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January 31, 2011

Mr. James Dunn, Commissioner
Calhoun County Commission
1702 Noble Street Suite 103
Anniston, Alabama 36201

RE: Municipal Separate Storm Sewer System (MS4) Phase II General Permit
NPDES Number ALR040004
Calhoun County/Anniston/Jacksonville/Oxford

Dear Commissioner Dunn:

The Alabama Department of Environmental Management has made a final determination to reissue General NPDES Permit No. ALR040000 for discharges from regulated small municipal separate storm sewers. The reissued permit is effective on February 1, 2011.

The Department notified the public of its tentative determination to reissue General NPDES Permit No. ALR040000 on May 18, 2010. Interest persons were provided the opportunity to submit comments on the Department's tentative decision through July 23, 2010. The Department also held a public hearing on July 23, 2010. In accordance with ADEM Admin Code r. 335-6-6-.21(7), a response to all comments received during the public comment permit and the public hearing are provided with the enclosed permit.

Based on your request, as evidenced by the submittal of a Notice of Intent, coverage under the General NPDES Permit Number ALR040004 is granted. The effective date of issuance coverage is February 1, 2011.

Coverage under this permit does not authorize the discharge of any pollutant or non-stormwater that is not specifically identified in the permit and by the Notice of Intent which resulted in granting this coverage.

You are responsible for compliance with all provisions of the permit including, but not limited to, the performance of any monitoring (if applicable), the submittal of any reports, and the preparation and implementation of any plans required by the permit. The Department is requesting the submittal of an updated Stormwater Management Plan (SWMP) within six months of the issuance of this permit.

If you have questions concerning this permit, please contact Marla Smith either by email at mssmith@adem.state.al.us or by phone at 334-270-5616.

Sincerely,

Vernon H. Crockett

Vernon H. Crockett, Chief
Stormwater Management Branch
Water Division

VHC/mss

Enclosures

cc: Mr. Tom McGill/Environmental Protection Agency
Mr. Mark A. Welsh/Calhoun County

Birmingham Branch
110 Vulcan Road
Birmingham, AL 35209-4702
(205) 942-6168
(205) 941-1603 (FAX)

Decatur Branch
2715 Sandlin Road, S. W.
Decatur, AL 35603-1333
(256) 353-1713
(256) 340-9359 (FAX)

Mobile Branch
2204 Perimeter Road
Mobile, AL 36615-1131
(251) 450-3400
(251) 479-2593 (FAX)

Mobile-Coastal
4171 Commanders Drive
Mobile, AL 36615-1421
(251) 432-6533
(251) 432-6598 (FAX)

ADEM
Alabama Department of Environmental Management

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT GENERAL PERMIT

DISCHARGE AUTHORIZED: STORMWATER DISCHARGES FROM REGULATED SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS

AREA OF COVERAGE: THE STATE OF ALABAMA

PERMIT NUMBER: ALR040004

RECEIVING WATERS: ALL WATERS OF THE STATE OF ALABAMA

In accordance with and subject to the provisions of the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§1251-1378 (the "FWPCA"), the Alabama Water Pollution Control Act, as amended, ***Code of Alabama 1975****, §§ 22-22-1 to 22-22-14 (the "AWPCA"), the Alabama Environmental Management Act, as amended,* ***Code of Alabama 1975****, §§22-22A-1 to 22-22A-15, and rules and regulations adopted thereunder, and subject further to the terms and conditions set forth in this permit, the Permittee is hereby authorized to discharge into the above-named receiving waters.*

ISSUANCE DATE: JANUARY 31, 2011

EFFECTIVE DATE: FEBRUARY 1, 2011

EXPIRATION DATE: JANUARY 31, 2016

Glenna L. Dean

Alabama Department of Environmental Management

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PART I Coverage Under This General Permit

A. Permit Coverage

This permit covers all the areas within the State of Alabama.

B. Eligibility

1. This permit authorizes discharges of storm water from small municipal separate storm sewer systems (MS4s), as defined in 40 CFR Part 122.26(b) (16). You are authorized to discharge under these terms and conditions of this general permit if you:
   (a) Own or operate a small MS4 within the permit area described in Section A,
   (b) Are not a "large" or "medium" MS4 as described in 40 CFR Part 122.26(b) (4) or (7),
   (c) Submit a Notice of Intent (NOI) in accordance with Part II of this permit, and
   (d) Either:
      (i) Are located fully or partially within an urbanized area as determined by the latest Decennial Census by the Bureau of Census, or
      (ii) Are designated for permit authorization by the Environmental Protection Agency (EPA) and the Department pursuant to 40 CFR Part 122.32(a) (2).
2. This permit authorizes the following non- storm water discharges provided: (1) they do not cause or contribute to a violation of water quality standards; (2) they have been determined not to be substantial contributors of pollutants to a particular small MS4 applying for coverage under this permit and that is implementing the storm water management program set forth in this permit:
   (a) Water line flushing
   (b) Landscape irrigation
   (c) Diverted stream flows
   (d) Uncontaminated ground water infiltration (Infiltration is defined as water other than wastewater that enters a sewer system, including foundation drains, from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow.)
   (e) Uncontaminated pumped groundwater
   (f) Discharges from potable water sources
   (g) Foundation drains
   (h) Air conditioning condensate
   (i) Irrigation water (not consisting of treated, or untreated, wastewater)
   (j) Rising ground water
   (k) Springs
   (l) Water from crawl space pumps
   (m) Footing drains
   (n) Lawn watering runoff
   (o) Individual residential car washing
   (p) Residual street wash water
   (q) Discharge or flows from firefighting activities (including fire hydrant flushing)
   (r) Flows from riparian habitats and wetlands
   (s) Dechlorinated swimming pool discharges, and
   (t) Discharge authorized by and in compliance with a separate NPDES permit

C. Limitations of Coverage

The following discharges are not authorized by this permit:

1. Discharges that are mixed with sources of non- storm water unless such non-storm water discharges are:
   (a) In compliance with a separate NPDES permit, or
   (b) Determined by the Department not to be a significant contributor of pollutants to waters of the State.
2. Storm water discharges associated with industrial activity as defined in 40 CFR Part 122.26(b) (14) (i)-(ix) and (xi);
3. Storm water discharges associated with construction activity as defined in 40 CFR Part 122.26(b) (14) (x) or 40 CFR 122.26(b)(15) and subject to Alabama Department of Environmental Management (ADEM) Admin. Code r. 335-6-12;
4. Storm water discharges currently covered under another NPDES Permit;
5. Discharges to territorial seas, contiguous zone, and the oceans unless such discharges are in compliance with the ocean discharge criteria of 40 CFR Part 125, Subpart M;
6. Discharges that would cause or contribute to instream exceedances of water quality standards; Your storm water management program (SWMP) must include a description of the Best Management Practices (BMPs) that you will be using to ensure that this will not occur. The Department may require corrective action or an application for an individual permit or alternative general permit if an MS4 is determined to cause an instream exceedance of water quality standards;
7. Discharges of any pollutant into any water for which a total maximum daily load (TMDL) has been approved or developed by EPA unless your discharge is consistent with the TMDL; This eligibility condition applies at the time you submit a NOI for coverage. If conditions change after you have permit coverage, you may remain covered by the permit provided you comply with the applicable requirements of Part IV.D. You must incorporate any limitations, conditions and requirements applicable to your discharges, including monitoring frequency and reporting required, into your SWMP in order to be eligible for permit coverage. For discharges not eligible for coverage under this permit, you must apply for and receive an individual or other applicable general NPDES permit prior to discharging;
8. This permit does not relieve entities that cause illicit discharges, including spills, of oils or hazardous substances, from responsibilities and liabilities under State and Federal law and regulations pertaining to those discharges.

D. Obtaining Authorization

1. To be authorized to discharge storm water from small MS4s, you must submit a notice of intent (NOI) and a description of your SWMP in accordance with the deadlines presented in Part II of this permit.
2. You must submit the information required in Part II on the latest version of the NOI form (or photocopy thereof). Your NOI must be signed and dated in accordance with Part VI of this permit.
3. No discharge under the general permit may commence until the discharger receives the Department's acknowledgement of the notice of intent (NOI) and approval of the coverage of the discharge by the general permit. The Department may deny coverage under this permit and require submittal of an application for an individual NPDES permit based on a review of the NOI.

4. Where the operator changes, or where a new operator is added after submittal of an NOI under Part II, a new NOI must be submitted in accordance with Part II within thirty (30) days of the change or addition.
5. For areas annexed into your MS4 area after you received coverage under this general permit, the first annual report submitted after the annexation must include the updates to your SWMP, as appropriate.

Note: If the Department notifies the dischargers (directly, by the public notice, or by making information available on the Internet) of other NOI form options that become available at a later date (e.g., electronic submission of forms), you may take advantage of those options to satisfy the NOI use and submittal requirements in Part II.

E. Implementation

1. This permit requires implementation of the MS4 Program under the State and Federal NPDES Regulations. MS4s shall modify their programs if and when water quality considerations warrant greater attention or prescriptiveness in specific components of the municipal program.
2. If a small MS4 operator implements the six minimum control measures in Section 122.34(b) and the discharges are determined to cause or contribute to non-attainment of an applicable water quality standard as evidenced by the State of Alabama's 303(d) list or an EPA-approved or developed Total Maximum Daily Load (TMDL), the operator must tailor its BMPs within the scope of the six minimum control measures to address the pollutants of concern.
3. Existing MS4s, unless otherwise stated within this permit, shall implement each of the minimum control measures outlined in Part III.B. of this permit within 180 days. New MS4s, unless otherwise stated in this permit, shall implement the minimum control measures outlined in Part III.B. of this permit within 365 days of the effective date of coverage. However, where new or revised ordinances are required to implement any of the minimum control measures, such ordinances shall be enacted within 730 days from the effective date of coverage.

