Division of Water Quality Summary and Responses to Public Comments
General Permit for Discharges from Small Municipal Separate Storm Sewer Systems (MS4) (UTR090000)

May 2010

The Division of Water Quality's Municipal Separate Storm Sewer System (MS4) General Permit, UTR090000 was originally public noticed from December 4, 2009 to January 7, 2010.

Certain comments were general in nature but most were related to specific sections of the MS4 general permit. Specific comments and the Division's responses are organized below in the order of the section of the permit to which they relate. Editorial corrections and other minor corrections are not included in this comment summary.

Any changes made to the second public notice version of this permit are indicated in bold type in the response. Some permit citations have changed due to both the deletion and addition of permit requirements. The citations listed in the comment section are consistent with the first public noticed permit (December 2009). If the citation has changed, the new citation is indicated in bold in the response.

General Comments:

Comment: *The current permit is more flexible than this new permit with respect to the six minimum control measures (MCM). The descriptions for each MCM contain specific BMPs with how, where and to what extent the permittee is expected to accomplish the MCM's. The current permit allowed the MS4's to select the minimum control measures.*

Response: This permit does provide more description than the first (current) permit. Both permits contain very similar requirements however the new permit has been strengthened by identifying specific actions that must be performed in order to assist permittees in their understanding of what they need to do to comply with the permit requirements. In some instances, examples are given of appropriate best management practices (BMPs). Flexibility still exists in determining specific pollutants and pollutant sources and choosing BMPs to address them. There are many permit requirements such as development of an ordinance, conducting plan reviews, conducting inspections, etc. but these are not BMPs; they are federally mandated permit requirements. Specific BMPs are not indicated in this permit. The six Minimum Control Measures (MCM's) are federally mandated and are not open to permittee selection, however, the BMPs that a permittee uses to obtain compliance with the MCM's are flexible and should be chosen by the permittee in order to tailor its SWMP to its specific jurisdiction. EPA's National Menu of Stormwater Best Management Practices can be found at http://cfpub.epa.gov/npdes/stormwater/menuofbmps/

Comment: *The Permittee should determine the duration for implementation of the control measures.*

Response: EPA issued the "MS4 Permit Improvement Guide" in April 2010 with the purpose of strengthening MS4 permits. The guidance emphasizes using clear, specific, measurable and enforceable language which specifies among other things, "how much" is to be done. "How much" is the performance standard the permittee must meet (e.g., how many inspections).

Comment: *Permittees should be allowed to determine when requirements will be met based on available and forecasted budgets; documentation should be reduced where not essential.*

Response: Documentation is essential to demonstrating compliance with this permit, setting measurable goals, and through the iterative process, determining BMPs which meet the permittee's goals as well as budget. Providing a detailed analysis of capital and operation and maintenance expenditures needed, allocated, and spent as well as the necessary staff resources needed and allocated to meet the requirements of this permit will help the Division understand the resources that are dedicated to compliance with this permit.

Comments: *Why do smaller cities have to comply with this permit and not some larger cities? Implementation of this permit should be delayed for smaller cities until such time as larger cities are designated. Permit requirements should be based more closely on each city's impact rather than the concept of urbanized area. More training and financial help should be made available for smaller cities. More leniency should be given to smaller cities during audits.*

Response: At this point, all Permittees regulated under this general permit are from the original automatic nationwide designations made by EPA according to the 2000 U.S. Census. The Division is unable to delay implementation of this permit for cities automatically designated and covered under this permit since 2002. More information on how these designations were made can be found at http://www.epa.gov/npdes/pubs/fact2-1.pdf. However, the Division may order coverage under this permit of additional MS4's according to the factors listed in the UPDES rules, R317-8. The Division will continue to provide assistance to cities of all sizes in a proactive manner as well as upon request. Currently, there are no state monies available to aid in compliance with this permit. Audits are conducted in a fair and consistent manner regardless of a city's population. Smaller cities are encouraged to tailor their Storm Water Management Program (SWMP) to focus on their specific environmental factors which may include proposing alternative Best Management Practices (BMPs) to the Division if necessary. All cities should thoroughly document their specific compliance efforts and associated costs.

Comment: *The public notice period should be extended.*

Response: This permit was open to public comment for 30 days in addition to the 30 days for stakeholder review which was given in March of 2009. Changes made to this permit will be public noticed for an additional 30 days. All Permittees will be notified as to when the public notice period begins.

Comment: *The public notice period was not well advertised.*

Response: The public notice period was announced at the Storm Water Advisory Committee and individual emails (and phone calls to those without email addresses) were sent to every

regulated MS4 in the state. The public notice period was also advertised in the Salt Lake Tribune and Deseret News newspapers as required by state public notice requirements.

Comment: *Three requests were made for a public meeting/hearing in which to make comments regarding this permit.*

Response: All comments received during the public notice period are addressed in this document. The Division feels the written comment and response approach is adequate for the reissuance of this permit.

Comments: *Comments were received in request of various suggested effective dates for this permit which reflected individual permittee's budgeting needs. One commenter was concerned about the effective date in "120 days" and had no resources until after July 1, 2010.*

Response: The exact effective date of this permit will be determined following the second public notice period. After the public notice period, the Division will again respond to comments received. The 120 days in question is when updated Storm Water Management Programs are to be submitted to the Division. The updated Storm Water Management Program will include how the permittee intends to comply with this permit over the course of the 5-year permit term. The Division assumes that permittees will be using their resources allocated for this particular budget year to continue implementation of the current permit which has been in effect since December 2002. No additional resources are necessarily required for the time period between when this reissued permit becomes effective and the end of this budget year.

Comment: *The effective date of this permit should be October 1, 2010, so that the next annual report will not be reporting on two different permits.*

Response: This permit has been in effect since December 9, 2002. This reissued permit is a continuation of effort in the management of storm water associated with small MS4s. The next annual report will reflect what has been accomplished in the last year whether it was implementing the current permit requirements or planning and developing new BMPs to comply with this reissued permit.

Comment: *This permit exceeds our current ability to comply from a staffing and funding perspective; is ambiguous and has excessive and unnecessary paperwork and reporting requirements. The state should make sure that it is not more restrictive than EPA.*

Response: This reissued permit has strived to make permit requirements more clear while maintaining a certain amount of flexibility. The permit requirements are a continuation of permittee's efforts that began in December of 2002. The Division recognizes that MS4's vary widely in storm water management experience and sophistication, size, precipitation patterns, receiving water conditions, budget, etc. and therefore encourages permittees to tailor their chosen BMPs to match the needs of their jurisdiction. The Division has incorporated EPA's latest guidance for Phase II MS4 permits in writing this permit.

Comment: *There are too many different deadlines (90 days, 120 days, 180 days and 18 months) in this permit and it is too confusing.*

Response: Many requirements in this permit were to have been completed and fully implemented by December 8, 2007. The 18-month deadline given in the minimum control measures of Illicit Discharge Detection and Elimination, Construction Site Storm Water Runoff, and Long-Term Storm Water Management was made in order to give permittees extra time in gaining compliance in these areas. The 180-day deadline concerns only new applicants. The 120-day deadline is when a written and updated Storm Water Management Program (SWMP) document has to be submitted to the Division. The 90-day deadline is when all permittees must have an ongoing documentation process for gathering and maintaining information in order to conduct planning, set priorities, and evaluate the effectiveness of the SWMP implementation; all of which was a requirement of the current permit and was to be completed by December 8, 2007.

