

NEBRASKA

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Pete Ricketts, Governor

Authorization to Discharge Under the National Pollutant Discharge Elimination System (NPDES)

In compliance with the provisions of the Federal Water Pollution Control Act (33 U.S.C. Sections. 1251 *et. seq.* as amended to date), the Nebraska Environmental Protection Act (Neb. Rev. Stat. Sections 81-1501 *et. seq.* as amended to date), and the Rules and Regulations promulgated pursuant to these Acts, the Director of the Nebraska Department of Environmental Quality is hereby issuing this individual permit authorizing the discharge of pollutants to waters of the State. This Permit establishes prohibitions, limitations and other conditions pertaining to these discharges. This Permit does not relieve permittee of other duties and responsibilities under the Nebraska Environmental Protection Act, as amended, or established by regulations promulgated pursuant thereto.

NPDES Permit No.: **NE0134015**

Permittee: **Nebraska Department of Transportation (NDOT) – A Phase II MS4**

NDEQ ID: **64332**

Locations: **Property or locations that are owned by NDOT within all regulated Municipal Separate Sewer Systems (MS4s) designated by the Director of NDEQ in accordance with NDEQ Title 119, Chapter 10 002.02 within the State of Nebraska.**

Effective Date: **January 1, 2018**

Expiration Date: **December 31, 2022**

Pursuant to the Delegation Memorandum dated August 22, 2016, and signed by the Director, the undersigned hereby executes this document on the behalf of the Director.

Signed this 12th day of December, 2017



Shelley Schneider
Water Permits Division Administrator



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Appendix A – Conditions Applicable to all NPDES Permits

1. Applicability

1.1 Permit Coverage Area

The permit provides coverage for any property owned or operated by the Nebraska Department of Transportation (NDOT), the Permittee, which is located within the regulated Municipal Separate Storm Sewer Systems (MS4s) throughout the State of Nebraska. Identification of regulated MS4s is determined by the Nebraska Department of Environmental Quality (hereafter referred to as the Department) according to Title 119, Chapter 10 002.10. Upon identification of other newly-designated, regulated MS4s, NDOT shall be responsible for compliance with the terms of this Permit in those areas of the State as well.

1.2 Authorized Discharges

This Permit authorizes point-source discharges of municipal stormwater and other authorized flows from within the MS4. The discharges provided coverage under this Permit are limited to the following:

- 1.2.1 Municipal stormwater that originates from within the Coverage Area;
- 1.2.2 Stormwater from areas outside the Coverage Area that flows into and through the MS4;
- 1.2.3 *Stormwater discharges associated with industrial activity* as defined in NDEQ Title 119, Chapter 1 117 (Storm water discharge associated with industrial activity) and 118 (Storm water discharge associated with small construction activity) that are authorized under a separate NPDES permit or that are in-compliance with the No Exposure Certification requirements in Title 119, Chapter 10 007;
- 1.2.4 Non-Stormwater discharges that are either:
 - 1.2.4.1 Authorized under a separate NPDES permit;
 - 1.2.4.2 Being addressed in accordance with the Illicit Discharge Identification procedures (Part 3.4.2.1); or
 - 1.2.4.3 Other Allowable Non-Stormwater Discharges.

1.3 Limitations on Coverage

This permit does not authorize:

- 1.3.1 Discharges that are mixed with sources of non-stormwater unless such non-stormwater discharges are:
 - 1.3.1.1 In compliance with a separate NPDES permit (e.g. non-contact cooling water discharges);
 - 1.3.1.2 Stormwater discharges currently covered under another permit; or
 - 1.3.1.3 Determined not to be a substantial contributor of pollutants to waters of the State of Nebraska.
- 1.3.2 Stormwater discharges that may impact endangered or threatened species or their habitat.

2. Special Conditions

2.1 Discharges to Water Quality Impaired Waters

If the Department determines that the Permittee discharges into impaired receiving waters, Amendments may be proposed according to Part 6.1 of this permit for:

- 2.1.1 SWMP changes;
- 2.1.2 Evaluation and Assessment requirements; and
- 2.1.3 Reporting requirements.

2.2 Total Maximum Daily Load (TMDL) Allocations

- 2.2.1 If a TMDL has been approved that names NDOT as a contributor for the MS4 receiving waters, the SWMP must address the Load Reductions assumed within the Waste Load Allocation (WLA) for the pollutants of concern. All TMDL requirements shall conform to the Federal Clean Water Act and the November 11, 2002 Memorandum published by EPA establishing guidance for TMDL WLAs for Storm Water Sources and NPDES Permit Requirements Based on Those WLAs.

- 2.2.2 To comply with any TMDL requirement, the MS4 must address this Water Quality Based Effluent Limitation (WQBEL) of the NPDES Permit by implementing BMPs under conditions in Part 3 for the SWMP. If BMPs alone, selected in accordance with 40 CFR 122.44(k)(2) & (3), adequately address the WLAs, then additional controls are not necessary.
- 2.2.2.1 When the Permittee elects to achieve WQBEL in the form of BMPs, the permittee shall also specify BMP performance evaluation necessary to assess if the expected load reductions attributed to the BMPs implementation are achieved. Unless specified by NDEQ, the Evaluation and Assessment Plan developed according to Part 7.1 shall satisfy this monitoring requirement.
- 2.2.2.2 When Permittee elects or NDEQ requires that WQBELs are achieved in the form of mass or volume discharge reductions, the permittee shall submit the details of the monitoring plan as an attachment to the Evaluation and Assessment Plan specified in Part 7.1 for approval by NDEQ.

3. Stormwater Management Plan (SWMP)

3.1 Requirements

- 3.1.1 The Permittee must have provided to the Department a SWMP that satisfies all requirements of this Permit and includes a development and implementation schedule for new SWMP provisions that were not previously required.
- 3.1.2 The SMWP must be submitted to the Department for review within 180 days following the effective date of this Permit and the Permittee must continue to implement the existing SWMP, implemented to satisfy the previous Permit, until the new SWMP is approved.
 - 3.1.2.1 SWMP approval is granted 30 days after the Department completes the formal Public Notice.
 - 3.1.2.2 The Department may act to approve the SWMP any time following the formal Public Notice by providing a written notification to the Permittee.
 - 3.1.2.3 If the Department requires modification of the SWMP to address deficiencies with the SMWP identified during the formal Public Notice process, written notification will be provided to the Permittee within 30 days and addressed by the Permittee in accordance with the Amendment Procedures described in Part 6.1 of this Permit.
 - 3.1.2.4 The Department may extend the 30-day approval period following the formal Public Notice process. The applicant shall receive written notification of the extension within 30 days after the formal Public Notice period ends. Amendments requested by the Department following this 30-day period may be requested according to the Amendment Procedures described in Part 6.1 of this Permit.
- 3.1.3 The Permittee is required to keep the approved SWMP document up to date during the term of the Permit. Where the Permittee determines that modifications are needed to address any procedural, protocol, or programmatic change, such changes must be made as soon as practicable, according to Part 6.1.
- 3.1.4 The Permittee must document in the SWMP references to supplemental procedures manuals where details required of BMP implementation can be reviewed by the permitting authority upon request.
- 3.1.5 Implementation of the Best Management Practices (BMPs) included in the SWMP shall reduce pollutants in MS4 stormwater runoff to the Maximum Extent Practicable (MEP), protect water quality, and satisfy appropriate water quality requirements of the Clean Water Act by including management practices, control techniques and system design, and engineering methods for each of the MCMs of the SWMP described in Part 3.4 of this Permit including:
 - 3.1.5.1 The BMPs that the Permittee will implement for each stormwater MCM.
 - 3.1.5.2 The SWMP must detail how the NDOT will evaluate and assess its effectiveness at implementing and maintaining BMPs. An effectiveness assessment must be submitted with the annual report.

- 3.1.5.3 The measurable goals for each BMP including, as appropriate; the schedule in which the Permittee will undertake required actions; this includes interim milestones and the frequency of the action.
- 3.1.5.4 The rationale for the selection of each stormwater management program BMPs and its measurable goals.
- 3.1.5.5 The person or persons responsible for implementing or coordinating the BMPs included in the SWMP.
- 3.1.6 Unless otherwise specified, written procedures required in this Permit shall be completed no later than one year after the Permit issuance date, or in accordance with the timelines established within the SWMP.
- 3.2 **Adequate Statutory Authority**
 - 3.2.1 The Permittee must provide relevant regulatory mechanisms such as statutes, policies, standards, permits, and contract language that provide adequate statutory authority to control pollutant discharges into and from the MS4, and to meet the requirements of this Permit.
 - 3.2.2 To be considered adequate, statutory authority must, at a minimum, address the following:
 - 3.2.2.1 Authority to Prohibit Illicit Discharges
 - 3.2.2.2 Allowable Non-Stormwater Discharges
 - 3.2.2.3 Authority to Require Compliance
 - 3.2.2.4 Authority to Require Installation, Implementation, and Maintenance of Control Measures
 - 3.2.2.5 Authority to Receive and Collect Information
 - 3.2.2.6 Authority to Inspect
 - 3.2.2.7 Time-specific Response to Violations
- 3.3 **Compliance Oversight Procedures**
 - 3.3.1 The Permittee must provide compliance oversight procedures which set out potential responses to non-compliances, alleged violations and addresses repeat and continuing violations through progressively stricter responses, as needed, to achieve compliance.
 - 3.3.2 The Permittee must track instances of non-compliance and notice of potential violations either in hard-copy files or electronically. For each notice of potential violation, the compliance oversight case documentation must include, at a minimum, the following:
 - 3.3.2.1 Name of owner/operator of facility or site of potential violation;
 - 3.3.2.2 Description of stormwater source (i.e., adjacent MS4, construction project, industrial facility);
 - 3.3.2.3 Description of potential violation;
 - 3.3.2.4 Required schedule for returning to compliance;
 - 3.3.2.5 Description of compliance oversight response used, including escalated responses if repeat violations occur or if violations are not resolved in a timely manner;
 - 3.3.2.6 Accompanying documentation of compliance oversight response (e.g., notices of noncompliance, notices of violations);
 - 3.3.2.7 Any referrals to adjacent MS4s, different departments or agencies; and
 - 3.3.2.8 Date potential violation was resolved.
- 3.4 **Minimum Control Measures**