PART II Notice of Intent (NOI) Requirements

A. Deadlines for Applications

1. If you are automatically designated under 40 CFR Part 122.32(a)(1) or designated by the Department, then to request recoverage, you are required to submit an NOI or an application for an individual permit and a description of your SWMP within 90 days before the expiration of this permit.
2. If you are designated by the Department after the date of permit issuance, then you are required to submit an NOI or an application for an individual permit and a description of your SWMP within 180 days upon notification.
3. You are not prohibited from submitting an NOI after the dates provided in Part II.A. If a NOI is submitted after the dates provided in Part II.A, your authorization is only for discharges that occur after permit coverage is granted. The Department reserves the right to take appropriate enforcement actions for any unpermitted discharges.
4. Within six months of the date of issuance of coverage under this permit, all operators of regulated small MS4s shall submit a storm water management program (SWMP) Plan to the Department. A SWMP Plan can be submitted electronically in a .PDF format, or in another prescribed manner acceptable to the Department that contains all necessary components.

B. Continuation of the Expired General Permit

If this permit is not reissued or replaced prior to the expiration date, it will be administratively continued in accordance with the ADEM Admin. Code r. 335-6-6 and remain in force and effect if the Permittee re-applies for coverage as required under Part II of this Permit. Any Permittee who was granted permit coverage prior to the expiration date will automatically remain covered by the continued permit until the earlier of:

1. Reissuance or replacement of this permit, at which time you must comply with the Notice of Intent conditions of the new permit to maintain authorization to discharge; or
2. Issuance of an individual permit for your discharges; or
3. A formal permit decision by the Department not to reissue this general permit, at which time you must seek coverage under an alternative general permit or an individual permit.

C. Contents of the Notice of Intent

The Notice(s) of Intent must be signed in accordance with Part VI of this permit and must include the following information:

1. Information on the Permittee:
   (a) The name of the regulated entity, specifying the contact person and responsible official, mailing address, telephone number, and email address (optional); and
   (b) An indication of whether you are a Federal, State, County, Municipal or other public entity.
2. Information on the municipal separate storm sewer system:
   (a) The Urbanized Area or Core Municipality (if you are not located in an Urbanized Area) where your system is located; the name of your organization, county(ies), city(ies), or town(s) where your MS4 is located, and the latitude and longitude of an approximate center of your MS4;

(b) The name of the major receiving water(s) and an indication of whether any of your receiving waters are included on the latest 303(d) list, included in an EPA-approved Total Maximum Daily Load (TMDL), or otherwise designated by the Department as being impaired. If you have discharges to 303(d), or TMDL waters, a certification that your SWMP complies with the requirements of Part IV.D.;

(c) If you are relying on another governmental entity, regulated under the storm water regulations (40 CFR Part 122.26 & 122.32) to satisfy one or more of your permit obligations (see Part III), the identity of that entity(ies) and the elements(s) they will be implementing. The Permittee remains responsible for compliance if the other entity fails to fully perform the permit obligation, and may be subject to enforcement action if neither the Permittee nor the other entity fully performs the permit obligation; and

(d) If you are relying on the Department for enforcement of erosion and sediment controls on qualifying construction sites in accordance with Part III.B.4(c),

3. Information on your chosen best management practices (BMPs) and the measurable goals for each of the storm water minimum control measures in Part III of this permit, your time frame for implementing each of the BMPs, and the person or persons responsible for implementing or coordinating your SWMP.

D. Where to Submit

1. You are to submit your NOI or individual application, and SWMP or a description of your SWMP as allowed under Part II.A.2., signed in accordance with the signatory requirements of Section VI of this permit, to the Department at the following address:

Alabama Department of Environmental Management
Water Division
Post Office Box 301463
Montgomery, Alabama 36130-1463

Certified and Registered Mail shall be addressed to:

Alabama Department of Environmental Management
Water Division
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2059

E. Co-Permittees Under a Single Notice of Intent (NOI)

You may partner with other MS4s to develop and implement your SWMP. You may also jointly submit an NOI with one or more MS4s. The description of your SWMP must clearly describe which permittees are responsible for implementing each of the control measures.

PART III Storm Water Management Program (SWMP) for Small MS4s

A. Requirements

1. You must develop, implement, and enforce a SWMP designed to reduce the discharge of pollutants from your small MS4 to the maximum extent practicable (MEP) to protect water quality and to satisfy the appropriate water quality requirements of the Clean Water Act. The SWMP should include management practices; control techniques and system, design, and engineering methods; and such other provisions as the Department may determine appropriate for the control of such pollutants as follows:
   (a) The BMPs that you or another entity will implement for each of the storm water minimum control measures (Any technical information developed for the SWMP associated with system, design, and engineering methods must be prepared by a professional engineer, presently registered to practice in the State as required by Alabama Department of Environmental Management (ADEM) Admin. Code r. 335-6-3.);
   (b) Coordination among entities covered under this small MS4 permit may be necessary to comply with the conditions of the SWMP. The SWMP shall include, where applicable, condition mechanisms among entities covered under this permit to encourage coordinated storm water related policies, programs, and projects within adjoining or shared areas. Entities covered under the small MS4 permit include: municipalities, transportation agencies, universities, colleges, hospitals, prisons, and military bases;
   (c) The measurable goals for each of the BMPs including, as appropriate, the months and years in which you will undertake required actions, including interim milestones and the frequency of the action. Information about developing measurable goals can be found on the USEPA's website: http:cfpub.epa.gov/npdes/stormwater/measureablegoals/part3.cfm;
   (d) The person or persons responsible for implementing or coordinating the BMPs for your SWMP, and
   (e) Subject to the five-year limitation noted under Part III.A.1.b. of this paragraph, extensions of milestones may be granted for good cause shown. Failure to implement effective BMPs is not good cause to extend milestones.
2. The SWMP must include the following information for each of the six minimum control measures described in Section III.B. of this permit:
   (a) The Permittee must develop a storm water management program designed to reduce the discharge of pollutants from your small municipal separate storm sewer system to the maximum extent practicable (MEP) to protect water quality and satisfy the appropriate requirements of the Clean Water Act.
   (b) The Permittee shall use all known, available, and reasonable methods of prevention, control and treatment (BMPs) to prevent and control storm water pollution from entering waters of the State of Alabama.

B. Minimum Control Measures

You shall consider the use of Low Impact Development (LID)/Green Infrastructure where feasible to assist in attaining the six minimum control measures. Information on Low Impact Development (LID)/Green Infrastructure is available on the following website: http://epa.gov/nps/lid. The six minimum control measures that must be included in your SWMP are:

1. Public Education and Outreach on Storm Water Impacts

(a) Permit requirement: The Permittee must implement a public education and outreach program to distribute educational materials to the community or conduct equivalent outreach activities about the impacts of discharges on water bodies and the steps that the public can take to reduce pollutants in storm water runoff to the maximum extent practicable. This program is the continuous implementation in the areas served by the MS4 as established in the previous permit cycle, if applicable.

(b) Documentation: The Permittee must document the methodology for the development of a storm water public education and outreach program. The rationale statement should be included in the SWMP and annual report and must address the overall public education program and the individual BMPs, measurable goals and responsible persons for your program. The rationale statement must include the following information, at a minimum:

(i) How the Permittee plans to inform individuals and households about the steps they can take to reduce storm water pollution.

(ii) How the Permittee plans to inform individuals and groups on how to become involved in the storm water program (with activities such as local stream, lake, and beach restoration activities).

(iii) Who are the target audiences for the education program who are likely to have significant storm water impacts (including commercial, industrial, and institutional entities) and why those target audiences were selected.

(iv) What are the target pollutant sources the Permittee's public education program is designed to address.

(v) What is the outreach strategy, including how the Permittee plans to inform the target audiences, the mechanisms and activities (e.g., printed brochures, newspapers, media, workshops, etc.) the Permittee will use to reach the target audiences, and how many people does the Permittee expect to reach by the Permittee's outreach strategy over the permit term.

(vi) Who is responsible for overall management and implementation of your storm water public education and outreach program and, if different, who is responsible for each of the BMPs identified for this program.

(vii) How will the Permittee evaluate the overall success of this minimum measure.

(c) Education and outreach efforts shall be prioritized to target the following audiences and subject areas:

(i) General Public

- General impacts of storm water flows into surface waters.
- Impacts from impervious surfaces.
- Source control BMPs and environmental stewardship actions and opportunities in the areas of pet waste, vehicle maintenance, landscaping, and rain water reuse.

(ii) General Public, Businesses, Including Home-Based and Mobile Businesses

- BMPs for use and storage of automotive chemicals, hazardous cleaning supplies, carwash soaps and other hazardous materials.
- Impacts of illicit discharges and how to report them.

(iii) Homeowners, Landscapers, and Property Managers

- Yard care techniques that protect water quality.
- BMPs for use and storage of pesticides and fertilizers.
- BMPs for carpet cleaning and auto repair and maintenance.
- Runoff reduction techniques, including site design, pervious paving, retention of forests, and mature trees.
- Storm water pond maintenance.

(iv) Engineers, Contractors, Developers, Review Staff, and Land Use Planners

- Technical standards for construction site sediment and erosion control.
- Runoff reduction techniques, including site design, pervious pavement, alternative parking lot design, retention of forests and mature trees.
- Storm water treatment and flow control BMPS.
- Impacts of increased storm water flows into receiving water bodies.

