

WISCONSIN  
COASTAL  
MANAGEMENT  
PROGRAM

TASK VI. A. 1  
NA170Z0338-01

STORMWATER MANAGEMENT PROGRAM

Grant recipient:

WISCONSIN DEPARTMENT OF  
NATURAL RESOURCES

SEPTEMBER 1992

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Zone Management Act of 1972,  
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Department of Commerce, Office  
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Management Program*

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WISCONSIN DEPARTMENT  
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Acknowledgement

This *Research Project* was funded in part by the Wisconsin Coastal Management Program pursuant to Grant #NA170Z0338-01 from the National Oceanic and Atmospheric Administration.

The Wisconsin Coastal Management Program, part of the Wisconsin Department of Administration, was established in 1978 to preserve, protect and and develop the resources of the Lake Michigan and Lake Superior coastline for this and future generations. The Wisconsin Coastal Management Program analyzes state policy on Great Lakes issues, coordinates government programs that affect the coast, and provides grants to stimulate better state and local coastal management.

# Wisconsin Coastal Management Program PROGRESS REPORT

For WCMP Staff Use

WCMP Project Number:

Date Received:

Project Title: STORMWATER MANAGEMENT PROGRAM

Purchase Order Number: ADB 01107

Project Start Date: Nov. 29, 1991 Completion Date: Sept. 29, 1992

Signature of Project Manager:

Report Period From: July 1, 1992 To: September 31, 1992



1. Thoroughly discuss progress made during this reporting period, citing specific tasks listed in contract scope of services.

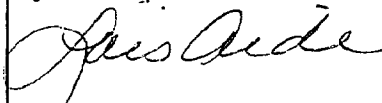
Final statutory language has been written for permit fees, a citation system, and the WPDES system. This language is ready for review and approval by the Department of Administration, the Natural Resources Board, and the legislature. (See attached copies.)

Regulations to implement the WPDES permit system have been drafted. (See attached copy.)

over →

Send to: Wisconsin Coastal Management Program  
Department of Administration  
P.O. Box 7868  
Madison, WI 53707-7868

Signature of person authorized to receive funds:



1993 - 1995  
LEGISLATIVE PROPOSALS

Legal Services \_\_\_\_\_  
Bureau Director \_\_\_\_\_  
Division Admin. \_\_\_\_\_

DATE: September 4, 1992

TO: Paul Heinen, Legislative Liaison - AD/5

BUREAU OF WASTEWATER MANAGEMENT  
DIVISION OF ENVIRONMENTAL QUALITY  
BUREAU CONTACT: ANNE MAUEL

1. PROBLEM/ISSUE

Water quality concerns and federal mandates require the Department to address the problem of stormwater discharge pollutants. In order to do so, additional staff and funding are required along with statutory revisions.

2. DESCRIPTION OF LEGISLATION

Changes to Chapter 147 are needed to clarify our stormwater permitting authorities.

We are proposing a permit fee system to fund the stormwater permit program. This would be a part of Chapter 147.

We are also proposing a citation system to assist with compliance and enforcement of the program.

3. BACKGROUND

Stormwater discharge monitoring for the past 20 years in Wisconsin has shown that discharges contain a host of pollutants, many exceeding effluent limitations. In addition, EPA has promulgated regulations requiring NPDES permits for stormwater discharges from industrial sites, construction sites over 5 acres and the cities of Madison and Milwaukee. In Wisconsin, this constitutes approximately 20,000 new permittees.

Addressing these concerns and requirements will require additional staff. The attached legislative proposals include a stormwater permit fee system to generate revenue to fund this initiative. Also included are proposed revisions to Chapter 147 to clarify the Department's authority to issue stormwater discharge permits and a citation system to simplify enforcement of the permit requirements.

#### 4. PAST LEGISLATION

The Department has a fee associated with WPDES permits. The new system would assess fees for stormwater permits and would not allow stormwater fees to be charged under NR 101 if fees were assessed under the new stormwater fee system.

Chapter 147 deals with permits for discharges of pollutants. The proposed changes would clarify stormwater dischargers as being required to obtain a permit. In addition, the proposal delineates which existing provisions in Chapter 147 would not apply to stormwater discharges.

Citation systems for the WPDES permit program have been proposed in the past. We are again requesting such a system as our previous requests have not been honored.

#### 5. FISCAL ESTIMATE

The long term estimate places the Department's needs for stormwater staff at approximately 50 - 55 FTE. This budget proposal is for 7 FTE and \$600,000 in contract dollars (\$300,000 per year) to initiate the program.

SECTION 1. Section 147.015(12) is amended to read:

(12) "Point source" means 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 or vessel or other floating craft from which pollutants may be discharged either into the waters of this state or into a publicly owned treatment works. ~~"Point source" shall not include diffused surface drainage or any ditch or channel which serves only to intermittently drain excess surface water from rain or melting snow and is not used as a means of conveying pollutants into waters of the state. "Point source" shall not include uncontrolled discharges composed entirely of storm runoff when these discharges are uncontaminated by any industrial or commercial activity, unless the particular storm runoff has been identified by the department as a significant contributor of pollution. "Point source" shall include those discharges for which permits are required under s. 147.021.~~

SECTION 2. Sections 147.02(1) and (5) are amended to read:

(1) The discharge of any pollutant into any waters of the state or the disposal of sludge from a treatment work by any person shall be unlawful unless such discharge or disposal is done under a permit issued by the department. The department may by rule exempt certain classes or categories of vessels from this section. ~~Except as provided in s. 147.021,~~ The department shall require only one permit for a publicly owned treatment or collection facility or system, regardless of the number of point sources from such facility or system.

(5) Each permit issued by the department ~~under this section~~ shall, in addition to those criteria provided in subs. (3) and (4), specify maximum levels of discharges. Maximum levels of discharges shall be developed from the permittee's reasonably foreseeable projection of maximum frequency or maximum level of discharge resulting from production increases or process modifications during the term of the permit.

SECTION 3. Section 147.021 is created to read:

147.021 (1) Permits must be obtained under this section for all of the following storm water discharges:

(a) discharges associated with industrial activity, including construction sites.

(b) discharges from municipal separate storm sewer systems serving incorporated areas of 100,000 or more. The Department may, by regulation, require additional municipalities to obtain a permit for their storm water discharges.

(c) a discharge which the Department determines is a significant contributor of pollutants to waters of the state. This designation may include storm water discharges from a single activity, class of activities or a municipal separate storm sewer system. The Department may designate discharges from municipal separate storm sewer systems on a system wide, jurisdiction wide or watershed basis.

(2) (a) For all discharges from municipal separate storm sewer systems serving incorporated areas with populations greater than 100,000 or other municipal areas as designated by the Department, the Department may:

1. issue one system wide permit covering all discharges from the municipal separate storm sewer or

2. issue distinct permits for appropriate categories of discharges within the municipal separate storm sewer system including but not limited to: all discharges owned or operated by the same municipality, located within the same jurisdiction, all discharges within a system that are similar in nature, or for individual discharges from municipal separate storm sewers within the system.

(b) The owner or operator of a discharge from a municipal separate storm sewer system which is required to obtain a permit must :

1. participate in a permit application (to be a permittee or a co-permittee) with one or more other owners or operators of discharges from municipal separate storm sewer systems; or

2. submit a distinct permit application which only covers discharges from the municipal separate storm sewers for which the owner or operator is responsible; or

3. be included in a permit application from a regional authority which has submitted a permit application under the following guidelines:

a. The regional authority together with co-applicants have authority over a storm water management program that is in existence, or shall be in existence at the time part 1 of the application is due;

b. the permit applicant or co-applicants have established their ability to make a timely submission of part 1 and part 2 of the municipal application;

c. Each of the applicants has complied with the application requirements of sub. \_\_\_.

(c) One permit application may be submitted for all or a portion of all municipal separate storm sewers within adjacent or interconnected municipalities which are required to obtain a storm water discharge permit. The Department may issue one system-wide permit covering all, or a portion of all municipal separate storm sewers in adjacent or interconnected municipalities which are required to obtain a storm water discharge permit.

