STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
401 CHURCH STREET
L & C ANNEX 6TH FLOOR
NASHVILLE TN 37243

May 19, 2011

Mr. Dan Wankel
MS4 Manager
Kingsport
225 W. Center St.
Kingsport, TN 37660

Subject: **NPDES Tracking Number TNS075388**
TN NPDES General Permit for Small Municipal Storm Sewer Systems
Kingsport, Sullivan County, Tennessee

Dear Mr. Wankel:

Thank you for submitting a Notice of Intent (NOI), received on December 22, 2010, as required by Part 2 of the NPDES General Permit for Small Municipal Separate Storm Sewer Systems (TNS000000). We have completed a review of the NOI for accuracy and completeness, and are issuing the attached Notice of Coverage (NOC). Issuance of the NOC does not certify that the NOI adequately provides for all requirements as specified in the MS4 permit. It is the responsibility of the MS4 to implement, maintain, modify, and improve Best Management Practices that are sufficient to prevent pollution and to remain in compliance with all terms and conditions of the MS4 permit.

If you have questions, please contact the division at the Johnson City Environmental Field Office at 1-888-891-TDEC; or, at this office, please contact Mr. Paul Higgins at (615) 532-1178 or by E-mail at *Paul.Higgins@tn.gov*.

Sincerely,

Vojin Janjić
Manager, Permit Section

CC/EC: DWPC, Permit Section & Johnson City Environmental Field Office

STATE OF TENNESSEE

NPDES PERMIT

NPDES GENERAL PERMIT FOR DISCHARGES
From

SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)

Tracking No. TNS075388

Under authority of the Tennessee Water Quality Control Act of 1977 (T.C.A. 69-3-101 et seq.) and approval from the United States Environmental Protection Agency under the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977 (33 U.S.C. 1251, et seq.) and the Water Quality Act of 1987, P.L. 100-4, the following operator of a small municipal separate storm sewer system is authorized to discharge stormwater runoff into the waters of the State of Tennessee in accordance with the various eligibility criteria, administrative procedures, program requirements, reporting requirements, etc. set forth in parts 1 through 7 of Tennessee small municipal separate storm sewer system NPDES general permit, issued August 31, 2010:

Discharger: **City of Kingsport**

is authorized to discharge: stormwater runoff

from the Kingsport separate storm sewer system located in: Sullivan County

to waters of the state, in accordance with the required program elements and other conditions set forth in the Tennessee small MS4 general permit:

Coverage under this general permit shall become effective on: **May 19, 2011**

and shall expire on **September 1, 2015**

Notice of Coverage issued: **May 19, 2011**

Paul E. Davis, Director
Division of Water Pollution Control

NPDES General MS4 Permit is located at http: http://tn.gov/environment/wpc/stormh2o/MS4II.shtml

STATE OF TENNESSEE

NPDES PERMIT

NPDES GENERAL PERMIT FOR DISCHARGES

From

SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS

PERMIT NO. TNS000000

Under authority of the Tennessee Water Quality Control Act of 1977 (T.C.A. 69-3-101 et seq.) and approval from the United States Environmental Protection Agency under the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977 (33 U.S.C. 1251, et seq.) and the Water Quality Act of 1987, P.L. 100-4, operators of small municipal separate storm sewer systems are authorized to discharge stormwater runoff into waters of the State of Tennessee in accordance with the various eligibility criteria, administrative procedures, program requirements, reporting requirements, etc. set forth in parts 1 through 7 herein.

This permit is issued on: August 31, 2010

This permit is effective on: October 1, 2010

This permit expires on: September 1, 2015

B Flanbert FOR

Paul E. Davis, Director
Division of Water Pollution Control

CN-0759

RDAs 2352 and 2366

NPDES GENERAL PERMIT FOR DISCHARGES FROM
SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4)

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1. COVERAGE UNDER THIS PERMIT

1.1. Permit Area

This permit covers the entire State of Tennessee.

1.2. List of the Division's EFOs and Corresponding Counties

EFO Name	Division of Water Pollution Control Environmental Field Office Address	List of Counties
Chattanooga	State Office Building, Suite 550 540 McCallie Ave Chattanooga, TN 37402 (423) 634-5745	Bledsoe, Bradley, Grundy, Hamilton, McMinn, Marion, Meigs, Polk, Rhea, Sequatchie
Columbia	1421 Hampshire Pike Columbia, TN 38401 (931) 380-3371	Bedford, Coffee, Franklin, Giles, Hickman, Lawrence, Lewis, Lincoln, Marshall, Maury, Moore, Perry, Wayne
Cookeville	1221 South Willow Ave Cookeville, TN 38506 (931) 432-4015	Cannon, Clay, Cumberland, DeKalb, Fentress, Jackson, Macon, Overton, Pickett, Putnam, Smith, Van Buren, Warren, White
Jackson	1625 Hollywood Drive Jackson, TN 38305-2222 (731) 512-1300	Benton, Carroll, Chester, Crockett, Decatur, Dyer, Gibson, Hardeman, Hardin, Haywood, Henderson, Henry, Lake, Lauderdale, McNairy, Madison, Obion, Weakly
Johnson City	2305 Silverdale Rd Johnson City, TN 37601 (423) 854-5400	Carter, Greene, Hancock, Hawkins, Johnson, Sullivan, Unicoi, Washington Counties
Knoxville	3711 Middlebrook Pike Knoxville, TN 37921 (865) 594-6035	Anderson, Blount, Campbell, Claiborne, Cocke, Grainger, Hamblen, Jefferson, Knox, Loudon, Monroe, Morgan, Roane, Scott, Sevier, Union
Memphis	8383 Wolf Lake Drive Bartlett, TN 38133-4119 (901) 368-7939	Fayette, Shelby, Tipton
Nashville	711 RS Gass Boulevard Nashville, TN 37243-1550 (615) 681-7000	Cheatham, Davidson, Dickson, Houston, Humphreys, Montgomery, Robertson, Rutherford, Stewart, Sumner, Trousdale, Williamson, Wilson
Nashville Central Office	6th Floor L& C Annex 401 Church Street Nashville, TN 37243	Statewide

All Environmental Field Offices (EFOs) may be reached by telephone at the toll-free number 1-888-891-8332.

1.3. Eligibility

1.3.1. Authorization to discharge

This permit authorizes discharges of stormwater from small municipal separate storm sewer systems (MS4s), as defined in 40 CFR §122.26(b)(16). The MS4 is authorized to discharge under the terms and conditions of this general permit if the MS4:

a. Operates a small MS4 within the permit area described in sub-part 1.1,

b. Is not a "large" or "medium" MS4 as defined in 40 CFR §122.26(b)(4) or (7),

c. Is located fully or partially within an urbanized area as determined by the latest Decennial Census by the Bureau of Census, or

d. Is designated for permit authorization by the division pursuant to 40 CFR §122.32 and

e. Submits a complete Notice of Intent (NOI) in accordance with part 2 of this permit and receive a Notice of Coverage (NOC).

1.3.2. Area of MS4 authorized

Where a city or town is covered under this permit, this permit covers all portions and areas of the MS4 operated by the city or town. Where a county is covered under this permit, the permit covers the urbanized area of the county and any additional portions of the county, or the whole county, as shall be indicated on the NOC. Applicants shall indicate what portion of the county they wish covered under the permit. Newly urbanized areas and areas annexed to the MS4 should be added to the MS4 authorized area. The MS4 must include this determination in an annual report.

1.3.3. Types of authorized discharges

1.3.3.1 Stormwater discharges

This permit authorizes stormwater discharges to waters of the state from the small MS4s identified in section 1.3.1, except as excluded in sub-part 1.4.

1.3.3.2 Non-stormwater discharges

The MS4 is authorized to discharge the following non-stormwater sources provided that the division has not determined these sources to be substantial contributors of pollutants to the MS4:

- Water line flushing
- Landscape irrigation
- Diverted stream flows
- Rising ground waters
- Uncontaminated ground water infiltration (infiltration is defined as water other than wastewater that enters a sewer system, including sewer service connections

and foundation drains, from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow.)

- Uncontaminated pumped ground water
- Discharges from potable water sources
- 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 water
- Discharges or flows from fire fighting activities

1.4. Limitations on Coverage

This permit does not authorize:

a. Discharges that are mixed with sources of non-stormwater unless such non-stormwater discharges are:
   - In compliance with an NPDES permit; and
   - Determined not to be a substantial contributor of pollutants to waters of the state.

b. Stormwater discharges associated with industrial activity, excluding construction activities, as defined in 40 CFR §122.26(b)(14)

c. Stormwater discharges currently covered under another permit.

d. Discharge or conduct discharge-related activities that are likely to jeopardize the continued existence of any state or federally listed species or result in the adverse modification or destruction of habitat that is designated as critical under the Endangered Species Act (ESA) or other applicable state law or rule. See sub-part 3.2 for instructions related to evaluating and certifying your status with respect to state or federally listed species.

e. Discharge or conduct discharge related activities that will cause a prohibited take of federally listed species (as defined under Section 3 of the ESA and 50 CFR §17.3), unless such take is authorized under Sections 7 or 10 of the ESA.

f. Discharge or conduct discharge-related activities that will cause a prohibited take of state listed species (as defined in the Tennessee Wildlife Resources Commission Proclamation, Endangered or Threatened Species, and in the Tennessee Wildlife Resources Commission Proclamation, Wildlife in Need of Management), unless such take is authorized under the provisions of Tennessee Code Annotated §70-8-106(e)

g. Discharges that would cause or contribute to an in-stream exceedance of water quality standards. The stormwater management plan must include a description of the

best management practices (BMPs) that MS4 will be using to ensure that this will not occur. The division may require corrective action or an application for an individual permit or alternative general permit if discharges from an MS4 are determined to cause or contribute to an in-stream exceedance of water quality standards.

h. Discharges of any pollutant into any water for which a Total Maximum Daily Load (TMDL) has been approved by EPA, where the TMDL establishes a specific wasteload allocation and recommends it be incorporated into an individual NPDES permit.

i. Discharges of materials resulting from a spill, except emergency discharges required to prevent imminent threat to human health or to prevent severe property damage, provided reasonable and prudent measures have been taken to minimize the impact of the discharges.

j. Discharges that do not comply with the division's anti-degradation policy for water quality standards, pursuant to the Rules of the Tennessee Department of Environment and Conservation (TDEC), Chapter 1200-4-3-.06, titled "Tennessee Antidegradation Statement.

1.5. Obtaining Authorization

To be authorized to discharge stormwater from a small MS4, the MS4 must submit an NOI and a description of the Stormwater Management Program (program) in accordance with sub-part 2.1 of this permit.

The MS4 must submit the information required in sub-part 2.2 on the latest version of the NOI form (or photocopy thereof – see Addendum A). The NOI must be signed and dated in accordance with sub-part 6.7 of this permit. Note: If the division notifies dischargers (either directly, by public notice, or by making information available on the Internet) of other NOI form options that become available at a later date (e.g., electronic submission of forms), MS4 may take advantage of those options to satisfy the NOI use and submittal requirements of part 2.