2. Public Involvement/Participation

The SWMP shall include ongoing activities for public involvement through mechanisms such as advisory councils, watershed associations, committees, participation on rate structures, stewardship programs, and environmental related activities. The Permittee shall implement a process to facilitate opportunities for direct action, education, and volunteer programs such as storm drain stenciling, urban stream cleanup, and volunteer monitoring.

(a) Permit requirement: The Permittee must at a minimum, comply with applicable State and local public notice requirements when implementing a public involvement/participation program.

(b) Documentation: The Permittee shall consider development of opportunities for the public to participate in the decision making process involving the development and update of the SWMP. The Permittee must document the methodology for the development of the public involvement/participation program. The methodology should include a rationale statement in the SWMP and annual report and must address the overall public involvement/participation program and document individual BMPs, measurable goals, and responsible persons for implementing the program. The rationale statement must include the following information, at a minimum:

(i) How the Permittee has involved the public in the development and submittal of the storm water management program.

(ii) What is the Permittee's plan to actively involve the public in the development and implementation of the program.

(iii) The target audiences for the public involvement program, including a description of the audiences' demographic characteristic. The Permittees are encouraged to actively involve all potentially affected stakeholder groups, including commercial and industrial businesses, trade associations, environmental groups, homeowners associations, and educational organizations, among others.

(iv) What are the types of public involvement activities included in the program. Where appropriate, consider the following types of public involvement activities:

- Citizen representative on a storm water management panel.
- Public hearings.
- Working with citizen volunteers willing to educate others about the program.
- Storm drain marking, stenciling, and tagging, volunteer monitoring or stream/lake/beach clean-up activities.

(v) Who is responsible for overall management and implementation of the Permittee's storm water public involvement/participation program and, if different, who is responsible for each of the BMPs identified for this program.

(vi) How the Permittee will evaluate the success of this minimum measure, including how the Permittee selected the measurable goal for each minimum measure.

(vii) The Permittee shall make their SWMP and their annual reports required under this permit available to the public when requested. The current SWMP and the latest annual report should be posted on the Permittee's website, if available. To comply with the posting requirement, if a Permittee does not maintain a website, they may submit the updated SWMP and annual report to the Department for electronic distribution when requested in accordance with the Department's public records process.

3. Illicit Discharge Detection and Elimination (IDDE)

(a) Permit requirement: The Permittee must:

(i) The SWMP shall include an ongoing program to detect and eliminate illicit discharges (as defined in 40 CFR Part 122.26(b)(2)) into the Permittee's small MS4, and improper disposal, including spills not under the purview of another responding authority, into the MS4 owned or operated by the Permittee, to the maximum extent practicable.

(ii) The Permittee's existing storm sewer map(s) that were created during the first permit cycle shall be updated on an annual basis and shall include the following: location of all outfalls and the names and location of all waters of the State that receive discharges from those outfalls; structural BMPs owned, operated, and maintained by boundaries of the Permittee's watershed. The Permittee may also opt to include land use on the map(s). In the process of updating the map(s) the following should be added: storm water outfalls which become known; an update of known connections to the MS4 authorized or allowed by the Permittee after the effective date of permit coverage; any geographic areas which may discharge storm water into the Permittee's MS4, which may not be located within the municipal boundary. Newly permitted MS4s must develop a storm sewer system map(s) with the following requirements as stated above in B.3.(a)(2);

(iii) To the extent allowable under State and local law, effectively prohibit, through ordinance, or other regulatory mechanism, non- storm water discharges into your storm sewer system that are not listed in Part I.B. and implement appropriate enforcement procedures and actions. The ordinance or other regulatory mechanism shall include escalating enforcement procedures and actions. The Permittee shall develop an enforcement strategy and implement the enforcement provisions of the ordinance or other regulatory mechanism. The ordinance or other regulatory mechanism shall be reviewed on an annual basis and updated when necessary;

(iv) The Permittee shall also implement a program to review and update their IDDE ordinance or other regulatory mechanism to prohibit and eliminate illegal discharges and/or dumping into the Permittee's MS4. The ordinance or other regulatory mechanism shall be reviewed on an annual basis and updated when necessary. Newly permitted MS4s shall develop the aforementioned program. This program shall include:

- Procedures for locating priority areas likely to have illicit discharges, including at a minimum, evaluating land uses associated with business/industrial activities present; areas where complaints have been registered in the past; and areas with storage of large quantities of materials that could result in spills;
- Field assessment activities, including visual inspections of priority outfalls identified in (a) above, during dry weather and for the purpose of verifying the outfall locations, identifying previously unknown outfalls, and detecting illicit discharges;

(v) Inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste;

(vi) Address the following categories of non-storm discharges or flows (i.e., illicit discharges) only if the Department identifies them as significant contributors of pollutants to your small MS4: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (infiltration is defined as water other than wastewater that enters a sewer system, including foundation drains, from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow), uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering run-off, individual residential car washing, flows from riparian habitats and wetlands, discharge or flows from firefighting activities (to include fire hydrant flushing); dechlorinated swimming pool discharges, and residual street wash water, discharge authorized by and in compliance with a separate NPDES permit; and

(vii) The Permittee may also develop a list of other similar occasional incidental non-storm water discharges (e.g. non-commercial or charity car washes, etc.) that will not be addressed as illicit discharges. These non- storm water discharges must not be reasonably expected (based on information available to the permittees) to be significant sources of pollutants to the municipal separate storm sewer system, because of either the nature of the discharges or conditions you have established for allowing these discharges to your MS4 (e.g., a charity car wash with appropriate controls on frequency, proximity to impaired waterbodies, BMPs on the wash water, etc.). You must document in your SWMP any local controls or conditions placed on the discharges. The Permittee must include a provision prohibiting any individual non- storm water discharge that is determined to be contributing significant amounts of pollutants to your MS4.

(b) Documentation: The Permittee must document your methodology for the development of a storm water illicit discharge detection and elimination program. The rationale statement should be included in the SWMP and annual report and must address the overall illicit discharge detection and elimination program and the individual BMPs, measurable goals, and responsible persons for the Permittee's program. The rationale statement must include the following information, at a minimum:

(i) How the Permittee will develop a storm water map showing the location of all outfalls, to include the latitude and longitude, and the names and location of all receiving waters. Describe the sources of information the Permittee used for the maps, and how you plan to verify the outfall locations with field surveys. If already completed, describe how you developed this map. Also, the Permittee must submit an updated map with each annual report unless there are no changes to the map that was previously submitted. When there are no changes to the map, the annual report must state this.

(ii) The mechanism (ordinance or other regulatory mechanism) you will use to effectively prohibit illicit discharges into the MS4 and why you chose that mechanism. If the Permittee needs to develop this mechanism, describe the plan and a schedule to do so. If the ordinance or regulatory mechanism is already developed, include a copy of the relevant sections with the program.

(iii) The plan to ensure through appropriate enforcement procedures and actions that the illicit discharge ordinance (or other regulatory mechanism) is implemented.

(iv) The plan to detect and address illicit discharges to your system, including discharges from illegal dumping and spills. The Permittee's plan must include, to the extent practicable, dry weather field screening for non-storm water flows and field tests of chemical parameters you selected as indicators of discharge sources. The plan must also address on-site sewage disposal systems that flow into the storm drainage system. The description must address the following, at a minimum:

- Procedures for locating priority areas which includes areas with higher likelihood of illicit connections (e.g., areas with older sanitary sewer lines, for example) or ambient sampling to locate impacted reaches.
- Procedures for tracing the source of an illicit discharge, including the specific techniques you will use to detect the location of the source.
- Procedures for removing the source of the illicit discharge.
- Procedures for program evaluation and assessment.

(v) How the Permittee plans to inform the public employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste. Include in the description how this plan will coordinate with the public education minimum measure and the pollution prevention/good housekeeping minimum measure programs.

(vi) Who is responsible for overall management and implementation of the illicit discharge detection and elimination program and, if different, who is responsible for each of the BMPs identified for this program.

(vii) How the Permittee will evaluate the success of this minimum measure, including how the Permittee selected the measurable goal for each minimum measure.

4. Construction Site Storm Water Runoff Control

(a) Within 730 days from the effective date of coverage under this permit, all Permittees must develop, implement, and enforce a program to reduce, to the maximum extent practicable, pollutants in any storm water runoff to the regulated MS4 from construction activities that result in a total land disturbance of greater than or equal to one acre and activities that disturb less than one acre but are part of a larger common plan of development or sale that would disturb one acre or more (hereinafter "qualifying construction sites").

(b) The SWMP must include the following components for construction site storm water runoff control:

(i) To the extent allowable under State law, an ordinance or other regulatory mechanism to require erosion and sediment controls, sanctions to ensure compliance, and to provide all other authorities needed to implement the requirements of Part III.B.4. of this permit.

(ii) A training program for MS4 site inspection staff in the identification of appropriate construction best management practices (example: QCI training in accordance with ADEM Admin Code. r. 335-6-12 or the Alabama Construction Site General Permit);

(iii) Procedures for the periodic inspection of qualifying construction sites to verify the use of appropriate erosion and sediment control practices that are consistent with the *Alabama Handbook for Erosion Control, Sediment Control, And Stormwater Management on Construction Sites and Urban Areas* published by the Alabama Soil and Water Conservation Committee (hereinafter the "Alabama Handbook"). The frequency and prioritization of inspection activities shall be documented in the SWMP and must include a minimum inspection frequency of once each month for priority construction sites.

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

(v) Procedures to notify ADEM of non-compliant construction sites discovered during periodic inspections. The notification must provide, at a minimum, the specific location of the construction project, the name and contact information from the owner or operator, and a summary of the site deficiencies.