(d) Permits for all or a portion of all discharges from municipal separate storm sewer systems that are issued on a system-wide, jurisdiction-wide, watershed or other basis may specify different conditions relating to different discharges covered by the permit, including different management programs for different drainage areas which contribute storm water to the system.

(e) Co-permittees need only comply with permit conditions relating to discharges from the municipal separate storm sewers for which they are owners or operators.

(f) In addition to meeting the requirements of sub. \_\_\_, an owner or operator of a storm water discharge associated with industrial activity which discharges through a municipal separate storm sewer system which is required to obtain a permit shall submit the following to the owner or operator of the municipal separate storm sewer system no later than 60 days after the municipality has been designated as required to obtain a permit or 180 days prior to commencing such discharge:

1. the name of the facility;
2. a contact person and phone number; the location of the discharge;
2. a description which best reflects the principal products or services provided by each facility and any existing WPDES permit number.

(3) Conveyances that discharge storm water runoff combined with municipal sewage are point sources that must obtain WPDES permits in accordance with s. 147.02 and are not subject to the provisions of this section.

(4) Dischargers of storm water subject to this section shall apply for an individual permit or seek coverage under a promulgated storm water general permit in accordance with rules adopted by the department. The Department may use its discretion in determining whether an individual or general permit will be applicable, regardless of which type of permit was applied for.



(5) Facilities with existing WPDES permits for storm water discharges associated with industrial activity shall maintain existing permits.

(6) Any owner or operator of a municipal separate storm sewer system may petition the department to require a separate WPDES permit for any discharges into the municipal, separate storm sewer system.

(7) Any person may petition the Department to require a WPDES permit for a discharge which is composed entirely of storm water which contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the state.

SECTION 4. Sections 147.03(1) and (2)(a)INTRO are amended to read:

(1) No permit issued by the department under ss. 147.02 or 147.021 shall have a term for more than 5 years.

(2)(a) Any permit issued by the department under ss. 147.02 or 147.021, may, after an opportunity for hearing, be modified, suspended or revoked, in whole or in part; for cause, including but not limited to:

SECTION 5. Section 147.035(2) is amended to read:

(2) COMPLIANCE WITH FEDERAL STANDARDS. Except for storm water discharges permitted under s. 147.021, All rules promulgated by the department under this chapter as they relate to point source discharges, effluent limitations, municipal monitoring requirements, standards of performance for new sources, toxic effluent standards or prohibitions and pretreatment standards shall comply with and not exceed the requirements of the federal water pollution control act, as amended, 33 USC 1251 to 1376 and regulations adopted under that act.

SECTION 6. Sections 147.04(2)INTRO. and (4)INTRO are amended to read:

(2) SOURCES OTHER THAN PUBLIC TREATMENT WORKS. The discharge from any point source, other than a publicly owned treatment works or a storm water discharge permitted under s. 147.021, shall comply with the following requirements:

(4) EFFLUENT LIMITATIONS FOR PUBLIC TREATMENT WORKS. Discharges from publicly owned treatment works, except storm water discharges permitted under s. 147.021, shall comply with the following requirements:

SECTION 7. Section 147.10(1) is amended to read:

(1) For every discharge which has a total volume of more than 500,000 gallons on any day of the year, except storm water discharges permitted under s. 147.021, the department shall, following public notice, prepare and send to any person who so requests, a fact sheet concerning the application described in the public notice.

PROPOSED LEGISLATION

LANDSPREAD WASTE ANNUAL FEE

- 1) The Department shall require by rule that all persons landspreading municipal or industrial sludge, septage, food industry by-products, whey or other dairy wastes, leachate from vegetable by-product stacks or other wastes, who are regulated by permits issued by the Department under Chapter 147 , and all persons landspreading septage, holding tank wastes or other wastes who are licensed under Chapter 146.20, pay a Landspread Waste Annual Fee.
- 2) The Landspread Waste Annual Fee shall take into account the acreage receiving the landspread waste and the effort required by the Department to assure proper landspreading practice and site selection to protect the environment. In establishing the Landspread Waste Annual Fee the Department may distinguish between previously approved sites and newly approved sites, the relative strengths and volumes of the landspread wastes and other factors which relate to the efforts required by the Department to protect the environment.
- 3) The Landspread Waste Annual Fee shall be designed to generate revenues to fund the Department's program to regulate landspread wastes.
- 4) Any person charged a Landspread Waste Annual Fee under this section shall not be charged an Annual Environmental Fee for the landspread waste under 144.96, Stats.

2/10/80

## Discussion

Currently there are 180,000 acres approved for land application of industrial wastewater, high strength waste such as whey, food processing by-products, leachate from food processing by-product stacks, municipal and industrial wastewater sludge and pumping from septic tanks and holding tanks. Each year about 20 percent of the approved acreage is no longer used for various reasons and equivalent additional acreage is submitted for approval. If the Department were to require by rule a \$1.00 per acre per year fee on previously approved acreage and a \$3.00 per acre fee for new approvals, this would generate \$288,000 per year; \$180,000 from approved acreage and \$108,000 from new approvals (36,000 acres x \$3.00 per acre).

These fees could be collected through the same billing procedure used in the NR 101 fee collection. The total acreage approved for each waste generator would be entered into a computer system used to track the location and loading on each site. New acreage would be added as approved and at the end of the year a computer program would be used to calculate an annual fee which includes any present NR 101 fees and the \$1.00 per acre for existing sites and \$3.00 an acre for new approvals. A user fee structure could also be based on total volume of waste spread or on the total annual pounds of nitrogen spread since these parameters are proportional to acreage needed for spreading.

The Department estimates that approximately \$220,000 annually would need to be collected during the biennium to fund three FTEs for these activities, to fund training for landspreading operators and to fund a statewide record-keeping system for landspreading sites and related data necessary to manage the program and determine the fees to be collected.

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## STORMWATER DISCHARGE PERMIT FEE

There is established an annual stormwater discharge permit fee. The fee shall be paid by each person issued a stormwater discharge permit required under 147.021 Stats. The annual fee shall be designed to generate 100% of program costs for the stormwater discharge permit program.

The annual stormwater permit fee shall be assessed for each facility subject to a stormwater discharge permit required under 147.021 Stats. The fee for each permittee shall be reevaluated each year to reflect stormwater program costs for the upcoming year.

The Department shall establish by rule a fee structure for calculating fees for each permittee. The fee structure shall consider the number of permittees, the complexity of the stormwater situation at each facility permitted and other factors which relate to the Department's efforts to protect the environment.

Any facility charged a stormwater discharge permit fee under this section shall not be charged for stormwater discharges under 147.96, Stats.

*8/27/92 version*  
*Anne*

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 2. 23.50 (1) of the statutes is amended to read:

2 2.350 (1) The procedure in ss. 23.50 to 23.85 applies to all actions in  
3 circuit court to recover forfeitures, penalty assessments, jail assessments,  
4 applicable weapons assessments, applicable natural resources assessments and  
5 applicable natural resources restitution payments for violations of ss. 77.09,  
6 134.60, 144.422 (s) and (2m) (c), 159.07, 159.08, 159.81, 167.10 (3) and  
7 167.31 (2), subch. VI of ch. 77, this chapter and chs. 26 to 31 and of  
8 ch. 350, and any administrative rules promulgated thereunder and violations of  
9 local ordinances enacted by any local authority in accordance with s. 23.33  
0 (11) (am) ~~or~~ 30.77 or stormwater discharges under s. 147.021.

1 SECTION 3. 23.50 (3) of the statutes is amended to read:

2 23.50 (3) All actions in municipal court to recover forfeitures,  
3 penalty assessments and jail assessments for violations of local ordinances  
4 enacted by any local authority in accordance with s. 23.33 (11) (am) ~~or~~ 30.77  
5 or stormwater discharges under s. 147.021 shall utilize the procedure in  
6 ch. 800. The actions shall be brought before the municipal court having  
7 jurisdiction. Provisions relating to citations, arrests, questioning,  
8 releases, searches, deposits and stipulations of no contest in ss. 23.51 (1),  
9 (3) and (8), 23.53, 23.43, 23.56 to 23.64, 23.66 and 23.67 shall apply to  
10 violations of such ordinances.