The Minimum Control Measures (MCM) that must be established by the Permittee in SWMP include:

 - 3.4.1 Public Education, Outreach and Involvement (MCM 1 & 2)
 - Implement a Stormwater Public Education, Outreach, and Involvement Program.
 - 3.4.1.1 Provide a stormwater education and outreach program for the MS4 that, at a minimum:
 - 3.4.1.1.1 Defines the goals and objectives of the program;
 - 3.4.1.1.2 Defines the Target Audience(s);
 - 3.4.1.1.3 Maintains Target Messages relevant to transportation MS4;

- 3.4.1.1.4 Defines methods and process of distribution; and
- 3.4.1.1.5 Distributes educational materials and media to the Target Audience, using whichever methods and procedures determined appropriate by the Permittee.
- 3.4.1.2 Provide a stormwater public involvement program for planning and implementation of programs and activities related to the development and implementation of the SWMP that, at a minimum:
 - 3.4.1.2.1 Provides notice of opportunities to review and comment on new MS4 Permits and SWMP revisions drafted for the MS4.
 - 3.4.1.2.2 Creates opportunities for the Target Audience to participate in the implementation of stormwater controls.
 - 3.4.1.2.3 Ensures that information about the Permittee's SWMP is available to the Target Audience.
- 3.4.1.3 Adjust its Public Education, Outreach and Involvement strategy including educational materials and the delivery of such materials to address deficiencies identified as a result of annual reviews.
- 3.4.2 Illicit Discharge Detection and Elimination (MCM 3)
 - Implement an Illicit Discharge Detection and Elimination Program
 - 3.4.2.1 Provide an Illicit Discharge Detection and Elimination (IDDE) Program to detect, investigate, and eliminate non-stormwater discharges, including illegal dumping, into its MS4. The IDDE program must include or address the following:
 - 3.4.2.1.1 The permittee must, as part of the IDDE program, develop a compliance oversight plan or mechanism following the requirements of Parts 3.2 and 3.3 of this Permit.
 - 3.4.2.1.2 Storm sewer system map that receives periodic updates and shows, at a minimum, the following:
 - 3.4.2.1.2.1 The geographic location of all MS4 outfalls; and
 - 3.4.2.1.2.2 The location of all State-designated waters receiving direct discharges from MS4 outfalls
 - 3.4.2.1.3 Outfall field screening procedures to investigate for detecting illicit discharges;
 - 3.4.2.1.3.1 Document dry weather field screening and procedures for identifying sources of discharge which are to be used at outfall locations as directed in the IDDE plan.
 - 3.4.2.1.3.2 The screening and source assessment procedures must identify the minimum staff, frequency, equipment, and discharge evaluation process used by the Permittee; and
 - 3.4.2.1.3.3 Document the basis for its selection of each dry weather field screening location and maintain a current list of dry weather field screening locations identified in the MS4.
 - 3.4.2.1.4 Procedures, staff and equipment required at a minimum for investigating and tracking the source of identified illicit discharge:
 - 3.4.2.1.4.1 Report immediately the occurrence of any dry weather flows believed to be an immediate threat to human health or the environment (Part 5.3) to NDEQ by calling 402-471-4220 or 402-471-4545 after business hours, weekends, and holidays; and
 - 3.4.2.1.4.2 Document investigations to track at a minimum the date(s) the illicit discharge was observed; the results of the investigation; any follow-up of the investigation; and the date the investigation was closed.
 - 3.4.2.1.5 Procedures for removing the source of the discharge using the compliance oversight procedures in Part 3.3:
 - 3.4.2.1.5.1 Once the source of an illicit discharge has been determined, the Permittee must implement IDDE procedures so the responsible party can be notified, and require the responsible party to conduct all necessary corrective actions to eliminate the non-stormwater discharge in a timely manner.
 - 3.4.2.1.5.2 Document interactions with potential responsible parties as well as follow-up investigations to confirm illicit discharges have been removed according to documented IDDE procedures.

- 3.4.2.1.6 The following categories of non-stormwater discharges or flows (i.e., illicit discharges) shall be addressed only if they are identified as significant contributors of pollutants to the MS4:
- 3.4.2.1.6.1 Discharges from fire-fighting activities; Fire hydrant flushings; Potable water, including water line flushings; Uncontaminated condensate from air conditioners, coolers, and other compressors and from the outside storage of refrigerated gases or liquids; Irrigation drainage; Landscape watering provided all pesticides, herbicides, and fertilizer have been applied in accordance with the approved labeling; Pavement wash waters where no detergents are used and no spills or leaks of toxic or hazardous materials have occurred (unless all spilled material has been removed); Routine external building washdown that does not use detergents; Uncontaminated ground water or spring water; Foundation or footing drains where flows are not contaminated with process materials; and Incidental windblown mist from cooling towers that collects on rooftops or adjacent portions of your facility, but not intentional discharges from the cooling tower (e.g., “piped” cooling tower blowdown or drains).
- 3.4.2.1.6.2 The Permittee may also provide a list of other similar, occasional, and incidental non-stormwater discharges that will not be addressed as illicit discharges. These non-stormwater discharges must not be reasonably expected to be significant sources of pollutants to the MS4, because of either the nature of the discharges or conditions established by the Permittee for allowing these discharges to the MS4. The Permittee must document in the SWMP any controls or conditions placed on additional exempt non-stormwater discharges. The Permittee must include a provision prohibiting any individual non-stormwater discharges that is determined to be contributing significant amounts of pollutants to your MS4.
- 3.4.2.1.7 If illicit connections or illicit discharges are observed related to an adjacent MS4 operator’s MS4 then the Permittee must notify the other operator within 48 hours of discovery.
- 3.4.2.1.8 If another Operator notifies the Permittee of an illicit discharge to the MS4 then the Permittee must follow the requirements specified in Part 3.4.2.1.5.
- 3.4.2.1.9 Written procedures for implementing the IDDE Program, including those components described in Part 3.4.2.1.7 must be incorporated into the SWMP document.
- 3.4.2.2 Public Reporting of Non-stormwater Discharges and Spills
- 3.4.2.2.1 Promote and facilitate public complaints and reporting of illicit discharges or water quality impacts associated with discharges into or from MS4s.
- 3.4.2.2.2 Develop a spill/dumping response procedure, and a flow chart or phone tree, or similar list, that shows the procedures for responding to public reports of illicit discharges, the various responsible agencies and their contacts, and who would be involved in illicit discharge incidence response, even if it is a different entity other than the Permittee.
- 3.4.2.2.3 Conduct reactive inspections in response to reports and follow-up inspections as needed to ensure that corrective actions have been implemented by the responsible party to achieve and maintain compliance.
- 3.4.2.3 Illicit Discharge Education and Training
- 3.4.2.3.1 Provide a training program for the Target Audience working within the MS4 boundary who, as part of their normal job responsibilities, may come into contact with or otherwise observe an illicit discharge or illicit connection to the storm sewer system. Training program documents must be available for review by the permitting authority.
- 3.4.2.3.2 The SWMP must include a schedule for training the Target Audience identified in Part 3.4.1.1.2 above on the identification of an illicit discharge or connection, and on the proper procedures for reporting and responding to the illicit discharge or connection. The Permittee must document and maintain records of the training provided and the staff trained.
- 3.4.3 Construction Stormwater Management Program (MCM 4)
Implement a Construction Stormwater Management Program