(c) ADEM implements a State-wide NPDES construction storm water regulatory program. As provided by 40 CFR Part 122.35(b), the Permittee may rely on ADEM for the setting of standards for appropriate erosion controls and sediment controls for qualifying construction sites and for enforcement of such controls. If not relying on ADEM's program, then the Permittee must include the following, at a minimum, in its SWMP:

(i) Requirements for construction site operators to implement appropriate erosion and sediment control BMPs consistent with the *Alabama Handbook for Erosion Control, Sediment Control, And Stormwater Management on Construction Sites and Urban Areas* published by the Alabama Soil and Water Conservation Committee (hereinafter the "Alabama Handbook").

(ii) Requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality.

(iii) Development and implementation of an enforcement strategy that includes escalating enforcement remedies to respond to issues of non-compliance.

(iv) An enforcement tracking system designed to record instances of non-compliance and the MS4's responding actions. The enforcement case documentation should include:

- Name of owner/operator;
- Location of construction project or industrial facility;
- Description of violation;
- Small MS4 General NPDES Permit
- Required schedule for returning to compliance;
- Description of enforcement response used, including escalated responses if repeat violations occur or violations are not resolved in a timely manner;
- Accompanying documentation of enforcement response (e.g., notices of noncompliance, notices of violations, etc.);
- Any referrals to different departments or agencies;
- Date violation was resolved.

(d) The Permittee must keep records of all inspections (i.e. inspection reports), site plan reviews and employee training required by Part III.4.(b).

(e) The Permittee must document the decision process for the development of a construction site storm water control program. The rationale statement should be included in the SWMP and annual report and must address the overall construction site storm water control program and the individual BMPs, measurable goals, and responsible persons for the Permittee's program. The rationale statement must include the following information, at a minimum:

(i) The mechanism (ordinance or other regulatory mechanism, as allowed in accordance with 40 CFR 122.34(b)(4)(ii)(A)),) the Permittee will use to require erosion and sediment controls at construction sites and why the Permittee chose that mechanism. If the Permittee needs to develop this mechanism, describe the plan and a schedule to do so. If the ordinance or regulatory mechanism is already developed, include a copy of the relevant sections within the SWMP description.

(ii) Plan to ensure compliance with the erosion and sediment control regulatory mechanism, including the sanctions and enforcement mechanisms the Permittee will use to ensure compliance. Describe the procedures for when the Permittee will use certain sanctions. Possible sanctions include non-monetary penalties (such a stop work orders), fines, bonding requirements, and/or permit denials for non-compliance.

(iii) The requirements for construction site operators to implement appropriate erosion and sediment control BMPs and control waste at construction sites that may cause adverse impacts to water quality. Such waste includes discarded building materials, concrete truck washouts, chemicals, litter, and sanitary waste.

(iv) The procedures for plan review, including the review of pre-construction site plans, which incorporate consideration of potential water quality impacts. For construction projects that discharge the pollutant or pollutants of concern to a water body that is listed on the State of Alabama's 303(d) list or has an EPA approved or EPA developed TMDL, you must follow the requirements of Part IV.D. of this permit.

(v) The procedures for receipt and consideration of information submitted by the public. Consider coordinating this requirement with the public education program.

(vi) The procedures for site inspection and enforcement of control measures, including how the Permittee will prioritize sites for inspection.

(vii) Who is responsible for overall management and implementation of the Permittee's construction site storm water control program and, if different, who is responsible of each of the BMPs identified for this program.

(viii) Describe how the Permittee will evaluate the success of this minimum measure, including how the Permittee selected the measurable goals for each of the BMPs.

5. Post-Construction Storm water management in new Development and Redevelopment

Post-Construction Stormwater Management refers to the activities that take place after construction occurs, and includes structural and non-structural controls to obtain permanent stormwater management over the life of the property's use. All Permittees must implement the requirements of Part III.B.5. within 730 days from the effective date of coverage.

(a) The Permittee shall develop and implement project review, approval, and enforcement procedures for new development and redevelopment projects that disturb greater than one acre, and projects less than one acre that are part of a larger common plan of development or sale. Further requirements for project review and approval are as follows:

(i) Develop procedures for the site-plan review and approval process and a required re-approval process when changes to post-construction controls are required.

(ii) Develop procedures for a post-construction process to demonstrate and document that post-construction stormwater measures have been installed per design specifications, which includes enforceable procedures for bringing noncompliant projects into compliance.

(b) The Permittee must develop and implement strategies which include a combination of structural and/or non-structural BMPs designed to ensure, to the maximum extent practicable, that the volume and velocity of pre-construction stormwater runoff is not significantly exceeded. A design rainfall event with an intensity up to that of a 2yr-24hr storm event shall be the basis for the design and implementation of post-construction BMPs.

(c) To the extent allowable under State law, the Permittee must develop and institute the use of an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects.

(d) The Permittee must develop procedures for development site plan review and approval to ensure post-construction BMPs are addressed.

(e) The Permittee must ensure adequate long-term operation and maintenance of BMPs. The MS4 shall require a maintenance agreement and provide verification of maintenance provisions of post-construction management practices. These agreements shall allow the MS4, or its designee, to conduct inspections of the management practices and also account for transfer of responsibility in leases and/or deed transfers. Verification shall include one or more of the following as applicable:

(i) The developer's signed statement accepting responsibility for maintenance until the maintenance responsibility is legally transferred to another party; and/or

(ii) Written conditions in the sales or lease agreement that require the recipient to assume responsibility for maintenance; and/or

(iii) Written conditions in project conditions, covenants and restrictions for residential properties assigning maintenance responsibilities to a home owner's association, or other appropriate group, for maintenance of structural and treatment control management practices; and/or

(iv) Any other legally enforceable agreement that assigns permanent responsibility for maintenance of structural or treatment control management practices.

(f) The Permittee shall review and evaluate policies and ordinances related to building codes, or other local regulations, with a goal of identifying regulatory and policy impediments to the installation of green infrastructure and low-impact development techniques.

(g) The Permittee must document the decision process for the development of a post-construction SWMP. The rationale statement should be included in the SWMP and annual report and must address the overall post-construction SWMP and the individual BMPs, measurable goals, and responsible persons for the Permittee's program. The rationale statement must include the following information, at a minimum:

(i) The program to address storm water runoff from new development and redevelopment projects. Include in this description any specific priority areas for this program.

(ii) How the program will be specifically tailored for the Permittee's local community, minimize water quality impacts, and attempt to maintain pre-development runoff conditions.

(iii) Any non-structural BMPs in the program, including, as appropriate:

- Policies and ordinances that provide requirements and standards to direct growth to identified areas, protect sensitive areas such as wetlands and riparian areas, maintain and/or increase open space (including a dedicated funding source for open space acquisition), provide buffers along sensitive water bodies, minimize impervious surfaces, and minimize disturbance of soils and vegetation.
- Policies or ordinances that encourage infill development in higher density urban areas, and areas with existing storm sewer infrastructure.
- Education programs for developers and the public about project designs that minimize water quality impacts.
- Other measures such as: minimization of the percentage of impervious areas after development, and source control measures often thought as good housekeeping, preventative maintenance and spill prevention.

(iv) Any structural BMPs in the program, including, as appropriate:

- Storage practices such as wet ponds, and extended-detention outlet structures.

- Filtration practices such as grassed swales, bioretention cells, sand filters and filter strips.
- Infiltration practices such as infiltration basin and infiltration trenches.

(v) The mechanisms (ordinance or other regulatory mechanisms) the Permittee will use to address post-construction runoff from new development and redevelopments and the rationale for that mechanism. If the Permittee needs to develop a mechanism, describe the plan and a schedule to do so. If the ordinance or regulatory mechanism is already developed, include a copy of the relevant sections with the program.

(vi) How you will ensure the long-term operation and maintenance (O&M) of the selected BMPs. Options to help ensure that future O&M responsibilities are clearly identified include an agreement between the Permittee and another party such as the post-development landowners or regional authorities.

(vii) How the Permittee will evaluate the success of this minimum measure.

6. Pollution Prevention/Good Housekeeping for Municipal Operations

(a) The Permittee must develop and implement a program for pollution prevention/good housekeeping for municipal operations.

(b) The Permittee must develop and implement an employee training program that uses training materials that are available from EPA, the State or other organizations and is designed to prevent and reduce storm water pollution, to the maximum extent practicable, from activities such as park and open space maintenance, fleet and building maintenance, new construction and land disturbances, storm water system maintenance, and all other applicable municipal operations.

(c) Documentation: The Permittee must document the methodology for the development of a pollution prevention/good housekeeping program for municipal operations. The rationale statement should be included in the SWMP and annual report and must address both the overall pollution prevention/good housekeeping program; the individual BMPs measurable goals, and responsible persons for the Permittee's program. The rationale statement must include the following information, at a minimum:

(i) The operation and maintenance program to prevent or reduce pollutant runoff from the Permittee's municipal operations. The program should list the municipal operations and industrial activities that are impacted by this operation and maintenance program.

(ii) Any government employee training program the Permittee will use to prevent and reduce the storm water pollution from activities such as park and open space maintenance, fleet and building maintenance, new construction and land disturbances, and storm water system maintenance. Describe any existing, available materials the Permittee plans to use. Describe how this training program will be coordinated with the outreach programs developed for the public information minimum measure and the illicit discharge minimum measure.

(iii) The program should address the following areas, at a minimum:

- Maintenance activities, maintenance schedules, and long-term inspection procedures for controls to reduce floatables and other pollutants to your MS4.
- Controls for reducing or eliminating the discharge of pollutants from streets, roads, highways, municipal parking lots, maintenance and storage yards, waste transfer stations, recycling collection centers, fleet or maintenance shops with outdoor storage areas, salt/sand storage locations, and snow disposal areas you operate.