Comment: *The citation of 4.2.5.4.4 in Section 3.0 Post-Construction Storm Water Management in New Development and Redevelopment of the Statement of Basis is incorrect.*

Response: The permit Statement of Basis has been changed to reflect the correct citation of 4.2.5.6.

Comment: **(EPA)** *The Division should maintain an aggressive schedule to develop criteria and designate seasonally impacted MS4's such as Moab and Park City as well MS4's in rapidly expanding areas not yet included within a Census-defined urbanized area. Restricting general permit eligibility to MS4's according only to the Census is of concern.*

Response: Part 1.2.1.6. of this permit allows the Executive Secretary to order coverage under this permit as needed and outside a Census-defined urbanized area according to the factors and criteria defined in the UPDES rules, R317-8. The Division intends to maintain as aggressive a schedule as possible in requiring other MS4's to obtain coverage under this general permit as needed to protect waters of the State.

Comment: **(EPA)** *MS4's are required to fully meet all the terms and conditions in this permit and not just to the Maximum Extent Practicable (MEP). All language related to the MEP standard should be removed and discussions related to the iterative process and expectations associated with MEP should be included in the Statement of Basis.*

Response: **All language related to MEP has been removed from the body of the permit. More measurable standards have been included in permit where possible and a discussion concerning BMP selection and the MEP standard has been retained in the Statement of Basis.**

SPECIFIC COMMENTS (permit citation included):

Comment (1.2.2.2.): *Some discharges listed in the exempted non-storm water discharges list are later listed in the permit as needing to be addressed; specifically residential car washing and swimming pool discharge.*

Response: The permit gives examples of pollutants the permittee may wish to address such as car washing and swimming pool water. The state has chosen to exempt certain non-storm water discharges but local government can be more restrictive. There are currently many local educational campaigns to wash your car on the lawn or to discharge residential swimming pool water to the lawn rather than into the storm drain system.

Comment (2.1.2): *New applicants should be notified as soon as possible.*

Response: The Division has not determined any additional MS4's to be covered under this permit at this time. When such determinations are made, the Division will notify and assist these MS4's with application process and permit requirements.

Comment (2.1.3.) *120 days is not enough time for a new applicant to submit a SWMP; request 180 days.*

Response: New applicants must submit a Notice of Intent (NOI) and a Storm Water Management Program (SWMP) document within 180 days of notification from the Executive Secretary. Part 2.1.4. of the permit allows for the Executive Secretary to grant more time on a case-by-case bases if requested.

Comment (2.1.3.): *120 days is not enough time to submit a revised SWMP. There are a limited amount of consultants to assist with this so more time is needed.*

Response: Currently, Storm Water Management Program documents are to be reviewed and updated annually when preparing the annual report at a minimum and according to current permit requirements. Annual reports were submitted in October 2010 at which time all SWMP documents should have been updated accordingly. If a permittee begins with a current, factual, updated SWMP document, 120 days should be adequate for developing a 5-year plan with associated BMPs and implementation dates. This first SWMP document submittal to the Division will be one of many as revisions and updates are made during the permit term. It is not a requirement that a permittee use a consultant. If a permittee decides to hire a consultant, the permittee is still held responsible for the information stated in the SWMP document and should be dictating what is included in the SWMP document.

Comment (2.2.): *Private contact information should not be necessary for the Notice of Intent. Due to turnover, it makes more sense to name the position rather than the individual responsible for overseeing implementation and coordination of the SWMP.*

Response: Private contact information is not requested in this permit. Name, address, and telephone number refers to municipality contact information. The requirement of the individual's

name rather than position is intentional. The SWMP document is to be regularly reviewed and updated, at which time the name of the individual can be updated if it has changed.

Comment (2.3.3.2.): *Submitting a SWMP 120 days after the effective date of this permit is duplicative with the requirements in part 4.4.*

Response: Part 4.4. of the permit requires the permittee to review its SWMP document in conjunction with the annual report preparation yearly. If there are changes to be made, the permittee must follow the directions contained in Part 4.4. of the permit. The requirements of Part 2.3.3.2. are in addition to this annual requirement and represent the initial planning, measurable goals, and implementation dates for complying with a new permit.

Comment (2.3.3.2) *Commenter wants further direction on what is "new or clarified". Commenter intends to only comply with what the Statement of Basis claims is new or clarified.*

Response: **The language of "new or clarified" has been removed from the permit.** The discussion of significant changes to this permit in comparison to the last permit has been retained in the statement of basis. In order for the Division to determine what is considered "new" for any given permittee, the Division would need to ascertain how well the Permittee knows the permit in the first place. This evaluation will be made through audits and inspections. It is the permittee's responsibility to know the permit requirements of the last permit cycle as well as the new permit cycle.

Comment (3.1): *Is the SWMP indicated in Part 3.1. in addition to the SWMP required by this permit?*

Response: No**, the wording of the permit has been changed** so that it is clear that if a MS4 discharges to a receiving water that is impaired and listed on the State 303 (d) list, then the permittee must include additional elements in its SWMP document as outlined in Part 3.1.2. of the permit.

Comment (4.1.2.): *What is the difference between "the coverage from this permit is granted" and "from the effective date"?*

Response: The meaning is the same. It is referencing when a permittee is issued coverage under this permit. For permittees covered under the first permit issued in December 2002, the effective date of the permit will be indicated on the front page once it is finalized. For new permittees that enter this program for the first time, their permit coverage and associated timelines will begin starting on the day permit coverage is granted.

Comment (4.1.2.2.): *Tracking the cost of development and implementation of each component of the SWMP requires too much effort, is too difficult, and seems unnecessary. To what extent should tracking be conducted when implementation involves other City departments or responsible entities?*

Response: The Division recognizes that storm water is a component in many different program areas and can often be difficult to get an accurate accounting of costs. Permittees should provide a detailed breakdown of costs, along with background or additional discussion if necessary so that the Division knows what the costs include. This breakdown will help the Division understand the resources that are dedicated to compliance with this permit, and to implementation and enforcement of the SWMP. The permit has added a requirement to ensure adequate resources to comply with this MS4 permit in Part 4.1.2.2 and has added Part 4.1.2.3. to accommodate the provision originally listed as 4.1.2.2. Additionally, more specific language concerning the tracking of costs has been added to Part 4.1.2.2.

Comment (4.1.3.2.): *The SWMP should not have to indicate person or persons responsible for implementing the SWMP but instead should indicate job positions due to high turnover.*

Response: It is the Division's desire to know the name and contact number of the person responsible for implementing or coordinating the BMPs contained within the SWMP document. If this person(s) change during the permit term, the changes should be made in the SWMP document and such changes should be forwarded to the Division.

PUBLIC EDUCATION AND OUTREACH

Comments (4.2.1.): *The addition of 3 new audiences (businesses, institutions, and commercial facilities, developers and contractors and MS4 industrial facilities) into this Public Education MCM is concerning because it triples the level of effort and documentation for the permittees. Some audiences are mentioned in two different MCM's. Does this imply reporting the information in both categories?*

Response: None of the audiences listed above are new. The first Small MS4 General Permit addresses commercial, industrial and institutional entities along with individuals and households in the Public Education and Outreach MCM, Part IV.B.1. of the current (2002) permit. Educational BMPs directed at developers and contractors are addressed in the Construction Site Storm Water Runoff Control MCM in Part IV.B.4. of the current (2002) permit and the education of MS4 employees is addressed in the training component of the Pollution Prevention/Good Housekeeping for Municipal Operations MCM in Part IV.B.6. of the current (2002) permit. Depending on how an MS4's SWMP is organized, efforts conducted in these minimum control measures could be reported under the Public Education MCM or in the individual areas of Construction Site Runoff or Pollution Prevention for Municipal Operations.