- 3.4.3.1 Implement a program which requires operators of construction activity to select, install, implement, and maintain stormwater control measures that comply with the Permittee's erosion and sediment control, pollution prevention, and other stormwater requirements, including applicable State Construction Storm Water General Permit requirements.
- 3.4.3.2 The permittee must, as a part of the construction stormwater management program, develop a compliance oversight plan or mechanism following the requirements of Parts 3.2 and 3.3 of this permit.
- 3.4.3.3 Ensure the following minimum requirements are effectively implemented for Construction Activity discharging within the MS4 boundary:
 - 3.4.3.3.1 **Erosion and Sediment Controls.** Design, install and maintain effective erosion controls and sediment controls to minimize the discharge of pollutants; and
 - 3.4.3.3.2 **Pollution Prevention Measures.** Design, install, implement, and maintain effective pollution prevention measures to minimize the discharge of pollutants from sources found on the construction sites that pose a threat to water quality.
- 3.4.3.4 Maintain an inventory of active Construction Activity authorized by the Department within the MS4 boundary.
 - 3.4.3.4.1 The inventory must be continually updated as new projects are permitted or approved and projects are completed; and
 - 3.4.3.4.2 The inventory must contain relevant contact and location information for each project, the date the Department provided NPDES authorization, if SWPPP has been prepared and the Permittee's project tracking number.
 - 3.4.3.4.3 Make Construction Activity inventory available to the permitting authority upon request.
- 3.4.3.5 Implement a construction SWPPP development procedure that includes the review of erosion and sediment control plans prior to the disturbance of land that meets the following minimum requirements:
 - 3.4.3.5.1 Ensure the SWPPP contains the erosion and sediment control and good housekeeping measures that meet the minimum NPDES General Construction Stormwater Permit requirements for stormwater protection of Construction Activity;
 - 3.4.3.5.2 Use qualified individuals, knowledgeable in the technical review of SWPPPs to conduct such reviews; and
 - 3.4.3.5.3 Document its SWPPP review procedure was completed.
- 3.4.3.6 Construction Site Inspection and Compliance Oversight
 - 3.4.3.6.1 Inspect Construction Activity at a frequency as required in the NPDES General Construction Stormwater Permit. The inspections of Construction Activity must, verify compliance with the NPDES General Permit requirements;
 - 3.4.3.6.2 Based on site inspection findings, the Permittee must take necessary follow-up actions to ensure compliance in accordance with the Permittee's compliance oversight procedures required in Part 3.3;
 - 3.4.3.6.3 Compliance oversight actions must be tracked and maintained for review by the permitting authority;
 - 3.4.3.6.4 Track the number of inspections for the inventoried construction sites throughout the reporting period;
 - 3.4.3.6.5 Documented and maintained for review by the permitting authority;
 - 3.4.3.6.6 Use qualified individuals, knowledgeable in the technical requirements of BMP installation and maintenance for Construction Activity inspections; and
 - 3.4.3.6.7 Provide written procedures outlining the inspection and compliance oversight procedures.
- 3.4.3.7 Construction Site Operator Education and Public Reporting
 - 3.4.3.7.1 Provide educational opportunities to operators of Construction Activities at a frequency outlined in the SWMP.

- 3.4.3.7.1.1 Provide information on existing training opportunities or training programs for construction operators on control measure selection, installation, implementation, and maintenance as well as overall program compliance; and
- 3.4.3.7.1.2 Develop or utilize outreach materials (i.e. pocket guide, newsletters, website, etc.) aimed at educating the operators of Construction Activities.
- 3.4.3.7.2 Public Reporting - The Permittee must provide procedures for receipt of project-related complaints submitted by the Public regarding construction stormwater activity.
- 3.4.4 Post-Construction Stormwater Management Program (MCM 5)
 - Implement a Post-Construction Stormwater Management Program
 - 3.4.4.1 Provide a program to control stormwater discharges from new development and redeveloped sites located within the MS4 boundary that result in a total land disturbance of one or more acres or that result in a total land disturbance of less than one acre if part of a larger common plan of development or sale that discharge into the MS4 that meets the following minimum requirements:
 - 3.4.4.1.1 Ensure project plans contain the stormwater treatment facilities that meet the minimum performance standards for design, installation, implementation, and maintenance;
 - 3.4.4.1.2 Use qualified individuals, knowledgeable in the technical review of stormwater treatment design to conduct such reviews; and
 - 3.4.4.1.3 Document its stormwater treatment design review procedure was completed.
 - 3.4.4.2 Post-Construction Stormwater Treatment Design Process Review
 - 3.4.4.2.1 To ensure that applicable new development and redeveloped projects conform to the performance standards required in Part 3.4.4.1, the Permittee must conduct project review, approval, and compliance oversight procedures that include:
 - 3.4.4.2.1.1 Design review and approval process(es) that include inter-departmental consultations; and
 - 3.4.4.2.1.2 A procedure for maintaining as-built plan drawings after construction of a project.
 - 3.4.4.3 Post-Construction Stormwater Treatment Facility Long-Term Maintenance
 - 3.4.4.3.1 All Post-Construction Stormwater Treatment Facilities installed and implemented to meet the performance standards of Part 3.4.4.1 must be maintained.
 - 3.4.4.4 Post-Construction Stormwater Treatment Facility Tracking
 - 3.4.4.4.1 Maintain a current inventory and map of Stormwater Treatment Facilities installed within the MS4 Coverage Area.
 - 3.4.4.4.2 Based on inspections conducted, the Permittee must update the inventory as appropriate where changes occur in property ownership or the specific Stormwater Treatment Facilities implemented at the site.
 - 3.4.4.4.3 The Stormwater Treatment Facility inventory must be maintained and available for review by the permitting authority.
 - 3.4.4.5 Post-Construction Stormwater Treatment Inspection and Compliance Oversight
 - 3.4.4.5.1 Conduct a Post-Construction Stormwater inspection of any Stormwater Treatment Facility required to meet performance standards required in Part 3.4.4.1 to verify that the Permittee's construction performance standards have been satisfied.
 - 3.4.4.5.2 Conduct on-going Post-Construction Stormwater inspections of each Stormwater Treatment Facility, at a frequency defined in the SWMP.
 - 3.4.4.5.3 Stormwater Treatment Facility inspection findings must be maintained in an inspection report.
 - 3.4.4.5.4 Document and maintain records of inspection findings and compliance oversight actions and make them available for review by the permitting authority.
 - 3.4.5 Good Housekeeping and Pollution Prevention (MCM 6)
 - Implement a Good Housekeeping and Pollution Prevention Program
 - 3.4.5.1 Maintenance Facility Inventory

- 3.4.5.1.1 Maintain an inventory and map of Agency-owned or operated maintenance facilities within the MS4 coverage area.
- 3.4.5.1.2 The inventory and map must be available for review by the permitting authority.
- 3.4.5.2 Agency-owned or operated maintenance facility priorities
- 3.4.5.2.1 Maintain current assessments of Agency-owned or operated maintenance facilities identified in Part 3.4.5.1.
- 3.4.5.2.2 A description of the assessment process, evaluation criteria and frequency must be included in the SWMP document.
- 3.4.5.2.3 The Permittee must identify “high-priority” facilities that have a high risk of generating stormwater pollutants.
- 3.4.5.3 Facility Runoff Control Plans (FRCP) and implementation of facility stormwater BMPs
- 3.4.5.3.1 Maintain an FRCP for “high priority” facilities to control the contribution of pollution from stormwater runoff.
- 3.4.5.3.1.1 For each “high priority” facility, the FRCP must document stormwater control measures, inspection frequency, visual monitoring procedures, and schedule.
- 3.4.5.3.1.2 A copy of each current FRCP must be maintained and be available for review by the permitting authority.
- 3.4.5.3.1.2.1 For maintenance facilities that are staffed with employees, the FRCP must be kept on-site at each of the Agency-owned or operated facilities’ offices for which it was completed.
- 3.4.5.3.1.2.2 For maintenance facilities that are not staffed with employees, the maintenance facility assigned responsibility for operation of the maintenance facility must maintain the FRCP document.
- 3.4.5.3.1.3 FRCPs must include provisions for general good housekeeping practices, corrective actions for identified deficiencies, storage of de-icing materials, fueling operations, vehicle maintenance, and equipment and vehicle washing.
- 3.4.5.3.2 The Permittee must inspect “high priority” facilities for potential good housekeeping of pollution prevention measures to implement or correct.
- 3.4.5.3.2.1 Conduct routine and oversight inspections according to a schedule provided in the SWMP.
- 3.4.5.3.2.2 Visually inspect pollution prevention measures to ensure they are working properly
- 3.4.5.3.2.3 A record of inspections must be maintained and made available for review by the permitting authority upon request.
- 3.4.5.4 Storm Sewer System and Roadway Maintenance Activities
- 3.4.5.4.1 MS4 storm drainage system maintenance
- 3.4.5.4.1.1 Maintain and implement procedures for inspecting and maintaining Agency-owned inlets
- 3.4.5.4.1.2 Maintain and implement procedures for inspecting and maintaining Agency-owned open channels and other drainage structures for debris.
- 3.4.5.4.1.3 Develop a procedure to dispose of materials extracted from inlets so that stormwater drainage system waste material will not reenter the MS4.
- 3.4.5.4.2 MS4 roadway sweeping
- 3.4.5.4.2.1 Maintain and implement procedures for inspecting and sweeping Agency-owned roadways.
- 3.4.5.4.2.2 Develop a procedure to dispose of materials extracted from street sweeping so that waste material will not reenter the MS4.
- 3.4.5.5 Good Housekeeping Training and Education
- 3.4.5.5.1 Provide an employee training program for the Target Audience involved in implementing pollution prevention and good housekeeping practices.
- 3.4.5.5.2 Identify and track personnel requiring training and records must be maintained.
- 3.4.5.5.3 The training program and Target Audience must be described in the SWMP.