21 SECTION 4. 23.53 (1) of the statutes is amended to read:

22 23.53 (1) The citation created under this section shall, in all actions  
23 to recover forfeitures, penalty assessments, jail assessments, applicable  
24 weapons assessments, applicable natural resources assessments and applicable  
25 natural resources restitution payments for violations of those statutes  
26 enumerated in s. 23.50 (1) and any administrative rules promulgated

7 thereunder, be used by any law enforcement officer with authority to enforce  
8 those laws, except that the uniform traffic citation created under s. 345.11  
9 may be used by any law enforcement officer with authority to enforce those  
10 laws, except that the uniform officer employed under s. 110.07 in enforcing  
11 s. 167.31 or by an officer of a law enforcement agency of a municipality or  
12 county or a traffic officer employed under s. 345.11 (1m), the citation shall  
13 not be used for violations of ch. 350 relating to highway use. The citation  
14 may be used for violations of local ordinances enacted by any local authority  
15 in accordance with s. 23.33 (11) (am) ~~or~~ 30.77 or stormwater discharges under  
16 s. 147.021.

17 SECTION 5. 23.56 (1) of the statutes is amended to read:

18 23.56 (1) A person may be arrested for a violation of these statutes  
19 enumerated in s. 23.50 (1), any administrative rules promulgated thereunder,  
20 or any local ordinances enacted by any local authority in accordance with  
21 s. 23.33 (11) (am) ~~or~~ 30.77 or stormwater discharges under s. 147.021, after  
22 a warrant that substantially complies with s. 968.04 has been issued. Except  
23 as provided in sub. (2), the person arrested shall be brought without  
24 unreasonable delay before a court having jurisdiction to try the action.

25 SECTION 6. 23.57 (1) (intro.) of the statutes is amended to read:

26 23.57 (1) (intro.) A person may be arrested without warrant when the  
27 arresting officer has probable cause to believe that the person is committing  
28 or has committed a violation of those statutes enumerated in s. 23.50 (1), any  
29 administrative rules promulgated thereunder, or any local ordinances enacted  
30 by any local authority in accordance with s. 23.33 (11) (am) ~~or~~ 30.77 or  
31 stormwater discharges under s. 147.021; and:

32 SECTION 7. 23.58 of the statutes is amended to read:

33 23.58 TEMPORARY QUESTIONING WITHOUT ARREST. After having identified  
34 himself or herself as an enforcing officer, an enforcing officer may stop a  
35 person in a public place for a reasonable period of time when the officer

6 reasonably suspects that such person is committing, is about to commit or has  
7 committed a violation of those statutes enumerated in s. 23.50 (1), any  
8 administrative rules promulgated thereunder, or any local ordinances enacted  
9 by any local authority in accordance with s. 23.33 (11) (am) ~~or~~ 30.77 or  
10 stormwater discharges under s. 147.021. Such a stop may be made only where  
11 the enforcing officer has proper authority to make an arrest for such a  
12 violation. The officer may demand the name and address of the person and an  
13 explanation of the person's conduct. Such detention and temporary questioning  
14 shall be conducted in the vicinity where the person was stopped.

15 SECTION 8. 23.62 (intro.) of the statutes is amended to read:

16 23.62 ISSUANCE OF A CITATION. (intro.) Whenever an enforcing officer  
17 has probable cause to believe that a person subject to his or her authority  
18 is committing or has committed a violation of these statutes enumerated in  
19 s. 23.50 (1), any administrative rules promulgated thereunder, or any local  
20 ordinances enacted by any local authority in accordance with s. 23.33 (11)  
21 (am) ~~or~~ 30.77 or stormwater discharges under s. 147.021, the officer may  
22 proceed in the following manner:

23 SECTION 9. 23.65 (1) of the statutes is amended to read:

24 23.65 (1) When it appears to the district attorney that a violation of  
25 s. 134.60, 144.422 (2) or (2m) (c), stormwater discharges under s. 147.021,  
26 159.07, 159.08 or 159.81, this chapter or ch. 26, 27, 28, 29, 30, 31 or 350,  
27 or any administrative rule promulgated pursuant thereto, has been committed  
28 the district attorney may proceed by complaint and summons.



AAA.02 Applicability (1) ~~Permits must be obtained for all of~~  
~~The following are required to obtain a permit for stormwater~~  
discharges:

(a) discharges associated with industrial activity,  
including construction on parcels of land in excess of one  
acre.

(b) discharges from municipal separate storm sewer systems  
serving incorporated areas of 100,000 or more. The Department  
may, by regulation, require additional municipalities to obtain a  
permit for their stormwater discharges.

(c) a discharge which the Department determines is a  
significant contributor of pollutants to waters of the state.  
This designation may include stormwater discharges from a single  
activity, class of activities or a municipal separate storm sewer  
system. The Department may designate discharges from municipal  
separate storm sewer systems on a system wide, jurisdiction wide  
or watershed basis.

In making this determination, the Department may consider the  
following factors:

1. nature of the receiving water
2. quantity and nature of the pollutants discharged to  
waters of the state
3. other relevant factors

~~The designation of municipalities or a class of activities shall  
be defined by rule.~~

(2) ~~(a) Permits must be obtained for~~ For all discharges from  
municipal separate storm sewer systems serving incorporated areas  
with populations greater than 100,000 or other municipal areas as  
designated by the Department, ~~the Department may.~~

~~(a) the Department may either~~ 1. issue one system wide  
permit covering all discharges from the municipal separate storm  
sewer or

2. issue distinct permits for appropriate categories of  
discharges within the municipal separate storm sewer system  
including but not limited to: all discharges owned or operated by  
the same municipality, located within the same jurisdiction, all  
discharges within a system that are similar in nature, or for  
individual discharges from municipal separate storm sewers within  
the system.

(b) The ~~owner or~~ operator of a discharge from a municipal  
separate storm sewer system which is required to obtain a permit  
must either:

1. participate in a permit application (to be a permittee or a co-permittee) with one or more other owners or operators of discharges from municipal separate storm sewer systems; or

2. submit a distinct permit application which only covers discharges from the municipal separate storm sewers ~~from~~ which the owner or operator is responsible; or FOR

3. ~~be subject to a permit application from a regional authority may be responsible for submitting which has submitted a permit application under the following guidelines:~~

a. The regional authority together with co-applicants shall have authority over a storm water management program that is in existence, or shall be in existence at the time part 1 of the application is due;

b. the permit applicant or co-applicants shall have established their ability to make a timely submission of part 1 and part 2 of the municipal application;

c. Each of the applicants shall ~~has~~ complied with the application requirements AAA.04 and AAA.05 as appropriate.

(c) One permit application may be submitted for all or a portion of all municipal separate storm sewers within adjacent or interconnected municipalities which are required to obtain a stormwater discharge permit. The Department may issue one system-wide permit covering all, or a portion of all municipal separate storm sewers in adjacent or interconnected municipalities which are required to obtain a stormwater discharge permit.

(d) Permits for all or a portion of all discharges from municipal separate storm sewer systems that are issued on a system-wide, jurisdiction-wide, watershed or other basis may specify different conditions relating to different discharges covered by the permit, including different management programs for different drainage areas which contribute storm water to the system.

(e) Co-permittees need only comply with permit conditions relating to discharges from the municipal separate storm sewers for which they are owners or operators.