Comment (4.2.1.): *Hill Air Force Base does not have all of the audiences that a typical MS4 has.*

Response: The Division recognizes that "non-traditional" MS4's such as military bases, universities, and prisons may have a different structure than most MS4's. Each minimum control measure requires written documentation or rationale as to why particular BMPs were chosen. A non-traditional MS4 can use this rationale to identify the audiences they do have and how they are being addressed.

Comments (4.2.1.1.): *Would like to encourage environmental activities rather than provide outreach activities.*

Response: **The word "activities" have been removed from this permit citation.** Promoting outreach activities is better placed in the Public Involvement/Participation MCM in Part 4.2.2. of the permit. However, it is a fundamental requirement of the Public Education and Outreach MCM to provide outreach in some form to promote behavior change by the public to reduce water quality impacts associated with pollutants in storm water runoff and illicit discharges. Some permittees may choose activity-type BMPs to meet the requirements of this MCM as well as the Public Involvement/Participation MCM.

Comment (4.2.1.4.): *Too much documentation required.*

Response: Permittees should keep a copy of any educational materials mass mailed to engineers, construction contractors, developers, etc. along with a list of recipients for a number of reasons. In the case of a violation or a potential enforcement action, it can strengthen the enforcement case if shown that the violator has received educational material from the permittee. If an MS4 routinely provides information or directs applicants to a BMP website during plan review, a plan review checklist with this task noted and checked will suffice as documentation as it is intended in this permit requirement.

Comment (4.2.1.6): *Documentation requirements are excessive.*

Response: Same as above in the response for Part 4.2.1.4. When using the iterative process to regularly review BMP selection and effectiveness, it is important to have a record of what has been done; what the specific message was, the target audience, and some sort of record of recipients.

Comments (4.2.1.7): *The suggestion of public surveys is this permit is unnecessary; should not be required; cost of evaluating an audience before and after a public education message is too costly; MS4's need more resources for acceptable methods to measure effectiveness; is a public awareness survey conducted every 5 years frequent enough?*

Response: A public awareness survey is included in the permit as an example not a requirement. Examples are given in this permit to help permittees understand the permit requirement. A survey is just one possible BMP to help meet the requirements of this MCM. Surveys can be a useful tool to first determine where to focus storm water education and then to help measure the effectiveness of the educational efforts and to modify the education/outreach program accordingly. There are many possible mechanisms for measuring the awareness of and the behavior related to issues concerning storm water runoff by the general public, or targeted audiences within the general public in addition to surveys. Examples of evaluations could include: tracking the number of attendees, interviews, review of media clippings, and tracking the number of storm water-related calls and emails. The cost of any given BMP as well as how frequently it is conducted is always an individual MS4 consideration. Permittees are encouraged to use the following guide in developing its outreach strategy: EPA's *Getting In Step: A Guide to Effective Outreach in Your Watershed (http://www.epa.gov/watertrain/gettinginstep/*).

PUBLIC INVOLVEMENT/PARTICIPATION

Comments (4.2.2.): *Getting the general public involved is very difficult; would like to change this MCM to require standard public notice requirements and encouraging the public to attend coalition meetings; public education and outreach should be enough.*

Response: Involving the public in the planning and implementation of activities related to the development and implementation of the SWMP is the minimum requirement determined by EPA. The permit lists a variety of examples of opportunities as well as potential audiences or stakeholders which are not inclusive. Involving the general public in storm water coalition meetings would certainly meet the intent of this provision. In addition to education, encouraging public participation in local storm water programs can lead to program improvement as well as enabling the public to identify and report a pollution-causing activity, such as identifying an illicit discharge. There is no change in the language of this provision in order to maintain optimal flexibility and creativity in meeting this requirement.

Comment (4.2.2.): *It is impossible to involve ALL potentially affected stakeholders.*

Response: **The word "all" was struck from this permit requirement.** The intent of involving potentially affected stakeholder groups is to have a balanced representation of affected parties, including residents, business owners, and environmental organizations in the MS4 service area. As the public gains a greater understanding of the benefits of storm water management and how their actions affect impact water quality, an MS4 is likely to gain more support for the SWMP (including financial support) and increased compliance with the applicable regulatory requirements.

Comment (4.2.2.1.): *Requiring the SWMP to be submitted to the Division 120 days after the permit becomes effective does not leave enough time for drafting and receiving public comment.*

Response: In this permit citation, permittees are required to create opportunities for the public to provide input on an ongoing basis, not just during the initial draft due to the Division in 120 days after the effective date of this permit. This is further reiterated in Part 4.2.2.3. which requires that the latest version of the SWMP document be available on the permittee's website for public review and input for the entire life of the permit, not just before the first submittal to the Division due 120 days after the effective date. If the permittee receives public input after it has submitted any updated version to the Division and wishes to incorporate such input, the SWMP document on the permittee's website must be updated and changes must be submitted to the Division following the protocol outlined in Part 4.4. of this permit.

Comments (4.2.2.1.): *This requirement is impossible for a military base to implement because the base does not create ordinances or involve the general public in its decisions. Define the regulatory mechanism to include military.*

Response: The reason the language in the permit is stated as ordinance or regulatory mechanism is to provide flexibility for non-traditional MS4's. A regulatory mechanism can be defined as by a non-traditional MS4 as needed. A major difference between a traditional MS4 and a non-traditional MS4 (such as a DOT, military base, university or prison) is often the scope of legal authority available to the MS4. Non-traditional MS4's often cannot pass "ordinances"

like a traditional MS4, so legal authority may consist of policies, standards, campus codes, or specific contract language. However, non-traditional MS4's often have authority over what their contracts require. Therefore, the non-traditional MS4's SWMP could include a requirement that contracts for construction and maintenance activities include specific storm water requirements that ensure that the permittee's requirements are met. In some cases, cooperative agreements could be written and signed with other MS4's that do possess the legal authorities lacked by the non-traditional MS4.

Comment (4.2.2.2.): *120 days after the effective date of this permit is not enough time for drafting a SWMP and soliciting comment from the public.*

Response: See response for 2.1.3. There is no specific requirement for a permittee to public notice a SWMP document revision. However, the permit does require an ongoing mechanism for public review and a means of receiving comment for the entire permit term. It is also required that the SWMP document be available on the MS4's website and that it is kept updated of all revisions which will occur during the life of the permit.

Comment (4.2.2.3.): *"May" should be changed to "shall" in regards to posting the SWMP on the permittee's website; "review and provide input" should be replaced with "view".*

Response: It is a requirement that if the permittee maintains a website, the Permittee shall post a copy of the SWMP document and all subsequent revisions for the life of the permit. The viewer of this SWMP document shall also be provided a mechanism to provide input.

Comment (4.2.2.4): *Changed wording to say "according to noticing requirements of the MS4". Can the notice of public hearing be advertised on the MS4's website instead of published in the newspaper?*

Response: The wording in the permit has been changed to reflect that permittees must comply with State and local public notice requirements.