- Procedures for the proper disposal of waste removed from your MS4 and your municipal operations, including materials such as dredge spoil, accumulated sediments, floatables, and other debris.
- Procedures to ensure that new flood management projects are assessed for impacts on water quality and existing projects are assessed for incorporation of additional water quality protection devices or practices.

(iv) Who is responsible for overall management and implementation of the Permittee's pollution prevention/good housekeeping program and, if different, who is responsible for each of the BMPs identified for this program.

(v) How the Permittee will evaluate the success of this minimum measure, including how you selected the measurable goals for each of the BMPs.

PART IV Special Conditions

A. Sharing Minimum Measure Responsibility and Coordination Between MS4s

1. If you are relying on another MS4 regulated under the storm water regulations or the Department to satisfy one or more of your permit obligations, you must note that fact in your storm water management program. This other entity must, in fact, implement the control measure(s); the measure of component thereof, must be at least as stringent as the corresponding NPDES permit requirement; and the other entity, unless it is the Department, must agree to implement the control measure on your behalf. This agreement between the two or more parties must be documented in writing in the storm water management plan and be retained by the Permittee for the duration of this permit, including any automatic extensions of the permit term. Except as provided by Part IV.A.2, the Permittee remains responsible for compliance with this Permit if the other entity fails to implement the permit requirement.
2. If the Permittee is relying on the Department for enforcement of erosion and sediment controls on qualifying construction sites and has included that information in the NOI as required by Part II.C.2.(d), the Permittee is not responsible for taking enforcement action or for implementing the requirements of Part III.B.4(c) of this permit in the event the Department receives notification of non-compliant construction sites from the Permittee as required by Part III.B.4(b)(v).
3. Coordination among entities covered under the small MS4 general permit may be necessary to comply with certain conditions of the SWMP. The SWMP shall include, when applicable:
   (a) Coordination mechanisms among entities covered under the small MS4 general permit to encourage coordinated storm water related policies, programs and projects within adjoining or shared areas. Entities covered under the small MS4 permit include, municipalities, transportation agencies, universities, colleges, hospitals, prisons, and military bases.
   (b) Coordination mechanisms shall specify roles and responsibilities for the control of pollutants between physically interconnected MS4s permittees covered by the small MS4 general permit.
   (c) Coordination mechanisms shall coordinate storm water management activities for shared water bodies among permittees to avoid conflicting plans, policies and regulations.
   (d) The SWMP shall include coordination mechanisms among departments within each Permittee to eliminate barriers to compliance with the terms of this permit.

B. Reviewing and Updating Storm Water Management Programs

1. SWMP Review: You must do an annual review of your SWMP in conjunction with preparation of the annual report required under Part V.
2. SWMP Update: You may change your SWMP during the life of the permit in accordance with the following procedures:
   (a) Changes adding (but not subtracting or replacing) components, controls, or requirements to the SWMP may be made at any time upon written notification to the Department. These changes must be documented in the annual report.
   (b) Changes replacing an ineffective or unfeasible components, control measures, or requirements specifically identified in the SWMP, with an alternate component, control measures, or requirements may be requested at any time. Unless denied by the Department, changes proposed in accordance with the criteria below shall be deemed approved and may be implemented sixty (60) days from submittal of the request. If the request is denied, the Department will send you a written response giving a reason for the decision. Your modification requests must include the following:

(i) An analysis of why the components, control measures or requirements is ineffective or infeasible (including cost prohibitive),

(ii) Expectations on the effectiveness of the replacement components, control measures or requirements, and

(iii) An analysis of why the replacement components, control measures or requirements are expected to achieve the goals of the components, control measures or requirements to be replaced.

(c) Change requests or notifications must be made in writing and signed in accordance with Part VI.

3. SWMP Updates Required by the Department: The SWMP shall be updated as part of the re-coverage process for subsequently issued MS4 general permits. In addition, the Department may require changes to the SWMP as needed to:

(a) Meet the conditions of the permit;

(b) Address impacts on receiving water quality caused, or contributed to, by discharges from the municipal separate storm sewer system;

(c) Include more stringent requirements necessary to comply with new Federal statutory or regulatory requirements; or

(d) Include such other conditions deemed necessary by the Department to comply with the goals and requirements of the Clean Water Act.

(e) Include additional control measures when a Total Maximum Daily Load (TMDL) and/or a 303(d) impairment has been specified for a receiving waterbody, if applicable or if the SWMP proves inadequate in reducing pollutants in storm water run-off;

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

4. Transfer of Ownership, Operational Authority, or Responsibility for SWMP Implementation: You must implement the SWMP on all new areas added to your portion of the municipal separate storm sewer system (or for which you become responsible for implementation of storm water quality controls) as expeditiously as practicable, but not later than one (1) year from addition of the new areas. Implementation may be accomplished in a phased manner to allow additional time for controls that cannot be implemented immediately.

(a) Within ninety (90) days of a transfer of ownership, operational authority, or responsibility for SWMP implementation, you must have a plan for implementing your SWMP in all affected areas. The plan may include schedules for implementation. Information on all new annexed areas and any resulting updates required to the SWMP must be included in the annual report.

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

C. Discharge Compliance with Water Quality Standards

This general permit requires, at a minimum, that permittees develop, implement and enforce a storm water management program designed to reduce the discharge of pollutants to the maximum extent practicable. Full implementation of BMPs, using all known, available, and reasonable methods of prevention, control and treatment to prevent and control storm water pollution from

entering waters of the State of Alabama is considered an acceptable effort to reduce pollutants from the municipal storm drain system to the maximum extent practicable.

D. Discharge to Impaired Waters

1. 303(d) Listed Waters

   This permit does not authorize new sources or new discharges of pollutants of concern to impaired waters unless consistent with an EPA approved or EPA developed Total Maximum Daily Load (TMDL) and applicable State law. Impaired waters are those that do not meet applicable water quality standards and are identified on the State of Alabama's 303(d) list. Pollutants of concern are those pollutants for which the water body is listed as impaired and which contribute to the listed impairment.

   (a) You must determine whether the discharge from any part of the MS4 contributes to a waterbody that is included on the latest 303(d) list or designated by the Department as impaired or is included in an EPA approved or EPA developed TMDL. If you have discharges meeting this criterion, you must comply with Part IV.D., if you do not, Part IV.D. does not apply to you.

   (b) MS4s that discharge into a receiving water which is listed on the State of Alabama's 303(d) list of impaired waters, and with discharges that contain the pollutant(s) for which the water body is impaired, must within six (6) months of the Final 303(d) list approval, document in the SWMP how the BMPs will control the discharge of the pollutant(s) of concern, and must ensure that the discharge will not cause or contribute to the impairment. A monitoring plan to assess the effectiveness of the BMPs in achieving the wasteload allocations must also be included in the SWMP.

   (c) If your MS4 discharges to a waterbody described above, you must also determine whether a total maximum daily load (TMDL) has been developed by EPA or approved by EPA for the listed waterbody. If a TMDL is approved during this permit cycle by USEPA for any waterbody into which an MS4 discharges, the MS4 must review the applicable TMDL to see if it includes requirements for control of storm water discharges. Within six (6) months of the date of a final TMDL issuance,, the MS4 must notify the Department on how it will modify its storm water management program to include best management practices specifically targeted to achieve the wasteload allocations prescribed by the TMDL. The MS4 must include a monitoring component in the SWMP to assess the effectiveness of the BMPs in achieving the wasteload allocations.

2. Discharging into Waters with EPA Approved or EPA Developed TMDLs

   (a) Determine whether the EPA approved or EPA developed TMDL is for a pollutant likely to be found in storm water discharges from your MS4.

   (b) Determine whether the TMDL includes a pollutant allocation or other performance requirements specifically for storm water discharge from your MS4.

   (c) Determine whether the TMDL addresses a flow regime likely to occur during periods of storm water discharge.

   (d) After the determinations above have been made and if it is found that your MS4 must implement specific allocations provisions of the TMDL, assess whether the allocations are being met through implementation of existing storm water control measures or if additional control measures are necessary.

   (e) Involve the public in accordance with Part III.B.2. of a decision that existing storm water control measures are meeting the allocations or the additional control measures that you determine are necessary.

(f) Document all control measures currently being implemented or planned to be implemented. Also include a schedule of implementation for all planned controls. Document the calculations or other evidence that shows that the allocations will be met.

(g) If a TMDL contains requirements for control of pollutants from the MS4 storm water discharges, then the SWMP must include BMPs specifically targeted to achieve the wasteload allocations prescribed by the TMDL. A monitoring plan to assess the effectiveness of the BMPs in achieving the wasteload allocations must also be included in the SWMP. Implementation of the monitoring plan in accordance with Part V.A.2 will determine whether the storm water controls are adequate to meet the TMDL allocations.

(h) If the evaluation shows that additional or modified controls are necessary, describe the type and schedule for the control additions/revisions. Continue Paragraphs IV.D.2.d.-h. until two continuous monitoring cycles, as defined in the approved monitoring plan in accordance with Part V.A.2., show that the TMDL allocations are being met or that water quality (WQ) standards are being met.

E. Requiring an Individual Permit

The Department may require any person authorized by this permit to apply for and/or obtain an individual NPDES permit. When the Department requires application for an individual NPDES permit, the Department will notify the Permittee in writing that a permit application is required. This notification shall include a brief statement of the reasons for this decision, an application form and a statement setting a deadline for the Permittee to file the application.