(f) ~~Discharges through municipal separate storm sewer systems.~~ In addition to meeting the requirements of section AAA.04 of this section, an owner or operator of a storm water discharge associated with industrial activity which discharges through a municipal separate storm sewer system which is required to obtain a permit shall submit, the following to the owner or operator of the municipal separate storm sewer system no later than 60 after the municipality has been designated as required to obtain a permit or 180 days prior to commencing such discharge:

1. the name of the facility;

2. a contact person and phone number; the location of the discharge;

2. a description which best reflects the principal products or services provided by each facility and any existing WPDES permit number. ~~In addition, the Department shall furnish similar information that it holds as part of its WPDES permit records for industries within the municipality.~~

(g) (3) ~~Combined sewer systems.~~ Conveyances that discharge storm water runoff combined with municipal sewage are point sources that must obtain WPDES permits in accordance with Chapter 147, Wisc. Stats. and are not subject to the provisions of this section.

#### AAA.03 Definitions

(1) "Co-permittee" means a permittee to a WPDES permit that is only responsible for permit conditions relating to the discharge for which it is the owner or operator. **TERM NOT USED**

(2) "Illicit discharge" means any discharge to a municipal separate storm sewer that is not composed entirely of storm water except discharges pursuant to a WPDES permit (other than the WPDES permit for discharges from the municipal separate storm sewer) and discharges from fire fighting activities.

(3) "Incorporated area" means a city, town, township, or village that incorporated under the laws of the state of Wisconsin.

~~(4) "Major municipal separate storm sewer outfall (or major outfall)"~~ means 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 its equivalent (discharge from other than a circular pipe associated with a drainage area of 2 acres or more).

~~(5) "Major outfall" means a major municipal separate storm sewer outfall.~~ **CHANGED SINCE "MAJOR MUNICIPAL SEPERATE STORM SEWER OUTFALL" IS NEVER USED IN THE TEXT.**

(6) "Municipal separate storm sewer" means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, constructed channels, or storm drains):

4. the nature of the receiving water;
5. other relevant factors, ~~or~~.

(d) The Department ~~may, has~~ upon petition, designated as a municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a storm water management regional authority based on a jurisdictional, watershed, or other appropriate basis that includes one or more of the systems described in paragraph (7)(a) or (b) of this section.

(8) "Outfall" means ~~a conveyance of stormwater~~ the point of discharge of stormwater to waters of the state.

(9) "Runoff coefficient" means the fraction of total rainfall that will appear at a conveyance of stormwater as runoff or the fraction of total rainfall that will exit the property to be permitted.

(10) "Significant materials" includes, but is not limited to; raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under section 101(14) of CERCLA; any chemical the facility is required to report pursuant to section 313 of title III of SARA; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with storm water discharges.

(11) "Storm water" means storm water runoff, snow melt runoff, and surface runoff and drainage.

(12) "Storm water discharge associated with industrial activity" means storm water which has come into contact with manufacturing, processing or materials storage areas. For the categories of industries identified in paragraphs (12)(a) through(j) of this section, the term includes, but is not limited to, storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters (as defined at 147, Wisc Stats.); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and finished products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water. For the categories of industries identified in paragraph (12) of this section, the term includes only storm water discharges from all the areas (except access roads and rail lines) that are listed in the previous sentence

ALTHOUGH THERE IS AN EXTENSIVE DEFINITION OF THE PHRASE "MUNICIPAL SEPERATE STORM SEWER', THE PHRASE IS NEVER ACTUALLY USED ANYWHERE IN THE TEXT

(a) owned or operated by a State, city, town, ~~borough,~~ county, ~~parish,~~ district, ~~association,~~ or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water ~~er,~~ or their wastes, ~~including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States;~~

(b) designed or used for collecting or conveying storm water,

(c) which is not a combined sewer; and

(d) which is not part of a Publicly Owned Treatment Works as defined in Chapter 147, Wisc. Stats.

(7) "Municipal separate storm sewer system" means all municipal separate storm sewers that are either:

DITTO: THE PHRASE IS NEVER USED.

(a) located in an incorporated area serving a population of 100,000 or more;

(b) located in a municipality designated by the Department as needing a stormwater discharge permit, or;

(c) owned or operated by a municipality other than those described in paragraph (7)(a) or (b) of this section and that are designated by the Department as part of the municipal separate storm sewer system required to obtain a permit due to the interrelationship between the discharges of the designated storm sewer and the discharges from municipal separate storm sewers described under paragraph (7)(a) or (b) of this section. In making this determination the Department may consider the following factors:

1. Physical interconnections between the municipal separate storm sewers;

2. The location of discharges from the designated municipal separate storm sewer relative to discharges from municipal separate storm sewers described in paragraph (7)(a) or (b) of this section;

3. the quantity and nature of pollutants discharged to waters of the state;

where material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, or industrial machinery are exposed to storm water. For the purposes of this paragraph, material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, by-product or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above described areas.

AGAIN, THIS PHRASE IS NEVER USED IN THE TEXT

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(1) Industrial facilities (including industrial facilities that are federally, state or municipally owned or operated that meet the description of the facilities listed in paragraph AAA.03 (12)(a) through (j) of this section) include those facilities designated under the provisions of paragraph AAA.02(1)(c) of this section. The following categories of facilities are considered to be engaging in "industrial activity" for purposes of this subsection chapter:

(a) Facilities subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR subchapter N (except facilities with toxic pollutant effluent standards which are exempted under category (j) of this section;

(b) Facilities engaged in the following activities:

1. manufacturing or processing foods and beverages for human consumption; and certain related products, such as manufactured ice, chewing gum, vegetable and animal fats and oils, and prepared feeds for animals and fowls;

2. manufacturing cigarettes, cigars, smoking and chewing tobacco, and snuff, and in stemming and redrying tobacco;

3. - preparation of fiber and subsequent manufacturing of yarn, thread, braids, twine, and cordage; manufacturing board woven fabric, narrow woven fabric, knit fabric, and carpets and rugs from yarn; dyeing and finishing fiber, yarn, fabric, and knit apparel; coating, waterproofing, or other wise treating fabric; the integrated manufacture of knit apparel and other finished articles from yarn; and the manufacture of felt goods, lace goods, non-woven fabrics, and miscellaneous textiles;

4. producing clothing and fabricating products by cutting and sewing purchased woven or knit textile fabrics and related materials such as leather, rubberized fabrics, plastics and furs.

5. logging camps engaged in cutting timber and pulpwood; merchant sawmills, lath mills, shingle mills, cooperage stock mills, planing mills, and plywood mills and veneer mills engaged in producing lumber and wood basic materials; and establishments engaged in manufacturing finished articles made entirely or mainly of wood or wood substitutes.

5. manufacturing household, office, public building, and restaurant furniture; and office and store fixtures;

6. manufacture of pulps from wood and other cellulose fibers, and from rags; the manufacture of paper and paperboard; and the manufacture of paper and paperboard into converted products such as paper coated off the paper machine, paper bags, paper boxes, and envelopes.

7. printing of one or more of the common processes, such as letter press, lithography, gravure, or screen; and those establishments which perform services for the printing trade, such as bookbinding, typesetting, engraving, photoengraving, and electrotyping.

8. producing basic chemicals; and establishments manufacturing products by predominantly chemical process. Establishments classified in this major group manufacture their general classed of products: basic chemicals such as acids, alkalis, salts, and organic chemicals; chemical products to be used in further manufacture such as synthetic fibers, plastics materials, dry colors, and pigments; and finished chemical products to be used for ultimate consumption such as drugs, cosmetics, and soaps; or to be used as materials or supplies in other industries such as paints, fertilizers, and explosives.

9. engaged in petroleum refining, manufacturing paving and roofing materials, and compounding lubricating oils and greases from purchased materials

10. manufacturing from natural, synthetic, or reclaimed rubber, gutta percha, balata, or gutta siak, rubber products such as tires, rubber footwear, mechanical rubber goods, heels and soles, flooring, and rubber sundries.

11. engaged in tanning, durring, and finishing hides and skins, and establishments manufacturing finished leather and artificial leather products and some similar products made of other materials. Leather converters are also included.