4. Sharing Responsibility

4.1 Control Measures Expressly Made the Responsibility of Other Entity

The Permittee is not required to include implementation, tracking and reporting of control measures within the SWMP for segments of the state highway system that are expressly assigned by state statute to adjacent municipalities or counties to maintain (*per NDEQ Title 119 Chapter 10 002.12M*).

Where applicable to the implementation and reporting of required MS4 control measures or individual BMPs, State Statute 39-2105(1) - (4) expressly establishes responsibility between the Permittee and adjacent municipalities for the operation of specific segment of the state highway system, inclusive of the MS4 Coverage Area (Part 1.1) designated by the Department.

4.2 Implementation of the Minimum Control Measures

Implementation of one or more of the minimum measures, not expressly made responsibility of another MS4 operator (Part 4.1), may be shared with another entity, or the entity may fully take responsibility for the measure. The Permittee may rely on another entity only if:

4.2.1 The other entity, in fact, implements the control measure;

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

4.3 The Other Entity Responsibility

To satisfy Part 4.2, the other entity must agree to implement the control measure on behalf of the Permittee. Written acceptance of this obligation is expected. This obligation must be documented in the SWMP of both entities. If the other entity agrees to report on the control measures, the Permittee must supply the other entity with the reporting requirements contained in Part 5.1 of this Permit. If the other entity fails to implement the control measure on behalf of the Permittee, then the Permittee shall remain liable for any discharges due to that failure to implement.

5. Reporting Requirements

5.1 Annual Reporting

5.1.1 The Permittee shall submit Annual Reports in conformance with Title 119 Chapter 10.002.12K2 on or before April 1 each year of the permit term to include, at a minimum, the following:

5.1.1.1 A summary of recent activities, including where available, specific quantities achieved and summaries of compliance oversight actions;

5.1.1.2 A description of the effectiveness of each SWMP component or activity consistent with Part 7.1; and

5.1.1.3 If available, a summary of data, including any monitoring and quantitative data, that is accumulated throughout the reporting year as established in in the evaluation and assessment plan

5.1.1.4 Planned activities and changes for the next reporting period, for each SWMP component or activity.

5.1.1.5 Any adjustments to the required BMPs implemented to achieve WQBELs (Part 2.2.2) as necessary to ensure their adequate performance.

5.1.1.6 An estimate of SWMP implementation costs.

5.1.2 The Annual Reports must clearly refer to the Permit Requirements and describe the status of activities undertaken to comply with each requirement.

5.1.3 In year four, the intent to reapply for MS4 Permit coverage must be submitted to the Department.

5.2 Amendment of Reporting Requirements

The reporting requirements set forth above may be amended in accordance with procedures set forth in Part 6.1.

5.3 **Immediate Reporting Requirements**

The Permittee shall immediately report to the Department by telephone upon becoming aware of any of the following:

- 5.3.1 Evidence that a discharge or sludge may be causing distress to fish, aquatic life, plant life, wildlife or livestock; and/or
- 5.3.2 According to NDEQ Title 126 Chapter 18, new knowledge of spills, leaks or contamination that equals or exceeds 100 pounds for unlisted hazardous substances or the Final Reportable Quantity for listed hazardous substances provided in 40 CFR 302.4 that could impact authorized discharges to surface or ground waters.

6. **Amendment Procedures and Requirements**

6.1 **Amendment Procedures**

- 6.1.1 Either the Department or the Permittee may propose amendments to the SWMP, monitoring requirements and reporting requirements. Amendments may be proposed either formally or informally. Proposed amendments shall not be implemented without agreement from both the Department and the Permittee.
- 6.1.2 Any such amendments must comply with the applicable Federal requirements set forth in NDEQ Title 119, Chapter 10 002.12K2.
- 6.1.3 Amendments that are mutually agreeable shall be implemented in accordance with written Department approval.
- 6.1.4 To further pursue proposed amendments that are not mutually agreeable, a written amendment request shall be forwarded to the other party. A reasonable time of at least 30 days shall be provided for the other party to review the proposals, and prepare comments, alternatives, and/or objections. A written response shall be provided within 90 days. If a final opinion is not possible during that time frame, preliminary comments will be provided.
- 6.1.5 After a period of at least 90 days from receipt of a written amendment request, either party may request or initiate a permit modification to resolve any SWMP amendment proposals that cannot be resolved by the procedure set forth above.

6.2 **Endangered and Threatened Species**

Changes to the SWMP, monitoring requirements and reporting requirements may be required to protect threatened or endangered species or their habitat within the MS4 Coverage Area (Part 1.1).

6.3 **Total Maximum Daily Loads (TMDLs)**

Changes to the SWMP, monitoring requirements and reporting requirements may be required to comply with any future TMDL requirements that may be established pursuant to the requirements of the Federal Clean Water Act within the MS4 Coverage Area (Part 1.1).

7. **Evaluation and Assessment Requirements**

7.1 **Evaluation and Assessment**

- 7.1.1 The Permittee must evaluate program compliance, the appropriateness of the identified BMPs, and progress towards achieving the identified measurable goals of the SWMP. A plan for evaluation and assessment shall be included with the SWMP and documented within subsequent Annual Reports as a result of such evaluation.
- 7.1.2 Data collected by other reliable sources (e.g. Department, Nebraska Game and Parks, Natural Resource Districts, adjacent municipalities, etc.) may be used by the Permittee to help evaluate and assess the effectiveness of the SWMP. Data from other sources that is used to justify Permit compliance must be submitted to the Department in the Annual Reports as required under Part 5.1 of this Permit. Such information must include:
 - 7.1.2.1 A summary of any cooperative efforts regarding monitoring;
 - 7.1.2.2 Tabulated data generated from the monitoring program;

7.1.2.3 Summary of the monitoring program work to date including any problems with the monitoring protocol and recommendations for any changes to the monitoring program.

7.2 **Coordination of Information**

7.2.1 The Permittee and Department shall share and coordinate relevant monitoring data. Data collected by other governmental entities can be used by the Permittee to help assess the effectiveness of BMPs. The data may be used to meet the evaluation and assessment requirements of this permit.

7.3 **Additional Monitoring by Permittee**

7.3.1 The Permittee may request to use analytical monitoring to supplement the comprehensive evaluation and assessment program where practical. Nothing in Part 7.3 shall be construed to preclude the use of analytical monitoring as an evaluation and assessment method.

7.3.2 If the Permittee seeks to use analytical monitoring, the procedures set forth in Appendix A shall be used for the approval of a monitoring program.

7.4 **Electronic Reporting**

7.4.1 The National Pollutant Discharge Elimination System (NPDES) Electronic Reporting Rule requires electronic reporting of NPDES information rather than the currently required paper based reports from the permitted facilities. To comply with the federal rule, permittees will be required to submit reports and monitoring data electronically by December 21, 2020.

Appendix A

Conditions Applicable to all NPDES Permits

The following conditions apply to all NPDES permits:

1. Information Available

All permit applications, fact sheets, permits, discharge data, monitoring reports, and any public comments concerning such shall be available to the public for inspection and copying, unless such information about methods or processes is entitled to protection as trade secrets of the owner or operator under Neb. Rev. Stat. §81-1527, (Reissue 1999) and NDEQ Title 115, Chapter 4.

2. Duty to Comply

- a. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Federal Clean Water Act and the Applicable State Statutes and Regulations and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.
- b. The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement.

3. Violations of this Permit

- a. Any person who violates this permit may be subject to penalties and sanctions as provided by the Clean Water Act.
- b. Any person who violates this permit may be subject to penalties and sanctions as provided by the Nebraska Environmental Protection Act.

4. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit.

5. Need to Halt or Reduce Activity not a Defense

It shall not be a defense for a permittee 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. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

7. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes effective performance based on designed facility removals, effective management, adequate operator staffing and training, adequate process controls, adequate funding that reflects proper user fee schedules, adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

8. Permit Actions

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

9. Property Rights

This permit does not convey any property rights of any sort, or any exclusive privilege.

10. Duty to Provide Information

The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the Director upon request, copies of records required to be kept by this permit.

11. Inspection and Entry

The permittee shall allow the Director, or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon presentation of credentials and other documents as may be required by law, to:

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

12. Monitoring and Records

- a. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- b. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR Part 503), the permittee shall 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, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time.
- c. Records of monitoring information shall include:
 - i) The date(s), exact place, time and methods of sampling or measurements;
 - ii) The individual(s) who performed the sampling or measurements;
 - iii) The date(s) analyses were performed;
 - iv) The individual(s) who performed the analyses;
 - v) The analytical techniques or methods used; and
 - vi) The results of such analyses.

- d. Monitoring must be conducted according to test procedures approved under NDEQ Title 119, Chapter 27 002 unless another method is required under 40 CFR Subchapters N – Effluent Guidelines and Standards Parts 425 to 471 or O – Sewer Sludge Parts 501 and 503.
- e. Falsifies, Tampers, or Knowingly Renders Inaccurate
 - i) On actions brought by EPA, the Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction: be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both.
 - ii) On action brought by the State, The Nebraska Environmental Protection Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished pursuant to Neb. Stat. §81-1508.01.