Dischargers who submit an NOI in accordance with the requirements of this permit are authorized to discharge stormwater from small MS4s under the terms and conditions of this permit as of the effective date of coverage given in the NOC transmitted to the discharger by the division. The division may deny coverage under this permit and require submittal of an application for an individual NPDES permit based on a review of the NOI or other information (see sub-part 6.17).

Where the operator changes, or where a new operator is added after submittal of an NOI under part 2, a new NOI must be submitted in accordance with part 2 prior to the change or addition.

2. NOTICE OF INTENT REQUIREMENTS

2.1. Deadlines for Notification

If the division designates your municipality as a small MS4, the MS4 is required to submit a NOI to the division at the appropriate EFO (see sub-part 1.2) within 180 days of notice. The NOI can be found in Appendix A. MS4s previously permitted must submit an NOI within 90 days of the effective date of this permit.

Submitting a late NOI. The MS4 is not prohibited from submitting an NOI after the dates provided above. If a late NOI is submitted, the authorization is only for discharges that occur after permit coverage is granted. The division may take appropriate enforcement actions for any unpermitted discharges.

2.2. Contents of the Notice of Intent

The MS4 must use the NOI form provided by the division as Appendix A to this permit. This document is also available in PDF format on our web page or by e-mail to you upon request. If the MS4 completes the form in the electronic version, additional information may be provided in an addendum.

The NOI must be signed in accordance with sub-part 6.7 of this permit and must include the following information:

a. The name of your municipal entity/state agency/federal agency, your mailing address, and telephone number.

b. The name of the major receiving water(s) and an indication of whether any of your receiving waters are on TDEC's latest list of impaired waters prepared under section 303(d) of the Clean Water Act.

c. If MS4 is relying on another governmental entity regulated under the stormwater regulations (40 CFR122.26 &122.32) to satisfy one or more of permit obligations, the identity of that entity and the element(s) they will be implementing.

d. Information on your chosen best management practices (BMPs) and the measurable goals for each of the stormwater Minimum Control Measures in sub-part 4.2 of this permit, your time frame for implementing each of the BMPs, and the person or persons responsible for implementing or coordinating your Stormwater Management Program.

2.3. Where and How to Submit Notice of Intent

The MS4 may submit the NOI either by hard copy or electronically. Insofar as MS4 is able to do so, the division prefers receiving NOIs by the electronic copy option.

2.3.1. Hard copy option

The MS4 must submit an original NOI, signed in accordance with the signatory requirements of sub-part 6.7 of this permit, and a copy of the NOI, to the address shown in sub-part 1.2 for the EFO responsible for the county where the facility is located.

2.3.2. Electronic copy option

Send by e-mail, with the completed NOI and attachments (such as map and city ordinances) to phase.two@tn.gov. In addition, send an original, hard copy letter, signed by the responsible official of the MS4, which makes reference to the e-mail transmission including date and time that the electronic submitted was made. The letter must contain the signatory statement found on the NOI form. The letter must be mailed to the Nashville Central Office address as defined in sub-part 1.2 of this permit.

3. SPECIAL CONDITIONS

3.1. Discharges to Water Quality Impaired Waters

Using the most current 303(d) list published on the division's web site along with the GIS mapping tool, the MS4 must determine whether stormwater discharges from any part of the MS4 contribute pollutants of concern to an impaired waterbody. For those impaired waters, the MS4 must determine whether or not a TMDL has been established and approved by EPA. A list of EPA-Approved TMDLs as well as EPA-Established TMDLs for Tennessee waters can be found on the division's web site.

3.1.1. Discharges into Waterbodies with EPA-Approved or Established TMDLs

The MS4 must implement stormwater pollutant reductions consistent with assumptions and requirements of any applicable wasteload allocation(s) in TMDLs established or approved by EPA. If an MS4 discharges into a water body with an approved or established TMDL, then the Stormwater Management Program must include BMPs specifically targeted to achieve the wasteload allocations prescribed by the TMDL. The SWMP must include a schedule for installation of such BMPs. A monitoring component to assess the effectiveness of the BMPs in achieving the wasteload allocations must also be included in the SWMP. Monitoring can entail a number of activities including but not limited to: outfall monitoring , in-stream monitoring or modeling. Monitoring requirements are further described in part 5 of this permit.

Not later than 6 months following the TMDL adoption, the SWMP shall be revised to meet the implementation of waste load allocations (WLA) as specified in the TMDL. If the source of the impairment has been determined, management measures specific for reducing pollutant of concern from that specified source shall be included.

3.1.2. Retrofit Plan Requirements in EPA-Approved or Established TMDLs

Where TMDL implementation plans require MS4s to retrofit existing developed sites that are impacting water quality, the retrofit plan must be developed within the timeframes established by the TMDL and must emphasize controls that infiltrate, evapotranspire, or harvest and use stormwater discharges. The plan must include:

a) An inventory of potential retrofit locations, which considers, at a minimum:

- Locations that contribute pollutants of concern to an impaired waterbody
- Locations that contribute to receiving waters that are significantly eroded
- Locations that are tributary to a sensitive ecosystem or protected area
- Locations that are tributary to areas prone to flooding

b) An evaluation and ranking of the inventoried locations to prioritize retrofitting which includes, at a minimum:

- Feasibility
- Cost effectiveness
- Pollutant removal effectiveness
- Impervious area potentially treated
- Maintenance requirements
- Landowner cooperation
- Neighborhood acceptance
- Aesthetic qualities, and
- Efficacy at addressing concern.

3.1.3. Discharges to Impaired Waterbodies without EPA-Approved TMDLs

MS4s that have discharges containing pollutants of concern into a receiving water which has been listed on the Section 303(d) list of impaired waters must document in the SWMP how the BMPs will control the discharge of the pollutants of concern, and must demonstrate that the discharge will not cause or contribute to an impairment. A monitoring component to assess the effectiveness of the BMPs in controlling the discharge of pollutants of concern must also be included in the SWMP. Monitoring can entail a number of activities including but not limited to: outfall monitoring , in-stream monitoring or modeling. Monitoring requirements are further described in part 5 of this permit.

3.2. Protection of State or Federally Listed Species

The MS4 must evaluate annually whether or not stormwater discharges, allowable non-stormwater discharges and discharge-related activities are likely to jeopardize the continued existence of any state or federally listed species or result in the adverse modification or destruction of habitat that is designated as critical under the ESA (critical habitat). To obtain lists by county and watershed for state and federally listed species reference the Department of Environment and Conservation, Division of Natural Areas (DNA) website at http://state.tn.us/environment/na/data.shtml. Also reference the Fish and Wildlife Service lists at http://endangered.fws.gov/wildlife.html#Species. The MS4 shall keep documentation of the evaluations and decisions reached through the evaluation. The MS4 must include this determination in an annual report.

3.2.1. Evaluation Procedure

The MS4 must use the most recent Rare Species County and Watershed Lists (http://state.tn.us/environment/na/data.shtml) available from TDEC's Division of Natural Areas and then follow the process described below to determine whether or not your discharges and/or discharge-related activities are likely to jeopardize the continued existence of any state or federally listed species or result in the adverse modification or destruction of habitat that is designated as critical under the ESA. The MS4 must meet one or more of the criteria A through C listed below for the entire term of coverage under the permit.

Criterion A: No state or federally listed species or critical habitat are in proximity to your MS4 or the point where authorized discharges reach the receiving water; or

Criterion B: The MS4 has evaluated the effects of its stormwater discharges, allowable non-stormwater discharges and discharge-related activities on state and federally listed species and critical habitat and do not have reason to believe the discharge and/or discharge-related activities will jeopardize the continued existence of any state or federally listed species or result in the adverse modification or destruction of critical habitat.

Such evaluation of the effects of your stormwater discharges on federally listed species may include authorizations and determinations made through consultation with the US Fish and Wildlife Service under Sections 7 and 10 of the ESA; however, the MS4 must still evaluate effects on state listed species as well and coordinate accordingly with the TWRA.

Criterion C: Stormwater discharges, allowable non-stormwater discharges and/or discharge-related activities from the MS4 were already addressed in another operator's certification of eligibility included with the MS4's activities. By certifying eligibility, the MS4 agrees to comply with any measures or controls upon which the operator's certification was based.

The division may require any permittee or applicant to provide documentation of the their determination of eligibility for this permit where TDEC, TWRA, EPA or the US Fish and Wildlife Service, or other regulatory agency otherwise determines that there is a potential impact on a state or federally listed species or a critical habitat.

3.3. Co-permittees and Coordinated Programs

3.3.1. Co-permittees

The MS4 may be covered under this general permit as a co-permittee with one or more other, neighboring MS4s. Co-permittees may submit an NOI at anytime during the term of this permit.

In order to be permitted as co-permittees, the original permittee and the other MS4(s) must submit an NOI with a set of BMPs for all co-permittees. Responsible officials of each participating MS4 must sign a single NOI. If measurable goals and implementation milestones vary, each co-permittee must submit its own appendix to the NOI, "BMP Measurable Goals and Implementation Milestones." The description of MS4's Stormwater Management Program must clearly describe which permittees are responsible for implementing each of the control measures.

Each co-permittee is individually liable for:

a. Permit compliance for discharges within its legal jurisdiction,

b. Ensuring that the six minimum measures are implemented for portions of the MS4 where it is the operator and in areas within its legal jurisdiction; and

c. If any permit conditions are established for specific portions of the MS4, co-permittees need only comply with the permit conditions relating to those portions of the MS4 for which they are the operator.

Each co-permittee is jointly liable for compliance with annual reporting requirements in sub-part 5.4, except that a co-permittee is individually liable for any parts of the annual report that relate exclusively to portions of the MS4 where it is the operator.

Specific co-permittees are jointly liable for permit compliance on portions of the MS4 as follows:

a. Where operational or Stormwater Management Program implementation authority over portions of the MS4 has been transferred from one co-permittee to another in accordance with legally binding interagency agreements, both the owner and operator may be jointly liable for permit compliance on those portions of the MS4; and

b. Where one or more co-permittees jointly own or operate a portion of the MS4, each owner/operator is jointly liable for compliance with permit conditions on the shared portion of the MS4.

3.3.2. Coordinated Programs

Implementation of one or more of the minimum measures described in sub-part 4.2 may be shared with another entity, or the entity may fully take over the measure. The MS4 may rely on another entity only if:

a. The particular control measure, or component of that measure, is at least as stringent as the corresponding permit requirement.

b. The other entity agrees to implement the control measure on the MS4's behalf. Written acceptance of this obligation is required. This obligation must be maintained as part of the description of the Stormwater Management Program. If the other entity agrees to report on the minimum measure, the MS4 must supply the other entity with the reporting requirements contained in sub-part 5.4 of this permit. If the other entity fails to implement the control measure on your behalf, then the MS4 remains liable for any discharges due to that failure to implement.