12. engaged in manufacturing flat glass and other glass products, cement, structural clay products, pottery, concrete and gypsum products, cut stone, abrasive and asbestos products, from materials taken principally from the earth in the form of stone, clay, and sand.

13. engaged in the smelting and refining of ferrous and nonferrous metals from ore, pig, or scrap; in the rolling, drawing, and alloying of ferrous and nonferrous metals; in the manufacture of castings and other basic products of ferrous and nonferrous metals; and in the manufacture of nails, spikes, and insulated wire and cable. This includes the manufacture of coke.

14. engaged in fabricating ferrous and nonferrous metal products such as metal cans, tinware, hand tools, cutlery, general hardware, nonelectric heating apparatus, fabricated structural metal products, metal forgings, metal stampings, ordnance (except vehicles and guided missiles), and a variety of metal and wire products.

15. manufacturing machinery and equipment including machines powered by built-in or detachable motors, and portable tools.

16. manufacturing machinery, apparatus, and supplies for the generation, storage, transmission, transformation and utilization of electrical energy. This includes household appliances.

17. Manufacturing equipment for transportation of passengers and cargo by land, air, and water. This includes motor vehicles, aircraft, guided missiles and space vehicles, ships, boats, railroad equipment, and miscellaneous transportation equipment such as motorcycles, bicycles and snowmobiles.

18. manufacturing instruments for measuring, testing, analyzing, and controlling, and their associated sensors and accessories; optical instruments and lenses, surveying and drafting instruments; surgical, medical, and dental instruments, equipment; and supplies; ophthalmic goods; photographic equipment and supplies; and watches and clocks.

19. manufacturing products not included in any other category in paragraph (12) of this section including, but not limited to, jewelry, silverware and plated ware; musical instruments; toys, sporting and athletic goods; pens, pencils, and other office and artists' materials; buttons, costume novelties, miscellaneous notions; brooms and brushes; caskets; and other miscellaneous manufacturing industries.

(c) active and inactive mining operations and oil and gas exploration, production, processing, or ~~tr~~-~~a~~-~~t~~-~~m~~-~~e~~-~~n~~-~~t~~ ~~o~~-~~p~~-~~e~~-~~r~~-~~a~~-~~t~~-~~i~~-~~o~~-~~n~~s ~~t~~-~~r~~-~~e~~-~~a~~-~~t~~-~~m~~-~~e~~-~~n~~-~~t~~ ~~o~~-~~p~~-~~e~~-~~r~~-~~a~~-~~t~~-~~i~~-~~o~~-~~n~~s, or transmission facilities that discharge storm water contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations. Inactive mining operations are mining sites that are not being mined, but which have an identifiable owner/operator; inactive mining sites do not include



sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim.

(d) hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under subtitle C of RCRA.

(e) landfills, land application sites, and open dumps that receive or have received any industrial wastes (waste that is received from any of the facilities described under this subsection) including those that are subject to regulation under subtitle D of RCRA.

(f) facilities involved in the recycling of materials, including and limited to metal scrapyards, battery reclaimers, salvage yards, and automobile junkyards.

(g) steam electric power generating facilities, including coal handling sites.

(h) railroad establishments furnishing transportation by line-haul railroad, as well as REA express, and switching and terminal establishments; establishments primarily engaged in furnishing local and suburban passenger transportation, such as those providing passenger transportation within a single municipality, contiguous municipalities, or a municipality and its suburban areas by bus, rail, or subway, either separately or in combination, and establishments engaged in furnishing transportation to local scenic features; transportation establishments primarily engaged in furnishing highway passenger transportation and establishments furnishing highway passenger terminal or maintenance facilities; establishments furnishing local or long-distance trucking, or transfer services, or those engaged in the storage of farm products, furniture and other household goods, or commercial goods of any nature; the U.S. Postal Service, Post Office contract stations and establishments primarily transporting mail on a contract basis for the U.S. Postal Service; establishments engaged in freight and passenger transportation on the open seas or inland waters, and establishments furnishing such incidental services as lighterage, towing, and canal operation including excursion boats, sightseeing boats and water taxis; establishments engaged in furnishing domestic and foreign transportation by air and also those operating airports and flying fields and furnishing terminal services; establishments primarily engaged in wholesaling petroleum products, including liquefied petroleum gas, from bulk liquid storage facilities. Only those portions of the facility that are involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication) equipment cleaning operations, airport deicing operations, or which are otherwise identified under paragraphs

.03(12) of this section are considered associated with industrial activity.

(i) treatments works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of 1.0 mgd or more, or required to have an approved pretreatment program under 40 CFR par 403. ~~Not included are farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility or areas that are in compliance with section 405 of the Clean Water Act.~~

(j) construction activity including clearing, grading, and excavation activities except: operations that result in the disturbance of less than one acre of total land area which are not part of a larger common plan of development or sale.

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(2) Activities not included under this chapter are farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility or areas that are in compliance with section 405 of the Clean Water Act.

AAA.04 Application Requirements for Stormwater Discharges Associated with Industrial Activity. Dischargers of stormwater associated with industrial activity ~~are required to shall~~ apply for an individual permit or seek coverage under a promulgated storm water general permit. Facilities that ~~are required seek~~ to obtain an individual permit, or any discharge of stormwater which the Department is evaluating for designation under paragraph AAA.02(1)(c) and is not a municipal separate storm sewer, shall submit a WPDES application in accordance with the requirements of the following:

(1) Except as provided in AAA.04(2)-(4), the ~~owner or~~ operator of a storm water discharge associated with industrial activity subject to this section shall provide:

(a) A site map showing the outline of drainage areas covered in the application of the facility including: each of its drainage and discharge structures; the drainage area of each storm water outfall; paved areas and buildings within the drainage area of each storm water outfall, each past or present area used for outdoor storage or disposal of significant material, each existing structural control measure to reduce pollutants in storm water runoff, materials loading and access areas, areas where pesticides, herbicides, soil conditioners and fertilizers are applied, each of its hazardous waste treatment, storage or disposal facilities ( including each area not required

to have a RCRA permit which is used for accumulating hazardous waste under 40 CFR 262.34)+; each well where fluids from the facility are injected underground; springs, and other surface water bodies which receive storm water discharges from the facility;

(b) An estimate of the area of impervious surfaces ( including paved areas and building roofs) and the total drained by each outfall and a narrative description of the following: Significant materials that in the three years prior to the submittal of this application have been treated, stored or disposed in a manner to allow exposure to storm water: method of treatment storage or disposal of such materials: materials management practices employed, in the tree years prior to the submittal of this application, to minimize contact by these materials with storm water runoff; materials loading and access areas; the location, manner and frequency in which pesticides, herbicide, soil conditioners and fertilizers are applied; the location and a description of existing structural and non-structural control measures to reduce pollutants in storm water runoff; and a description of the treatment the storm water receives, including the ultimate disposal of any solid or fluid wastes other than by discharge;

(c) A certification that all outfalls that should contain storm water discharges associated with industrial activity have been tested or evaluated for the presence of non-storm water discharges which are not covered by a WPDES permit; tests for such non-storm water discharges may include smoke tests, fluorometric dye tests, analysis of accurate schematics, as well as other appropriate test. The certification shall include a description of the method used, the date of any testing, and the on-site drainage points that were directly observed during a test;

(d) Existing information regarding significant leaks or spills of toxic or hazardous pollutants at the facility that have taken place within the three years prior to the submittal of their application;

(e) ~~Operators of For~~ new sources or new discharges of stormwater, ~~must submit~~ a pollution prevention plan describing how potential pollutants from the site will be prevented from coming into contact with stormwater, ~~where contact with pollutants will occur, the applicant must describe a description of what treatment practices will be used.~~

(2) The ~~owner or~~ operator of an existing or new storm water discharge that is associated with industrial activity solely under paragraph (j) of this section, ( ) is exempt from the requirements of ( ) and paragraph of this section. Such ~~owner or~~ operator shall provide a narrative description of:

(a) The location (including a map) and the nature of the construction activity;

(b) The total area of the site and the area of the site that is expected to undergo excavation during the life of the permit;

(c) Proposed measures, including best management practices, to control pollutants in storm water discharges during construction, including a brief description of applicable State and local erosion and sediment control requirements;

(d) Proposed measures to control pollutants in storm water discharges that will occur after construction operations have been completed, including a brief description of applicable State or local erosion and sediment control requirements;

(e) An estimate of the runoff coefficient of the site and the increase in impervious area after the construction addressed in the permit application is completed, the nature of fill material and existing data describing the soil or the quality of the discharge; and

(f) The name of the receiving water.

