8, 2007

PERMITTED ACTIVITIES:

Until this permit expires or is modified or revoked, the permittee is authorized to construct, install, modify, and operate stormwater collection, conveyance, treatment and control facilities, and to discharge stormwater to waters of the state in conformance with all the requirements, limitations, and conditions set forth in the attached schedules as follows:

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Unless specifically authorized by this permit, by another NPDES or WPCF permit, or by Oregon Administrative Rule, any other direct or indirect discharge to waters of the state is prohibited, including discharges to an underground injection control system. This permit is issued based on the land use findings in the permit record.

Schedule A
DISCHARGE LIMITATIONS AND STORMWATER MANAGEMENT PROGRAM

1. Prohibition of Non-stormwater Discharges

The permittee must effectively prohibit non-stormwater discharges into the MS4 unless such discharges are otherwise permitted by an existing NPDES permit. Unless identified by the permittee, or the Department, the following non-stormwater discharges need not be addressed by the permittee's illicit discharge program, provided appropriate control measures, if needed, to minimize the impacts of such sources are developed under the SWMP: water line flushing; landscape irrigation; diverted stream flows; rising ground waters; uncontaminated groundwater infiltration; uncontaminated pumped groundwater; discharges from potable water sources; start up flushing of groundwater wells; aquifer storage and recovery wells; potable groundwater monitoring wells; draining and flushing of municipal potable water storage reservoirs; foundation drains; air conditioning condensate; irrigation water; springs; water from crawl space pumps; footing drains; lawn watering; individual residential car washing; flows from riparian habitats and wetlands; dechlorinated swimming pool discharges; street wash waters; discharges or flows from emergency fire fighting activities; discharges of treated water from investigation, removal and remedial actions selected or approved by the Department pursuant to Oregon Revised Statute (ORS) Chapter 465, the state's environmental cleanup law.

2. Stormwater Management Program Requirements

- a. The permittee must develop, implement, enforce, and measure the effectiveness of a Stormwater Management Program (SWMP) designed to implement the requirements of the federal Clean Water Act and Oregon administrative rules and protect water quality by requiring controls to reduce the discharge of pollutants to the maximum extent practicable. The SWMP must include management practices, control techniques, and provisions for the control of pollutants.
- b. The SWMP must include the following information for each of the six minimum control measures described in condition A(4) of this permit:
 - i. The structural and non-structural best management practices (BMPs) that the permittee or another entity will implement for each of the stormwater minimum control measures;
 - ii. The measurable goals for each of the BMPs including, as appropriate, the months and years in which the permittee will undertake required actions, including interim milestones and the frequency of the action;
 - iii. The person or persons responsible for implementing or coordinating the BMPs for the permittee's SWMP; and
 - iv. The rationale for how and why the permittee selected each of the BMPs and measurable goals for the permittee's SWMP.
- c. The permittee must implement all applicable provisions in the SWMP. Applicable provisions are those relating to requirements, programs and operations of the MS4 over which the permittee has jurisdiction or control. For the permit, the SWMP is located in DEQ File Number 113609. SWMP, and any Department-approved amendments thereto, is hereby incorporated into the permit by reference.

3. Adaptive Management

Adaptive management is the process for assessing and implementing new opportunities for improving program effectiveness in controlling stormwater pollution to the maximum extent practicable. The permittee is required to use adaptive management to assess options for improving controls on stormwater discharges. In assessing these options, the permittee must use the monitoring information and analyses as described in the Department-approved SWMP, as well as applicable information from other sources in the adaptive management process.

Adaptive management requires the permittee to assess and modify, as necessary, any or all existing SWMP components and adopt new SWMP components to optimize reductions in stormwater pollutants to the maximum extent practicable, through an iterative process. The iterative process includes an annual assessment of the need to further reduce stormwater impacts and protect beneficial uses, review of available technologies and practices to accomplish the needed improvement, and evaluation of resources available to implement the technologies and practices.

4. Minimum Control Measures

The permittee must address the following six minimum control measures in its SWMP:

a. Public Education and Outreach on Stormwater Impacts

The permittee must implement a public education program to distribute educational materials to the community or conduct equivalent outreach activities about the impacts of stormwater discharges on water bodies and the steps that the public can take to reduce pollutants in stormwater runoff.

b. Public Involvement/Participation

The permittee must adopt a public participation process as a part of their on-going stormwater management program. The public participation process must provide opportunities for members of the public to participate in program development and implementation.

c. Illicit Discharge Detection and Elimination

The permittee must:

- i. Develop, implement and enforce a program to detect and eliminate illicit discharges into the permittee's small MS4;
- ii. Develop, if not already completed, a storm sewer system map, showing the location of all outfalls and the names of all waterbodies that receive discharges from those outfalls;
- iii. To the extent allowable under State or local law, effectively prohibit, through ordinance, or other regulatory mechanism, non-stormwater discharges into the permittee's storm sewer system and implement appropriate enforcement procedures and actions.
- iv. Develop and implement a plan to detect and address non-stormwater discharges, including illegal dumping, to the permittee's system;
- v. Inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste; and
- vi. Develop a process to respond to and document complaints relating to illicit discharges.

d. Construction Site Stormwater Runoff Control

The permittee must develop, implement, and enforce a program to reduce pollutants in any stormwater runoff to the permittee's small MS4 from construction activities that result in a land disturbance of greater than or equal to one acre. Reduction of stormwater discharges from construction activity disturbing less than one acre must be included in the permittee's program if that construction activity is part of a larger common plan of development or sale that would disturb

one acre or more. The permittee's program must include the development and implementation of, at a minimum:

- i. An ordinance or other regulatory mechanism to require erosion and sediment controls, as well as sanctions to ensure compliance, to the extent allowable under State or local law;
- ii. Requirements for construction site operators to implement appropriate erosion and sediment control best management practices;
- iii. Requirements for construction site operators to prevent or control waste that may cause adverse impacts to water quality such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site;
- iv. Procedures for site plan review that incorporate measures to prevent or control potential water quality impacts;
- v. Procedures for receipt and consideration of information submitted by the public; and
- vi. Procedures for site inspection and enforcement of control measures.

e. Post-Construction Stormwater Management in New Development and Redevelopment

The permittee must:

- i. Develop, implement, and enforce a program to address pollutants in stormwater runoff from new development and redevelopment projects that disturb one acre or more, or less than one acre if they are part of a larger common plan of development or sale, and discharge into the permittee's small MS4. The permittee's program must ensure that controls are in place that would prevent or minimize water quality impacts.
- ii. Develop and implement strategies that include a combination of structural or non-structural BMPs appropriate for the permittee's community, and
 - (1) Use an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects to the extent allowable under State or local law;
 - (2) Ensure adequate long-term operation and maintenance of BMPs; and
 - (3) Ensure adequate enforcement of ordinance or alternative regulatory program.

f. Pollution Prevention in Municipal Operations

- i. The permittee must develop and implement an operation and maintenance program that includes a training component and has the ultimate goal of preventing or reducing pollutant runoff from municipal operations; and
- ii. Using training materials that are available from the Department, EPA, or other organizations, the program must include employee training to prevent and reduce stormwater pollution from activities including, but not limited to, park and open space maintenance, fleet and building maintenance, new municipal facility construction and related land disturbances, design and construction of street and storm drain systems, and stormwater system maintenance.

5. Sharing Responsibility

Implementation of one or more of the minimum measures may be shared with another entity or may be fully taken over by another entity. The permittee may rely on another entity only if:

- a. The other entity implements the control measure.
- b. The particular control measure, or component of that measure, is at least as stringent as the corresponding permit requirement.
- c. The other entity agrees to implement the control measure on the permittee's behalf. Written acceptance of this obligation is required. This obligation must be maintained as part of the description of the permittee's Stormwater Management Program. If the other entity fails to

implement the control measure on the permittee's behalf, then the permittee remains liable for any discharges due to that failure to implement.

6. Reviewing and Updating Stormwater Management Program (SWMP) and Modifying Permit

- a. *SWMP Review:* The permittee must conduct an annual review of its SWMP in conjunction with preparation of the annual report required under condition B(2).
- b. *SWMP Updates Proposed by Permittee:* The permittee may change its SWMP during the permit term in accordance with the following procedures:
 - i. Changes adding, but not subtracting or replacing, components, controls, or requirements to the SMWP may be made at any time. The Department must be notified of such changes in the subsequent annual report, as required in condition B(2)(d).
 - ii. The permittee must submit a written request to the Department to discontinue or replace a BMP specifically identified in the SWMP. A discontinued or replaced BMP must be replaced with a BMP that is at least as effective. Unless denied by the Department, changes proposed in accordance with the criteria below will be deemed approved and may be implemented 60 days from submittal of the request. If a request is denied, the Department will send the permittee a written response giving a reason for the decision. The permittee's request must include the following:
 - (1) An explanation of why the existing BMP is less effective or infeasible,
 - (2) Proposed replacement BMP(s) and schedule for implementation, and
 - (3) An explanation of how the replacement BMP is expected to better achieve the goals of the existing BMP.
 - iii. Change requests or notifications must be made in writing and signed in accordance with condition F(D)(6).
- c. *SWMP Changes Proposed by Department:* Changes requested by the Department will be made in writing, set forth the time schedule for the permittee to develop the changes, and offer the permittee the opportunity to propose alternative program changes to meet the objective of the requested modification. All changes required by the Department will be made in accordance with 40 CFR §§124.5, 122.62 or 122.63 as appropriate.
- d. *Permit Modifications:* Changes to the SWMP are considered a part of adaptive management and do not require modification of this permit unless the Department determines that the magnitude of proposed SWMP revisions substantially changes the nature or scope of the SWMP. The Department will conduct this permit modification process in accordance with OAR 340-045-0040 and 0055.
- e. *Transfer of Ownership, Operational Authority, or Responsibility for SWMP Implementation:* The permittee must implement its SWMP in all new areas added to the permittee's portion of the MS4 (or areas for which the permittee becomes responsible for SWMP implementation) as expeditiously as practicable, but not later than one year from addition of the new areas. Within 90 days of a transfer of ownership, operational authority, or responsibility for SWMP implementation, the permittee must have a plan for implementing its SWMP on all affected areas. The plan must include schedules for implementation.

Schedule B
MONITORING AND REPORTING REQUIREMENTS

1. Minimum Monitoring Requirements

The permittee must evaluate program compliance, the appropriateness of identified best management practices (BMPs), and progress toward achieving identified measurable goals. If stormwater outfall or in-stream monitoring is conducted as part of a permittee's program evaluation efforts, the requirements described in condition F(C)(1) and (C)(2) must be followed. The types of monitoring information that must be maintained in such cases are specified in condition F(C)(6).

2. Annual Reporting Requirements

The permittee must submit an annual report to the Department by November 1 of each year for the time period July 1 through June 30. The first annual report is due November 1, 2007. The annual reports must contain:

- a. The status of compliance with permit conditions, an assessment of the appropriateness of the identified BMPs, progress towards achieving the statutory goal of reducing the discharge of pollutants to the MEP, and the measurable goals for each of the minimum control measures;
- b. Results of information collected and analyzed, if any, during the reporting period, including evaluation criteria used to assess the success of the program at reducing the discharge of pollutants to the MEP;
- c. A summary of the stormwater activities the permittee plans to undertake during the next reporting cycle, including a schedule for implementation;
- d. A description of changes made to the SWMP, including changes to BMPs or measurable goals identified in the SWMP;
- e. Information on all new additions or removals of annexed areas that result in an expansion or contraction of the MS4's boundaries;
- f. Notice that the permittee is relying on another government entity to satisfy some of the permittee's permit obligations (if applicable); and
- g. Number and nature of enforcement actions taken.