13. Signatory requirements

- a. All applications, reports, or information submitted to the Director shall be signed and certified.
 - iii) All permit applications shall be signed as follows:
 - a. For a corporation
 - i. By a responsible corporate officer: For the purpose of this section, a responsible corporate officer means:
 - a. 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
 - b. 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.
 - b. For a partnership or sole proprietorship
 - i. By a general partner or the proprietor.
 - c. For a municipality, State, Federal, or other public agency
 - i. By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes:
 - a. The chief executive officer of the agency, or

- b. A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

b. Reports and Other Information

- i) All reports required by permits, and other information requested by the Director shall be signed by a person described in this section [paragraphs 13. a. i) (a),(b), or (c)], or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - (a) The authorization is made in writing by a person described in paragraphs 13. a. i) (a),(b), or (c);
 - (b) 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 plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company, (a duly authorized representative may thus be either a named individual or any individual occupying a named position) and;
 - (c) The written authorization is submitted to the Director.

c. Changes to Authorization

If an authorization of paragraphs 13. a. i) (a),(b), or (c) is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of this section must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.

d. Certification

All applications, reports and information submitted as a requirement of this permit shall contain the following certification statement:

- i) 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 gathered and evaluated 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.

e. False Statement, Representation, or Certification

- i) The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.
- ii) The Nebraska Environmental Protection Act provides criminal penalties and sanctions for false statement, representation, or certification in any application, label, manifest, record, report, plan, or other document required to be filed or maintained by the Environmental Protection Act, the Integrated Solid Waste Management Act, the Livestock Waste Management Act or the rules or regulations adopted and promulgated pursuant to such acts.

14. Reporting Requirements

a. Planned Changes

- i) 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 NDEQ Title 119, Chapter 4 and 8.
 - (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 NDEQ Title 119, Chapter 15.
 - (c) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan. The sludge program is not delegated to the State so notification to the EPA Regional Administrator in addition to the State is required.

b. Anticipated Noncompliance

The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

c. Transfers

This permit is not transferable to any person except after notice to the Director. The Director 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 NDEQ Title 119, Chapter 24 in some cases, modification or revocation and reissuance is mandatory.

d. Monitoring Reports

- i) Monitoring results shall be reported at the intervals specified elsewhere in this permit.
- ii) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Director.
- iii) Monitoring results shall be submitted on a quarterly basis using the reporting schedule set forth below, unless otherwise specified in this permit or by the Department.

Monitoring Quarters

January - March
April - June
July - September
October - December

DMR Reporting Deadlines

April 28
July 28
October 28
January 28

- iv) For reporting results of monitoring of sludge use or disposal practices
- v) Additional reports may be required by the EPA Regional Administrator.
- vi) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved in NDEQ Title 119, Chapter 27 002, or another method required for an industry-specific waste stream under 40 CFR Subchapters N – Effluent Guidelines and Standards Parts 425 to 471 and O – Sewer Sludge Parts 501 and 503, the results of such monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Director or EPA Regional Administrator.
- vii) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Director in the permit.

e. Compliance Schedules

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

f. Twenty-four Hour Reporting

i) The permittee shall report any noncompliance which may endanger human health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

ii) The following shall be included as information which must be reported within 24 hours under this paragraph.

(a) Any unanticipated bypass which exceeds any effluent limitation in this permit.

(b) Any upset which exceeds any effluent limitation in this permit.

(c) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in the permit to be reported within 24 hours.

g. The Director may waive the written report on a case-by-case basis for reports under section 14. f. ii) (a), (b) and (c) if the oral report has been received within 24 hours.

h. Other noncompliance

The permittee shall report all instances of noncompliance not reported under paragraphs d., e., and f. of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph f. of this section.

i. Other information

Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.

j. Noncompliance Report Forms

i) Noncompliance Report Forms are available from the Department and shall be submitted with or as the written noncompliance report.

ii) The submittal of a written noncompliance report does not relieve the permittee of any liability from enforcement proceedings that may result from the violation of permit or regulatory requirements.

15. Bypass

a. Definitions

i) Bypass means the intentional diversion of waste streams from any portion of a treatment facility.

ii) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

b. Bypass Not Exceeding Limitations

The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs 15.c. and d. of this section.

c. Notice

i) Anticipated Bypass

If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

ii) Unanticipated Bypass

The permittee shall submit notice of an unanticipated bypass as required in paragraph 14.f. of this section (24-hour notice).

d. Prohibition of Bypass

Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:

- i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
- iii) The permittee submitted notices as required under paragraph 15.c. of this section.

- e. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in paragraph 15.d.

16. Upset

a. Definition

Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

b. Effect of an Upset

An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph 16.c. of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

c. Conditions Necessary for a Demonstration of Upset.

A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- i) An upset occurred and that the permittee can identify the cause(s) of the upset;
- ii) The permitted facility was at the time being properly operated;
- iii) The permittee submitted notice of the upset as required in paragraph 14.f. ii) (a), of this section (24-hour notice).

iv) The permittee complied with any remedial measures required under paragraph (d) of this section.

d. Burden of Proof

In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

17. Other Rules and Regulations Liability

The issuance of this permit in no way relieves the obligation of the permittee to comply with other rules and regulations of the Department.

18. Severability

If any provision of this permit is held invalid, the remainder of this permit shall not be affected.

19. Other Conditions that Apply to NPDES and NPP Permits

a. Land Application of Wastewater Effluent

The permittee shall be permitted to discharge treated domestic wastewater effluent by means of land application in accordance with the regulations and standards set forth in NDEQ Title 119, Chapter 12 002. The Wastewater Section of the Department must be notified in writing if the permittee chooses to land apply effluent.

b. Toxic Pollutants

The permittee shall not discharge pollutants to waters of the state that cause a violation of the standards established in NDEQ Titles 117, 118 or 119. All discharges to surface waters of the state shall be free of toxic (acute or chronic) substances which alone or in combination with other substances, create conditions unsuitable for aquatic life outside the appropriate mixing zone.

c. Oil and Hazardous Substances/Spill Notification

Nothing in this permit shall preclude the initiation of any legal action or relieve the permittee from any responsibilities, liabilities or penalties under section 311 of the Clean Water Act. The permittee shall conform to the provisions set forth in NDEQ Title 126, Rules and Regulations Pertaining to the Management of Wastes. If the permittee knows, or has reason to believe, that oil or hazardous substances were released at the facility and could enter waters of the state or any of the outfall discharges authorized in this permit, the permittee shall immediately notify the Department of a release of oil or hazardous substances. During Department office hours (i.e., 8:00 a.m. to 5:00 p.m., Monday through Friday, except holidays), notification shall be made to the Nebraska Department of Environmental Quality at telephone numbers (402) 471-2186 or (877) 253-2603 (toll free). When NDEQ cannot be contacted, the permittee shall report to the Nebraska State Patrol for referral to the NDEQ Immediate Response Team at telephone number (402) 471-4545. It shall be the permittee's responsibility to maintain current telephone numbers necessary to carry out the notification requirements set forth in this paragraph.

d. Removed Substances

i) Solids, sludge, filter backwash or other pollutants removed in the course of treatment or control of wastewater shall be disposed of at a site and in a manner approved by the Nebraska Department of Environmental Quality.

(a) The disposal of nonhazardous industrial sludges shall conform to the standards established in or to the regulations established pursuant to 40 CFR Part 257.

(b) The disposal of sludge shall conform to the standards established in or to the regulations established pursuant to 40 CFR Part 503.

(a) "Water Measurement Manual," U.S. Department of the Interior, Bureau of Reclamation, Third Edition, Revised Reprint, 2001.

(Available online at <http://www.usbr.gov/tsc/techreferences/mands/wmm/index.htm>)

(b) "NPDES Compliance Flow Measurement Manual," U.S. Environmental Protection Agency, Office of Water Enforcement, Publication MCD-77, September 1981, 147 pp.

(Available online at <http://www.epa.gov/nseep>, and enter 'NPDES Compliance Flow Measurement Manual, Publication MCD-77' in the search box)

f. Changes of Loadings to Publicly Owned Treatment Works (POTWs)

All POTWs must provide adequate notice to the Director of the following:

- i) Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to NDEQ Title 119, Chapter 26, if it were directly discharging those pollutants;
- ii) Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
- iii) For purposes of this paragraph, adequate notice shall include information on the quality and quantity of effluent introduced into the POTW, and any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

Definitions

Administrator: The Administrator of the USEPA.

Aliquot: An individual sample having a minimum volume of 100 milliliters that is collected either manually or in an automatic sampling device.

Annually: Once every calendar year.

Authorized Representative: Individual or position designated the authorization to submit reports, notifications, or other information requested by the Director on behalf of the Owner under the circumstances that the authorization is made in writing by the Owner, the authorization specifies the individual or position who is duly authorized, and the authorization is submitted to the Director.

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

Bimonthly: Once every other month.

Biosolids: Sewage sludge that is used or disposed through land application, surface disposal, incineration, or disposal in a municipal solid waste landfill.

Biweekly: Once every other week.

Bypass: The intentional diversion of wastes from any portion of a treatment facility.

Certifying Official: See Section 13, Standard Conditions above.