4. STORMWATER MANAGEMENT PROGRAM

4.1. Requirements

The MS4 must develop, implement, and enforce a Stormwater Management Program designed to reduce the discharge of pollutants from the MS4 to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act. The Stormwater Management Program shall include management practices; control techniques, system design

and engineering methods; and such other provisions as the division determines appropriate for the control of pollutants of concern. The MS4 must also document all the elements of the Stormwater Management Program in a stormwater management plan (SWMP). The SWMP shall be compiled within the first year of the permit cycle and submitted as an attachment to the first annual report. The SWMP must include the following information for each of the six minimum control measures described in sub-part 4.2 of this permit:

a. The best management practices (BMPs), programs and processes that the MS4 or another entity will implement for each of the stormwater minimum control measures;

b. The measurable goals for each of the BMPs including, as appropriate, the months and years in which the MS4 will undertake required actions, including interim milestones and the frequency of the action; and

c. The person or persons responsible for implementing or coordinating the BMPs for the SWMP.

d. Pollutant control efforts for all municipal-operated facilities that maintain or store motorized equipment, oils, or other hazardous materials;

e. All inspection and monitoring programs shall be described in detail in the SWMP.

4.1.1. Newly Permitted MS4s

MS4s who have not been previously covered under an MS4 permit must develop and fully implement the program in five years from the permit issuance date except for the following requirements:

Permit requirement	**Description**	**Implementation date**
4.2.4 a	Ordinance or other regulatory mechanism for construction site runoff control program.	Within 18 months following the reissuance of the Construction General Permit.
4.2.3	Ordinance prohibiting illicit discharges.	Within 18 months of coverage under this permit.
4.2.4	All components of construction site runoff control program, including plans review and inspections and staff training.	Within 24 months of coverage under this permit (12 months for inventory of all active public and private construction sites)
4.2.5	Ordinance or other regulatory mechanism for permanent stormwater management including green infrastructure BMPs.	Within 48 months of coverage under this permit.
4.2.5.6	Inventory and Tracking of Best Management Practices	Within 180 days of coverage under this permit

4.1.2. Previously Permitted MS4s

Renewing MS4s shall have all permit elements in place except for the following requirements:

Permit requirement	Description	Implementation date
4.2.4 a	Modifications to ordinance or other regulatory mechanism for construction site runoff control program consistent with requirements of current NPDES general permit for construction stormwater runoff.	Within 18 months following the reissuance of the Construction General Permit.
4.2.4	All updates to construction site runoff control program.	Within 24 months of coverage under this permit
4.2.5.6	Inventory and Tracking of Best Management Practices	Within 180 days of coverage under this permit
4.2.5	Revisions to ordinances or other regulatory mechanisms for permanent stormwater management to accommodate green infrastructure BMPs.	Within 48 months of coverage under this permit

4.2. Minimum Control Measures

The Stormwater Management Program is made up of the following minimum control measures:

4.2.1. Public Education and Outreach

MS4s shall implement a public education and outreach program. The focus of the program shall be on impacts of stormwater discharges to water bodies and the steps that the public (along with commercial, industrial, or institutional entities) can take to reduce pollutants in stormwater runoff. The program must target specific pollutants and sources that may cause or contribute to impairment. For example, in certain areas known as hot spots, the MS4 must focus education and outreach on those particular pollutants of concern. Some educational programs can lend themselves to water quality improvements. Permittees are encouraged to pursue those programs and document related or expected water quality improvements.

By the end of the first year of permit coverage, the permittee shall develop a Public Information and Education Plan (PIE) that details specific goals and specific public information events/activities that will occur over the remainder of the permit cycle. The PIE shall incorporate components from outreach campaigns and one on one communications and shall incorporate a mode to evaluate the plan's effectiveness so adjustments can be made (if necessary) The PIE shall also include targeted educational campaigns addressing the following issues:

a. General public awareness on the impacts on water quality from general housekeeping maintenance/activities.

b. Home owner associations and other operators of permanent BMPs awareness of the importance of maintenance activities
c. Local engineering and development community awareness of the stormwater ordinances, regulations, and guidance materials related to long-term water quality impacts.
d. General public and professional chemical applicators awareness on the proper storage, use, and disposal of pesticides, herbicides, and fertilizers use.
e. General public and professional chemical applicators awareness on the proper storage, use, and disposal of oil and other automotive-related fluids.
f. General public and municipal employees on the awareness of identifying and reporting procedures for illicit connections/discharges, sanitary sewer seepage, spills, etc.
g. Local engineering, development, and construction community awareness of stormwater ordinances, regulations and guidance materials related to construction phase water quality impacts; and
h. Municipal employee/contractor awareness of water quality impacts from daily operations

MS4s shall track and maintain records of public education and outreach activities. A summary of this information shall be included in the annual report.

4.2.2. Public Involvement/Participation

MS4s shall implement a public involvement/participation program. Such program shall comply with all applicable state and local public notice requirements. Elements of the program may include participation in local stormwater management work groups, public notices of MS4 meetings and public hearings, recruiting education volunteers, and involving the public with program coordination, detection of illicit discharges and monitoring efforts. The program shall encourage and promote citizen reporting of illegal spillage, dumping, or otherwise illicit disposal of materials into the MS4 system.

MS4s shall publicize program participation opportunities by methods designed to reach the intended audience.

MS4s shall facilitate opportunities for citizen involvement through activities such as creating a citizens' stormwater advisory council, volunteer stream monitoring programs, storm drain marking, riparian plantings or stream clean-up events.

MS4s shall develop, continue to develop and implement a method of advertising the public involvement opportunities listed above. Newly designated MS4s shall have this advertising method implemented within 180 days of coverage under this permit. Currently permitted MS4s shall develop and implement the advertising method within 30 days of coverage under this permit. The MS4 may develop a website that includes information that will inform stakeholders of actions that will result in behavior changes that will improve water quality, provide a press release or advertisement of activities to local cable networks, radio stations and/or newspapers, or other alternate method that provides an effective equivalent.

MS4s shall track and maintain records of public involvement and participation activities. A summary of this information shall be included in the annual report.

4.2.3. Illicit Discharge Detection and Elimination

MS4s shall develop, continue to develop, implement and enforce an illicit discharge detection and elimination program. Newly designated MS4s shall have this program implemented within 18 months of coverage under this permit. Currently permitted MS4s shall continue to implement existing illicit discharge detection and elimination program.

New MS4s must develop, and existing MS4s must continue to develop, update and maintain, a storm sewer system map that shows the location of all outfalls where the municipal storm sewer system discharges into waters of the state or conveyances owned or operated by another MS4. The map must also show:

- the names and location of all waters of the state that receive discharges from those outfalls;
- inputs into the storm sewer collection system, such as the inlets, catch basins, drop structures or other defined contributing points to the sewershed of that outfall;
- general direction of stormwater flow.

To the extent allowable under state or local law, MS4s shall effectively prohibit, through ordinance, or other regulatory mechanism, non-stormwater discharges into the storm sewer system and implement an appropriate Enforcement Response Plan (ERP). The ERP must be developed within 18 months of coverage under this permit.

Develop and implement a plan to detect, identify and eliminate non-stormwater discharges, including illegal disposal, to your system. The permittee shall develop and implement standard procedures to be followed to investigate portions of the MS4 that, based on the results of the field screening or other identification programs, indicate a reasonable potential of containing illicit discharges or other sources of non-storm water. Investigations, and results of all non-stormwater discharge investigations, including locations, times, parameters and sampling results, discovered sources of flows, etc. shall be documented.

Inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste.

Address the following categories of non-stormwater discharges or flows as illicit discharges only if the MS4 identifies them as significant contributors of pollutants to your MS4: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, 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, and street wash water (discharges or flows from fire fighting activities are excluded from the effective prohibition against non-stormwater and need only be addressed where they are identified as significant sources of pollutants to waters of the state).

The MS4 must be able, by ordinance or other regulatory mechanism, to prohibit contamination of stormwater runoff from hot spots. The ordinance must allow for the maximum penalties per day for each day of violation as specified in TCA 68-221-1106.

The MS4 shall develop a mechanism for the public to report (e.g. via hotline or website), suspected illicit discharges. The MS4 shall specify within the ERP the timeframe for

complaint investigation. Documented illicit discharges shall be responded to no more than 7 days from detection, and eliminated as soon as possible.

The MS4 shall foster interagency coordination of hazardous waste or material spills response and cleanup. The MS4 shall inform local spill-response agencies and/or TEMA (Tennessee Emergency Management Agency) of the potential negative impacts to surface water (and ground water) of spill clean-up activities, that is, the potential for the response to cause pollutants to enter waters of the state. If a set of guidelines and procedures is not already in place, the MS4 should initiate a cooperative effort to develop a set of guidelines and procedures that local responders will follow to minimize damaging effects that spill response activities might have on water resources.

4.2.4. Construction Site Stormwater Runoff Control

MS4s shall develop, continue to develop, implement and enforce a construction site stormwater runoff control program. Newly designated MS4s shall have this program implemented within 24 months of coverage under this permit. Currently permitted MS4s shall continue to implement existing construction site stormwater runoff control program and must have any updates to the program completed within 24 months of coverage under this permit. The program must address pollutants in stormwater runoff from construction activities that result in a land disturbance of equal to or greater than one acre. Reduction of pollutants discharged from construction activity disturbing less than one acre must be included in your program if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more. Your program must include the development and implementation of, at a minimum:

a. An ordinance or other regulatory mechanism to require erosion prevention and sediment controls, as well as sanctions to ensure compliance: For newly designated MS4s, this regulatory mechanism must be in place within 18 months of coverage under this permit. The ordinance must allow for the maximum penalties per day for each day of violation as specified in TCA 68-221-1106. Modifications to ordinances or other regulatory mechanisms for construction site runoff control program to be consistent with requirements of the current NPDES general permit for construction stormwater runoff must be implemented within 18 months of coverage under this permit.

b. Requirements for construction site operators to implement appropriate erosion prevention and sediment control best management practices: The MS4's EPSC requirements shall be consistent with those described in the TDEC EPSC Handbook.

c. The MS4's requirements for design storm and special conditions for impaired waters or exceptional Tennessee waters must be consistent with those of the current effective Tennessee Construction General Permit (TNR100000).

d. The MS4 must develop and maintain an inventory of all active public and private construction sites that result in a total land disturbance as defined in section 4.2.4. For existing MS4s, the inventory must be completed within 12 months of coverage under this permit and must be updated as new projects are permitted and projects are completed. For new MS4s, the inventory must be completed with 24 months of coverage and must be updated as noted above for existing MS4s. The inventory must contain relevant contact information for each project (e.g., tracking number, name,

address, phone, etc.), the size of the project and area of disturbance, whether the project has submitted for permit coverage under the Tennessee Construction General Permit (TNR100000) and the date the MS4 approved the construction site plan. The MS4 must make this inventory available to TDEC upon request.

e. Requirements for construction site operators to control waste materials: The MS4 must require that operators control wastes such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site to avoid adverse impacts to water quality.

f. Specific procedures for construction site plan (including erosion prevention and sediment controls) review and approval: The MS4 procedures must include an evaluation of plan completeness and overall BMP effectiveness.

g. Procedures for managing public input on projects: The MS4 must have mechanisms for public access to information on projects and receiving and considering comments from the public on those projects. It is recommended that the MS4 uses the world wide web for facilitating public involvement.

h. Procedures for site inspection and enforcement: The MS4 must have procedures in place for its inspectors to evaluate construction site compliance. The ERP must include specific enforcement steps to ensure construction sites are in compliance with the MS4's program.

i. MS4 staff training: Inspectors must maintain certification under the Tennessee Fundamentals of Erosion Prevention and Sediment Control, Level 1 (or equivalent). Construction site plan reviewers must receive a certificate of completion from the Tennessee Erosion Prevention and Sediment Control Design Course, Level 2. It is recommended that MS4 staff receive training under both courses.

j. The MS4 program must provide for the following:

- Identification of priority construction activity;
- Pre-construction meetings with construction-site operators for priority construction activity; and
- Inspections by the MS4 of priority construction sites at least once per month.