3. Permit Renewal Submittal

To continue permit coverage for stormwater discharges, the MS4 must submit a permit renewal package 180 days prior to permit expiration. This renewal application package must incorporate the implementation findings from the current permit term to support the proposed SWMP for the renewal permit. Application documents must evaluate the adequacy of the SWMP in reducing pollutants to the maximum extent practicable. This application must contain the following specific components:

- a. A completed permit renewal application form supplied by the Department, signed in accordance with the signatory requirements of condition F(D)(6).
- b. A completed and signed land use compatibility statement (LUCS) form and associated land use goal findings.
- c. An updated SWMP, including proposed changes to the plan and the underlying rationale for the proposal(s).
- d. The information required by condition D(2)(c) of the permit if TMDL wasteload allocations were established at the time of permit issuance or if these allocations were established within three (3) years of permit issuance.

Schedule C
COMPLIANCE CONDITIONS AND SCHEDULES

1. Initial Implementation of SWMP

The permittee must begin implementation of the approved SWMP within 180 days of issuance of this permit. The 180-day time period will allow for the permittee to adopt the SWMP if it has not already done so and to incorporate any revisions required by the department in response to public comments or the Department's own review.

2. Full Implementation of SWMP

The permittee must fully implement its SWMP, as defined by the measurable goals established by the permittee's SWMP, within five years of obtaining permit coverage. To adequately fulfill this requirement, the permittee must implement the BMPs it has proposed to address the six minimum measures described in condition A(4).

Schedule D
SPECIAL CONDITIONS

1. Legal Authority

The permittee must maintain, through ordinance, interagency agreement or other means, adequate legal authority to implement and enforce the provisions of this permit.

2. Total Maximum Daily Load Requirements

The requirements of this section apply to MS4 discharges to receiving waters with established TMDLs and associated wasteload allocations as noted on the cover page of this permit or if the permittee becomes subject to an approved TMDL, and following notice of such by the Department. If the permittee reduces applicable pollutant discharges for the parameters listed in the TMDL to the maximum extent practicable, this reduction is deemed to be adequate progress toward achieving assigned TMDL wasteload allocations (WLAs).

- a. Progress towards reducing TMDL pollutant loads will be evaluated, in subsequent permit terms, by the permittee through the use of performance measures and pollutant load reduction benchmarks developed and listed in the SWMP.
 - 1) Performance measures are estimates of the effectiveness of various best management practices (BMPs) implemented by the permittee as per the SWMP; and are not numeric effluent limits. Performance measures must, where appropriate, be pollutant reduction estimates. If appropriate, the performance measures for the BMPs addressing TMDL pollutants may be based on the same metrics developed to determine progress towards measurable goals, as described in the SWMP.
 - 2) A pollutant load reduction benchmark is an estimate for each parameter or surrogate, where applicable, for which a WLA is established. A benchmark is used to measure the overall effectiveness of the stormwater management program in making progress toward the WLA (this estimate will be related to the statistical variability of the underlying data and may be stated as a range), and is intended to be a tool for guiding adaptive management activities. A benchmark is not a numeric effluent limit; rather it is a goal. The permittee must provide the rationale for the proposed benchmark, which includes an explanation of the relationship between the benchmarks and the TMDL wasteload allocations. Any limiting factors related to the development of a benchmark, such as data availability and data quality, must also be included in this rationale.
- b. The permittee must use adaptive management, as described in condition A(3), to focus and refine SWMP elements to address TMDL wasteload allocation(s) over the course of this permit cycle.
- c. If, at the time of permit issuance or within three years of permit issuance, a TMDL establishes municipal stormwater wasteload allocations for pollutant parameters associated with the MS4's discharges, the permittee must develop and propose to the Department specific performance measures and pollutant load reduction benchmarks, as described in condition D(2)(a). Performance measures and pollutant load reduction benchmarks must be submitted to the Department as part of the permit renewal package described in condition B(3).

3. Definitions

- a. **Best Management Practices (BMPs):** The schedule of activities, prohibition of practices, maintenance procedures and other management practices to prevent or reduce pollution. BMPs also include treatment requirements, operating procedures and practices to control stormwater runoff.
- b. **Maximum Extent Practicable (MEP):** The statutory standard that establishes the level of pollutant reductions that operators of regulated MS4s must achieve. This standard is considered met if the conditions of the permit are met and the six minimum measures, outlined in this permit, are implemented (*December 8, 1999 Federal Register, Vol. 64, No. 235, Page 68754*).
- c. **Measurable Goals:** BMP design objectives or targets that quantify the progress of Plan implementation and the performance of BMPs.
- d. **Operator of Small MS4:** An operator is the governmental entity (e.g., city, county, special district) that owns the storm sewer system or has direct responsibility for the functioning of the system. For the purposes of this permit, the operator cannot be a private contractor.
- e. **Small Municipal Separate Storm Sewer System (Small MS4):** All separate storm sewers that:
 - 1) Meet the definition of an MS4 provided in Schedule F, Section E.
 - 2) Are not defined as a "medium" or "large" municipal separate storm sewer system pursuant to 40 CFR §126.26(b)(4) and (b)(7), or designated under 40 CFR §126.26(a)(1)(v).

This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewer in very discrete areas, such as individual buildings.

- f. **Waters of the State:** Lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon, and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters) that are located wholly or partially within or bordering the state or within its jurisdiction.