(3) The owner or operator of an existing or new discharge composed entirely of storm water from an oil or gas exploration, production, processing, or treatment operation, or transmission facility is not required to submit a permit application in accordance with paragraph AAA.04(1), unless the facility:

(a) Has had a discharge of storm water resulting in the discharge of a reportable quantity for which notification is or was required pursuant to 40 CFR 117.21 or 40 CFR 302.6 at anytime since November 16, 1987; or

(b) Has had a discharge of storm water resulting in the discharge of a reportable quantity for which notification is or was required pursuant to 40 CFR 110.6 at any time since November 16, 1987; or

(c) Contributes to a violation of a water quality standard. Owner and operators of construction activity in municipalities with erosion control ordinances which have certified by the ~~Dept. Department~~ as adequate to meet the regulations of the ~~CWA Clean~~ Water Act are exempt from the requirements of this statute. The ~~Dept. Department~~ will promulgate rules for such certification.

(4) The owner or operator of an existing or new discharge composed entirely of storm water from a mining operation is not required to submit a permit application unless the discharge has come into contact with, and overburden, raw material, intermediate products, finished product, byproduct or waste products located on the site of such operations.

(5) Applicants shall provide such other information the Director Department may reasonably require to determine whether to issue a permit and may require any facility subject to paragraph AAA.04(1) of this section to comply with paragraph AAA.04(2) of this section.

AAA.05 Application requirements for municipal separate storm sewer discharges. The owner or operator of a discharge from a municipal separate storm sewer or a municipal separate storm sewer that is designated by the Director under paragraph .02 (1)(c) of this section, may submit a jurisdiction-wide or system-wide permit application. Where more than one public entity owns or operates a municipal separate storm sewer within a geographic area (including adjacent or interconnected municipal separate storm sewer systems), such operators may be a coapplicant to the same application. Permit applications for discharges from large and medium municipal storm sewers or municipal storm sewers designated under paragraph .02 (1)(c) of this section shall include;

(1) ~~Part 1.~~ Part 1 of the application shall consist of;

(a) ~~General information.~~ The applicants' name, address, telephone number of contact person, ownership status and status as a State or local government entity.

(b) ~~Legal authority.~~ A description of existing legal authority to control discharges to the municipal separate storm sewer system. When existing legal authority is not sufficient to meet the criteria provided in paragraph of this section, the description shall list additional authorities as will be necessary to meet the criteria and shall include a schedule and commitment to seek such additional authority that will be needed to meet the criteria.

(c) ~~Source identification.~~ 1. a description of the historic use of ordinances, guidance or other controls which limited the discharge of non-storm water discharges to any Publicly Owned Treatment Works serving the same area as the municipal separate storm sewer system.

2. A USGS 7.5 minute topographic map (or equivalent topographic map with a scale between 1:10,000 and 1:24,000 if cost effective) extending one mile beyond the service boundaries of the municipal storm sewer system covered by the permit application. ~~The following information shall be provided:~~

~~a3.~~ The location of known municipal storm sewer system outfalls discharging to waters of the United States;

~~b4.~~ A description of the land use activities (e.g. division indicating undeveloped, residential, commercial, agricultural and industrial uses) accompanied with estimates of population densities and projected growth for a ten year period within the

drainage area served by the separate storm sewer. For each land use type, an estimate of an average runoff coefficient shall be provided;

e5. The location and a description of the activities of the facility of each currently operating or closed municipal landfill or other treatment, storage or disposal facility for municipal waste;

e6. The location and the permit number of any known discharge to the municipal storm sewer that has been issued a WPDES permit;

e7. The location of major structural controls for storm water discharge (retention basins, detention basins, major infiltration devices, etc.) and

e8. The identification of publicly owned parks, recreational areas, and other open lands.

(d) ~~Discharge characterization.~~

1. Monthly mean rain and snow fall estimates (or summary of weather bureau data) and the monthly average number of storm events.

2. Existing quantitative data describing the volume and quality of discharges from the municipal storm sewer, including a description of the outfalls sample, sampling procedures and analytical methods used.

3. A list of water bodies that receive discharges from the municipal separate storm sewer system, including downstream segments, lakes and estuaries, where pollutants from the system discharges may accumulate and cause water degradation and a brief description of known water quality impacts. At a minimum, the description of impacts shall include a description of whether the water bodies receiving such discharges have been-

a. Assessed and reported in section 305(b) of the Clean Water Act reports submitted by the State, the basis for the assessment (evaluated or monitored), a summary of designated use support and attainment of Clean Water Act (CWA) goals (fishable and swimmable waters), and causes of nonsupport of designated uses;

b. Listed under section 304(1)(1)(A)(i), section 304(1)(1)(A)(ii), or section 304(1)(1)(B) of the CWA Clean Water Act that is not expected to meet water quality standards or water quality goals;

c. Listed in State Nonpoint Source Assessments required by section 319(a) of the CWA Clean Water Act that, without additional action to control nonpoint sources of pollution, cannot reasonably be expected to attain or maintain water quality

standards due to storm sewers, construction, highway maintenance and runoff from municipal landfills and municipal sludge adding significant pollution (or contributing to a violation of water quality standards);

d. Identified and classified according to eutrophic condition of publicly owned lakes listed in State reports required under section 314(a) of the CWA Clean Water Act (include the following: A description of those publicly owned lakes for which uses are known to be impaired; a description of procedures, processes and methods to control the discharge of pollutants from municipal separate storm sewers into such lakes; and a description of methods and procedures to restore the quality of such lakes);

e. Areas of concern of the Great Lakes identified by the International Joint Commission;

f. Designated estuaries under the National Estuary Program under section 320 of the CWA Clean Water Act;

g. Recognized by the applicant as highly valued or sensitive waters;

h. Defined by the state or U.S. Fish and Wildlife Services's National Wetlands Inventory as wetlands; and

i. Found to have pollutants in bottom sediments, fish tissue or biosurvey data.

4. ~~Field Screening.~~ Results of a field screening analysis for illicit connections and illegal dumping for either selected field screening points or major outfalls covered in the permit application. At a minimum, a screening analysis shall include a narrative description, for either each field screening point or major outfall, of visual observations mad during dry weather periods. If any flow is observed, two grab samples shall be collected during a 24 hour period with a minimum period of four hours between samples. For all such samples, a narrative description of the dolor, odor, turbidity, the presence of an oil sheen or surface scum as well as any other relevant observations regarding the potential presence of non-storm water discharges or illegal dumping shall be provided. In addition, a narrative description of the results of a field analysis using suitable methods of a field analysis using suitable methods to estimate pH, total chlorine, total copper, total phenol, and detergents (or surfactant) shall be provided along with a description of the flow rate. Where the field analysis does not involve analytical methods approved under 40 CFR part 136, the applicant shall provide a description of the method used including the name of the manufacturer of the test method along with the range and accuracy of the test. Field screening points shall be either major outfalls or other outfall points (or any other point of access such as manholes randomly located throughout the storm sewer system by placing a grid over a drainage system map and

identifying those cells of the grid which contain a segment of the storm sewer system of major outfall. The field screening points shall be established using the following guidelines and criteria:

a.) A grid system consisting of perpendicular north-south and east-west lines spaced 1/4 mile apart shall be overlaid on a map of the municipal storm sewer system, creating a series of cells;

b. All cells that contain a segment of the storm sewer system shall be identified; one field screening point shall be selected in each cell; major outfalls may be used as field screening points;