ILLICIT DISCHARGE DETECTION AND ELIMINATION (IDDE)

Comment (4.2.3.): *18 months is not long enough to develop an IDDE program; 18 months is extremely resource dependent and "completely implemented" is undefined.*

Response: This permit requirement was to be developed and fully implemented by the end of the first permit term, December 8, 2007. The 18-month deadline given in this permit term was made in order to give renewal permittees extra time in gaining compliance in this MCM. A fully implemented program is one that has successfully implemented all permit requirements.

Comment (4.2.3.2.1): *The requirement of "legal authority", "ordinance", "by-law", etc. does not apply to Hill Air Force Base.*

Response: The permit specifically states "or other regulatory mechanism" to better accommodate non-traditional MS4's.

Comment (4.2.3.2.1): *Request that the priority area list be updated as needed or once during the permit term rather than annually.*

Response: This permit requirement will remain the same. Priority areas should be updated if there have been changes due to changing priorities. Determining priority areas requires an evaluation of the permittee's jurisdiction and land uses to identify areas that are more likely to have illicit discharges**.** These areas should be prioritized for more frequent screening and investigations. Each permittee will have a different set of priority areas: newer communities with modern infrastructure may be less likely to have sewer cross-connections and illegal connections to the storm drain system, whereas towns with rural areas may place an emphasis on illegal dumping and onsite sewage disposal systems. Prioritization should be based not only on land use but also on prior history and frequency of problems.

Comment (4.2.3.4.): *Request specifics of what field tests and selected parameters are required/suggested.*

Response: The Division encourages the use of The Center for Watershed Protection's guide on *Illicit Discharge Detection and Elimination (IDDE): A Guidance for Program Development and Technical Assistance* when developing an IDDE program. This guidance is available at www.cwp.org and a link to this guidance will be available on our website.

Comment (4.2.3.5.): *An MS4 is not the proper entity to characterize the nature of, and the potential public or environmental threat posed by an illicit discharge.*

Response: Procedures to characterize the nature of, and the potential public or environmental threat posed by illicit discharges found by or reported to the permittee may involve other responsible entities such as a fire department or health department. It is the permittee's responsibility to coordinate such efforts upon becoming aware of an illicit discharge.

Comment (4.2.3.6.): *Semi-rural areas do not have a lot of options for failing septic tanks; permit needs to make allowances for this in the required procedures for ceasing illicit discharges.*

Response: The Center for Watershed Protection's guide on *Illicit Discharge Detection and Elimination (IDDE): A Guidance for Program Development and Technical Assistance* contains information on septic system investigations as well as ideas for proactively addressing failing septic systems. Part 4.2.3.6.1. of the permit states that if a permittee is unable to meet the minimum performance measures outlines in parts 4.2.3.5. or 4.2.3.6., the Permittee must include written documentation or rationale describing the circumstances why compliance with the minimum performance measures was not possible. . **The wording in part 4.2.3.6.1 has been changed to indicate that this documentation must be submitted to the Division immediately upon making the determination that compliance with the minimum performance measures is not possible.**

Comment (4.2.3.8.): *The interpretation of this requirement could mean an MS4 could provide services without promoting.*

Response: It is the intent of the wording in the permit to allow permittees to promote other regional household hazardous waste collection events, facilities or services in lieu of the permittee providing such services. It is assumed that the permittee will promote such a service if it decides to provide the service itself.

Comments (4.2.3.9.): *Recording feedback received from public education efforts doesn't appear to belong in this section. The hotline for reporting illegal discharges could be 911.*

Response: 911 services are reserved for emergencies. If 911 is selected, the permittee must also create, maintain, and publicize a staffed, non-emergency phone number with voicemail, which is checked daily.

Comment (4.2.3.11.): *Which employees should be trained?*

Response: The answer to this question is stated in Part 4.2.3.12. of the permit. **For this reason, the two citations have now been combined in Part 4.2.3.11.**

CONSTRUCTION SITE STORM WATER RUNOFF CONTROL

Comments (4.2.4.): *18 months is not enough time to implement this MCM; to improve the effectiveness and accountability of MS4 construction oversight programs, specific requirements regarding how frequently construction sites need to be inspected and procedures for how recalcitrant violators are reported to the Division could be included (EPA).*

Response: This permit requirement was to be developed and fully implemented by the end of the first permit term, December 8, 2007. The 18-month deadline given in this permit term was made in order to give renewal permittees extra time in gaining compliance in this MCM. The Division has specifically addressed how often construction sites are to be inspected within the permit. The Division will continue to require program implementation specifics to demonstrate compliance through annual reporting and will develop guidance as needed and post on the Division's website.

Comments (4.2.4.1.1): (EPA) *The use of "Maximum Extent Practicable" (MEP) is of concern. Reducing the discharge of pollutants to the MEP in construction site storm water runoff may result in discharges which are in violation of the state General Permit for Construction Activities which sets forth requirements for BMPs which are not based on the MEP standard. Perhaps a better goal for this MCM would be compliance with the terms and conditions of the state General Permit for Construction Activities.*

Response: The use of MEP has been removed from this part of the permit. Language has been added to cross reference the requirements for SWPPP preparation set forth in the General Permit for Storm Water Discharges Associated with Construction Activities, UTR300000.

Comments (4.2.4.1.2): *A request was made for a definition of "qualified personnel".*

Response: Permittees are required to make this determination and set standards and criteria as they deem necessary.

Comment (4.2.4.3.): *This permit should use state guidelines for record retention; suggest that records of construction projects be kept for one year after NOT is issued; too much responsibility is put on the MS4's that should be put on the construction operator.*

Response: The Utah Administrative Code allows the Division to set the record retention period as needed. There was no change to the permit requirement that pre-construction SWPPP reviews be kept for 5 years which is the duration of the permit or until construction is completed, whichever is longer.

Comment (4.2.4.3.2): *The procedures for receipt and consideration of information submitted by the public do not appear to belong in this section which addresses Storm Water Pollution Prevention Plan (SWPPP) review.*

Response: **The requirement to adopt and implement procedures for the consideration of information submitted by the public regarding construction projects has been removed from part 4.2.4.3.2. of the permit.**

Comment (4.2.4.3.3, 4.2.5.3.2, 4.2.5.4.2) (EPA): *EPA applauds the Division's inclusion of requirements which address Low Impact Development (LID) and require MS4's to create preferred design specifications for different development types. EPA has announced plans to initiate national rulemaking to establish a program to reduce storm water discharges from new development and redevelopment and make other regulatory improvements to strengthen its storm water program. Training, evaluation, and recognition of the need to reduce impacts of storm water runoff from MS4's through LID techniques may place the MS4's covered under this permit in an ideal position to comply with any future Federal regulations.*

Comment (4.2.4.3.3): *Low impact BMPs should be adopted by an MS4 before they can be encouraged; suggest changing "evaluation" to "consideration" of opportunities for use of LID and green infrastructure; unsure how to implement; who should incorporate the evaluation of LID methods into the SWPPP review procedures?*

Response: An MS4 may officially adopt LID BMPs if so desired although the intent of this part of the permit is for MS4's to become educated on such BMPs and incorporate an evaluation or consideration of possible uses of such BMPs into its SWPPP review procedures.

Comment (4.2.4.3.5): *What is the difference between construction "activities" and construction "sites"?*

Response: **The intent of Part 4.2.4.3.5 has been addressed in other parts of this permit and has therefore been removed.** "Construction activity" includes at a minimum all construction sites that result in a land disturbance of one acre or more or less than one acre if part of a larger common plan of development or sale.