Schedule F
NPDES PERMIT GENERAL CONDITIONS
FOR MUNICIPAL SEPARATE STORM SEWER SYSTEMS

SECTION A. STANDARD CONDITIONS

1. **Duty to Comply with Permit**

The permittee must comply with all conditions of this permit. Failure to comply with any permit condition is a violation of the Clean Water Act and Oregon Revised Statutes (ORS) 468B.025, and 40 Code of Federal Regulations (CFR) Section 122.41(a), and grounds for an enforcement action. Failure to comply is also grounds for the Department to modify, revoke, or deny renewal of a permit.

2. **Penalties for Water Pollution and Permit Condition Violations**

ORS 468.140 allows the Department to impose civil penalties up to \$10,000 per day for violation of a term, condition, or requirement of a permit. Additionally 40 CFR 122.41 (A) provides that any person who violates any permit condition, term, or requirement may be subject to a federal civil penalty not to exceed \$25,000 per day for each violation.

Under ORS 468.943 and 40 CFR 122.41(a), unlawful water pollution, if committed by a person with criminal negligence, is punishable by a fine of up to \$25,000 imprisonment for not more than one year, or both. Each day on which a violation occurs or continues is a separately punishable offense.

Under ORS 468.946, a person who knowingly discharges, places, or causes to be placed any waste into the waters of the state or in a location where the waste is likely to escape into the waters of the state is subject to a Class B felony punishable by a fine not to exceed \$200,000 and up to 10 years in prison. Additionally, under 40 CFR 122.41(a) any person who knowingly discharges, places, or causes to be placed any waste into the waters of the state or in a location where the waste is likely to escape into the waters of the state is subject to a federal civil penalty not to exceed \$100,000 and up to 6 years in prison.

3. **Duty to Mitigate**

The permittee must take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment. In addition, upon request of the Department, the permittee must correct any adverse impact on the environment or human health resulting from noncompliance with this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

4. **Duty to Reapply**

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and have the permit renewed. The application must be submitted at least 180 days before the expiration date of this permit.

The Department may grant permission to submit an application less than 180 days in advance but no later than the permit expiration date.

5. **Permit Actions**

This permit may be modified, revoked and reissued, or terminated for cause including, but not limited to, the following:

- a. Violation of any term, condition, or requirement of this permit, a rule, or a statute
- b. Obtaining this permit by misrepresentation or failure to disclose fully all material facts
- c. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge
- d. The permittee is identified as a Designated Management Agency or allocated a wasteload under a Total Maximum Daily Load (TMDL)
- e. New information or regulations
- f. Modification of compliance schedules
- g. Requirements of permit reopener conditions
- h. Correction of technical mistakes made in determining permit conditions
- i. Determination that the permitted activity endangers human health or the environment
- j. Other causes as specified in 40 CFR 122.62, 122.64, and 124.5

The filing of a request by the permittee for a permit modification, revocation or reissuance, termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

6. **Toxic Pollutants**

The permittee must comply with any applicable effluent standards or prohibitions established under Oregon Administrative Rules (OAR) 340-041-0033 for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

7. Property Rights and Other Legal Requirements
The issuance of this permit does not convey any property rights of any sort, or any exclusive privilege, or authorize any injury to persons or property or invasion of any other private rights, or any infringement of federal, tribal, state, or local laws or regulations.
8. Permit References
Except for effluent standards or prohibitions established under OAR 340-041-0033 for toxic pollutants and standards for sewage sludge use or disposal established under Section 405(d) of the Clean Water Act, all rules and statutes referred to in this permit are those in effect on the date this permit is issued.
9. Permit Fees
The permittee must pay the fees required by Oregon Administrative Rules.

SECTION B. OPERATION AND MAINTENANCE OF POLLUTION CONTROLS

1. Proper Operation and Maintenance
The permittee must at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems that are installed by the permittees only when the operation is necessary to achieve compliance with the conditions of the permit.
2. Need to Halt or Reduce Activity Not a Defense
It shall not be a defense for the permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with this permit.
3. Removed Substances
Solids or other pollutants removed in the course of maintaining the MS4 must be disposed of in such a manner as to prevent any pollutant from such materials from entering waters of the state, causing nuisance conditions, or creating a public health hazard.

SECTION C. MONITORING AND RECORDS

1. Representative Sampling
Sampling and measurements taken as required herein must be representative of the volume and nature of the monitored discharge. All samples must be taken at the monitoring points specified in this permit, and shall be taken, unless otherwise specified, before the effluent joins or is diluted by any other waste stream, body of water, or substance. Monitoring points may not be changed without notification to and the approval of the Department.
2. Monitoring Procedures
Monitoring must be conducted according to test procedures approved under 40 CFR part 136, unless other test procedures have been specified in this permit or subsequent permit actions.
3. Penalties of Tampering
The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit may, upon conviction, be punished by a fine of not more than \$10,000 per violation, imprisonment for not more than two years, or both. If a conviction of a person is for a violation committed after a first conviction of such person, punishment is a fine not more than \$20,000 per day of violation, or by imprisonment of not more than four years, or both.
4. Additional Monitoring by the Permittee
If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR part 136 or as specified in this permit, the results of this monitoring must be included in the calculation and reporting of the data submitted in annual reports required by Schedule B. Such increased frequency must also be indicated.
5. Retention of Records
The permittee must retain records of all monitoring information, including: all calibration, maintenance records, all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit for a period of at least 3 years from the date of the sample, measurement, report, or application. This period may be extended by request of the Department at any time.
6. Records Contents
Records of monitoring information must include:
 - a. The date, exact place, time, and methods of sampling or measurements;
 - b. The individual(s) who performed the sampling or measurements;
 - c. The date(s) analyses were performed;
 - d. The individual(s) who performed the analyses;
 - e. The analytical techniques or methods used; and
 - f. The results of such analyses.