PART V Monitoring, Recordkeeping, and Reporting

A. Monitoring

1. You must evaluate program compliance, the appropriateness of identified BMPs, and progress toward achieving identified measurable goals. If you discharge to an impaired water or to a water for which a TMDL has been approved by EPA, you may have monitoring requirements under Part IV.D.
2. When you conduct monitoring at your permitted small MS4, you are required to comply with the following:
   (a) Submit the monitoring plan. The proposed monitoring plan and any subsequent revision proposed must be submitted to the Department six (6) months from the date of coverage of this permit and annually, thereafter, concurrent with the SWMP Annual Report submittal for approval.
   (b) Representative monitoring. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
   (c) Test Procedures. Analysis must be conducted according to test procedures approved by EPA under 40 CFR Part 136. When an EPA approved test procedure for analysis of a pollutant does not exist, the Director or his designee shall approve the procedure to be used.
3. Records of monitoring information shall include:
   (a) The date, exact place, and time of sampling or measurements;
   (b) The name(s) of the individual(s) who performed the sampling or measurements;
   (c) The date(s) analyses were performed;
   (d) The names of the individuals who performed the analyses;
   (e) The analytical techniques or methods used; and
   (f) The results of such analyses.
4. Discharge Monitoring Report. Monitoring results must be reported with the SWMP Annual Report and shall be reported in accordance with Part V.C.f. and the monitoring plan approved in Part V.A.2.a.

B. Record keeping

1. You must retain required records of all monitoring information, including, all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, copies of monitoring reports, a copy of the NPDES permit, and records of all data used to complete the application (NOI) for this permit, for a period of at least three years from the date of the sample, measurement, report or application, or for the term of this permit, whichever is longer. This period may be extended by request of the Department at any time.
2. You must submit your records to the Department only when specifically asked to do so. You must retain a description of the SWMP required by this permit (including a copy of the permit language) at a location accessible to the Department. You must make your records, including the notice of intent (NOI) and the description of the SWMP, available to the public if requested to do so in writing.

C. Reporting

1. You must submit annual reports to the Department each year by March 31st. Annual Reports should cover the year (April 1 through March 31) prior to the submittal date. (For example, Annual Reports submitted March 31, 2011 should cover the time period of April 1, 2010

through March 31, 2011). If an entity comes under coverage for the first time after the issuance of this permit, then the first annual report should cover from the time coverage begins until the required submittal date of March 31. The report must include:

(a) The status of your compliance with permit conditions, an assessment of the appropriateness of the identified BMPs, progress towards achieving the statutory goal of reducing the discharge of pollutants to the MEP, and the measurable goals for each of the minimum control measures;

(b) Results of information collected and analyzed, if any, during the reporting period, including any monitoring data used to assess the success of the program at reducing the discharge of pollutants to the MEP;

(c) A summary of the storm water activities you plan to undertake during the next reporting cycle (including an implementation schedule);

(d) Proposed changes to your SWMP, including changes to any BMPs or any identified measurable goals that apply to the program elements;

(e) Notice that you are relying on another government entity to satisfy some of your permit obligations (if applicable); and

(f) All monitoring results collected during the previous year in accordance with Part V, if applicable. The monitoring reports shall be submitted in a format acceptable to the Department.

PART VI Standard Permit Conditions

A. Duty to Comply

You must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of CWA and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

B. Continuation of the Expired General Permit

If this permit is not reissued or replaced prior to the expiration date, it will be administratively continued in accordance with the ADEM Admin. Code r. 335-6-6 and remain in force and effect if the permittee reapplies for coverage as required under Part II of this Permit. Any permittee who was granted permit coverage prior to the expiration date will automatically remain covered by the continued permit until the earlier of:

1. Reissuance or replacement of this permit, at which time you must comply with the Notice of Intent conditions of the new permit to maintain authorization to discharge; or
2. Issuance of an individual permit for your discharges; or
3. A formal permit decision by the Department not to reissue this general permit, at which time you must seek coverage under an alternative general permit or an individual permit.

C. Need to Halt or Reduce Activity Not a Defense

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

D. Duty to Mitigate

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

E. Duty to Provide Information

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

F. Other Information

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

G. Signatory Requirements

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

1. Notice of Intent. All Notices of Intent shall be signed by a responsible official as set forth in ADEM Admin. Code r. 335-6-6-.09.

2. Reports and other information. All reports required by the permit and other information requested by the Department or authorized representative of the Department shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

   (a) Signed authorization. The authorization is made in writing by a person described above and submitted to the Department.

   (b) Authorization with specified responsibility. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of manager, operator, superintendent, or position of equivalent responsibility for environmental matters for the regulated entity.

3. Changes to authorization. If an authorization is no longer accurate because a different operator has the responsibility for the overall operation of the MS4, a new authorization satisfying the requirement of Part VI.G.2.b. above must be submitted to the Department prior to or together with any reports or information, and to be signed by an authorized representative.

4. Certification. Any person signing documents under Part VI.F.1-2. above shall make the following certification:

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

H. Property Rights

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

I. Proper Operation and Maintenance

You must at all time properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by you to achieve compliance with the conditions of this permit and with the conditions of your SWMP. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by you only when the operation is necessary to achieve compliance with the conditions of the permit.

J. Inspection and Entry

1. You must allow the Department or an authorized representative upon the presentation of credentials and other documents as may be required by law, to do any of the following:

   (a) Enter your premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit;

   (b) Have access to and copy at reasonable times, any records that must be kept under the conditions of this permit;

   (c) Inspect at reasonable times any facilities or equipment (including monitoring and control equipment) practices, or operations regulated or required under this permit; and

   (d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the CWA, any substances or parameters at any location.

K. Permit Actions

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

L. Permit Transfers

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

M. Anticipated Noncompliance

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

N. Compliance with Statutes and Rules

1. The permit is issued under ADEM Admin. Code r. 335-6-6. All provisions of this chapter that are applicable to this permit are hereby made a part of this permit.
2. This permit does not authorize the noncompliance with or violation of any laws of the State of Alabama or the United States of America or any regulations or rules implementing such laws.

O. Severability

The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall be affected thereby.

P. Bypass Prohibition

Bypass (see 40 CFR 122.41(m)) is prohibited and enforcement action may be taken against a regulated entity for a bypass; unless:

1. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during the normal periods of equipment downtime. This condition is not satisfied if the regulated entity should, in the exercise of reasonable engineering judgment, have installed adequate backup equipment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance.
3. The Permittee submits a written request for authorization to bypass to the Director at least ten (10) days prior to the anticipated bypass (if possible), the Permittee is granted such authorization, and the Permittee complies with any conditions imposed by the Director to minimize any adverse impact on human health or the environment resulting from the bypass.

The Permittee has the burden of establishing that each of the conditions of Part VI.O. have been met to qualify for an exception to the general prohibition against bypassing and an exemption, where applicable, from the discharge specified in this permit.

Q. Upset Conditions

An upset (see 40 CFR 122.41(n)) constitutes an affirmative defense to an action brought for noncompliance with technology-based permit limitations if a regulated entity shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence, that:

1. An upset occurred and the Permittee can identify the specific cause(s) of the upset;
2. The Permittee's facility was being properly operated at the time of the upset; and
3. The Permittee promptly took all reasonable steps to minimize any adverse impact on human health or the environment resulting from the upset.

The Permittee has the burden of establishing that each of the conditions of Part VI.P. of this permit have been met to qualify for an exemption from the discharge specified in this permit.

R. Procedures for Modification or Revocation

Permit modification or revocation will be conducted according to ADEM Admin. Code r. 335-6-6-.17.

S. Re-opener Clause

If there is evidence indicating potential or realized impacts on water quality due to storm water discharge covered by this permit, the regulated entity may be required to obtain an individual permit or an alternative general permit or the permit may be modified to include different limitations and/or requirements.

T. Definitions

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

1. Best Management Practices (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
2. Control Measure as used in this permit, refers to any Best Management practice or other method used to prevent or reduce the discharge of pollutants to waters of the State.
3. CWA or The Act means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub.L. 92-500, as amended Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483 and Pub. L. 97-117, 33 U.S.C. 1251 et.seq.
4. Discharge, when used without a qualifier, refers to "discharge of a pollutant" as defined as ADEM Admin. Code r. 335-6-6-.02(m).
5. Green Infrastructure refers to systems and practices that use or mimic natural processes to infiltrate, evapotranspirate (the return of water to the atmosphere either through evaporation or by plants), or reuse storm water or runoff on the site where it is generated.
6. Low Impact Development (LID) is an approach to land development (or re-development) that works with nature to manage storm water as close to its source as possible. LID employs principles such as preserving and recreating natural landscape features, minimizing effective imperviousness to create functional and appealing site drainage that treat storm water as a resource rather than a waste product.

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

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

9. Indian Country, as defined in 18 USC 1151, means (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same. This definition includes all land held in trust for an Indian tribe.

10. MEP is an acronym for "Maximum Extent Practicable," the technology-based discharge standard for municipal separate storm sewer systems to reduce pollutants in storm water discharges that was established by CWA Section 402(p). A discussion of MEP as it applies to small MS4s is found at 40 CFR Part 122.34.

11. MS4 is an acronym for "Municipal Separate Storm Sewer System" and is used to refer to either a large, medium, or small municipal separate storm sewer system. The term is used to refer to either the system operated by a single entity or a group of systems within an area that are operated by multiple entities.

12. Municipal Separate Storm System is defined at 40 CFR Part 122.26(b)(8) and means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States; (ii) Designed or used for collecting or conveying storm water; (iii) Which is not a combined sewer; and (iv) Which is not part of a Publicly Owned Treatment Works (POTW) as defined in ADEM Admin. Code r. 335-6-6-.02(nn).