4.2.5. Permanent Stormwater Management in New Development and Redevelopment

4.2.5.1 Permit requirements

Develop, implement, and enforce a program to address permanent (post-construction) stormwater runoff management from new development and redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale, that discharge into your small MS4. Your program must ensure that controls are in place that would prevent or minimize water quality impacts.

Develop and implement strategies which include a combination of structural and/or non-structural best management practices (BMPs) appropriate for your community.

Develop and implement a set of requirements to establish, protect and maintain a permanent water quality buffer along all waters of the state at new development and redevelopment projects.

Use an ordinance or other regulatory mechanism to address permanent runoff from new development and redevelopment projects to the extent allowable under state or local law. Your ordinance must allow for the maximum penalties per day for each day of violation as specified in TCA 68-221-1106.

4.2.5.2 Performance Standards

The MS4 must implement and enforce permanent stormwater controls that are comprised of runoff reduction and pollutant removal. The permittee must require that stormwater discharges from new development and redevelopment sites be managed such that post-development hydrology does not exceed the pre-development hydrology at the site, in accordance with the performance standards contained in this section. Runoff reduction is the preferred control practice as it can achieve both volume control and pollutant removal.

If runoff reduction and/or pollutant removal cannot be fully accomplished on-site per 4.2.5.2.1 and 4.2.5.2.2, then the MS4 may propose off-site mitigation and/or payment into a fund for public stormwater projects. The MS4 must develop and apply criteria for determining the circumstances under which these alternatives will be available. A determination that standards cannot be met on site may not be based solely on the difficulty or cost of implementing measures, but must include multiple criteria that would rule out an adequate combination of infiltration, evapotranspiration and reuse such as: lack of available area to create the necessary infiltrative capacity; a site use that is inconsistent with capture and reuse of stormwater; physical conditions that preclude use of these practices.

4.2.5.2.1 Runoff Reduction (green infrastructure)

Site design standards for all new and redevelopment require, in combination or alone, management measures that are designed, built and maintained to infiltrate, evapotranspire, harvest and/or use, at a minimum, the first inch of every rainfall event preceded by 72 hours of no measurable precipitation. This first inch of rainfall must be 100% managed with no storm water runoff being discharged to surface waters. For all new and redevelopment on private property, the MS4 may opt to have controls installed on that private property, in the public right-of-way, or a combination of both.

Limitations to the application of runoff reduction requirements include, but are not limited to:

- Where a potential for introducing pollutants into the groundwater exists, unless pretreatment is provided;
- Where pre-existing soil contamination is present in areas subject to contact with infiltrated runoff;
- Presence of sinkholes or other karst features.

Pre-development infiltrative capacity of soils at the site must be taken into account in selection of runoff reduction management measures.

The MS4 may develop a program to allow for incentive standards for redeveloped sites. The MS4 may provide a 10% reduction in the volume of rainfall to be managed for any of the

following types of development. Such credits are additive such that a maximum reduction of 50% of the standard in the paragraph above is possible for a project that meets all 5 criteria:

- Redevelopment;
- Brownfield redevelopment;
- High density (>7 units per acre);
- Vertical Density, (Floor to Area Ratio (FAR) of 2 or >18 units per acre); and
- Mixed use and Transit Oriented Development (within ½ mile of transit).

4.2.5.2.2 Pollutant Removal

For projects that cannot meet 100% of the runoff reduction requirement unless subject to the incentive standards, the remainder of the stipulated amount of rainfall must be treated prior to discharge with a technology reasonably expected to remove 80% total suspended solids (TSS). The treatment technology must be designed, installed and maintained to continue to meet this performance standard.

4.2.5.2.3 Off-site mitigation

For projects that cannot meet 100% of the runoff reduction requirements, the MS4 may allow runoff reduction measures to be implemented at another location within the same USGS 12-digit hydrologic unit code (HUC) as the original project. Off-site mitigation must be a minimum of 1.5 times the amount of water not managed on site. The off-site mitigation location (or alternative location outside the 12-digit HUC) and runoff reduction measures must be approved by the MS4. The MS4 shall identify priority areas within the watershed in which mitigation projects can be completed. The MS4 must create an inventory of appropriate mitigation projects, and develop appropriate institutional standards and management systems to value, evaluate and track transactions. Mitigation can be used for retrofit or redevelopment projects, but should be avoided in areas of new development.

4.2.5.2.4 Payment into Public Stormwater Project Fund

For projects that cannot meet 100% of the runoff reduction and pollutant removal standards, and cannot provide for off-site mitigation, the MS4 may allow the owner to make payment in a public stormwater project fund established by the MS4. Payment into a public stormwater fund must be at a minimum 1.5 times the estimated cost of on-site runoff reduction controls.

4.2.5.3 Codes and Ordinances Review and Update

Within one year of obtaining permit coverage, the permittee shall review local codes and ordinances using the EPA Water Quality Scorecard (the scorecard). A completed copy of the scorecard shall be submitted with the subsequent annual report.

Newly designated and currently permitted MS4s shall update codes and ordinances, if necessary, within 4 years of coverage under this permit. Currently permitted MS4s shall continue to implement existing permanent Stormwater Management Program until codes and ordinances review and update is completed.

The permittee should consider making revisions to policies, codes and ordinances that will achieve "the greatest improved protection of receiving waters." The permittee shall review

and change, where necessary, building codes or other local regulations, such as covenants, codes, ordinances, and restrictions. For example, green roofs; infiltration approaches such as rain gardens, curb extensions, planter gardens, permeable and porous pavements; water harvesting devices such as rain barrels and cisterns; and downspout disconnection, are fundamental infiltration, evapotranspiration and capture and use measures. The permittee shall ensure that a reasonable suite of these types of practices is implemented, and encourage use of new options. If the permittee decides to significantly limit the number of options, they must justify this limitation by demonstrating that the performance standard can be met with the limited set of management measures allowed.

4.2.5.4 Development Project Plan Review, Approval and Enforcement

The permittee shall develop project review, approval and enforcement procedures. The review, approval and enforcement procedures shall apply at a minimum to all projects requiring a construction general permit. The procedures shall be detailed in the Enforcement Response Plan (sub-part 4.5) developed by each MS4, and shall include:

a. procedures for development site plan review and approval that include inter-departmental consultations, and a re-submittal process when an owner requests changes to an approved stormwater management plan;

b. the site plan review must specifically address how the project applicant meets the performance standards in paragraph 4.2.5.2 above and how the project will ensure long-term maintenance as required in paragraph 4.2.5.5 below;

c. a verification process to ensure that permanent stormwater BMPs have been installed per design specifications, that includes enforceable procedures for bringing noncompliant projects into compliance.

4.2.5.5 BMP Maintenance

All stormwater BMPs, including BMPs used at mitigation projects, installed and implemented to meet the performance standards of sub-section 4.2.5.2 must be maintained in perpetuity. The MS4 must ensure the long-term maintenance of these stormwater BMPs through a local ordinance or other enforceable policy.

The MS4 must require the owner or operator of any site subject to the performance standards in Paragraph 4.2.5.2 to develop and implement a maintenance agreement (or an equivalent document ensuring compliance with this sub-section) addressing maintenance requirements for any BMPs, including off-site mitigation. The agreement must allow the MS4, or its designee, to conduct inspections of the stormwater BMPs and also account for transfer of responsibility in leases and/or deeds. When inadequacies are discovered, the MS4 shall promptly notify the BMP owner or operator of any deficiencies. The BMP owner must initiate corrective action within 30 days of the notice.

The agreement must also allow the MS4, or its designee, to perform necessary maintenance or corrective actions neglected by the property owner/operator, and bill or recoup costs from the property owner/operator when the owner/operator has not performed the necessary maintenance within 30 days of notification by the MS4 or its designee. The MS4 must conduct subsequent inspection (or obtain sufficient written and photographic evidence) to ensure completion of all required repairs.

Where practices are on public property or within public rights-of way the MS4 must document, e.g., with photos, maintenance logs, contractor invoices, and in the tracking system, that appropriate maintenance and/or repairs have been completed.

4.2.5.5.1 Verification of maintenance responsibilities

The MS4 must require that property owners or operators of any sites subject to the performance standards in Paragraph 4.2.5.2 provide verification of maintenance for the approved stormwater BMPs used to comply with the performance standards. Verification maintenance by BMP owners must be required either by the municipal ordinance regulation and enforcement or contractual agreement (whichever is most appropriate for the jurisdiction) or must include one or more of the following as applicable:

a. The owner/operator's signed statement accepting responsibility for maintenance with a provision for transferring maintenance responsibility if the property is legally transferred to another party; and/or

b. Written conditions in the sales or lease agreement that require the recipient to assume responsibility for maintenance; and/or

c. Written project conditions, covenants and restrictions for residential properties assigning maintenance responsibilities to a home owner’s association, or other appropriate group, for maintenance of runoff reduction and pollutant reduction stormwater BMPs; and/or

d. Any other legally enforceable agreement that assigns permanent responsibility for maintenance of runoff reduction and pollutant reduction stormwater BMPs, including, but not limited to a BMP permit tracking system developed by the MS4 authority.

4.2.5.6 Inventory and Tracking of Management Practices

The MS4 shall develop a system, or modify an existing system as necessary, within 180 days of issuance of this permit, designed to track BMPs deployed at new development and redevelopment projects. The division recommends for tracking of BMPs to begin during the plan review and approval process with a database or electronic geographic information system (GIS). The database or tracking system shall include information on both public and private projects that are within the jurisdiction of the MS4. In addition to the standard information collected for all projects (such as project name, owner, location, start/end date, etc.), the tracking system shall also include:

a. Short description of each stormwater BMPs (type, number, design or performance specifications);

b. Latitude and longitude coordinates of controls;

c. Maintenance requirements (frequency of required maintenance and inspections) and

d. Inspection information (date, findings, follow up activities, prioritization of follow-up activities, compliance status).

4.2.5.7 Owner/Operator Inspections

In order to ensure that all stormwater BMPs are operating correctly and are properly maintained, the MS4 shall, at a minimum, require owners or operators of stormwater management practices to:

a. Perform routine inspections to ensure that the BMPs are properly functioning. These inspections shall be conducted on an annual basis, at a minimum. These inspections shall be conducted by a person familiar with control measures implemented at a site. Owners or operators shall maintain documentation of these inspections.

b. Perform comprehensive inspections of all stormwater management facilities and practices. These inspections shall be conducted once every five years, at a minimum. Such inspections must be conducted by either a professional engineer or landscape architect. Complete inspection reports for these five year inspections shall include:

- Facility type,
- Inspection date,
- Latitude and longitude and nearest street address,
- BMP owner information (e.g. name, address, phone number, fax, and email),
- A description of BMP condition including: vegetation and soils; inlet and outlet channels and structures; embankments, slopes, and safety benches; spillways, weirs, and other control structures; and any sediment and debris accumulation,
- Photographic documentation of BMPs, and
- Specific maintenance items or violations that need to be corrected by the BMP owner along with deadlines and reinspection dates.