Comment (4.2.4.3.4): *What is the definition of "high quality waters"? What is the definition of priority construction site?*

Response: **The following definition has been added to the Part 7.0. of this permit:** High Quality Waters means any water, where, for a particular pollutant or pollutant parameter, the water quality exceeds that quality necessary to support the existing or designated uses, or which supports an exceptional use. In evaluating construction sites for threat to water quality, the following factors must be considered: soil erosion potential; site slope; project size and type; sensitivity of receiving waterbodies; non-storm water discharges; past record of non-compliance by the operators of the construction site. An MS4 should place higher priority on those sites more apt to erode; more likely to discharge large quantities of sediment if mismanaged; discharge to an impaired waterbody; more likely to have non-storm water discharges; or those managed by operators with a history of non-compliance. **A definition of "priority construction site" has been added to Part 7.0. of this permit.**

Comments (4.2.4.4): *There should be some flexibility in the biweekly inspections to account for seasonal differences. The General Permit for Construction Activities allows inspectors to waive some of their inspections due to factors that are not given in this permit. No provision for follow-up inspections; biweekly inspections doesn't leave much time for follow-up inspections; no provision for a simpler inspection for common plans of development.*

Response: **Part 4.2.4.4. has been restructured and expanded to include a citation that addresses follow-up inspections (Part 4.2.4.4.4).** A simpler inspection form to be used for all construction site inspections is currently available on the Division's website http://www.waterquality.utah.gov/UPDES/stormwatercon.htm. More concise SWPPP requirements for common plans of development are also being developed and will be posted on the Division's website when finalized. The role of an MS4 permittee is that of oversight. If a construction operator has ceased constructing or ceased their required inspections, it is the MS4

permittee's role to verify that the operator is adhering to the requirements of the General Permit for Storm Water Discharges Associated with Construction Activities.

Comment (4.2.4.4.1): *It is not necessary to dictate an inspection "following" active construction because that is covered in the Post-Construction MCM.*

Response: An inspection performed "following" active construction is to ensure that all graded areas have reached final stabilization and that all temporary control measures are removed (e.g., silt fence). **Part 4.2.4.4.1 of the permit has changed to better describe the function of an inspection after construction has been completed.** The intent of the Long-Term Storm Water Management MCM is to implement both structural and /or non-structural controls to address long-term storm water management with the aim of maintaining or restoring the pre-development storm water runoff conditions at the site.

Comments (4.2.4.4.1): *Monthly inspections places too much burden on the MS4's and not enough on the construction site operator; operators are already doing biweekly inspections, why should MS4's?; MS4's do not have the resources to conduct monthly inspections; monthly inspections are too burdensome considering additional follow up inspections; monthly inspections on single homes within a common plan of development is too much to ask; these permit requirements have MS4's conducting more inspections than is required by the General Permit for Construction Activities.*

Response: The requirements of the Construction Site Storm Water Runoff Control MCM of the MS4 permit are designed for permittees acting in an oversight role for construction activities within their jurisdiction. The requirements of the General Permit for Construction Activities are designed for owners and operators of construction sites. The current General Permit for Construction Activities requires one of two inspection schedules; either at least once every 7 calendar days; or at least once every 14 calendar days and within 24 hours of the end of a storm event of 0.5 inches or greater. Therefore, MS4 staff is not conducting more inspections than is required by the General Permit for Construction Activities. There is no change to the minimum inspection requirements contained in this permit.

Comment (4.2.4.4.1): *The monthly inspection requirement contradicts the requirement to inspect all phases of construction which is stated in the same section.*

Response: The minimum inspection frequency is at least monthly. The provision to inspect all phases of construction is intended to further reiterate that a construction site must be inspected prior to breaking ground to verify that appropriate temporary sediment and erosion control measures (BMPs) have been properly installed and a construction site that ceases activity must be inspected to confirm termination (i.e., site stabilization, removal of temporary BMPs).

Comment (4.2.4.4.1): *What is the definition of a "qualified inspector"? No one has shown us what is required in an inspection.*

Response: Please see the response to Comment 4.2.4.1.2. The requirements of an inspection are contained within the Construction Storm Water Inspection Form (checklist) available on the Division's website at state inspection form available at www.waterquality.utah.gov/UPDES/stormwatercon.htm. For further guidance on what should be contained in a SWPPP, please consult Part 3.0 of the General Permit for Storm Water Discharges Associated with Construction Activities available at the same link.

Comment (4.2.4.4.1): *What is to be inspected prior to land disturbance? The state inspection form is not helpful for an inspection prior to land disturbance.*

Response: Prior to land disturbance, temporary sediment and erosion control measures should be properly installed. It is the permittee's responsibility to verify that the construction operator has installed the necessary BMPs prior to breaking ground.

Comment (4.2.4.4.1): *MS4's should determine the frequency of construction site inspections. Operators in compliance shouldn't be subjected to so many inspections when more time should be spent on troublesome sites.*

Response: **Part 4.2.4.4. has been expanded to include language concerning re-inspections (Part 4.2.4.4.4).** Please refer to the response for the second comment of this document which discusses the need for the permit to set minimum performance measures.

Comment (4.2.4.5.): *Which city employees have to be trained; what is adequate training; a minimum number of hours should be stipulated.*

Response: The Division recognizes that cross training of various city employees that have duties in the field may be necessary to meet the requirements of this permit. Therefore, it would be impossible to list all employees that must be trained. The permittee must make the determination of who receives training and when they have had enough training to conduct inspections. Please also see the response to Comment

Comment (4.2.4.6): *Shouldn't records be kept for a period of time after construction is completed? What are state record retention guidelines?*

Response: Please see the response to Comment 4.2.4.3.

LONG-TERM STORM WATER MANAGEMENT IN NEW DEVELOPMENT AND REDEVELOPMENT (POST-CONSTRUCTION STORM WATER MANAGEMENT)

Comment (4.2.5.1.): *Proposed changing "shall" to "may" for the requirement of developing an ordinance.*

Response: The requirement to develop and implement an ordinance or other regulatory mechanism to require erosion and sediment controls, as well as sanctions to ensure compliance was a fundamental requirement of the first permit issued in 2002 and was to be developed and implemented in the first permit term. No change made to this permit.

Comment (4.2.5.1.): *On a redeveloped site, does the disturbed area need to be greater than 1 acre, or the common plan of development from the original development?*

Response: The threshold for redeveloped sites is the same as for initial construction, one acre or greater or less than one acre if part of a common plan of development.

Comment (4.2.5.2.2): *It is difficult to define MEP for documenting the effects of various BMPs on water quality.*

Response: The Division agrees that it can be difficult to evaluate the effectiveness of various Best Management Practices (BMPs). EPA has an archived webcast "Assessing the Effectiveness of Your Municipal Stormwater Program" available at http://cfpub.epa.gov/npdes/courseinfo.cfm?program_id=0&outreach_id=366&schedule_id=1010 which can be helpful in making these determinations. A fact sheet on the same topic is available at http://www.epa.gov/npdes/pubs/region3_factsheet_swmp.pdf.

Comment (4.2.5.3.1): *Changed wording from "avoid" to "minimize"; do MS4's have the right to create requirements that eliminate development due to erosion?*

Response: The Division agrees that the word "minimize" better reflects the intent of this permit citation. **The wording has been changed**.