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

14. Department means the Alabama Department of Environmental Management or an authorized representative.

15. Priority construction site means any qualifying construction site in an area where the MS4 discharges to a waterbody which is listed on the most recently approved 303(d) list of impaired waters for turbidity, siltation, or sedimentation, any waterbody for which a TMDL has been finalized or approved by EPA for turbidity, siltation, or sedimentation, any waterbody assigned the Outstanding Alabama Water use classification in accordance with ADEM Admin. Code r. 335-6-10-.09, and any waterbody assigned a special designation in accordance with 335-6-10-.10.

16. Small municipal separate storm sewer system is defined at 40 CFR Part 122.26(b)(16) and refers to all separate storm sewers that are owned or operated by the United States, a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to water of the United States, but is not defined as "large" or "medium" municipal separate storm sewer system. This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large

hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.

17. Storm water is defined at 40 CFR Part 122.26(b) (13) and means storm water runoff, snow melt runoff, and surface runoff and drainage.
18. Storm Water Management Program (SWMP) refers to a comprehensive program to manage the quality of storm water discharged from the municipal separate storm sewer system.
19. SWMP is an acronym for "Storm Water Management Program."
20. Total Maximum Daily Load (TMDL) means the calculated maximum permissible pollutant loading to a waterbody at which water quality standards can be maintained. The sum of wasteload allocations (WLAs) and load allocations (LAs) for any given pollutant.
21. "You" and "Your" as used in this permit is intended to refer to the Permittee, the operator, or the discharger as the context indicates and that party's responsibilities (e.g., the city, the country, the flood control district, the U.S. Air Force, etc.).

RESPONSE TO COMMENTS AND SUMMARY OF CHANGES

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
GENERAL PERMIT NO. ALR040000

January 31, 2011

Background

On May 18, 2010, the Alabama Department of Environmental Management (hereinafter "ADEM" or "the Department") proposed to reissue General NPDES Permit No. ALR040000 regulating stormwater discharges from regulated small municipal separate storm sewer systems, also known as "Phase II MS4s." The Department established a public comment period for the May 2010 draft permit from May 18, 2010 through July 23, 2010. A public hearing was held at ADEM's offices in Montgomery, Alabama on July 23, 2010.

On August 9, 2010, pursuant to the requirements of 40 CFR 123.44, the U.S. Environmental Protection Agency (hereinafter "EPA" or "the Agency") issued a formal objection to the May 2010 draft permit. On November 10, 2010, ADEM provided to EPA a revised draft permit and conditional request for public hearing on EPA's objection. On December 14, 2010, the Agency formally accepted ADEM's November 2010 draft permit and withdrew its objection.

The purpose for this document is to provide responses to technical and substantive comments received during both the public comment period and the public hearing, and to summarize the significant differences between today's final permit and the May/November 2010 drafts. Copies of the permit record outlining all written and oral comments received during the public comment period, as well as EPA's objection and ADEM's response can be reviewed/obtained by submitting a request to the Department's Public Records Officer via e-mail at records@adem.state.al.us, fax to 334-271-7950, or mailed to P.O. Box 301463, Montgomery, AL 36130-1463. These materials may also be viewed/downloaded online via the Department's eFile system available at http://edocs.adem.alabama.gov/eFile/.

Response to Comments

The following responses to comments on the draft permit are organized below by the general topic of the comments. As many of the comments received were similar in nature and substance, they are addressed collectively rather than individually.

Addition of "Guidance Provisions" as Permit Conditions

A number of comments objected to numerous conditions throughout the permit, perceiving them as "guidance provisions" not specifically mandated by the MS4 rules.

ADEM regulations require that NPDES permits issued to operators of Phase II MS4's include the appropriate provisions of 40 CFR 122.30-122.37[1]. ADEM rules further require that such permits include conditions and best management practices, on a case-by-case basis, to provide for and ensure compliance all applicable requirements and to carry out the purposes and intent of the Alabama Water Pollution Control Act (hereinafter "the AWPCA"[2]). Today's final permit is a general permit that applies the same basic standards to all Phase II MS4s statewide. In doing so, there is a need for some generality in certain permit conditions to ensure that Permittees have the flexibility to tailor their stormwater management programs to the maximum extent practicable. However, the specific conditions of 40 CFR 122.30 – 122.37 are not sufficient to provide clear, measurable, and enforceable standards by which compliance can be determined consistently and effectively. Where appropriate, based on best professional judgment, today's final permit includes specific conditions that are necessary to achieve compliance with applicable State and federal rules. This approach is not unprecedented. Municipalities and other Phase II Permittees are subject to other types of NPDES permits that may also include conditions that, based on based professional, are determined necessary to effectively carry-out the purposes and intent of the AWPCA.

A number of comments proffered the idea that compliance with these perceived "guidance conditions" is inconsistent with State law, pointing specifically to Act No. 95-775[3] and Act No. 97-931[4]. Discharges from MS4s are point source discharges for which a permit is required under Section 402 of the Clean Water Act, AWPCA, and ADEM regulations. The Department does not believe that the Alabama Legislature intended to prevent municipalities from complying with properly administered NPDES permits. Today's final permit requires municipalities to adopt controls and management practices to reduce the discharge of pollutants from their regulated MS4s to State waters. This requires that the MS4 identify and, in some cases inspect and control potential sources of pollutants, to maximum extent practicable, that may also be subject to regulation under ADEM's NPDES program (e.g. construction sites). However, today's final permit does not require municipalities to establish new effluent limits, standards, or controls on stormwater discharges into their regulated MS4s that are inconsistent with or more stringent than those effluent limits, standards, or controls to which such discharges may already be subject. As such, the Department does not interpret today's final permit as requiring municipalities to subject sites to "double regulation".

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[1] ADEM Admin Code R. 335-6-6-.11
[2] ADEM Admin Code R. 335-6-6-.14(1) and (3)(k)
[3] Ala. Code § 11-89C-9 et. seq.
[4] House Joint Resolution 144, September 23, 1997.

Implementation Schedule

A number of comments suggested the need for clarification of the permit's schedule of implementation for many of the required minimum control measures. EPA's objection to the May 2010 draft was in part based on its perception that "the permittees would not be obligated to fully comply with any requirements of permit until the end of the permit term."[5]

The Department agrees that some clarification of the permit's implementation schedule is needed. The table below summarizes the schedule for implementation of the minimum control measures required by today's final permit:

Permit Condition / Minimum Control Measure	Schedule of Implementation	
	Existing MS4s	New MS4s
Public Education and Outreach on Storm Water Impacts (Part III.B.1.)	180 days from the effective date of coverage under the Permit	365 days from the effective date of coverage under the Permit
Public Involvement / Participation (Part III.B.2.)	180 days from the effective date of coverage under the Permit	365 days from the effective date of coverage under the Permit
Illicit Discharge Detection and Elimination (Part III.B.3.)	180 days from the effective date of coverage under the Permit	365 days from the effective date of coverage under the Permit
Construction Site Runoff Control (Part III.B.4.)	730 days from the effective date of coverage under the Permit	
Post-Construction Storm Water Management in New Development and Redevelopment (Part III.B.5.)	730 days from the effective date of coverage under the Permit	
Pollution Prevention / Good Housekeeping for Municipal Operations	180 days from the effective date of coverage under the Permit	365 days from the effective date of coverage under the Permit
Enactment of required ordinances (all control measures)	730 days from the effective date of coverage under the Permit	

[5] J. Giattina, Letter to James McIndoe, August 9, 2010

Construction Site Runoff Control Measure (Part III.B.4.)

The May 2010 draft permit included a number of provisions requiring MS4s to develop, implement, and enforce a program to reduce pollutants in storm water runoff to the maximum extent practicable from construction activities that result in a land disturbance of greater than or equal to one acre, including activities that disturb less than one acre but are part of a larger common plan or development. The May 2010 draft also acknowledged that these activities are regulated by ADEM's NPDES Construction Program pursuant to ADEM Admin. Code chap. 335-6-12. In accordance with 40 CFR 122.35(b), the May 2010 draft allowed Permittees to rely on ADEM's program to establish and enforce applicable construction site erosion and sediment controls. Permittees would have been required to, at a minimum, inspect their systems and identify potential impacts from non-compliant construction sites. The Permittee would have had the option to address such sites through its own regulatory mechanisms, or refer the sites to the Department for potential enforcement under the State NPDES program. The May 2010 draft permit also included specific requirements that must be addressed in the Permittee's construction site stormwater program if not relying on the State program.

The Department received comments both in support of and in opposition to this approach. EPA also objected to this approach citing that "ADEM's state-wide NPDES construction stormwater regulatory program currently lacks any specific focus or additional initiatives and commitments in the MS4 jurisdictions" and further concluding that "enabling permittees to rely on the State's enforcement program does not fulfill the requirements the construction site stormwater runoff minimum control measure."[6]

In today's final permit, the Department has refined the extent to which Phase II Permittees may rely on ADEM's NPDES program for control of construction site runoff. To the extent allowable under State law, the Permittee must implement an ordinance or other appropriate regulatory mechanism under which the Permittee may require and enforce erosion and sediment controls on qualifying construction sites and sites which discharge stormwater runoff to its MS4. Today's permit does not, however, require the Permittee to adopt new effluent limits, standards, or practices that are inconsistent with or more stringent than those required by ADEM.