Owners or operators shall maintain documentation of these inspections. The MS4 may require submittal of this documentation.

4.2.6. Pollution Prevention/Good Housekeeping for Municipal Operations

The MS4 must develop and implement an operation and maintenance program that has the ultimate goal of preventing or reducing pollutant runoff from municipal operations.

The program must include employee training to prevent and reduce stormwater pollution from activities such as park and open space maintenance, fleet and building maintenance, new construction and land disturbances, and stormwater system maintenance.

The MS4 must consider the following in developing the program: maintenance activities, maintenance schedules, and long-term inspection procedures for structural and non-structural stormwater controls to reduce floatable and other pollutants discharged from the MS4's separate storm sewers; controls for reducing or eliminating the discharge of pollutants from streets, roads, highways, municipal parking lots, maintenance and storage yards, fleet or maintenance shops with outdoor storage areas, salt/sand storage locations and snow disposal areas operated by the MS4, and waste transfer stations; procedures for properly disposing of waste removed from the separate storm sewers and areas listed above (such as dredge spoil, accumulated sediments, floatable, and other debris); and ways to ensure that new flood management projects assess the impacts on water quality and examine existing projects for

incorporating additional water quality protection devices or practices. Operation and maintenance must be an integral component of all Stormwater Management Programs.

4.3. Qualifying Tribe, State or Local Program (QLP)

A Qualifying Local Program (QLP) is an MS4 Stormwater Management Program that has been formally approved by the division as having met QLP minimum program requirements related to stormwater discharges associated with construction activity. If a construction activity is within the jurisdiction of and has obtained a notice of coverage from a QLP, the operator of the construction activity is authorized to discharge stormwater associated with construction activity under General NPDES Permit for Discharges of Stormwater Associated with Construction Activities Permit without submittal of an NOI to the division. Additional information, including QLP minimum requirements and application procedures, can be obtained from your local EFO or TDEC's stormwater program website.

4.4. Reviewing and Updating Stormwater Management Programs

4.4.1. Stormwater Management Program Review

The MS4 must do an annual review of the Stormwater Management Program during preparation of the annual report required under sub-part 5.4. Any changes to the Stormwater Management Program should be reported as required in the annual report form.

4.4.2. Stormwater Management Program Update

The MS4 may change the Stormwater Management Program during the life of the permit in accordance with the following procedures:

a. Changes adding (but not subtracting or replacing) components, controls, or requirements to the Stormwater Management Program may be made at any time. Reporting of such changes must be made in accordance with sub-part 6.18.

b. Changes replacing an ineffective or unfeasible BMP specifically identified in the Stormwater Management Program with an alternate BMP may be adopted at any time, provided the MS4 can justify the change by:

- Analyzing why the BMP is ineffective or infeasible (including cost prohibitive),
- Analyzing why the replacement BMP is expected to achieve the goals of the BMP to be replaced, or has achieved those goals.

4.4.3. Stormwater Management Program Updates Required by the Division

The division may require changes to the Stormwater Management Program as needed to:

a. Address impacts on receiving water quality caused, or contributed to, by discharges from the MS4;

b. Include more stringent requirements necessary to comply with new federal statutory or regulatory requirements; or

c. Include such other conditions deemed necessary by the division to comply with the goals and requirements of the Clean Water Act.

Changes requested by the division must be made in writing to the MS4, set forth the time schedule for the MS4 to develop the changes, and offer the opportunity to propose alternative program changes to meet the objective of the requested modification. All changes required by the division will be made in accordance with 40 CFR §124.5, 40 CFR §122.62, or as appropriate 40 CFR §122.63.

4.4.4. Transfer of Ownership, Operational Authority, or Responsibility

The MS4 must implement the Stormwater Management Program in all new areas added to the MS4 as expeditiously as practicable, but not later than one year from addition of the new areas. Implementation may be accomplished in a phased manner to allow additional time for controls that cannot be implemented immediately.

Within 90 days of a transfer of ownership, operational authority, or responsibility for Stormwater Management Program implementation, the MS4 must have a plan for implementing the Stormwater Management Program in all newly added areas. The plan may include schedules for implementation. Information on all new annexed areas and any resulting updates required to the Stormwater Management Program must be included in the annual report.

4.5. Enforcement Response Plan

4.5.1. Development of Enforcement Response Plan

Within 18 months of permit effective date, the MS4 must develop and implement an enforcement response plan (ERP). The plan must set out the MS4's potential responses to violations and address repeat violations through progressive enforcement as needed to achieve compliance. The MS4 must have the legal ability to employ any combination of the enforcement actions below (or their functional equivalent), and to escalate enforcement responses where necessary to address persistent non-compliance, repeat or escalating violations, or incidents of major environmental harm. The ERP must describe how the MS4 will use each of the following types of enforcement responses:

a. Verbal Warnings –At a minimum, verbal warnings must specify the nature of the violation and required corrective action.

b. Written Notices – Written notices must stipulate the nature of the violation and the required corrective action, with deadlines for taking such action.

c. Citations with Administrative Penalties – The ERP must indicate when the MS4 will assess monetary penalties, which may include civil and administrative penalties.

d. Stop Work Orders – The MS4 must have the authority to issue stop work orders that require construction activities to be halted, except for those activities directed at cleaning up, abating discharge, and installing appropriate control measures.

e. Withholding of Plan Approvals or Other Authorizations – Where a facility is in non-compliance, the ERP must address how the MS4's own approval process affecting the facility's ability to discharge to the MS4 can be used to abate the violation.

f. Additional Measures – The MS4 may also use other escalated measures provided under local legal authorities. The MS4 may perform work necessary to improve erosion control measures and collect the funds from the responsible party in an appropriate manner, such as collecting against the project's bond or directly billing the responsible party to pay for work and materials.

4.5.2. NPDES Permit Referrals

For those construction projects or industrial facilities subject to the TNR100000 (the NPDES general permit for stormwater discharges from construction activity) or TNR050000 (the NPDES general permit for stormwater discharges from industrial activity), the MS4 must:

a. If the MS4 becomes aware that a construction activity, or an industrial stormwater discharge, exists and that the discharge must be permitted under an NPDES permit but is not so permitted, the MS4 must notify TDEC of this situation by supplying the following information to the local EFO:

- Construction project or industrial facility location;
- Name of owner or operator;
- Estimated construction project size or type of industrial activity (including SIC code if known);
- Records of communication with the owner or operator regarding filing requirements.

b. If the MS4 has not been able, through its enforcement mechanisms and protocol, to bring an NPDES-permitted discharge into compliance with the MS4s stormwater- and water pollution-related ordinances, then the MS4 must notify TDEC, at the local EFO, of this situation. In making such referrals, the MS4 must provide, at a minimum, the following:

- Construction project or industrial facility location;
- Name of owner or operator;
- Estimated construction project size or type of industrial activity (including SIC code if known);
- Records of communication with the owner or operator regarding the violation, including at least two follow-up inspections, two warning letters or notices of violation, and any response from the owner or operator.

4.5.3. Enforcement Tracking

The MS4 must track instances of non-compliance either in paper files or electronically. The enforcement case documentation must include, at a minimum, the following:

- Name of owner/operator;
- Location of construction project or industrial facility;
- Description of violation;

- Required schedule for returning to compliance;
- Description of enforcement response used, including escalated responses if repeat violations occur or violations are not resolved in a timely manner;
- Accompanying documentation of enforcement response (e.g., notices of noncompliance, notices of violations, etc.);
- Any referrals to different departments or agencies;
- Date violation was resolved.

4.5.4. Requirements for Chronic Violators

The MS4 must identify chronic violators of any Stormwater Management Program component and reduce the rate of noncompliance recidivism. The MS4 must track the violations, apply incentives and/or disincentives, and increase the inspection frequency at the operator's sites. If corrective actions are not taken, the MS4 shall pursue progressive enforcement and, if need be, perform the necessary work and assess against the owner the costs incurred for repairs. Where BMPs are on public property or within public rights-of way the MS4 must document, e.g., with photos, maintenance logs, contractor invoices, and in the tracking system, that appropriate maintenance and/or repairs have been completed.

5. MONITORING, RECORDKEEPING, AND REPORTING

5.1. Analytical monitoring

The MS4 shall perform analytical monitoring as a part of its Stormwater Management Program, at a minimum, in streams with EPA approved TMDLs and impaired streams.

For stream segments identified as being impaired for siltation and/or habitat alteration, where discharges from the MS4 have been identified as a source of the impairment, biological stream sampling must be performed utilizing the Semi-Quantitative Single Habitat (SQSH) Method as identified in the division's Quality System Standard Operating Procedure for Macroinvertebrate Stream Survey, revised October 2006. At least one sample per stream segment must be collected, with all segments in the MS4 jurisdiction sampled in a five-year period.

For stream segments identified as being impaired for pathogens, where discharges from the MS4 have been identified as a source of the impairment, bacteriological stream sampling must be performed utilizing methods identified in the division's Quality System Standard Operating Procedure for Chemical and Bacteriological Sampling of Surface Water, revised December 2009. Sampling shall include the collection of five samples and corresponding flow measurements, within a thirty-day period (to establish a geometric mean), and be performed during summer (June through September). Bacteriological sampling must be performed such that all pathogen-impaired segments in the MS4 jurisdiction are sampled within a five-year period.

For stream segments subject to TMDLs for parameters other than siltation, habitat alteration or pathogens, where discharges from the MS4 have been identified as a source of the impairment, the MS4 shall perform analytical monitoring as prescribed in the TMDL.

When the MS4 conducts monitoring of stormwater discharges, or of receiving waters, the MS4 must comply with the following:

a. Representative monitoring. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

b. Test Procedures. Monitoring results must be conducted according to test procedures approved under 40 CFR §136.

Records of monitoring information shall include:

- The date, exact place indicated by latitude and longitude, and time of sampling or measurements;
- The names(s) of the individual(s) who performed the sampling or measurements;
- The date(s) analyses were performed;
- The names of the individuals who performed the analyses;
- The analytical techniques or methods used; and
- The results of such analyses.

5.2. Non-analytical monitoring

Where discharges from the MS4 have been identified as a source of the impairment, **Visual Stream Surveys and Impairment Inventories** must be performed on streams impaired for siltation, habitat alteration and pathogens in order to identify and prioritize MS4 stream impairment sources. It is strongly recommended that visual stream surveys be performed throughout the entire HUC-12 sub watershed of a stream segment identified as being impaired. At a minimum, a visual stream survey must be performed immediately upstream and downstream of each MS4 outfall that discharges into an impaired stream segment. The MS4 shall refer to existing survey protocols such as the ones available through the Environmental Protection Agency, Natural Resources Conservation Service and the State of Maryland Department of Natural Resources. MS4s have the flexibility to select or modify a protocol to complement the existing MS4 program. All impaired stream segments in the MS4 jurisdiction must be surveyed in a five-year period.