c. Field screening points should be located downstream of any sources of suspected illegal or illicit activity;

d. Field screening points shall be located to the degree practicable at the farthest manhole or other accessible location downstream in the system, within each cell; however, safety of personnel and accessibility of the location should be considered in making this determination;

e. Hydrological conditions; total drainage area of the site; population density of the site; traffic density; age of the structures or buildings in the area; history of the area; and land use types;

f. For municipal separate storm sewer systems, no more than 50 cells need to have identified field screening points; cells established by the grid that contain no storm sewer segments will be eliminated from consideration;

g. Municipal separate storm sewer systems which are unable to utilize the procedures described in paragraphs AAA.05(1)(d)1. through 5. of this section, because a sufficiently detailed map of the separate storm sewer systems is unavailable, shall field screen no more than 500 major outfalls respectively (or all major outfalls in the system, if less); in such circumstances, the applicant shall establish a grid system consisting of north-south and east-west lines spaced 1/4 mile apart as an overlay to the boundaries of the municipal storm sewer system, thereby creating a series of cells; the applicant will then select major outfalls in as many cells as possible until at least 500 major outfalls (medium municipalities) are selected; a field screening analysis shall be undertaken at these major outfalls.

5. ~~Characterization plan.~~ Information and a proposed program to meet the requirements of paragraph AAA.05(2)(c) of this section. Such description shall include: the location of outfalls or field screening points appropriate for representative data collection under paragraph AAA.05(1)(d)3. of this section, a description of why the outfall or field screening point is representative, the seasons during which sampling is intended, a



description of the sampling equipment. The proposed location of outfalls or field screening points for such sampling should reflect water quality concerns (see paragraph (d)(1)(iv)(C) of this section) to the extent practicable.

(e) ~~Management programs.~~ 1. A description of the existing management programs to control pollutants from the municipal separate storm sewer system. The description shall provide information on existing structural and source controls, including operation and maintenance measures for structural controls, that are currently being implemented. Such controls may include, but are not limited to: Procedures to control pollution resulting from construction activities; floodplain management controls; wetland protection measures; best management practices for new subdivisions; and emergency spill response programs. The description may address controls established under State law as well as local requirements.

2. A description of the existing program to identify illicit connections to the municipal storm sewer system. The description should include inspection procedures and methods for detecting and preventing illicit discharges, and describe areas where this program has been implemented.

(f) ~~Fiscal resources.~~ (A)

1. A description of the financial resources currently available to the municipality to complete part 2 of the permit application. A description of the municipality's budget for existing storm water programs, including an overview of the municipality's financial resources and budget, including overall indebtedness and assets, and sources of funds for storm water programs.

(2) ~~Part 2.~~ Part 2 of the application shall consist of:

(a) ~~Adequate legal authority.~~ A demonstration that the applicant can operate pursuant to legal authority established by statute, ordinance or series of contracts which authorizes or enables the applicant at a minimum to:

1. Control through ordinance, permit, contract, order or similar means, the contribution of pollutants to the municipal storm sewer by storm water discharges associated with industrial activity and the quality of storm water discharged from sites of industrial activity;

2. Prohibit through ordinance, order or similar means, illicit discharges to the municipal separate storm sewer;

3. Control through ordinance, order or similar means the discharge to a municipal separate storm sewer of spills, dumping or disposal of materials other than storm water;

4. Control through interagency agreements among coapplicants the contribution of pollutants from one portion of the municipal system to another portion of the municipal system;

5. Require compliance with conditions in ordinances, permits contracts or orders; and

6. Carry out all inspection, surveillance and monitoring procedures necessary to determine compliance and noncompliance with permit conditions including the prohibition on illicit discharges to the municipal separate storm sewer.

(b) ~~Source identification.~~ The location of any major outfall that discharges to waters of the United States state that was not reported under paragraph AAA.05(1)(c)2.a. of this section. Provide an inventory, organized by watershed of the name and address, and a description (such as SIC codes) which best reflects the principal products or services provided by each facility which may discharge, to the municipal separate storm sewer, storm water associated with industrial activity;

(c) ~~Characterization data.~~ When "quantitative data" for a pollutant are required under paragraph AAA.05(2)(c)1.c. of this paragraph, the applicant must collect a sample of effluent in accordance with 40 CFR 122.21 (g)(7) and analyze with for the pollutant in accordance with analytical methods approved under 40 CFR part 136. When no analytical method is approved the applicant may use any suitable method but must provide a description of the method. The applicant must provide information characterizing the quality and quantity of discharges covered in the permit application, including:

1. Quantitative data from representative outfalls designated by the Director (based on information received in part 1 of the application, the Director shall designate between five and ten outfalls or field screening points as representative of the commercial, residential and industrial land use activities of the drainage area contributing to the system or, where there are less than five outfalls covered in the application, the Director shall designate all outfalls) developed as follows:

a. For each outfall or field screening point designated under this subparagraph, samples shall be collected of storm water discharges from three storm events occurring at least one month apart in accordance with rules established by the Department. The Department may allow exemptions to sampling three storm events when climatic conditions create good cause for such exemptions);

b. A narrative description shall be provided of the date and duration of the storm event(s) sampled, rainfall estimates of the storm event which generated the sampled discharge and the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event;

c. For samples collected and described under paragraphs AAA.05(2)(c)1.a. and 1.b. of this section, quantitative data shall be provided for: the organic pollutants listed in Table II; the pollutants listed in Table III (toxic metals, cyanide, and total phenols) of appendix D of 40 CFR part 122, and for the following pollutants:

Total suspended Solids (TSS)  
Total dissolved solids (TDS)  
COD  
BOD<sub>5</sub>  
Oil and grease  
Fecal coliform  
Fecal Streptococcus  
pH  
Total Kjeldahl nitrogen  
Nitrate plus nitrite  
Dissolved phosphorus  
Total ammonia plus organic nitrogen  
Total phosphorus

d. Additional limited quantitative data required by the Director for determining permit conditions (the Director may require that quantitative data shall be provided for additional parameters, and may establish sampling conditions such as the location, season of sample collection, form of precipitation (snow melt, rainfall) and other parameters necessary to insure representativeness);

2. Estimates of the annual pollutant load of the cumulative discharges to waters of the United States ~~state~~ from all identified municipal outfalls and the event mean concentration of the cumulative discharges to waters of the United States from all identified municipal outfalls during a storm event (as defined in rules established by the Department) for BOD<sub>5</sub>, COD, TSS, dissolved solids, total nitrogen, total ammonia plus organic nitrogen, total phosphorus, dissolved phosphorus, cadmium, copper, lead, and zinc. Estimates shall be accompanied by a description of the procedures for estimating constituent loads and concentrations, including any modelling data analysis, and calculation methods;

3. A proposed schedule to provide estimates for each major outfall identified in either paragraph AAA.05(2)(b) or AAA.05(1)(c)2.a. of this section of the seasonal pollutant load and of the event mean concentration of a representative storm for any constituent detected in any sample required under paragraph AAA.05(2)(c)1. of this section; and

4. A proposed monitoring program for representative data collection for the term of the permit that describes the location of outfalls or field screening points to be sampled (or the location of instream stations), why the location is

representative, the frequency of sampling, parameters to be sample, and a description of sampling equipment.

5. The ~~Dept.~~ Department may waive any sampling requirements for part 1 and 2 of the application if it feels the information is not necessary to issue a permit.