Response (4.2.5.3.2): Language has been added to Part 4.2.5.3.2 to further describe possible structural BMPs to meet this permit requirement. Rainwater harvesting is now legal in Utah beginning May 11, 2010. Language regarding this practice has been added to the permit in Parts 4.2.5.3.2 and 4.2.5.3.3. Please refer to http://www.waterrights.utah.gov/ for further information regarding rainwater harvesting.

Comment (4.2.5.3.3): *Does the retrofit plan involve public and private property? What if there are no easements on private property for retrofitting?*

Response: A retrofit plan should assess the areas where retrofitting is appropriate and will result in increased water quality protection and restoration. The intent of this permit requirement is for permittees to begin to address discharges from existing developed sites that are adversely impacting receiving waters. The development of a plan is the first step. Mitigation of these discharges generally means implementation of measures to bring about the retrofit of storm water control measures to retain most storm water on site. Information on retrofit options and the development of a retrofit plan can be found in the Center for Watershed Protection's guidance on Urban Stormwater Retrofit Practices (available at www.cwp.org as Manual No. 3 under the Urban Subwatershed Restoration Manual Series).

Comment (4.2.5.3.3): *All existing sites impact water quality to some degree so it would be impossible to develop a plan for all sites. Better wording for this citation would be "where feasible" or only for areas which drain to waters officially designated as impaired or high quality.*

Response: An inventory of potential retrofit location should consider:

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

An evaluation and ranking of the inventoried locations to prioritize retrofitting should include:

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

- Efficacy at addressing concern.

A supplemental fact sheet will be developed to provide further assistance with this permit provision.

Comment (4.2.5.3.3): *The requirement to control storm water volume is emanating from EPA and the future rules for Post-construction. To include it in this permit is premature.*

Response: The requirement to address storm water runoff and reduce the discharge of pollutants is a fundamental requirement of the Post-construction MCM of the first permit issued in 2002. Basic principles of infiltration, minimization of impervious surfaces, and increasing/maintaining open space which control storm water volume were covered in the first permit. To meet this requirement most MS4s adopted criteria based on already promulgated flood control based standards (i.e., focused only on storm water volume and discharge rates). The "mimicking the natural hydrograph" approach to storm water management which focuses on discharge volumes is discussed in EPA's current MS4 Permit Improvement Guide April 2010.

Comment (4.2.5.3.4.): *Mimicking pre-development conditions is difficult when significant impacts are made. Trying to develop methods to address flow volume, peak discharge rate, discharge frequency and flow duration may not be practical.*

Response: EPA recommends using a combination of techniques that utilize infiltration, capture and use, and evapotranspiration as appropriate, rather than relying only on infiltration or some other technique alone to meet performance standards. Part 3.5.2.b. of the General Permit for Storm Water Discharges Associated with Construction Activities also addresses structural measures (i.e. velocity dissipation devices; detention/retention structures; flow attenuation; infiltration) to control pollutants in storm water discharges after construction operations have been completed.

Comment (4.2.5.3.4): *Suggest changing plan "review" to "design" and 2-yr., 24-hr. event to a 10 yr. event.*

Response: The requirement to develop and define specific hydrologic method(s) for calculating runoff volumes and flow rates is intended to ensure consistent sizing of structural BMPs in the permittee's jurisdiction and to thereby have specific criteria in which to evaluate site plans during the review process. The notation of a 2-year, 24-hour event is an example of a specific design storm. Permittees may decide what specific criteria best suits their jurisdiction.

Comment (4.2.5.4.1): *Reviewing SWPPP's is not an MS4 responsibility.*

Response: Reviewing Storm Water Pollution Prevention Plans is a fundamental MS4 permit requirement in both the Construction Site Storm Water Runoff Control and Post-Construction Storm Water Management minimum control measures of all MS4 permits.

Comment (4.2.5.5.): *It is legally unclear whether requirements can be made for existing sites on private property; this provision may create problems with existing BMPs for which no maintenance agreement or access easements were initially established.*

Response: Part 4.2.5.5. addresses adequate maintenance of long-term post-construction storm water control measures (BMPs). It is the Division's intent to allow MS4s to only be the responsible party to perform maintenance if they so choose. However, the required maintenance agreements associated with these BMPs must give the MS4 authority to perform the work if the responsible party fails to do so.

Comment (4.2.5.5.1): *The requirement for annual certification would be very difficult to insert into existing development agreements and future development agreements; request the time frame to be lengthened.*

Response: The Division feels it is important that the responsible party certify proper maintenance has been conducted if the MS4 is not responsible for the maintenance. The Division does not feel it is overly burdensome to insert this requirement into existing agreements or future agreements that have not been drafted as of yet.

Comment (4.2.5.5.2): *This is a redundant requirement since it already exists in the Construction Site Runoff MCM.*

Response: The Construction Site Runoff MCM is concerned with <u>temporary</u> erosion and sediment control BMPs (i.e., silt fences, straw bales) and proper waste disposal during active construction (i.e., concrete washout) while Part 4.2.5.5.2 addresses inspections of <u>permanent</u> long-term post-construction BMPs such as grassed swales, vegetated filter strips, and storm water wetlands.

Comment (4.2.5.5.3): *Annually is too burdensome, change to tri-annually; not all drainage facilities need inspections every year.*

Response: Appropriate operation and maintenance are critical aspects to the function of any structural control. In many cases, controls may be located on private property, and it is necessary to establish some provision to assure responsibility and accountability for the operation and maintenance of these controls. Therefore, the permit will remain the same in its requirement that structural controls be inspected and maintained if necessary on an annual basis either by the

permittee or through a maintenance agreement, the property owner/operator or qualified third party.

Comment (4.2.5.6.) What is post-construction permitting? Is there a separate post-construction permit?

Response: There is not a separate State permit for post-construction site permitting. There exists language concerning post-construction requirements in both the General Permit for Storm Water Discharges Associated with Construction Activities and the General Permit for Storm Water Discharges from Small MS4s. **The word "permitting" has been removed from this citation and replaced with "storm water management".**

Comment (4.2.5.7.): *Are "features" the same as "controls"?*

Response: Yes, features are the same as controls. **The language in the permit has been changed to consistently use "controls" to avoid confusion.**

Comment (4.2.5.7.2): *Is the information to be maintained for publicly and privately-owned structures? It will be a major cost to MS4's to maintain private records.*

Response: Yes, Part 4.2.5.7.1. states that the inventory must be maintained for storm water control measures installed and implemented at new development and redeveloped sites for both public and private sites. **The requirements of Part 4.2.5.7 and 4.2.5.7.1 were essentially the same and have been combined.**

Pollution Prevention and Good Housekeeping for Municipal Operations

As stated at the beginning of this document, changes to the permit are noted in bold type in the response. This particular MCM has been restructured and some of the original numbering has changed. The permit citation noted in the comment is from the permit public noticed in December 2009. If the permit citation has changed in this revised permit, it is noted in the response.

Comment (4.2.6.) *How do Operation and Maintenance (O & M) plans differ from industrial SWPPP's? If an MS4 facility is covered by an industrial permit and associated SWPPP, which permit requirements should be followed?*

Response: **The permit language has been changed to require an O & M <u>program</u> instead of <u>plan</u>.** An O & M program must:

- Prevent or reduce the amount of storm water pollution generated by municipal operations and conveyed into receiving waters;

- Train employees on how to incorporate pollution prevention/good housekeeping techniques into municipal operations; and

- Identify appropriate control measures and measurable goals for preventing or reducing the amount of storm water pollution generated by municipal operations.