Records of non-analytical monitoring of stormwater discharges shall include:

- The date, exact place, and time of observation/monitoring;
- The names(s) of the individual(s) who performed the observation/monitoring;
- The date(s) of the observation/monitoring;
- A description of the protocol employed;
- Documentation of findings, including a prioritized written description, photographs and corrective action plan and timeline.

5.3. Record keeping

The MS4 must retain records of all monitoring information, including, all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, a copy of the NPDES permit, and records of all data used to complete the NOI for this permit, for a period of at least three years from the date of the sample, measurement, report or application, or for the term of this permit, whichever is longer. The division may extend this period with good cause.

The MS4 must submit records to the division only when specifically asked to do so or as required under sub-part 5.4. The MS4 must retain a copy of the stormwater management plan. A copy of this permit must be included as part of the plan. The stormwater management plan shall be kept in a location accessible to the division. The MS4 must make its records, including the NOI and the stormwater management plan, available to the public upon written request.

5.4. Reporting

The MS4 must submit an annual report to the appropriate EFO by September 30 of each calendar year that covers the previous fiscal year. The MS4 may fulfill this requirement by submitting the report via e-mail. Prior to submitting the annual report to the division, the MS4 must present the annual report at a public hearing for suggestions and comment. The annual report form is found in Appendix B.

6. STANDARD PERMIT CONDITIONS

6.1. Duty to Comply

You must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act (CWA) and/or the Tennessee Water Quality Control Act (TWQCA) and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

Penalties for Violations of Permit Conditions

Pursuant to T.C.A. § 69-3-115 of The Tennessee Water Quality Control Act of 1977, as amended:

a. Any person who violates an effluent standard or limitation or a water quality standard established under this part (T.C.A. § 69-3-101, et. seq.); violates the terms or conditions of this permit; fails to complete a filing requirement; fails to allow or perform an entry, inspection, monitoring or reporting requirement; violates a final determination or order of the board, panel or commissioner; or violates any other provision of this part or any rule or regulation promulgated by the board, is subject to a civil penalty of up to ten thousand dollars ($10,000) per day for each day during which the act or omission continues or occurs;

b. Any person unlawfully polluting the waters of the state or violating or failing, neglecting, or refusing to comply with any of the provisions of this part (T.C.A. § 69-

3-101, et. seq.) commits a Class C misdemeanor. Each day upon which such violation occurs constitutes a separate offense;

c. Any person who willfully and knowingly falsifies any records, information, plans, specifications, or other data required by the board or the commissioner, or who willfully and knowingly pollutes the waters of the state, or willfully fails, neglects or refuses to comply with any of the provisions of this part (T.C.A. § 69-3-101, et. seq.) commits a Class E felony and shall be punished by a fine of not more than twenty-five thousand dollars ($25,000) or incarceration, or both.

d. Nothing in this permit shall be construed to relieve the discharger from civil or criminal penalties for noncompliance. Notwithstanding this permit, the discharger shall remain liable for any damages sustained by the State of Tennessee, including but not limited to fish kills and losses of aquatic life and/or wildlife, as a result of the discharge of treated wastewater to any surface or subsurface waters. Additionally, notwithstanding this permit, it shall be the responsibility of the discharger to conduct its wastewater treatment and/or discharge activities in a manner such that public or private nuisances or health hazards will not be created. Furthermore, nothing in this permit shall be construed to preclude the State of Tennessee from any legal action or relieve the discharger from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or the Federal Water Pollution Control Act.

6.2. Continuation of the Expired General Permit

This permit expires on September 1, 2015. However, this permit will continue to be in force and effect until the new general permit is issued. You can choose, or may be required, to obtain an individual permit; in that case, you must submit a Notice of Intent at least 180 days prior to expiration of this general permit. Permittees who are eligible and choose to be covered by the new general permit must submit an NOI by the date specified in that general permit.

6.3. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for you in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

6.4. Duty to Mitigate

You must take all reasonable steps to minimize or prevent any discharge in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

6.5. Duty to Provide Information

You must furnish to the division, within a time specified by the division but in no case later than 30 days subsequent any such request, any information that the division may request to determine compliance with this permit, including any and all records required by the permit.

6.6. Other Information

If you become aware that you have failed to submit any relevant facts in your Notice of Intent or submitted incorrect information in the Notice of Intent or in any other report to the division, you must promptly submit such facts or information.

6.7. Signatory Requirements

All Notices of Intent, reports, certifications, or information submitted to the division, or that this permit requires be maintained by you shall be signed, dated and certified as follows:

6.7.1. Notices of Intent

All Notices of Intent shall be signed as follows:

For a corporation. By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:

(1) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or

(2) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

NOTE: The division does not require specific assignments or delegations of authority to responsible corporate officers. The division will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the director to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions rather than to specific individuals.
For a partnership or sole proprietorship. By a general partner or the proprietor, respectively; or

For a municipality, State, Federal, or other public agency. By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes: (i) The chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

6.7.2. Reports and other information

All reports required by the permit and other information requested by the division or authorized representative of the division shall be signed by a person described above or by a

duly authorized representative of that person. A person is a duly authorized representative only if:

6.7.2.1 Signed authorization

Person described in section 6.7.1 above must submitted written authorization for a specific position or individual to the division.

6.7.2.2 Authorization with specified responsibility

The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of manager, operator, superintendent, or position of equivalent responsibility for environmental matter for the regulated entity.

6.7.2.3 Changes to authorization

If an authorization is no longer accurate because a different operator has the responsibility for the overall operation of the MS4, a new authorization satisfying the requirement of 6.7.2.2 must be submitted to the division prior to or together with any reports, information, or notices of intent to be signed by an authorized representative.

6.7.3. Certification

Any person signing documents under sub-part 6.7 shall make the following certification:

> "*I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.*"

6.8. Property Rights

The issuance of this permit does not convey any property rights of any sort, or any exclusive privilege, nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

6.9. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related equipment) 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. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by a permittee only when necessary to achieve compliance with the conditions of the permit.

6.10. Inspection and Entry

You must allow the division or an authorized representative (including an authorized contractor acting as a representative of the division) upon the presentation of credentials and other documents as may be required by law, to do any of the following:

a. Enter your 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 or 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 purposes of assuring permit compliance or as otherwise authorized by the CWA, any substances or parameters at any location.

6.11. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. Your filing of a request for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

6.12. Permit Transfers

This permit is not transferable to any person except after notice to the division. The division may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Act.

6.13. Anticipated Noncompliance

You must give advance notice to the division of any planned changes in the permitted small MS4 or activity, which may result in noncompliance with this permit.

6.14. State Environmental Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable Tennessee law or regulation under authority preserved by the Section 510 of the Clean Water Act. No condition of this permit shall release the permittee from any responsibility or requirements under other environmental statutes or regulations.

6.15. Severability

The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application

of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.

6.16. Procedures for Modification or Revocation

Permit modification or revocation will be conducted according to 40 CFR §122.62, §122.63, §122.64 and §124.5.

Only those portions of the Stormwater Management Program specifically required as permit conditions shall be subject to the modification requirements of 40 CFR §124.5. Addition of components, controls, or requirements by the permittee(s) and replacement of an ineffective or infeasible BMP implementing a required component of the Stormwater Management Program with an alternate BMP expected to achieve the goals of the original BMP shall be considered minor changes to the Stormwater Management Program and not modifications to the permit.

6.17. Requiring an Individual Permit or an Alternative General Permit

6.17.1. Request by the Division

The division may require any person authorized by this permit to apply for and/or obtain either an individual NPDES permit or an alternative NPDES general permit. Any interested person may petition the division to take action under this paragraph. Where the division requires you to apply for an individual NPDES permit, the division will notify you in writing that a permit application is required. This notification shall include a brief statement of the reasons for this decision, an application form, a statement setting a deadline for you to file the application, and a statement that on the effective date of issuance or denial of the individual NPDES permit or the alternative general permit as it applies to the individual permittee, coverage under this general permit shall automatically terminate. Applications must be submitted to the appropriate Environmental Field Office (see 1.2 above). The division may grant additional time to submit the application upon request of the applicant. If you fail to submit in a timely manner an individual NPDES permit application as required by the division under this paragraph, then the applicability of this permit to you is automatically terminated at the end of the day specified by the division for application submittal.

6.17.2. Request by permittee

Any discharger authorized by this permit may request to be excluded from the coverage of this permit by applying for an individual permit. In such cases, you must submit an individual application in accordance with the requirements of 40 CFR §122.33(b)(2), with reasons supporting the request, to the division at the address for the appropriate Environmental Field Office (see 1.2). The request may be granted by issuance of any individual permit or an alternative general permit if the reasons cited by you are adequate to support the request.

6.17.3. General permit termination

When an individual NPDES permit is issued to a discharger otherwise subject to this permit, or you are authorized to discharge under an alternative NPDES general permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the effective date of the individual permit or the date of authorization of coverage under the alternative general permit, whichever the case may be. When an individual NPDES permit is

denied to an operator otherwise subject to this permit, or the operator is denied for coverage under an alternative NPDES general permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the date of such denial, unless otherwise specified by the division.

6.18. Planned Changes

The permittee shall give notice to the director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

a. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b); or
b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under 40 CFR 122.42(a)(1).

7. DEFINITIONS

All definitions contained in Section 502 of the Act and 40 CFR §122 shall apply to this permit and are incorporated herein by reference. For convenience, simplified explanations of some regulatory/statutory definitions have been provided, but in the event of a conflict, the definition found in the Statute or Regulation takes precedence.

Analytical monitoring refers to monitoring of water bodies (streams, ponds, lakes, etc.) or of stormwater, according to 40 CFR 136 "Guidelines Establishing Test Procedures for the Analysis of Pollutants," or to state- or federally established protocols for biomonitoring or stream bioassessments.

Best Management Practices (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Brownfield means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

Co-permittees are operators who by mutual consent request joint and severed responsibility for coverage under this general permit.

Construction Site Operator for the purpose of this permit and in the context of stormwater associated with construction activity, means any person associated with a construction project that meets either of the following two criteria:

a) This person has operational or design control over construction plans and specifications, including the ability to make modifications to those plans and specifications. This person is typically the owner or developer of the project or a portion of the project, and is considered the primary permittee; or

b) This person has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a SWPPP for the site or other permit conditions. This person is typically a contractor or a commercial builder who is hired by the primary permittee, and is considered a secondary permittee.

It is anticipated that at different phases of a construction project, different types of parties may satisfy the definition of the "construction site operator."

Control Measure as used in this permit, refers to any Best Management Practice or other method used to prevent or reduce the discharge of pollutants to waters of the state.

CWA or The Act means Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub.L.92-500,as amended Pub.L.95-217, Pub.L.95-576, Pub.L.96-483 and Pub.L.97-117, 33 U.S.C.1251 et seq.

Director means the director of the Tennessee Division of Water Pollution Control, or an authorized representative.

Discharge, when used without a qualifier, refers to "discharge of a pollutant" as defined at 40 CFR §122.2.

Discharge-related activities include: activities which cause, contribute to, or result in stormwater point source pollutant discharges; and measures to control stormwater discharges, including the site, construction and operation of best management practices (BMPs) to control, reduce or prevent stormwater pollution.