7. Inspection and Entry

The permittee must allow the Department representative upon the presentation of credentials to:

- a. Enter upon a permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit, and
- d. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by state law, any substances or parameters at any location within the MS4.

SECTION D. REPORTING REQUIREMENTS

1. Planned Changes

The permittee must comply with OAR chapter 340, division 52, "Review of Plans and Specifications" and 40 CFR Section 122.41(l) (1). Except where exempted under OAR chapter 340, division 52, no construction, installation, or modification involving disposal systems, treatment works, sewerage systems, or common sewers may be commenced until the plans and specifications are submitted to and approved by the Department. The permittee must give notice to the Department as soon as possible of any planned physical alternations or additions to the permitted facility.

2. Anticipated Noncompliance

The permittee must give advance notice to the Department of any planned changes in the permitted facility or activities that may result in noncompliance with permit requirements.

3. Transfers

This permit may be transferred to a new co-permittee(s) provided the transferee(s) acquires a property interest in the permitted activity and agrees in writing to fully comply with all the terms and conditions of the permit and the rules of the Commission. No permit may be transferred to a third party without prior written approval from the Department. The Department may require modification, revocation, and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Clean Water Act (see 40 CFR §122.61; in some cases, modification or revocation and reissuance is mandatory). The permittee must notify the Department when a transfer of property interest takes place that results in a change of co-permittee(s).

4. Compliance Schedule

Reports of compliance or noncompliance with, or any progress reports on interim and final requirements contained in any compliance schedule of this permit must be submitted no later than 14 days following each schedule date. Any reports of noncompliance must include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirements.

5. Duty to Provide Information

The permittee must furnish to the Department within a reasonable time any information that the Department may request to determine compliance with this permit. The permittee must also furnish to the Department, upon request, copies of records required to be kept by this permit.

Other Information: When a permittee becomes aware that it has failed to submit any relevant facts or has submitted incorrect information in a permit application or any report to the Department, it must promptly submit such facts or information.

6. Signatory Requirements

All applications, reports or information submitted to the Department must be signed and certified in accordance with 40 CFR Section 122.22.

7. Falsification of Information

Under ORS 468.953, any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance, is subject to a Class C felony punishable by a fine not to exceed \$100,000 per violation and up to 5 years in prison. Additionally, according to 40 CFR 122.41(k)(2), any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a federal civil penalty not to exceed \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

SECTION E. DEFINITIONS

1. CFR means Code of Federal Regulations.
2. Clean Water Act or CWA means the Federal Water Pollution Control Act enacted by Public Law 92-500, as amended by Public Laws 95-217, 95-576, 96-483 and 97-117; 33 U.S.C. 1251 et seq.
3. Department means Department of Environmental Quality.
4. Director means Director of the Department of Environmental Quality.

5. Flow-Weighted Composite Sample means a sample formed by collection and mixing discrete samples taken periodically and based on flow.
6. Grab Sample means an individual discrete sample collected over a period of time not to exceed 15 minutes.
7. Illicit Discharges means any discharge to a municipal separate storm sewer that is not composed entirely of stormwater except discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the municipal separate storm sewer) and discharges resulting from fire fighting activities.
8. Major Outfall means a municipal separate storm sewer outfall that discharges from a single pipe with an inside diameter 36 inches or more or its equivalent (discharge from a single conveyance other than circular pipe which is associated with a drainage area of more than 50 acres); or for municipal separate storm sewers that receive stormwater from lands zoned for industrial activities (based on comprehensive zoning plans or the equivalent), an outfall that discharges from a single pipe with an inside diameter of 12 inches or more or from its equivalent (discharge from other than a circular pipe associated with a drainage area of 2 acres or more).
9. mg/L means milligrams per liter.
10. mL/L means milliliters per liter.
11. MS4 means a municipal separate storm sewer system.
12. Municipal Separate Storm Sewer means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):
 - a. Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State Law) having jurisdiction over disposal of sewage, industrial wastes, stormwater or other wastes, including special districts under State Law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian Tribal organization, or a designated and approved management agency under §208 of the CWA that discharges to waters of the United States;
 - b. Designed or used for collection or conveying stormwater;
 - c. Which is not a combined sewer; and
 - d. Which is not part of a Publicly Owned Treatment Works (POTW) as defined by 40 CFR §122.2.
13. Outfall means a point source as defined by 40 CFR §122.2 at the point where a municipal separate storm sewer discharges to waters of the United States and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels or other conveyances which connect segments of the same stream or other waters of the United States and are used to convey waters of the United States.
14. Permit means the NPDES municipal separate storm sewer system (MS4) permit specified herein, authorizing the permittee listed on Page 1 of this permit to discharge from the MS4.
15. Stormwater means stormwater runoff, snowmelt runoff, and surface runoff and drainage.
16. Year means calendar year except where otherwise defined.



**National Pollution Discharge Elimination System (NPDES) Permit for
Stormwater Discharges**

Permit Evaluation Report and Fact Sheet

for:

Benton County

ODEQ File Number: 113609

Application Number: 982296

Public Comment Period Expiration Date: May 4, 2007

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SUMMARY OF PERMIT ACTION

The Oregon Department of Environmental Quality (ODEQ) proposes to issue a NPDES permit authorizing the discharge of stormwater from all municipal separate storm sewer system (MS4) outfalls owned and operated by the applicant listed above. The requirements are based on Section 402(p) of the Clean Water Act, 33.U.S.C. §1342(p), and the federal Environmental Protection Agency's (EPA) regulations for MS4 discharges.

The permit requires the implementation of a municipal stormwater management program (SWMP) to the maximum extent practicable, and outlines the six minimum control measures that form the basis of the SWMP. Annual reporting is required to provide information on the status of the SWMP implementation.