(d) ~~Proposed management program.~~— A proposed management program covers the duration of the permit. It shall include a comprehensive planning process which involves public participation and where necessary intergovernmental coordination, to reduce the discharge of pollutants to the maximum extent practicable using management practices, control techniques and system, design and engineering methods, and such other provisions which are appropriate. The program shall also include a description of staff and equipment available to implement the program.. Separate proposed programs may be submitted by each coapplicant. Proposed programs may impose controls on a systemwide basis, a watershed basis, a jurisdiction basis, or on individual outfalls. Proposed programs will be considered by the ~~Director~~ Department when developing permit conditions to reduce pollutants in discharges to the maximum extent practicable. Proposed management programs shall describe priorities for implementing controls. Such programs shall be based on:

1. A description of structural and source control measures to reduce pollutants from runoff from commercial and residential areas that are discharged from the municipal storm sewer system that are to be implemented during the life of the permit, accompanied with an estimate of the expected reduction of pollutant loads and proposed schedule for implementing such controls. At a minimum, the description shall include:

a. A description of maintenance activities and a maintenance schedule for structural controls to reduce pollutants (including floatable) in discharges from municipal separate storm sewers;

b. A description of planning procedures including a comprehensive master plan to develop, implement and enforce controls to reduce the discharge of pollutants from municipal separate storm sewers which receive discharges from areas of new development and significant redevelopment. Such plan shall address controls to reduce pollutants in discharges from municipal separate storm sewers after construction is completed. (controls to reduce pollutants in discharges from municipal separate storm sewers containing construction site runoff are addressed in paragraph AAA.05(2)(d)4. of this section;

c. A description of practices for operating and maintaining public streets, roads and highways and procedures for reducing the impact on receiving waters of discharges from municipal storm sewer systems, including pollutants discharged as a result of deicing activities;

d. A description of procedures to assure that flood management projects assess the impacts on the water quality of receiving water bodies and that existing structural flood control devices have been evaluated to determine if retrofitting the device to provide additional pollutant removal from storm water is feasible;

e. A description of a program to monitor pollutants in runoff from operating or closed municipal landfills or other treatment, storage or disposal facilities for municipal waste, which shall identify priorities and procedures for inspections and establishing and implementing control measures for such discharges (this program can be coordinated with the program developed under paragraph AAA.05(2)(d)3. of this section); and

f. A description of a program to reduce to the maximum extent practicable, pollutants in discharges from municipal separate storm sewers associated with the application of pesticides, herbicides and fertilizer which will include, as appropriate, controls such as educational activities, permits, certification and other measures for commercial applicators and distributors and controls for application in public right-of-ways and at municipal facilities.

2. A description of a program, including a schedule, to detect and remove (or require the discharger to the municipal separate storm sewer to obtain a separate WPDES permit for) illicit discharges and improper disposal into the storm sewer. The proposed program shall include:

a. A description of a program, including inspections, to implement and enforce an ordinance, orders or similar means to prevent illicit discharges to the municipal separate storm sewer system; this program description shall address all types of illicit discharges are identified by the municipality as sources of pollutants to waters of the ~~United States~~ state: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)) to separate storm sewers, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from drawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water (program descriptions shall address discharges or flows from fire fighting only where such discharges or flows are identified as significant sources of pollutants to waters of the ~~United States~~ State);

b. A description of procedures to conduct on-going field screening activities during the life of the permit, including areas or locations that will be evaluated by such field screens;

c. A description of procedures to be followed to investigate portions of the separate storm sewer system that, based on the results of the field screen, or other appropriate information, indicate a reasonable potential of containing illicit discharges or other sources of non-storm water (such procedures may include: sampling procedures for constituents such as fecal coliform, fecal streptococcus, surfactant (MBAS), residual chlorine, fluorides and potassium; testing with fluorometric dyes; or conducting in storm sewer inspections where safety and other consideration allow. Such description shall include the location of storm sewers that have been identified for such evaluation);

d. A description of procedures to prevent, contain, and respond to spills that may discharge into the municipal separate storm sewer;

e. A description of a program to promote, publicize, and facilitate public reporting of the presence of illicit discharges or water quality impacts associated with discharges from municipal separate storm sewers;

f. A Description of educational activities, public information activities, and other appropriate activities to facilitate the proper management and disposal of used oil and toxic materials; and

g. A description of controls to limit infiltration of seepage from municipal sanitary sewers to municipal separate storm sewer systems where necessary;

3. A description of a program to monitor and control pollutants in storm water discharges to municipal systems from municipal landfills, hazardous waste treatment, disposal and recovery facilities, industrial facilities that are subject to section 313 of title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA), and industrial facilities that the municipal permit applicant determines are contributing a substantial pollutant loading to the municipal storm sewer system. The program shall:

a. Identify priorities and procedures for inspections and establishing and implementing control measures for such discharges;

b. Describe a monitoring program for storm water discharges associated with the industrial facilities identified in paragraph (d)(2)(iv)(C) of this section, to be implemented during the term of the permit, including the submission of quantitative data on the following constituents: any pollutants limited in effluent guidelines subcategories, where applicable; any pollutant listed in an existing WPDES permit for a facility; oil and grease, COD ph, BOD<sub>5</sub>, TSS, total phosphorus, total Kjeldahl nitrogen, nitrate

plus nitrite nitrogen, and any information on discharges required under 40 CFR 122.21(g)(7)(iii) and (iv).

4. A description of a program to implement and maintain structural and non-structural best management practices to reduce pollutants in storm water runoff from construction sites to the municipal storm sewer system, which shall include:

a. A description of procedures for site planning which incorporate consideration of potential water quality impacts;

b. A description of requirement for nonstructural and structural best management practices;

c. A description of procedures for identifying priorities for inspecting sites and enforcing control measures which consider the nature of the construction activity, topography, and the characteristics of soils and receiving water quality; and

d. A description of appropriate educational and training measures for construction site operators.

~~(e) Assessment of controls.~~ Estimated reductions in loadings of pollutants from discharges of municipal storm sewer constituents from municipal storm sewer systems expected as the result of the municipal storm water quality management program. The assessment shall also identify known impacts of storm water controls on ground water.

~~(f) Fiscal analysis.~~ For each fiscal year to be covered by the permit, a fiscal analysis of the necessary capital and operation and maintenance expenditures necessary to accomplish the activities of the programs under paragraphs AAA.05(2)(c) and (d) of this section. Such analysis shall include a description of the source of funds that are proposed to meet the necessary expenditures, including legal restrictions on the use of such funds.

(g) Where requirements under paragraph AAA.05(1)(d)5., AAA.05(2)(b), AAA.05(2)(c)1. and AAA.05(2)(d) are not practicable or are not applicable, the Director may exclude any operator of a discharge from a municipal separate storm sewer which is designated under paragraph AAA.02(1)(c) or AAA.03(4) from such requirements.

(1) For any discharge from a municipal separate storm sewer system;

(a) Part 1 of the application shall be submitted to the Director within 12 months of designation;

(b) Based on information received in the part 1 application the Department will approve or deny a sampling plan under

paragraph of this section within 90 days after receiving the part 1 application;

(c) Part 2 of the application shall be submitted to the director by 30 month of designation;

(2) A permit application shall be submitted to the Department within 60 days of notice, unless permission for a later date is granted by the Department, for:

(a) A storm water discharge which the Department determines contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the ~~United States state~~ (see paragraph AAA.02(1)(c));

(b) A storm water discharge subject to paragraph AAA.04(4)

(3) Facilities with existing WPDES permits for storm water discharges associated with industrial activity shall maintain existing permits. New applications shall be submitted in accordance with the requirements of 40 CFR 122.21 and 40 CFR 122.26(c) 180 days before the expiration of such permits. Municipal; permit application deadlines are 12 months for part 1 and 30 months for part 2.

AAA.07 Petitions. (1) Any operator of a municipal separate storm sewer system may petition the ~~Director Department~~ to require a separate WPDES permit (or a permit issued under an approved NPDES State program) for any discharges into the municipal; separate storm sewer system.

(2) Any person may petition the ~~Director Department~~ to require a WPDES permit for a discharge which is composed entirely of storm water which contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the ~~United States state~~.

(3) Any person may petition the ~~Director Department~~ for the designation of municipal separate storm sewer system as defined by section AAA.03(4)

(4) The ~~Director Department~~ shall make a final determination on any petition received under this section within 90 days after receiving the petition.

~~—(6) Section 122.28(b)(2)(i) is revised to read as follows:~~



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