Division means the Tennessee Department of Environment and Conservation, Division of Water Pollution Control.

Enforcement Response Plan (ERP) is a matrix of enforcement actions to be taken for noncompliance incidents. Permittees are required to include in their ordinance, or other regulatory mechanism, penalty provisions to ensure compliance with construction requirements, to require the removal of illicit discharges, and to address noncompliance with post-construction requirements. In complying with these requirements, EPA recommends the use of enforcement responses that vary with the type of permit violation, and escalate if violations are repeated or not corrected. The MS4 must develop and implement an enforcement response plan (ERP), which clearly describes the action to be taken for common violations associated with the construction program, or other Stormwater Management Program elements. A well-written ERP provides guidance to inspectors on the different enforcement responses available, actions to address general permit non-filers, when and how to refer violators to the state, and how to track enforcement actions.

Exceptional Tennessee Waters are surface waters of the State of Tennessee that satisfy the characteristics as listed in Rule 1200-4-3-.06 of the official compilation - rules and regulations of the State of Tennessee. Characteristics include waters within state or national parks, wildlife refuges, wilderness or natural areas; State or Federal Scenic Rivers; Federally-designated critical habitat; waters within an areas designated as Lands Unsuitable for Mining; waters with naturally reproducing trout; waters with exceptional biological diversity or; other waters with outstanding ecological or recreational value as determined by the department.

Hot spot means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. Examples might include operations producing concrete or asphalt, auto repair shops, auto supply shops, large commercial parking areas and restaurants.

Illicit Connection means any man-made conveyance connecting an illicit discharge directly to a municipal separate storm sewer.

Illicit Discharge is defined at 40 CFR §122.26(b)(2) and refers to any discharge to a municipal separate storm sewer that is not entirely composed of stormwater, except discharges authorized under an NPDES permit (other than the NPDES permit for discharges from the MS4) and discharges resulting from fire fighting activities.

Impaired Waters means any segment of surface waters that has been identified by the division as failing to support classified uses. The division periodically compiles a list of such waters known as the 303(d) List.

Load Allocation (LA): The portion of a receiving water's loading capacity that is attributed either to one of its existing or future nonpoint sources of pollution or to natural background (40 CFR §130.2(g)).

Margin of Safety (MOS): The "MOS" accounts for uncertainty in the loading calculation. The MOS may not be the same for different water bodies due to differences in the availability and strength of data used in the calculations.

Maximum Extent Practicable (MEP) is the technology-based discharge standard for Municipal Separate Storm Sewer Systems to reduce pollutants in stormwater discharges that was established by CWA §402(p). MS4 operators shall develop and implement their Stormwater Management Programs to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of pollutants. A discussion of MEP as it applies to small MS4s is found at 40 CFR §122.34.

Monitoring refers to tracking or measuring activities, progress, results, etc.; and can refer to non-analytical monitoring for pollutants by means other than 40 CFR 136 (and other than state- or federally established protocols in the case of biological monitoring and assessments), such as visually or by qualitative tools that provide comparative values or rough estimates.

Municipal Separate Storm Sewer (MS4) is defined at 40 CFR §122.26(b)(8) and means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

(i.) 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 a designated and approved management agency under section 208 of the CWA that discharges to waters of the state;

(ii.) Designed or used for collecting or conveying stormwater;

(iii.) Which is not a combined sewer; and

(iv.) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR §122.2.

NOI is an acronym for "Notice of Intent" to be covered by this permit and is the mechanism used to "register" for coverage under a general permit.

Nonpoint Source is essentially any source of pollutant(s) that is not a point source. Examples are sheet flow from pastures and runoff from paved areas.

Owner or operator means the owner or operator of any ``facility or activity" subject to regulation under the NPDES program.

Point Source means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

Priority construction activity shall be defined by the MS4, but shall include, at a minimum, those construction activities discharging directly into, or immediately upstream of, waters the state recognizes as impaired (for siltation or habitat alteration) or Exceptional Tennessee Waters.

Qualifying Local Program (QLP) is an MS4 Stormwater Management Program for discharges associated with construction activity that has been formally approved by the division as having met specific minimum program requirements, including those identified in 40 CFR §122.44(s). The intent of the QLP is to establish a streamlined and efficient process for managing discharges of stormwater associated with construction activities by eliminating duplication of the effort between the MS4 and the Division.

Redevelopment means the alteration of developed land that disturbs one acre or more, or less than an acre if part of a larger common plan of development, and increases the site or building impervious footprint, or offers a new opportunity for stormwater controls. The term is not intended to include such activities as exterior remodeling, which would not be expected to cause adverse stormwater quality impacts.

Significant Contributor is defined as a source of pollutants where the volume, concentration, or mass of a pollutant in a stormwater discharge can cause or threaten to cause pollution, contamination, or nuisance that adversely impact human health or the environment and cause or contribute to a violation of any applicable water quality standards for receiving water.

A regulated ***Small Municipal Separate Storm Sewer System (MS4)*** is not defined as "large" (municipality with a population of 250,000 or more) or "medium " (municipality with a population of 100,000 or more) municipal separate storm sewer system and refers to all separate storm sewers that are owned or operated by the United States, 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 a designated and approved management agency under section 208 of the CWA that discharges to waters of the state. 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 sewers in very discrete areas, such as individual buildings.

Stormwater is defined at 40 CFR §122.26(b)(13) and means stormwater runoff, snowmelt runoff, and surface runoff and drainage.

A ***Stormwater Management Plan (SWMP)*** is a written compilation of the elements of the Stormwater Management Program. It is considered a single document, even though it actually consists of separate stand- alone components. There is no requirement for the SWMP, or its portions, to be submitted to the division, unless requested by the division in writing.

Stormwater Management Program refers to a comprehensive program to manage the quality of stormwater discharged from the municipal separate storm sewer system.

A ***Stormwater Pollution Prevention Plan (SWPPP)*** is a written plan that includes site map(s), an identification of construction/contractor activities that could cause pollutants in the stormwater, and a description of measures or practices to control these pollutants. It must be prepared and approved before construction begins. In order to effectively reduce erosion and sedimentation impacts, Best Management Practices (BMPs) must be designed, installed, and maintained during land disturbing activities. The SWPPP shall be prepared in accordance with the Tennessee Erosion and Sediment Control Handbook or local BMP Manual, whichever is more stringent and protective of waters of the state. The handbook is designed to provide information to planners, developers, engineers, and contractors on the proper selection, installation, and maintenance of BMPs. The handbook is intended for use during the design and construction of projects that require erosion and sediment controls to protect waters of the state. It also aids in the development of SWPPPs and other reports, plans, or specifications required when participating in Tennessee's water quality regulations.

Stream means a surface water that is not a wet weather conveyance.

TMDL (Total Maximum Daily Load) in this permit generally refers to a study that quantifies the amount of a pollutant that can be assimilated in a water body, identifies the sources of the pollutant, and recommends regulatory or other actions to be taken to achieve compliance with applicable water quality standards based on the relationship between pollution sources and in-stream water quality conditions. A TMDL can be expressed as the sum of all point source loads (Waste Load Allocations), non-point source loads (Load Allocations), and an appropriate margin of safety (MOS), which takes into account any uncertainty concerning the relationship between effluent limitations and water quality:

$$TMDL = \Sigma\ WLAs + \Sigma\ LAs + MOS$$

The objective of a TMDL is to allocate loads among all of the known pollutant sources throughout a watershed so that appropriate control measures can be implemented and water quality standards achieved. 40 CFR §130.2 (i) states that TMDLs can be expressed in terms of mass per time, toxicity, or other appropriate measure.

- ***Waste load Allocation*** **(WLA):** The portion of a receiving water's loading capacity that is allocated to one of its existing or future point sources of pollution. WLAs constitute the type of water quality-based effluent limitation. (40 CFR §130.2(h)).

Water quality buffer means a setback from the top of water body's bank of undisturbed vegetation, including trees, shrubs and herbaceous vegetation; enhanced or restored vegetation; or the re-establishment of native vegetation bordering streams, ponds, wetlands, springs, reservoirs or lakes, which exists or is established to protect those water bodies. The goal of the water quality buffer is to preserve undisturbed vegetation that is native to the streamside habitat in the area of the project. Vegetated, preferably native, water quality buffers protect water bodies by providing structural integrity and canopy cover, as well as stormwater infiltration, filtration and evapotranspiration. Buffer width depends on the size of a drainage area. Streams or other waters with drainage areas less than 1 square mile will require buffer widths of 30 feet minimum. Streams or other waters with drainage areas greater than 1 square mile will require buffer widths of 60 feet minimum. The 60-feet criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than 30 feet at any measured location. The MS4 must develop and apply criteria for determining the circumstances under which these averages will be available. A determination that standards cannot be met may not be based solely on the difficulty or cost associated with implementation.

Every attempt should be made for development and redevelopment activities not to take place within the buffer zone. If water quality buffer widths as defined above cannot be fully accomplished on-site , the MS4 must develop and apply criteria for determining the circumstances under which alternative buffer widths will be available. A determination that water quality buffer widths cannot be met on site may not be based solely on the difficulty or cost of implementing measures, but must include multiple criteria, such as: type of project, existing land use and physical conditions that preclude use of these practices.

Waters of the State or simply ***Waters*** is defined in the Tennessee Water Quality Control Act and means any and all water, public or private, on or beneath the surface of the ground, which are contained within, flow through or border upon Tennessee or any portion thereof except those bodies of water confined to and retained within the limits of private property in single ownership which do not combine to effect a junction with natural surface or underground waters.

Wet weather conveyance means, notwithstanding any other law or rule to the contrary, man-made or natural watercourses, including natural watercourses that have been modified by channelization:

(A) That flow only in direct response to precipitation runoff in their immediate locality;
(B) Whose channels are at all times above the groundwater table;
(C) That are not suitable for drinking water supplies; and
(D) In which hydrological and biological analyses indicate that, under normal weather conditions, due to naturally occurring ephemeral or low flow there is not sufficient water to support fish, or multiple populations of obligate lotic aquatic organisms whose life cycle includes an aquatic phase of at least two (2) months.

You and ***Your*** as used in this permit is intended to refer to the permittee, the operator, or the discharger as the context indicates and that party's responsibilities (e.g., the city, the county, the flood control district, the U.S. Air Force, etc.).

8. APPENDIX A – NOTICE OF INTENT (NOI)

You may access a copy of the NOI at the division's Web page:

http://tn.gov/environment/wpc/stormh2o/MS4II.shtml (PDF format)

If you do not have access to the Internet,
Please contact the division at 1-888-891-8332 (TDEC)
or
E-mail a request for the NOI at Phase.Two@tn.gov

9. APPENDIX B – MS4 ANNUAL REPORT

Tennessee Department of Environment and Conservation
Division of Water Pollution Control
Enforcement and Compliance Section
L&C Annex, 6th Floor, 401 Church Street
Nashville, TN 37243

Small Municipal Separate Storm Sewer System (MS4) Annual Report

1. MS4 INFORMATION

Name of MS4

Name of Contact Person

Telephone (including area code)

Mailing Address

City State ZIP code

What is the current population of your MS4?