- Identify appropriate written procedures (SOPs or similar type document) for MS4 activities that have the potential to adversely impact storm water quality.

An O & M program has many similar fundamental elements of an industrial storm water SWPPP. Last year the Division made the decision to permit all MS4 vehicle and equipment maintenance facilities under a UPDES General Multi-Sector Industrial Storm Water Permit (MSGP). The Division felt that the 2002 version of the General Permit for Storm Water Discharges from Small MS4s was not adequate for managing storm water from municipal facilities. In April, 2010, EPA issued the "Municipal Separate Storm Sewer System Permit Improvement Guide" which contains much more descriptive requirements for the Pollution Prevention/Good Housekeeping MCM. Therefore, vehicle and equipment maintenance facilities newly covered under the MSGP will be covered under this reissued General Permit for Storm Water Discharges from Small MS4s. The SWPPPs generated for compliance for the MSGP must be updated to reflect the requirements of this permit. The Pollution Prevention/Good Housekeeping MCM has been restructured somewhat to accommodate the new EPA guidance and therefore the numbering has changed.

With the exception of vehicle and equipment maintenance facilities, all MS4 facilities (i.e., landfills, airports) previously covered under the MSGP do not need to develop an O & M program but must instead maintain the SWPPP required by the MSGP.

The first step for the permittee is to evaluate and assess the areas and municipal facilities that it controls in order to determine which activities may currently have a negative impact on water quality and to find solutions for these activities. This inventory should include all MS4 owned or operated facilities. **Part 4.2.6.1. of the permit has been changed to provide further information on the development of a municipal facility inventory and the identification of "high-priority" facilities, storm water controls, and municipal operations which are those that have a high potential to generate storm water pollutants.** Standard Operating Procedures (SOPs) or a similar type document must be developed and implemented for these "high-priority" facilities and operations as described in Part 4.2.6.4. "High-priority" facilities are subject to various inspections as described in **Part 4.2.6.6**.

Storm sewer systems need maintenance to ensure that structures within the storm sewer that are meant to reduce pollutants do not become sources of pollution. The procedures for storm sewer operation and maintenance and any other activities that may negatively impact water quality must be documented in writing and included in the permittee's SWMP document (**Part 4.2.6.4.6**).

Comment (4.2.6.): *120 days is not enough time to develop O & M plans; Standard Operating Procedures (SOP's) seem more beneficial than O & M plans.*

Response: The term "O & M plan" has been changed to standard operating procedures (SOPs) or similar type of document. Procedures for storm sewer system operation and maintenance as well as any other municipal activity that has the potential to generate pollutants (i.e., pesticide, herbicide, and fertilizer application; road maintenance) must be documented in the permittee's SOPs or similar type of document and included in the permittee's SWMP document. These documents should outline procedures that include pollution prevention measures to keep pollutants from entering the storm drain system. Employee training for municipal and contracted staff to carry out these pollution prevention measures is a required component of an operation and maintenance program. The first general permit of 2002 also required a description of the O & M program to specifically address municipal operations and activities.

Comment (4.2.6.1.): *Is it the MS4 staff's responsibility to make sure that all facilities requiring other UPDES permits have obtained them? Schools are not an MS4 facility and should be removed from the list; all of this section should be struck from this permit and be covered under the Industrial Multi-Sector General Permit.*

Response: Schools have been removed from the inventory as they are not municipally owned or operated. It is a requirement of this permit that the MS4 staff develops and keeps current a written inventory of permittee-owned or operated facilities. Those facilities that require other UPDES permit shall follow the directive of those permits. If the permittee is unsure whether a particular facility needs a different UPDES permit, the Division will assist in this determination.

Comments (4.2.6.2.): *What is the definition for municipal activities to be covered by an O & M plan or SOP's? Should a city festival be covered? What does pothole repair have to do with storm water discharge runoff? "All municipal activities" is too vague.*

Response: The permit language (Part 4.2.6.3) has been changed to require that facility-specific SOPs be developed for "high priority" facilities that have the potential to discharge the following typical urban pollutants in storm water: sediment, nutrients, metals, hydrocarbons (e.g., benzene, toluene, ethylbenzene and xylene), pesticides, chlorides, and trash. Other pollutants that may be associated with, but not generated directly from, the municipally-owned or operated facilities, such as bacteria, chlorine, organic matter, etc. must be assessed and determined by the permittee. Road maintenance and repair is one example of a municipal activity that if proper pollution measures are not employed, may result in a discharge of pollutants to the storm sewer system. A permittee must assess activities associated with municipally-sponsored events and develop the appropriate SOPs when taking into account the waste and wastewater disposal needs of food vendors, trash removal, and street sweeping generally associated with such city functions.

Comment (4.2.6.2.1): *Annual inspections should be deleted; an MS4 should be able to identify an appropriate schedule.*

Response: Please see the response to Comment 4.2.6.3. The Division does not believe the annual inspection of Permittee-owned storm water structural BMPs to be overly burdensome. **This permit requirement has a new citation of 4.2.6.4.6.**

Comment (4.2.6.2.2): *How does one reduce the use of chloride and evaluate opportunities for use of alternative materials?*

Response: **This permit requirement has a new citation of 4.2.6.4.5. The specific requirement to reduce chloride use and evaluate opportunities for use of alternative materials has been removed.** The Division would like to instead emphasize the need for SOPs concerning snow storage, and salt, sand, and liquid deicer application to protect water quality.

Comment (4.2.6.2.2): *Since ground water is a Water of the State, where would be an acceptable location for snow disposal; clarify the intent of this provision.*

Response: **The wording of this provision has been changed from "Waters of the State" to "receiving waters" (Part 4.2.6.4.5).** Snow stockpiles should not be situated on or near storm drains. Central snow disposal areas should be down gradient from any receiving waters.

Comment (4.2.6.2.3): *Commenter made a suggestion for another BMP example besides proper disposal of lawn clippings; suggest mulching to reduce waste at the landfill. What if the grass clippings from a large detention basin are mulched rather than collected?*

Response: This permit provision **(Part 4.2.6.4.3)** requires that pollution prevention measures be taken to minimize the exposure or mobilization of pollutants to prevent them from entering surface waters. Mulching grass clippings in a managed mulch pile is one possible BMP. Mulching grass clippings in place in a large detention basin could be a source of pollution if a large storm event drives the clippings through the outlet structure into a receiving water.

Comment (4.2.6.2.4): *Why is a floor drain inventory necessary? Updating the inventory annually is unnecessary; floor drains are regulated by other codes such as building and health codes, why is it in this permit?*

Response: **This permit requirement is now contained in Part 4.2.6.4.1.** No floor drains contained inside of a building are allowed to discharge to the storm drain system just as only storm water can be discharged to outside storm drains. A floor drain inventory and associated verification of the discharge point is necessary to ensure that all drains are not only plumbed

correctly but are being used for only the wastes they are intended. The intent of an annual update is to include any additional drains that have been installed or changed in a given year. **The permit language has been changed to "must be kept current" to better reflect this.**

Comment (4.2.6.2.5): *Drip pans should be noted as an acceptable BMP in this provision; not enough space to store all vehicles indoors. Why is this provision in this permit when it is covered under the Sector P Industrial permit?*

Response: The citation for this permit requirement is now 4.2.6.4.4. Drip pans are an acceptable BMP for this permit provision. The language has been changed to better reflect the intention of this provision: "Using drip pans and absorbents under or around leaky vehicles and equipment or store indoors where feasible." Please see the response for Comment 4.2.6. for a discussion of the Division's decision to permit MS4-owned or operated facilities under this Small MS4 General Permit instead of the Sector P Industrial permit.