BACKGROUND

EPA promulgated "Phase II" of the National Pollutant Discharge Elimination System stormwater regulations in 1999. They were published in the Federal Register on December 8, 1999 (64 Fed. Reg. 68722). These regulations include permitting requirements for "small" municipal separate storm sewer systems (MS4s). In the regulations, EPA designated a subset of MS4s subject to permitting requirements and groups of other MS4s that states must evaluate for inclusion in the permitting program. ODEQ did not propose to designate any MS4s in addition to those designated by the federal regulations. In addition, several federally designated MS4s applied for and received a waiver for Phase II permit requirements. Specifically, the regulations state that any MS4 jurisdiction within an Urbanized Area, as defined by the U.S. Census Bureau in the 2000 Census, is automatically designated for inclusion in the NPDES Phase II permit program. Urbanized Areas (UAs) are those that have a total population of at least 50,000 and a population density of at least 1,000 persons per square mile. Two types of waivers are included in the federal rules for jurisdictions within UAs if specified criteria are met. One waiver is for communities with populations under 1,000. The other waiver is for communities with populations between 1,000 and 10,000, and includes more rigorous conditions than the first. The waiver criteria are described in Chapter 40 of the Code of Federal Regulations §122.32.

The Phase II MS4 permit requirements apply to 18 communities in Oregon. Small MS4s are allowed to jointly develop and implement a Stormwater Management Program plan with other nearby MS4s that must also obtain permit coverage. The list of actions and associated time table for developing the plan may also be submitted jointly with the application.

STATE STATUTORY PERMIT REQUIREMENTS

All water quality permits must meet the requirements of state law. Oregon statutes in general give the Environmental Quality Commission and the Department broad authority to impose permit requirements needed to prevent, abate, or control water pollution. See ORS 468B.010, 468B.015, 468B.020, and 468B.110. However, direct statutory requirements applicable to discharge permits are more limited. ORS 468B.020(2)(b) directs ODEQ to require the use of all available and reasonable methods necessary to protect water quality and beneficial uses. ODEQ interprets this requirement to be no more restrictive than the federal directive that requires MS4 permits to control pollutants to the maximum extent practicable. The Department further has determined that the permit conditions and the requirement to control discharges to the maximum extent practicable appropriately addresses Oregon's environmental policies and adequately protects the health, safety and welfare of Oregon citizens. ORS 468B.050 also

requires that discharge permits specify applicable effluent limits. The Department has determined that the effluent limits applicable to this permit are the effective prohibition on non-stormwater discharges and the requirement to control stormwater discharges to the maximum extent practicable.

The NPDES permit program has been designated as a program affecting land use for purposes of ORS 197.180; OAR 340-018-0030(5); OAR 660-031-0012(2)(b)(D). Accordingly, the Department will not issue a new NPDES permit unless it has received a land use compatibility statement (LUCS), or otherwise made a determination that the permit complies with the state-wide land use goals and is consistent with local comprehensive plans and land use regulations. ODEQ requested and received LUCSs from the local governments with land use jurisdiction in the areas covered by the permit. The incorporated LUCSs demonstrate that the jurisdictions have acknowledged comprehensive plan provisions and land use regulations that are applicable to the permit and that the permit is consistent with those provisions and regulations.

ANTIDEGRADATION REVIEW

The antidegradation policy in OAR 340-041-0026 requires that degradation of existing water quality be prevented unless necessary for economic and social benefit. The Department believes that existing water quality will not be degraded by the issuance of this permit. The stormwater discharges authorized by this permit have been on-going since the federal regulations requiring an NPDES permit were adopted. This permit will reduce the current level of pollution discharged from small MS4s. The Department also expects the pollution reduction measures implemented by permitted small MS4s to offset any expansion of stormwater conveyances systems and outfalls because of the permit requirement to implement a broad range of pollution reduction measures, including measures to address impacts from new development and significant redevelopment. The permit does not set numeric discharge limits. The law recognizes that stormwater discharges are highly variable in nature and difficult to control due to topography, land use and weather differences (e.g., intensity and duration of storms). Through an adaptive management process, the co-permittees are required to regularly review and refine their best management practices to reduce pollutants to the maximum extent practicable. The goal of the permit is a net reduction in pollutant loadings over the five-year permit term. Over the five-year permit term, a range of programs will be implemented and enhanced to minimize stormwater pollution discharges from existing residential, commercial, and industrial developments. Therefore, the issuance of this permit will protect and improve existing water quality and is consistent with the Department's antidegradation policy.

COVER PAGE

The cover page of the permit outlines the type of discharges eligible for permit coverage. The permit covers existing and new discharges of stormwater from the municipal separate storm sewer system. The permit does not cover any stormwater discharged to underground injection control (UIC) systems. Some municipalities discharge stormwater to both surface waters and into the ground via UICs. Discharges to UICs are regulated through a separate set of rules derived from the Safe Drinking Water Act. Unless otherwise addressed in an individual permit, UIC discharges must be addressed through a Water Pollution Control Facilities (WPCF) permit or in some alternate manner specified in Oregon's UIC rules.

The cover page of the permit also includes information about the receiving stream(s) to which the permittee's MS4 discharges stormwater. In addition, a reference is made to the Total Maximum Daily Load (TMDL) that establishes wasteload allocations (WLAs) for urban stormwater in receiving streams within the permittee's jurisdiction. This reference does not trigger any permit requirements or represent

numeric effluent limits. Rather, it is simply designed to acknowledge the existence of the TMDL and WLAs. The methods by which the permittee is required to address TMDL are described in Schedule D of the permit.

Upon issuance, the cover page will also include the expiration date that will not exceed five years from the date of issuance.