Daily Average: An effluent limitation that cannot be exceeded and is calculated by averaging the monitoring results for any given pollutant parameter obtained during a 24-hour day.

Department: Nebraska Department of Environmental Quality.

Director: The Director of the Nebraska Department of Environmental Quality.

Illicit Discharge: Any discharge to a MS4 that is not composed entirely of stormwater, except allowable discharges pursuant to an NPDES permit and allowable Non-Storm Water Discharges, including those resulting from firefighting activities.

Industrial Discharge: Wastewater that originates from an industrial process and / or is noncontact cooling water and / or is boiler blowdown.

Industrial User: A source of indirect discharge (a pretreatment facility).

Major Municipal Separate Storm Sewer Outfall (or Major Outfall): A municipal separate storm sewer outfall that discharges from a single pipe with an inside diameter of 36 inches or more or its equivalent (discharge from a single conveyance other than circular pipe which is associated with a drainage area of more than 50 acres); or for municipal separate storm sewers that receive storm water from lands zoned for industrial activity (based on comprehensive zoning plans or the equivalent), an outfall that discharges from a single pipe with an inside diameter of 12 inches or more or from the equivalent (discharge from other than a circular pipe associated with a drainage area of 2 acres or more).

Municipal Separate Storm Sewer: A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

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;

Designed or used for collecting or conveying stormwater;

Which is not a combined sewer;

Which is not part of a Publicly Owned Treatment Works (POTW);

Referred to as regulated when an NPDES Permit has been issued for the system by the Department; and

Referred to as Phase II when the conditions of NDEQ Title 119, Chapter 1 111 apply to the MS4

Monthly Average: An effluent limitation that cannot be exceeded. It is calculated by averaging any given pollutant parameter monitoring results obtained during a calendar month.

National Pollutant Discharge Elimination System (NPDES): The national program for issuing, modifying, revoking and reissuing, terminating, monitoring, and enforcing permits pursuant to Sections 307, 402, 318, and 405 of the Clean Water Act, and includes any State program which has been approved by the Administrator, in whole or in part, pursuant to Section 402 of the Clean Water Act.

Operator: A person (often the general contractor) designated by the owner who has day to day operational control and/or the ability to modify project plans and specifications related to the facility.

Owner: A person or party possessing the title of the land on which the activities will occur; or if the activity is for a lease holder, the party or individual identified as the lease holder; or the contracting government agency responsible for the activity.

Outfall: A point source (as defined in Title 119, Chapter 1) at the point where a facility or municipal separate storm sewer discharges to waters of the State and does not include open conveyances connecting to municipal separate storm sewers, or pipes, tunnels or other conveyances which connect segments of the same stream or other waters of the State and are used to convey waters of the State..

Passive Discharge: A discharge from a POTW that occurs in the absence of an affirmative action and is not authorized by the NPDES permit (e.g. discharges due to a leaking valve, discharges from an overflow structure) and / or is a discharge from an overflow structure not designed as part of the POTW (e.g. discharges resulting from lagoon berm / dike breaches).

Point Source: Any discernable, 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, or 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 storm water runoff.

Publicly Owned Treatment Works (POTW): A treatment works as defined by Section 212 of the Clean Water Act (Public Law 100-4) which is owned by the state or municipality, excluding any sewers or other conveyances not leading to a facility providing treatment.

Semiannually: Twice every year.

Significant Industrial User (SIU): All industrial users subject to Categorical Pretreatment Standards or any industrial user that, unless exempted under Chapter 1, Section 105 of NDEQ Title 119, discharges an average of 25,000 gallons per day or more of process water; or contributes a process waste stream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW; or is designated as such by the Director on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any National Pretreatment Standard or requirement.

Sludge: Any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility or any other such waste having similar characteristics and effect.

Stormwater: Stormwater runoff, snowmelt runoff, and surface runoff and drainage.

Stormwater Discharges Associated with Industrial Activity: Discharge from any conveyance that is used for collecting and conveying stormwater and that is directly related to manufacturing, processing or raw materials storage areas at an industrial site.

30-Day Average: An effluent limitation that cannot be exceeded. It is calculated by averaging any given pollutant parameter monitoring results obtained during a calendar month.

Total Toxic Organics (TTO): The summation of all quantifiable values greater than 0.01 milligrams per liter (mg/l) for toxic organic compounds that may be identified elsewhere in this permit. (If this term has application in this permit, the list of toxic organic compounds will be identified, typically in the Limitations and Monitoring Section(s) and/or in an additional Appendix to this permit.)

Toxic Pollutant: Those pollutants or combination of pollutants, including disease causing agents, after discharge and upon exposure, ingestion, inhalation or assimilation into an organism, either directly from the environment or indirectly by ingestion through food chains will, on the basis of information available to the administrator, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunction (including malfunctions in reproduction), or physical deformations in such organisms or their offspring.

Upset: An exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee, excluding such factors as operational error, improperly designed or inadequate treatment facilities, or improper operation and maintenance or lack thereof.

Volatile Organic Compounds (VOC): The summation of all quantifiable values greater than 0.01 milligrams per liter (mg/l) for volatile, toxic organic compounds that may be identified elsewhere in this permit. (See the definition for Total Toxic Organics above. In many instances, VOCs are defined as the volatile fraction of the TTO parameter. If the term VOC has application in this permit, the list of toxic organic compounds will be identified, typically in the Limitations and Monitoring Section(s) and/or in an additional Appendix to this permit.)

Waters of the State: All waters within the jurisdiction of this state including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, situated wholly or partly within or bordering upon the state.

Weekly Average: An effluent limitation that cannot be exceeded. It is calculated by averaging any given pollutant parameter monitoring results obtained during a fixed calendar week. The permittee may start their week on any weekday but the weekday must remain fixed. The Department approval is required for any change of the starting day.

"X" Day Average: An effluent limitation defined as the maximum allowable "X" day average of consecutive monitoring results during any monitoring period where "X" is a number in the range of one to seven days.

Abbreviations

BMP: Best Management Practices

CWA: Federal Clean Water Act (33 U.S.C. 1251 *et seq.*)

CFR: Code of Federal Regulations

kg/Day: Kilograms per Day

MGD: Million Gallons per Day

mg/L: Milligrams per Liter

MCM: Minimum Control Measure

MEP: Maximum Extent Practicable

MS4: Municipal Separate Storm Sewer System

NOI: Notice of Intent

NDEQ: Nebraska Department of Environmental Quality

NDEQ Title 115: Rules of Practice and Procedure

NDEQ Title 117: Nebraska Surface Water Quality Standards

NDEQ Title 118: Ground Water Quality Standards and Use Classification

NDEQ Title 119: Rules and Regulations Pertaining to the Issuance of Permits under the National Pollutant Discharge Elimination System

NDEQ Title 126: Rules and Regulations Pertaining to the Management of Wastes

NDEQ Title 132: Integrated Solid Waste Management Regulations

NDOT: Nebraska Department of Transportation

NPDES: National Pollutant Discharge Elimination System

NPP: Nebraska Pretreatment Program

POTW: Publicly Owned Treatment Works

SWMP: Stormwater Management Plan

TMDL: Total Maximum Daily Load

µg/L: Micrograms per Liter

WLA: Wasteload Allocation

WQBEL: Water Quality Based Effluent Limit

WWTF: Wastewater Treatment Facility

Nebraska Department of Environmental Quality

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Fact Sheet
NPDES Permit Authorizing
Small Municipal Separate Storm Sewer System Discharges from
Nebraska Department of Transportation
NPDES Permit Number NE0134015

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20170074354

A. General Information

This permit authorizes Small Municipal Separate Storm Sewer System (sMS4) discharges from the Nebraska Department of Transportation (NDOT) – a Phase II MS4 as defined in NDEQ Title 119, Chapter 10 002.10A to waters of the state. The Bureau of Census latest Decennial Census was used to identify the eligible municipalities.

B. Authority and Purpose

1. This draft individual permit was developed according to the Nebraska Department Environmental Quality Title 119 – *Rules and Regulations Pertaining to the Issuance of Permits Under the National Pollutant Discharge Elimination System*. This regulation was promulgated pursuant to the Nebraska Environmental Protection Act (Neb. Rev. Stat. §§ 81-1501 et seq.) and the Federal Clean Water Act (33 U.S.C. §§ 1251 et seq.). The National Pollutant Discharge Elimination System (NPDES) is authorized in Section 402 of the Federal Clean Water Act.
2. The NPDES permit contains required “best management practices” (BMPs) to regulate the pollutant discharges from a sMS4. These BMPs are intended to enable the Permittee to protect water quality from sMS4 discharges. Permit requirements must be expressed in clear, specific, and measurable terms. The water quality protection will be measured using the standards established in NDEQ Title 117 – *Nebraska Surface Water Quality Standards* and Title 118 – *Ground Water Standards*.
3. The regulations set forth in 40 CFR Part 122.34(a) require that SWMPs be designed to reduce pollutants discharged from the MS4 “to the maximum extent practicable (MEP), to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act.” One provision of the MEP standard is that it needs to be determined for each new permit term. A foundational principle of MS4 permits is that from permit term to permit term iterative progress will be made towards meeting water quality objectives, and that adjustments in the form of modified permit requirements will be made where necessary to reflect current water quality conditions, BMP effectiveness, and other current relevant information.
4. On December 9, 2016 EPA published the *National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System General Permit Remand Rule* (EPA-HQ-OW-2015-0671, Federal Register Vol. 81 No. 237). This rule was issued to provide for adequate public notice and opportunities for comments and hearings. The rule established two approaches for the issuance of MS4 general permits. The first approach is to set forth all MS4 requirements and terms in one comprehensive permit. The second approach is to have a two-step process. Some terms and conditions would be issued in a base permit, and additional permit requirements would be established with individual MS4 communities after public notice and/or hearing. The NDEQ is utilizing the second approach and has chosen to apply the same approach to this individual permit. Terms, base requirements, and conditions are established in this permit, and then individual permittee will have its proposed storm water management plan publicly noticed.