Comment (4.2.6.2.6): *The use of "all project" is too broad; this is already covered under the General Construction Permit; what is a public project? This is not a "housekeeping" item and is already covered elsewhere in the permit.*

Response: The citation for this permit requirement is now 4.2.6.8. The wording of this provision has been changed to from "all construction projects" to "all construction projects disturbing one acre or more or less than one acre if part of a common plan of development." Although this concept is covered in the Construction Site Storm Water Runoff Control MCM, the Pollution Prevention and Good Housekeeping for Municipal Operations MCM is devoted to municipal activities and facilities.

Comment (4.2.6.2.8): *Is an "existing flood management project" one that is in a phase of development or the current operation of a flood management structure?*

Response: An existing flood management project is one that is already in use and should be evaluated to determine if retrofitting the device to remove/reduce pollutants from storm water is necessary and practicable **(Part 4.2.6.7.1)**

Comment (4.2.6.3.): *Should this requirement be in this MCM; seems like a post-construction requirement.*

Response: Flood management **has been moved to Part 4.2.6.7.** and is addressed in this MCM because of the potential to affect water quality. The focus of storm water management in the past has been to control flooding and mitigate property damage, with less emphasis on water quality protection. Storm water treatment and flow control structures may handle a significant

amount of storm water and therefore there exists an opportunity to modify their design to include water quality features for less than building new controls. Ensuring that any needed repair or maintenance is conducted in a timely fashion is also necessary to protect water quality.

Comment (4.2.6.4.1): *Inspections have nothing to do with assessing projects for impacts to water quality; suggested changing annual inspections to tri-annual; flood management is not good housekeeping/pollution prevention; new flood management projects should be assessed for water quality impacts during design not as an inspection after the facility is built; assessment of new flood management projects should be a separate requirement and not included with the inspection of existing facilities.*

Response: Please see response to 4.2.6.3. This intent of this requirement **(Part 4.2.6.7.)** applies to not only new flood control structural controls, but also to existing structures.

Comment (4.2.6.4.2): *Major storm events vary by structure; this is a specific BMP and should be only be included in individual SWMP's.*

Response: Flood control management is now cited in Part 4.2.6.7. This particular requirement has been removed as maintenance of storm water control structures is covered adequately in other areas of the permit.

Comment (4.2.6.5.) *What is the definition of "facility" in this section, does it include all drains and sumps?*

Response: This permit provision **(Part 4.2.6.6.)** applies to facilities such as those listed in permit Part 4.2.6.1. Drains and sumps as defined in this permit would be considered part of the storm water collection and conveyance system.

Comment (4.2.6.5.): *Weekly visual inspections is too much and shouldn't have to include a report if nothing major was found; the industrial permit only requires monthly inspections; already covered in Sector P; some facilities require daily visual inspections depending on the season.*

Response: Weekly visual inspections **(Part 4.2.6.6.1)** to ensure materials and equipment are clean and orderly, and to minimize the potential for pollutant discharge must be tracked in a log with the records kept in the permittee's SWMP document. Any identified deficiencies and corrective actions taken to fix the deficiencies must be noted as well.

Comment (4.2.6.4.1): *Construction projects are addressed in the Construction General Permit (CGP); what roles does this permit have on the CGP?*

Response: **This permit requirement has moved to 4.2.6.8.** Please see the response to the Comment for part **4.2.4.4.1**

Comment (4.2.6.6.): *A record of the "development" of the O & M plan is not necessary.*

Response: **This requirement has been removed from the permit.**

Comment (4.4.1.): *Is submission of an annual report sufficient evidence that the SWMP has been reviewed and updated?*

Response: No, submission of an annual report is not sufficient evidence that the SWMP document has been reviewed and properly modified. The submittal of changes and modifications outlined in Part 4.4. is required in order for the Division to update its copy of the MS4's SWMP document so that it is always consistent with the permittee's version.

Comment (4.4.2.1.): *Is email considered written notice? Is there a form to fill out?*

Response: Yes, email is an accepted form of written notification for the purposes of submitting changes to a SWMP document according to the procedures outlined in Part 4.4. There are no forms to be submitted, only the information outlined in Part 4.4.

Comment (4.4.4.): *What is the time frame for changes to become effective?*

Response: The timeframe for the Division to review and approve/deny any proposed SWMP modifications will not exceed 30 days.

Comment (4.4.5.): *Is there a procedure to appeal changes required by the Division?*

Response: There are not official procedures to appeal changes in the SWMP as directed by the Division. The Division will consider written rationale or justification provided by the permittee if the permittee is unable to comply with required changes to the SWMP.

Comment (5.2.): *Why aren't these definitions in the definition section of the permit?*

Response: Part 5.2. is standard permit language that is included in all UPDES permits and is in addition to any definitions provided. "Analytical monitoring" is defined in Part 7.3.

Comment (5.4.3.): *The "within a time frame specified" should be changed to "a reasonable time". Is it possible to appeal the time frame or the specified corrective action?*

Response: Please see the response for Comment 4.4.5.

Comment (5.4.5.): *Are public requests only honored if requested in writing? Isn't this requirement already addressed in 4.2.2.3.?*

Response: Wording has been changed to require permittee to make records available to the public when requested. The requirement to make the SWMP document available online for the life of the permit is mentioned in part 4.2.2.3. of the permit to help permittees gain compliance with the public involvement/participation MCM as well as standard recordkeeping requirements of Part 5.4.5.

Comment (6.8.2.): *Inspection reports should not have to be signed by the principal executive officer/ranking official. Does this include all reports?*

Response: This provision refers to applications only. Application for this permit is achieved by filling out a Notice of Intent (NOI) which shall be signed by either a principal executive officer or ranking elected official.

Comment (7.0.): *Suggestion that definitions for SOP and O & M be included in definitions section.*

Response: A general definition of a standard operating procedure (SOP) is a set of written instructions that document a routine or repetitive activity. An SOP is fitting for many of the documentation requirements of this permit. The Division has chosen to use the term "SOP" or other similar type document to emphasize the need for developing procedures to identify municipal activities that may have a negative impact on water quality, find solutions for these activities, and use the developed procedures to assure consistency among municipal staff in applying BMPs to prevent pollution from entering the permittee's MS4. If procedures are not written correctly, they are of limited value. In addition, the best written procedures will fail if they are not followed. See the response for 4.2.6. for a discussion of Operation and Maintenance (O & M) program. **A definition for "SOP" has been added to this permit (Part 7.41.)**

Comment (7.9): *This definition is too broad for Hill Air Force Base; it would include the entire base. How far back does a common plan of development go?*

Response: A common plan of development includes developments dating back to October 1, 1992.

Comment (7.33.): *Do outfalls have a minimum pipe size associated with them?*

Response: Outfalls do not have a minimum size specified. They are defined as a point source at the point where a municipal storm sewer discharges to Waters of the State.

Comment (7.42.): *Should "stream" be broadened to "waters of the State"?*

Response: The permit language for the definition of TMDL has been changed from "stream" to "impaired waterbody".