SCHEDULE A – DISCHARGE LIMITATIONS AND STORMWATER MANAGEMENT PROGRAM

The permit does not set numeric discharge limits. The law recognizes that stormwater discharges are highly variable in nature and difficult to control due to topography, land use and weather differences (e.g., intensity and duration of storms). Through an adaptive management process, the permittees are required to regularly review and refine their best management practices to reduce pollutants to the maximum extent practicable. The principal mechanism for controlling discharges is the development and implementation of a stormwater management plan (SWMP).

CONDITION 1 – DISCHARGE LIMITATIONS

This condition prohibits non-stormwater discharges into the MS4 that are not otherwise authorized, or listed in this condition as discharges that do not need to be addressed by the permittee's illicit discharge program. This permit condition is in accordance with 40 CFR 122.26(d)(2)(iv)(B)(1).

The types of discharges that are listed as allowable are largely derived from the standard list used by the U.S. Environmental Protection Agency (EPA). The one new type of allowable non-stormwater discharge added by the Department relates to discharges from contaminated clean-up sites occurring under the authority of a state or federally-approved clean-up order. Currently, state and federal site clean up statutes provide such sites with permit waivers if they follow all substantive requirements of those permits. Therefore, clean-up orders issued by ODEQ or EPA ensure that any discharges from these sites meet any limitations and controls that would otherwise be included in an NPDES permit prior to discharge into the MS4. The intent of referencing these types of discharges in the permit is to explicitly acknowledge the Department's acceptance of the legitimacy of the clean-up waivers.

CONDITION 2 - STORMWATER MANAGEMENT PROGRAM PLAN REQUIREMENTS

Condition 2 specifies the required elements of a Stormwater Management Plan. The primary elements of the plan include best management practices (BMPs) to be implemented for the six minimum measures, measurable goals for each of the BMPs and associated interim milestones, and the designation of persons responsible for implementing the various BMPs. However, the other important SWMP element the Department is requiring is a description of the rationale the permittee used to determine the BMPs selected for implementation and the measurable goals selected to evaluate program progress. Explaining how and why these BMPs and goals were selected will ensure the MS4 makes an effort to link its planned actions with local conditions. This information will also assist the Department in evaluating the efficacy of the permittee's stormwater management program.

CONDITION 3 – ADAPTIVE MANAGEMENT

The intent of Condition 3 is to provide a detailed description of the adaptive management process to be followed by the permittee. The adaptive management process is the established method for achieving the maximum extent practicable (MEP) standard. The permit requires several specific types of evaluations that are tied directly to on-going improvements to the SWMP to ensure MEP continues to be met. The adaptive management process summary in Condition 3 describes how the link between these evaluations and subsequent improvements is to occur. The permit allows for the revisions to the Stormwater Management Plan (SWMP) through an adaptive management process [see Schedule A(6)(d)]. Such revisions are expected to improve the overall effectiveness of the SWMP and not contribute to increased degradation. The permit also requires the use of adaptive management to focus and refine SWMP elements to address TMDL wasteload allocation(s) over the course of this permit cycle [see Schedule D(2)(b)].

CONDITION 4 – MINIMUM CONTROL MEASURES

The permit requires the development, implementation and enforcement of a SWMP designed to reduce pollutants to the MEP. Federal regulations (40 CFR § 122.34) require the six minimum control measures described in Condition 4. For each measure, the regulations specify certain required activities that must be implemented, and provide guidance on other BMPs to include in an adequate SWMP. The regulations and guidance documents provide more specific information on how to meet the intent of the permit requirements for each of the minimum measures. EPA has also developed separate guidance documents to assist in developing SWMP activities and determining appropriate measurable goals to be included in the SWMP. They can be viewed on EPA's website at: <http://cfpub.epa.gov/npdes/stormwater/phase2.cfm>.

CONDITION 5 – SHARING RESPONSIBILITY

Implementation of the SWMP plan can be shared with other entities. For instance, a county government responsible for a portion of the Urbanized Area adjacent to a city may develop an agreement with this city to implement certain minimum measures within the county's jurisdiction. The MS4 ceding implementation responsibility to another entity must ensure that the minimum measures (or portions thereof) are at least as stringent as required by the permit. Additionally, to maintain a record of accountability, the MS4 must maintain a written record of the agreement with the other entity. The permittee is ultimately responsible for the fulfillment of any of the responsibilities it shares with another entity, and is liable for any inadequate program implementation. This liability for delegated activities applies to situations where a permittee is sharing SWMP responsibilities with other permitted small MS4s, or where the permittee develops an inter-local agreement with an entity which is not covered by the permit.

CONDITION 6 – REVIEWING AND UPDATING STORMWATER MANAGEMENT PROGRAMS

The SWMP is a set of structural and nonstructural actions and activities used by the permittee to reduce the discharge of pollutants to the maximum extent practicable. Minor changes and adjustments to the various SWMP elements are expected and may be necessary to more successfully adhere to the goals and requirements of the permit. One of the purposes of this section of the permit is to specify the procedures for making changes to the SWMP. A distinction is made between adding new components and replacing (or removing) components of the SWMP.

SWMP Updates Proposed by Permittee:

If the permittee proposes to add new BMPs to the plan, they can do so at any time. The permittee must notify the Department of any updates in the next Annual Report(s). However, if they plan to replace or remove BMPs, the permittee must submit a request to the Department with a written justification for the change. The Department then has the option of approving or denying the request. The proposed changes will automatically become effective 60 days after submittal of the request if the permittee does not receive denial notification from the Department.

SWMP Changes Proposed by Department:

The Department may also initiate changes to the SWMP based on concerns about water quality impacts of stormwater, a need to maintain compliance with federal or state regulations, or information demonstrating that certain BMPs are no longer appropriate. The Department must submit the requested changes in writing to the permittee, and provide the permittee with an opportunity to propose alternatives.