C. Description of the Discharges

The primary function of this permit is to reduce and/or control pollutant discharges from a sMS4. The development and implementation of BMPs accomplishes the reduction/control of pollutant discharges. These BMPs are to be designed to prevent and reduce the amount of pollutants entering the storm water drainage system. The following pollutants, among others, may be present in storm water discharges:

1. Suspended solids (sediment and other sources) from home and industrial sites, municipal infrastructure maintenance and construction sites;
2. Fertilizer (primarily phosphorus and nitrogen compounds) and pesticides from lawns, parks, golf courses, and similar green spaces;
3. Salt, oil and grease from parking lots and streets;
4. A variety of pollutants from the improper storage and disposal of waste material;
5. Bacteria from the improper storage and disposal of pet wastes, sanitary excursions, and other sources;
6. Floatables including litter, plastic bags, cigarette refuse, and other debris;
7. Temperature or thermal pollution;

8. Oxygen Demand from organic materials such as grass clippings, leaves, etc.; and
9. Metals from roof surfaces, vehicles, galvanized surfaces, etc.

D. Area of Application

The permit provides coverage for any property owned by the NDOT, the Permittee, which is located within the urbanized area of regulated Municipal Separate Storm Sewer Systems (MS4s) throughout the State of Nebraska. Identification of regulated MS4s is determined by the Nebraska Department of Environmental Quality (Department) according to Title 119, Chapter 10 002.10. Upon identification of other newly-designated, regulated MS4s, NDOR shall be responsible for compliance with the terms of this Permit in those areas of the state as well. The Permit proposes coverage for storm water discharges and certain authorized dry weather discharges from these MS4s.

E. Permit Term

The draft permit is to be issued for a five-year term. This is the maximum time period allowed pursuant to NDEQ Title 119, Chapter 16 002. Part 6 sets forth procedures for the Permittee to propose amendments to the Storm Water Management Plan (SWMP), monitoring requirements, and reporting requirements.

F. Anti-degradation Review

An anti-degradation review was performed for purposes of developing the permit pursuant to 40 CFR § 131.12. The results of the evaluation indicate that the receiving water bodies for the discharges addressed by the permit likely have habitat for aquatic life. The designated uses of the receiving water bodies were considered during permit development. The limitations in the draft permit are protective of the Clean Water Act § 101(a)(2) goals, and ensures the existing quality of water in the receiving streams is not lowered.

G. Proposed Changes Between this Permit and Existing Permit

The permit replaces an existing NPDES permit NE0134015. The format has been modified from the previous permit which was issued to align more closely with the USEPA MS4 Permit Improvement Guidance [EPA 833-R-10-001, April 2010], Significant changes to the permit include:

1. Cover: Permittee is unchanged, but the name has been modified as of July 1, 2017 to Nebraska Department of Transportation (NDOT).
2. Part 1.1 Coverage Area remains the same, but the Department has added new MS4s in Nebraska effective January 1, 2018 which are added to the areas affecting the NDOT Coverage Area.
3. Part 1.3.3 NDEQ evaluates Anti-degradation during process of developing new permit requirements. Because NDEQ is not able to issue an NPDES Permit that would contradict anti-degradation policy for water quality standards, this limitation on coverage is unnecessary and confusing. It has been removed from the Permit.
4. Part 2.1 Clarifies that discharges to water quality impaired waters may prompt the Department to pursue changes to the SWMP following Amendment procedures found in Part 6 if NDOT is determined to be a contributor to the water quality impairment.
5. Part 2.2.1 Clarifies that the Department may name NDOT as a contributor to a TMDL and require the SWMP to be revised to address limitations using the Amendment procedures found in Part 6.
6. Part 3.1.4 Adds requirement that program supporting documentation may be allowed to supplement the SMWP if implementation details required in the permit are not explicit in the SWMP.
7. Part 3.2.2.1 Spills or other releases was combined under prohibited Illicit Discharges to be consistent with the IDDE program implemented by NDOT.
8. Part 3.2.2.9 Interagency agreements where MS4 boundaries intersect was removed and is not required because State Statute 39-2105 establishes the requirements for operation of state highway segments as enforceable responsibility assigned between NDOT and local municipalities.

9. Part 3.3 Enforcement Measures and Tracking have been renamed to Compliance Oversight Procedures which accurately represents the methods of compliance available to a non-traditional MS4. Enforcement measures represent only one part of the comprehensive compliance oversight procedures available to the permittee. Also, many BMPs are implemented within the Agency by Agency staff where compliance oversight, rather than enforcement, represents the strategies available to maintaining compliance with regulations, policies, standards and plans.
10. Part 3.3.1 The requirement to consider the feasibility of specific enforcement compliance measures has been removed to allow NDOT flexibility of compliance oversight of each MCM.
11. Part 3.4.2.1.1.2 The term MS4 outfall pipes was revised to MS4 outfalls to be inclusive of pipes and open channels that represent stormwater drainage operated by NDOT.
12. Part 3.4.2.1.2 Priority locations for outfalls was removed as a requirement in the permit. Major outfalls are defined in Appendix A, Part 9.16 and the permit requires mapping outfalls that discharge to State designated waters. The requirement to define these as priority outfalls is removed as they are mapped and dry weather investigated according to the IDDE Program frequency.
13. Part 3.4.3.2.1 Erosion and Sediment Control is inclusive of Soil Stabilization, Dewatering and Surface Outlets which were previously isolated as separate requirements. Soil Stabilization, Dewatering and Surface Outlets are not listed separately for Construction Stormwater Management Program requirements.
14. Part 3.4.3.2.2 Pollution Prevention Measures is inclusive of Prohibited Discharges by NDOT which were previously isolated as separate requirements. Prohibited Discharge are not listed separately for Construction Stormwater Management Program requirements.
15. Part 3.4.3.4 The requirement to maintain an erosion and sediment control plan review process has been clarified to match the SWPPP development process which is comprehensive of all the steps and content required by the Construction Stormwater NPDES General Permit to prevent conflicting requirements with the MS4 programmatic requirements.
16. Part 3.4.3.5.1 The Construction Stormwater NPDES General Permit is documented as providing the minimum requirements for information to review as part of an inspection to prevent conflicting requirements with the MS4 programmatic requirements.
17. Part 3.4.3.6.2 For construction sites, public involvement is revised to public reporting to clarify the intent of communication between the public and active construction sites about stormwater concerns.
18. Part 3.4.4.2 Site Plan Review was replaced by Stormwater Treatment Design Review Process to clarify the comprehensive design process that NDOT follows beyond reviewing site plans.
19. Part 3.4.5.1.1 The requirement to maintain Stormwater Treatment Facilities within an inventory of maintenance facilities that need maintained was moved to MCM 5 for Post-Construction Stormwater Management.
20. Part 3.4.5.4.1 The section referring to catch basins is renamed to be more inclusive of the storm drainage system with reference to inlets, open channels and drainage structure maintenance.
21. Part 3.4.5.4.2.1 Parking lots were removed from the sweeping program requirements as they are covered by NDOT within the Facility Runoff Control Program applied to maintenance facilities.
22. Part 4.1 Clarifies that control measures may be expressly made the responsibility of other entities and therefore not required to be implemented by the Permittee.
23. Part 5.1 Annual Reporting requirements have been reinstated.

H. Permit Requirements and Conditions

The content of each section is summarized in the following paragraphs. An explanation of the basis is provided when appropriate.