What is the reporting period for this annual report? From to

2. PROTECTION OF STATE OR FEDERALLY LISTED SPECIES

A. Are any of the MS4 discharges or discharge-related activities likely to jeopardize any state or federally listed species (**Part 3, Special Conditions, General Permit for Phase II MS4s)** ☐ Yes ☐ No

B. Please attach the determination of the effect of the MS4 discharges on state or federally listed species per sub-part **3.2.1**

3. WATER QUALITY PRIORITIES

A. Does your MS4 discharge to waters listed as impaired on the state 303(d) list? ☐ Yes ☐ No

B. If yes, identify each impaired water, the impairment cause(s), whether a TMDL has been approved by EPA for each, and whether the TMDL identifies your MS4 as a source of the impairment.

Waterbody I.D. #	Cause/TMDL Priority	Approved TMDL		MS4 Assigned to WLA	
		☐ Yes	☐ No	☐ Yes	☐ No
		☐ Yes	☐ No	☐ Yes	☐ No
		☐ Yes	☐ No	☐ Yes	☐ No

C. What specific sources of these pollutants of concern are you targeting?_____

D. Do you have discharges to any Exceptional TN Waters (ETWs) or Outstanding National Resource Waters (ONRWs)? ☐ Yes ☐ No

E. Are you implementing additional specific provisions to ensure the continued integrity of ETWs or ONRWS located within your jurisdiction? ☐ Yes ☐ No

4. PUBLIC EDUCATION AND PUBLIC PARTICIPATION

A. Is your public education program targeting specific pollutants and sources of those pollutants? ☐ Yes ☐ No

B. If yes, what are the specific causes, sources and/or pollutants addressed by your public education program?_____

C. Note specific successful outcome(s) (NOT tasks, events, publications) fully or partially attributable to your public education program during this reporting period._____

D. Do you have an advisory committee or other body comprised of the public and other stakeholders that provides regular input on your stormwater program? ☐ Yes ☐ No

E. Provide a summary of all public meetings required by the permit. _____

5. CODES AND ORDINANCES REVIEW AND UPDATE

A. Is a completed copy of the EPA Water Quality Scorecard submitted with this report? ☐ Yes ☐ No

B. Include status of implementation of code, ordinance and/or policy revisions associated with permanent stormwater management.

6. CONSTRUCTION

A. Do you have an ordinance or adopted policies stipulating:

Erosion and sediment control requirements? ☐ Yes ☐ No

Other construction waste control requirements? ☐ Yes ☐ No

Requirement to submit construction plans for review? ☐ Yes ☐ No

MS4 enforcement authority? ☐ Yes ☐ No

B. How many active construction sites disturbing at least one acre were there in your jurisdiction this reporting period?_____

C. How many of these active sites did you inspect this reporting period? _____

D. On average, how many times each, or with what frequency, were these sites inspected (e.g., weekly, monthly, etc.)? _____

E. Do you prioritize certain construction sites for more frequent inspections? ☐Yes ☐ No
If Yes, based on what criteria? _____

7. ILLICIT DISCHARGE ELIMINATION

A. Have you completed a map of all outfalls and receiving waters of your storm sewer system? ☐ Yes ☐ No

B. Have you completed a map of all storm drain pipes of storm sewer system? ☐Yes ☐ No

C. How many outfalls have you identified in your system? _____

D. How many of these outfalls have been screened for dry weather discharges? _____

E. How many of these have been screened more than once? _____

F. What is your frequency for screening outfalls for illicit discharges? _____

G. Do you have an ordinance that effectively prohibits illicit discharges? ☐ Yes ☐ No

H. During this reporting period, how many illicit discharges/illegal connections have you discovered (or been reported to you)? _____

I. Of those illicit discharges/illegal connections that have been discovered or reported, how many have been eliminated? _____

8. STORMWATER MANAGEMENT FOR MUNICIPAL OPERATIONS

A. Have stormwater pollution prevention plans (or an equivalent plan) been developed for:

All parks, ball fields and other recreational facilities ☐ Yes ☐ No

All municipal turf grass/landscape management activities ☐ Yes ☐ No

All municipal vehicle fueling, operation and maintenance activities ☐ Yes ☐ No

All municipal maintenance yards ☐ Yes ☐ No

All municipal waste handling and disposal areas ☐ Yes ☐ No

B. Are stormwater inspections conducted at these facilities? ☐ Yes ☐ No

1. If Yes, at what frequency are inspections conducted? _____

C. Have standard operating procedures or BMPs been developed for all MS4 field activities? (e.g., road repairs, catch basin cleaning, landscape management, etc.) ☐ Yes ☐ No

D. Do you have a prioritization system for storm sewer system and permanent BMP inspections? ☐ Yes ☐ No

E. On average, how frequently are catch basins and other inline treatment systems inspected? _____

F. On average, how frequently are catch basins and other inline treatment systems cleaned out/maintained? _____

G. Do municipal employees in all relevant positions and departments receive comprehensive training on stormwater management? ☐ Yes ☐ No

H. If yes, do you also provide regular updates and refreshers? ☐ Yes ☐ No

If so, how frequently and/or under what circumstances? _____

9 PERMANENT STORMWATER CONTROLS

A. Do you have an ordinance or other mechanism to require:

Site plan reviews of all new and re-development projects? ☐ Yes ☐ No

Maintenance of stormwater management controls? ☐ Yes ☐ No

Retrofitting of existing BMPs with green infrastructure BMPs? ☐ Yes ☐ No

B What is the threshold for new/redevelopment stormwater plan review? (e.g., all projects, projects disturbing greater than one acre, etc.)_____

C. Have you implemented and enforced performance standards for permanent stormwater controls? ☐ Yes ☐ No

D. Do these performance standards go beyond the requirements found in paragraph **4.2.5.2** and require that pre-development hydrology be met for:

Flow volumes ☐ Yes ☐ No

Peak discharge rates ☐ Yes ☐ No

Discharge frequency ☐ Yes ☐ No

Flow duration ☐ Yes ☐ No

E. Please provide the URL/reference where all permanent stormwater management standards can be found.

_____

F. How many development and redevelopment project plans were reviewed for this reporting period? _____

G. How many development and redevelopment project plans were approved? _____

H. How many permanent stormwater management practices/facilities were inspected? _____

I. How many were found to have inadequate maintenance? _____

J. Of those, how many were notified and remedied within 30 days? (If window is different than 30 days, please specify) _____

K. How many enforcement actions were taken that address inadequate maintenance?_____

L. Do you use an electronic tool (e.g., GIS, database, spreadsheet) to track post-construction BMPs, inspections and maintenance? ☐ Yes ☐ No

M. Do all municipal departments and/or staff (as relevant) have access to this tracking system? ☐ Yes ☐ No

N. Has the MS4 developed a program to allow for incentive standards for redeveloped sites? ☐ Yes ☐ No

O. How many maintenance agreements has the MS4 approved during the reporting period?

10. ENFORCEMENT

A. Identify which of the following types of enforcement actions you used during the reporting period, indicate the number of actions, the minimum measure (e.g., construction, illicit discharge, permanent stormwater control) or note those for which you do not have authority:

Action	Construction	Permanent Stormwater Controls	Illicit Discharge	Authority?	
Notice of violation	#_____	#_____	#_____	☐ Yes	☐ No
Administrative fines	#_____	#_____	#_____	☐ Yes	☐ No
Stop Work Orders	#_____	#_____	#_____	☐ Yes	☐ No
Civil penalties	#_____	#_____	#_____	☐ Yes	☐ No
Criminal actions	#_____	#_____	#_____	☐ Yes	☐ No
Administrative orders	#_____	#_____	#_____	☐ Yes	☐ No
Other _____	#_____	#_____	#_____		

B. Do you use an electronic tool (e.g., GIS, data base, spreadsheet) to track the locations, inspection results, and enforcement actions in your jurisdiction? ☐ Yes ☐ No

C. What are the 3 most common types of violations documented during this reporting period?_____

11. PROGRAM RESOURCES

A. What was your annual expenditure to implement the requirements of your MS4 NPDES permit and SWMP this past reporting period? _____

B. What is next year's budget for implementing the requirements of your MS4 NPDES permit and SWMP? _____

C. Do you have an independent financing mechanism for your stormwater program? ☐ Yes ☐ No

D. If so, what is it/are they (e.g., stormwater fees), and what is the annual revenue derived from this mechanism?

Source: Amount $

Source: Amount $

E. How many full time employees does your municipality devote to the stormwater program (specifically for implementing the stormwater program vs. municipal employees with other primary responsibilities that dovetail with stormwater issues)? _____

F. Do you share program implementation responsibilities with any other entities? ☐ Yes ☐ No

Entity	Activity/Task/Responsibility	Your Oversight/Accountability Mechanism

12. EVALUATING/MEASURING PROGRESS

A. What indicators do you use to evaluate the overall effectiveness of your Stormwater Management Program, how long have you been tracking them, and at what frequency? Note that these are not measurable goals for individual BMPs or tasks, but large-scale or long-term metrics for the overall program, such as in-stream macroinvertebrate community indices, measures of effective impervious cover in the watershed, indicators of in-stream hydrologic stability, etc.

Indicator	Began Tracking (year)	Frequency	Number of Locations
Example: E. coli	2003	Weekly April–September	20

B. Provide a summary of data (e.g., water quality information, performance data, modeling) collected in order to evaluate the performance of permanent stormwater controls installed throughout the system. This evaluation may include a comparison of current and past permanent stormwater control practices. _____

13. STORMWATER MANAGEMENT PROGRAM UPDATE

A. Describe any changes to the MS4 program during the reporting period including but not limited to:

Changes adding (but not subtracting or replacing) components, controls or other requirements per paragraph **4.4.2.a** of the permit. _____

Changes to replace an ineffective or unfeasible BMP per paragraph **4.4.2.b** of the permit. _____

Information (e.g. additional acreage, outfalls, BMPs) on program area expansion based on annexation or newly urbanized areas. _____

Changes to the program as required by the division. _____

14. CERTIFICATION

This report must be signed by a ranking elected official or by a duly authorized representative of that person. See signatory requirements in sub-part 6.7.2 of the permit.

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Printed Name and Title	Signature	Date

Annual reports must be submitted in accordance with the requirements of subpart 5.4. (Reporting) of the permit. Annual reports must be submitted to the appropriate Environmental Field Office (EFO) by September 30 of each calendar year, as shown in the table below:

EFO	Street Address	City	Zip Code	Telephone
Chattanooga	540 McCallie Avenue STE 550	Chattanooga	37402	(423) 634-5745
Columbia	1421 Hampshire Pike	Columbia	38401	(931) 380-3371
Cookeville	1221 South Willow Ave.	Cookeville	38506	(931) 432-4015
Jackson	1625 Hollywood Drive	Jackson	38305	(731) 512-1300
Johnson City	2305 Silverdale Road	Johnson City	37601	(423) 854-5400
Knoxville	3711 Middlebrook Pike	Knoxville	37921	(865) 594-6035
Memphis	8383 Wolf Lake Drive	Bartlett	38133	(901) 371-3000
Nashville	711 R S Gass Boulevard	Nashville	37216	(615) 687-7000