Permit Modifications:

Most changes to the SWMP are considered a part of adaptive management and do not require modification of this permit unless the Department determines that the magnitude of proposed SWMP revisions substantially change the nature or scope of the SWMP. The Department will conduct this permit modification process in accordance with OAR 340-045-0040 and 0055.

Transfer of Ownership, Operational Authority, or Responsibility for SWMP Implementation:

The Department does not intend to require a permit modification should the co-applicants annex additional lands or accept the transfer of operational authority over portions of the MS4. Implementation of appropriate SWMP elements for these additions is required. The permittee must provide a plan for implementing the SWMP in all affected areas, including an implementation schedule, to the Department within 90-days of any such additions or transfers.

SCHEDULE B – MONITORING & REPORTING REQUIREMENTS

CONDITION 1 – MINIMUM MONITORING REQUIREMENTS

The federal regulations governing the NPDES permit program for small MS4s do not require monitoring of effluent from stormwater outfalls or ambient water quality monitoring of receiving streams. However, this type of monitoring is one method an MS4 can use to evaluate its SWMP and determine progress in achieving measurable goals. This condition of the permit describes the minimum requirements for conducting water quality or effluent monitoring if an MS4 chooses to pursue this method of program evaluation.

CONDITION 2 – ANNUAL REPORTING REQUIREMENTS

The annual report submitted by small MS4 permittees must include information on a number of items, including progress toward achieving measurable goals. The federal regulations and this permit allow each permitted small MS4 to develop measurable goals and metrics for tracking progress towards those goals. As mentioned above, one of those goals could be improved water quality that is measured through ambient water quality or effluent monitoring. However, other goals could be more activity related, such as achieving a certain number of construction site inspections each year. The Department can review and

comment on the measurable goals as part of its evaluation of the SWMP plan, but neither the Department nor EPA mandates specific types of goals or measurement tools.

CONDITION 3 – PERMIT RENEWAL SUBMITTAL

To continue permit coverage for stormwater discharges, the permittee must submit a permit renewal application 180 days prior to the permit expiration date. Condition 3 describes the information that must be provided in the renewal application. Renewal applications must contain an evaluation of the adequacy of the SWMP in reducing pollutants to the maximum extent practicable, an updated SWMP and, where applicable, the permittee must develop and propose to the Department specific performance measures and pollutant load reduction benchmarks information required when Total Maximum Daily Loads have been established for local receiving waters [see Schedule D.2].

SCHEDULE C – COMPLIANCE CONDITIONS AND SCHEDULES

CONDITION 1 – INITIAL IMPLEMENTATION OF STORMWATER MANAGEMENT PROGRAM

The permit requires that implementation of the SWMP begin no later than 180 days from permit issuance. However, since permittees must fully implement the SWMP plan within the five-year permit cycle, they may begin implementation of certain stormwater best management practices (BMPs) immediately. If the Department requests changes to the plan as a result of the public review process, the implementation of those affected BMPs may be adjusted (if necessary) to reflect the revised SWMP.

CONDITION 2 – FULL IMPLEMENTATION OF STORMWATER MANAGEMENT PROGRAM

The permit requires permittees to fully implement the SWMP plan within the five-year permit cycle.

SCHEDULE D – SPECIAL CONDITIONS

CONDITION 1 – LEGAL AUTHORITY

The federal regulations governing the NPDES permit program for small MS4s require the enforcement of a stormwater management program designed to reduce the discharge of pollutants to the maximum extent practicable. Specifically, the permittee must ensure that appropriate mechanisms are in place to enforce the stormwater programs addressing the “Illicit Discharge Detection and Elimination”, “Construction Site Runoff Control” and “Post-Construction Stormwater Management in New Development and Redevelopment” minimum control measures. The objective of this condition is to ensure the permittee can legally implement all components of the permit, and thus, reduce pollutants to the maximum extent practicable.

CONDITION 2 – TOTAL MAXIMUM DAILY LOAD (TMDL) REQUIREMENTS

ODEQ believes that issuing the permit to municipalities discharging to water bodies for which TMDLs have not been completed is appropriate because the permit will result in reduction of pollutants (also see the Anti-Degradation Review, above). To the extent that water quality standards are not being met, the

Department determines that implementation of the measures set out in the proposed permit will reduce the relevant waste load contributions to the maximum extent practicable as required by federal law. Schedule D, Condition 3 of the permit addresses the requirements once a TMDL has been completed and approved. Specifically, if a waste load allocation (WLA) has been assigned to urban stormwater, the permittee is required to develop and propose to the Department specific performance measures and pollutant load reduction benchmarks, as described in Schedule D(2)(a). Performance measures and pollutant load reduction benchmarks are to be developed over the course of this permit cycle and must be submitted to the Department as part of the permit renewal application described in Schedule B(3). If the permittee reduces applicable pollutant discharges for the parameters listed in the TMDL to the maximum extent practicable, this reduction is deemed to be adequate progress toward achieving assigned TMDL wasteload allocations during this first 5-year permit period.

SCHEDULE F – GENERAL CONDITIONS

Schedule F includes the general conditions that are applicable to all NPDES permits. They address operation and maintenance, monitoring and record keeping, and reporting requirements. The Department recognizes that a majority of these conditions do not apply to stormwater discharges. Many specifically address industrial and domestic wastewater treatment facilities. However, the stormwater permits are NPDES permits and these conditions are required for all such permits. Such conditions as those outlining signatory and record-keeping requirements are relevant to all NPDES permits, including stormwater discharge permits. Where a direct conflict exists, the general conditions included in Schedule F are superseded by the conditions in Schedules A and D.