1. Permit Authorization Page

This is the first page of the permit has the following information:

- a. The Federal and Nebraska State laws that authorize sMS4 discharges under this NPDES permit;

- b. The NPDES Permit Number;
 - c. The issuance and expiration dates; and
 - d. The Director or a delegated representative prior to permit issuance shall sign this page.
2. Table of Contents
- This is a list of the individual Parts, Appendices, and Attachments of the permit. This is intended as an aid in reviewing and using the permit.
3. Part 1 – Applicability
- a. This part describes the eligible MS4 discharges authorized under the terms and conditions of this permit.
 - b. This portion explains those discharges that are authorized by this permit.
 - c. The limitations on coverage are set forth in this part of permit.
4. Part 2 – Special Conditions
- Requirements of the Stormwater Management Plan may be amended if:
- a. If the sMS4 is listed as a contributor to discharges into impaired waters for pollutant of concern or are a potential threat to protect threatened and endangered species and their habitats.
 - b. Where a Total Maximum Daily Load has been developed for MS4 receiving waters, guidance is included for how to achieve Water Quality Based Effluent Limitation requirements in TMDLs using BMPs.
5. Part 3 – Storm Water Management Plan Requirements
- This part of the permit contains the following provisions taken from 40 CFR Part 122:
- a. The permittee must meet the six minimum control measure requirements;
 - b. The permittee must develop, implement, and enforce a storm water management plan;
 - c. Implement best management practices for each of the six minimum control measures;
 - d. Implement clear, specific, measurable goals for each of the best management practices;
 - e. Develop or maintain adequate legal authority, compliance oversight tools, and tracking mechanisms to maintain compliance with SWMP requirements;
 - a. Permittees must establish adequate authority to implement and enforce most parts of the SWMP (40 CFR Part 122.26(d)(2)(i) and 40 CFR Part 122.34(b)). Legal authority is a requirement of owners and operators of both traditional and non-traditional MS4s.
 - b. A major difference between a traditional MS4 and a non-traditional MS4 (such as a DOT, military base, or university) is often the scope of legal authority available to the MS4. Non-traditional MS4 permittees often cannot pass ordinances nor do they have enforcement authority like a typical municipality, so legal authority may consist of policies, standards, or specific contract language. Non-traditional MS4 permittees also do not generally have the authority to impose a monetary penalty. Although these differences exist, just like traditional MS4s, non-traditional MS4s must have the legal authority to develop, implement, and enforce the program. Non-traditional permittees may, for example, have authority over contracts. They may also develop a coordinated permit with a neighboring MS4 and utilize the coordinated enforcement in a program or plan designated in the SWMP.
 - f. Minimum Control Measures – This part outlines the permit requirements for each of the six minimum control measures. In addition, it outlines the decisions that are required to implement these requirements. The six minimum control measures are:
 - 1) Public Education and Outreach on Storm Water Impacts;
 - 2) Public Involvement/Participation;
 - 3) Illicit Discharge Detection and Elimination;

- 4) Construction Site Storm Water Runoff Control;
 - 5) Post- Construction Site Storm Water Management in New Development and Redevelopment; and
 - 6) Pollution Prevention/Good Housekeeping for Municipal Operations.
6. Part 4 – Sharing Responsibility
These are provisions that allow a MS4 to share responsibilities with another entity.
7. Part 5 – Reporting Requirements
- a. This part of the draft permit sets forth the reporting requirements.
 - 1) Annual Report meets the requirements of NDEQ Title 119, Chapter 10 002.12K2 and is intended to include an annual review and assessment of the SWMP. The Annual Reports would be due on or before April 1st of each year.
 - 2) Amendment of Reporting Requirements – There are provisions included in the draft permit for making changes to Reporting Requirements (Also see NPDES Permit Part 6. - Amendment Procedures and Requirements).
 - 3) Immediate Reporting Requirements – There are also some immediate, non-routine reporting requirements for event-related circumstances.
8. Part 6 – Amendment Procedures and Requirements
- a. Amendment Procedures – This part contains provisions for making mutually agreeable (i.e., to the NDEQ and the Municipality) changes to the SWMP, the monitoring requirements, and/or reporting requirements. It is anticipated that improvements will be recognized as implementation experience is gained. This part would allow efficient implementation of such changes.
 - b. Endangered or Threatened Species – This part also recognizes the possible need to change or modify provisions of the SWMP, the monitoring requirements, and/or reporting requirements to address endangered and threatened species.
 - c. Total Maximum Daily Loads (TMDL) - This part also recognizes the possible need to change or modify provisions of the SWMP, the monitoring requirements, and/or reporting requirements to address TMDL issues.
 - d. Electronic Reporting – On October 22, 2015, EPA published the Clean Water Act National Pollutant Discharge Elimination System (NPDES) Electronic Reporting Rule, which requires electronic reporting of NPDES information rather than the currently required paper based reports from the permitted facilities. Facilities must submit electronic information required in Appendix A of 40 CFR Part 127, 40 CFR 122.26(b)(15), and 40 CFR 122.26(b)(14)(x).
9. Part 7 – Evaluation and Assessment Requirements
- a. Comprehensive Evaluation and Assessment Program – MS4 compliance will be evaluated using narrative effluent limitations requiring implementation of BMPs. The evaluation and assessment program is intended to assess compliance with the permit, measure effectiveness of the SWMP using performance and effectiveness measures, evaluate appropriateness of identified BMPs using appropriate assessment indicators, and assess progress towards achieving measurable goals.
 - b. Evaluation of Overall Program Effectiveness – On an annual basis permittees will evaluate the SWMP as a whole using appropriate environmental and administrative indicators in addition to documenting progress towards achieving stated measurable goals. This information is intended to provide rationale for modifications and improvement to the SMWP.
 - c. Utilizing shared information is encouraged when available to help support the Evaluation and Assessment program.
 - d. Coordination of Information – The requirement of the permittee to share and coordinate relevant monitoring data is set forth in NDEQ Title 119.

- e. Additional Monitoring by Permittees – The conditions under which the Department may require increases in monitoring frequencies and monitoring for additional parameters are in accordance with NDEQ Title 119.
10. Appendix A – Standard Conditions – This part presents the General Conditions and includes the requirements set forth in NDEQ Title 119. These are standard conditions which must be included in all NPDES permits.
- a. Signatory Requirements are explained in this section. It includes the requirements set forth in NDEQ Title 119. These are standard requirements for NPDES permits.
 - b. Monitoring and Records keeping requirements are explained in this section. It includes the requirements set forth in NDEQ Title 119. These are standard conditions for all NPDES permits.
 - c. Reporting requirements, these are standard conditions for all NPDES permits.
 - d. Bypass, these are standard conditions for all NPDES permits.
 - e. Upset, these are standard conditions for all NPDES permits.
 - f. Operation and Maintenance, these are standard conditions for all NPDES permits.
 - g. Definitions – This part sets forth definitions for terms used (or potentially used) in the permit. Some of the definitions may be part of a list included in all NPDES permits, and definitions for storm water, construction storm water, and MS4 discharges have been added.
 - h. Abbreviations – Numerous acronyms and abbreviations are used throughout the permit and associated documents. This section provides definitions for those acronyms and abbreviations. Some of the acronyms and abbreviations may be part of a list included in all NPDES permits.

I. Supporting Documentation

- 1. NDEQ Title 117 - Nebraska Surface Water Quality Standards (Revised December 13, 2014);
- 2. NDEQ Title 118 - Ground Water Quality Standards and Use Classifications (Revised March 27, 2006);
- 3. NDEQ Title 119 - Rules and Regulations Pertaining to the Issuance of Permits under the National Pollutant Discharge Elimination System (Revised July 2, 2017);
- 4. Technical Support Document for Water Quality-based Toxic Control (EPA 505/2-90-001 PB91-127415, March, 1991);
- 5. 40 CFR, Part 122, 124, and 125, NPDES Regulations;
- 6. Nebraska Non-game and Endangered Species Conservation Act (Neb. Rev. Stat. §§ 37-430 through 317 – 438);
- 7. NPDES Municipal Separate Storm Sewer System General Permit Remand Rule [EPA-HQ-OW-2015-0671; FRL-9955-11-OW; RIN 2040-AF57, December 9, 2016]
- 8. USEPA MS4 Permit Improvement Guidance [EPA 833-R-10-001, April 2010];
- 9. USEPA Memorandum – Establishing TMDL Wasteload Allocations for Storm Water Sources and NPDES Permit Requirements Based on Those WLAs, November 11, 2002; and
- 10. NDEQ, *2016 Surface Water Quality Integrated Report*, April 1, 2016.

J. Information Requests

Inquiries concerning the draft permit, its basis or the public comment process may be directed to:

Lisa Giesbrecht Tel. (402) 471-8830 or (402) 471-4220 Fax: (402) 471-2909

Individuals requiring special accommodations or alternate formats of materials should notify the Department by calling (402) 471-2186. TDD users should call (800) 833-7352 and ask the relay operator to call the Department at (402) 471-2186.

Copies of the application and other supporting material used in the development of the permit are available for review and copying at the Department's office between 8:00 A.M. and 5:00 P.M. on weekdays.

Office Location: The Atrium, 1200 N Street, Suite 400, Lincoln, NE

Mail Address: NPDES Permits Unit, Nebraska Department of Environmental Quality, PO Box 98922;
Lincoln, Nebraska 68509-8922

K. Submission of Formal Comments or Requests for Hearing

The date on which the public comment period ends is specified in the public notice. During the public notice period, the public may submit formal comments or objections, and/or petition the Department to hold a public hearing concerning the issuance of the draft permit. All such requests need to: be submitted in written form, state the nature of the issues to be raised, and present arguments and factual grounds to support them. The Department shall consider all written comments, objections and/or hearing petitions, received during the public comment period, in making a final decision regarding permit issuance.

Formal comments, objections and/or hearing requests need to be submitted to:

Lisa Giesbrecht; NPDES Permits Unit

Mailing Address: Nebraska Department of Environmental Quality
PO Box 98922
Lincoln, Nebraska 68509-8922

Location Address: Nebraska Department of Environmental Quality
The Atrium, 1200 N Street, Suite 400
Lincoln, Nebraska