Permittees must provide training for appropriate municipal staff in the identification of proper construction best management practices (example: QCI training in accordance with ADEM Admin Code chap. 335-6-12 or the Alabama Construction Site General Permit). Permittees must also review construction site plans and conduct regular inspections of construction sites to verify the use of appropriate erosion and sediment control practices that are consistent with the *Alabama Handbook for Erosion Control, Sediment Control, And Stormwater Management on Construction Sites and Urban Areas* published by the Alabama Soil and Water Conservation Committee (hereinafter the "Alabama Handbook"). Although the frequency and prioritization of

[6] J. Giattina, Letter to James McIndoe, August 9, 2010

inspection activities may be different for each Permittee (as outlined in their stormwater management plans and subject to ADEM review, all Permittees must inspect priority construction sites once each month. Priority construction sites are those in the area of the Permittee's MS4 that discharge to an impaired water or which are affected by a total maximum daily load (hereinafter "TMDL") issued or approved by EPA. Finally, the Permittee must notify ADEM of non-compliant construction sites discovered during periodic inspections. The notification must provide, at a minimum, the specific location of the construction project, the name and contact information of the owner or operator, and a summary of the site deficiencies.

While the Permittee may rely on another entity (e.g. another municipal or county government, private contractor, etc.) to conduct these activities on the Permittee's behalf, these activities must be implemented independently from ADEM's NPDES Construction Program.
Under today's final permit, the Permittee may rely on ADEM to establish minimum standards for construction site erosion and sediment control practices through ADEM's NPDES program. The Permittee may also rely on ADEM to enforce these standards on construction sites within the Permittee's jurisdiction. Although the November 2010 draft permit requires the Permittee to maintain ordinances and or other regulatory mechanisms, the Permittee may choose to rely on ADEM to take enforcement actions against non-compliant construction sites subject to ADEM's permits and regulations.

While this approach increases the Permittee's role in ensuring that regulated construction sites employ best management practices for the control of erosion and loss of sediment, it also allows the continuous application of consistent State-wide standards for construction site operators. Because today's final permit does not require MS4s to adopt different or more stringent standards than ADEM's for erosion and sediment control, construction site operators are not being subjected to "double-regulation."

Post-Construction Stormwater Management in New Development and Redevelopment Control Measure (Part III.B.5.)

The Department received numerous comments from many different sources on Part III.B.5. of the May 2010 draft. EPA's objection to the permit was based, in part, on its belief that the May 2010 draft permit lacked any obligation to address compliance with post-construction BMPs at the planning/site plan review stage. EPA and other parties also objected to the lack of specific conditions requiring the implementation of Low Impact Development (hereinafter "LID") and Green Infrastructure management techniques.

Today's final permit clarifies that procedures for both site-plan review / approval and long-term post-construction maintenance must be addressed in the Permittee's Stormwater Management Plan.

Regarding the requirement to implement Green Infrastructure and LID techniques, the general permit supports and encourages these approaches along with other, more traditional means of

managing post-construction runoff. Today's final permit also includes a requirement that Permittees review and evaluate all policies, building codes, subdivision regulations, ordinances, etc. to address any barriers to the implementation of Green Infrastructure or LID. The Department believes that this is an important first step in widening the use of these significant tools.

Other comments expressed concern regarding the Department's selection of the area-appropriate 2yr/24hr storm event as basis for the design of post-construction stormwater controls. One commenter stated that, "The storage requirements to capture and treat [a 2yr/24hr storm] either through infiltration methods or other methods exceed the national standards, would require a large land and cost burden to the developer, and most importantly not provided adequate flow and volume control benefits for the frequently occurring storm events."

The 2yr/24hr storm event was selected for its consistency with the construction stormwater program and current use in the evaluation of pre- and post-construction hydrology conditions. The permit does not require the use of the 2yr/24hr storm event as a volumetric threshold for onsite detention or infiltration. Rather, the Permit requires that post-construction stormwater management be initiated/addressed when the proposed new development or redevelopment significantly alters the pre-construction hydrology (using the area-appropriate 2yr/24 storm as the basis for this determination). Any volumetric thresholds used for onsite detention / infiltration would need only be sufficient to equilibrate the pre- and post-construction hydrology to the maximum extent practicable.

The use of traditional onsite detention / infiltration systems is one of many methods of post-construction stormwater management. If post-construction stormwater management is considered early enough in the project design phase, simple alterations in the design, like avoiding steep slopes and reducing the amount of impervious surface added by the project can significantly reduce the change in hydrology potentially caused by the project. Where the design can't be altered, there are other effective and less-costly alternatives to the management of stormwater runoff, such as Green Infrastructure. With proper emphasis on stormwater management early in the design process, the Department believes that the use of costly high-volume detention / infiltration systems can, in many cases, be avoided.

A number of other comments addressed whether Permittees should be able to rely on ADEM's NPDES program for post-construction stormwater management. Some commenters supported this reliance while others suggested that ADEM's NPDES program is not adequate for this purpose.

Neither the May 2010 draft permit nor today's final permit includes any such provision allowing Permittees to rely on ADEM for implementation of the post-construction stormwater management minimum control measure. While ADEM's NPDES construction stormwater program does generally require post-construction BMPs where needed, coverage under the

program does not extend beyond the construction phase of the regulated project[7]. As such, ADEM's NPDES program is not currently structured to implement the post-construction stormwater management program required by 40 CFR 122.34(b)(5).

One comment objected to the provision found in today's final permit at Part III.B.5(g)(iii) which states in pertinent part:

> *...The rationale statement must include the following information, at a minimum:*
>
> *... (iii) Any non-structural BMPs in the programs, including as appropriate:*
>
> - *Policies and ordinances that provide requirements and standards to ... maintain and/or increase open space (including a dedicated funding source for open space acquisition)...*
>
> (Emphasis added)

The comment interpreted this provision as a mandate for separate funding mechanisms to support open-space acquisition. The Clean Water Act §402(p)(3)(B)(iii) mandates that all MS4 permits require "*controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants*". (Emphasis added.) While the maintenance of open-space, particularly in sensitive areas and in impaired waters and associated watersheds is a natural control technique, it is not specifically mandated by today's final permit over other control techniques that may also be appropriate to achieve a reduction in the discharge of pollutants to the maximum extent practicable.

Sharing Minimum Measure Responsibility and Coordination Between MS4s

A number of comments raised concerns with the language of Part IV.A. of the May 2010 draft, which provided that:

> *If the other entity fails to implement the control measure on the Permittee's behalf, then the Permittee remains liable for any discharge within their jurisdiction due to that failure to implement. Additionally, the Permittee remains liable for the permit obligations if relying on the Department.*
>
> (Emphasis Added)

40 CFR § 122.35(b) provides that:

> *In some cases, the NPDES permitting authority may recognize, either in your individual NPDES permit or in an NPDES general permit, that another governmental entity is responsible under an NPDES permit for implementing one*

[7] ADEM Admin Code R. 335-6-12-.25(1) requires construction site operators to request termination of their NPDES registration upon completion of construction.

> *or more of the minimum control measures for your small MS4 or that the permitting authority itself is responsible. Where the permitting authority does so, you are not required to include such minimum control measure(s) in your storm water management program.*

EPA provides at 68 FR 68767, December 8 1999:

> *EPA does not believe that the small MS4 should be responsible in the situation where the NPDES permit issued to the small MS4 operator recognizes that the State agency that issues the permit is responsible for implementing a measure.*

Today's final permit provides that the Permittee may rely on the Department for a portion of the construction site runoff control measure after meeting certain conditions. Consistent with EPA's intent as indicated above, today's final permit also provides at Part IV.A.2 that, if the Permittee is relying on the Department for enforcement of erosion and sediment controls on qualifying construction sites, and has included that information in the NOI, the Permittee is not responsible for taking enforcement action or for implementing the requirements of Part III.B.4(c) in the event the Department receives notification of non-compliant construction sites from the Permittee as required by Part III.B.4(b)(v).

<u>So-Called "BMP Defense" (Part IV.C.)</u>

Part IV.C. of the May 2010 draft stated:

> *This general permit requires, at a minimum, that permittees develop, implement and enforce a storm water management program designed to reduce the discharge of pollutants to the maximum extent practicable. Full implementation of BMPs, using all known, available, and reasonable methods of prevention, control and treatment to prevent and control storm water pollution from entering waters of the State of Alabama is considered an acceptable effort to reduce pollutants from the municipal storm drain system to the maximum extent practicable.*

A number of comments referred to this provision as the "BMP Defense" and seemed to interpret it as excusing Permittees from meeting water quality standards if BMPs are implemented. Part IV.C. only seeks to acknowledge that, at present, implementation of best management practices is the method of reducing pollutants from being discharged to State waters via MS4s to the maximum extent practicable. This condition does not negate the applicability of water quality standards. Part VI.S. of today's final permit allows the Department to modify the permit or require the Permittee to obtain coverage under an individual permit or alternate general permit if there is evidence indicating potential or realized adverse impacts on water quality.

<u>Monitoring, Recordkeeping, and Reporting (Part V)</u>

One comment suggested the need for more specificity and guidance regarding required monitoring and the reporting of such monitoring. As described previously, today's final permit is

a general permit that applies the same basic standards to all Phase II MS4s statewide. The Department believes that there is a need for some generality in those permit conditions related to monitoring and reporting to ensure that Permittees have the flexibility to tailor their programs to the maximum extent practicable.

Comments from Citizens or Groups Located in Phase I Areas

The May 2010 draft, as well as today's final permit addresses stormwater discharges from regulated small MS4s. "Large" or "medium" MS4s as described in 40 CFR 122.26(b)(4) or (7) are excluded from coverage under this permit.

The Department received numerous comments from both individuals and groups seeking changes in stormwater controls for areas, watersheds, or specific State waters that are located in Large or Medium municipal jurisdictions. Although the Department appreciates these comments, today's final permit only addresses discharges from small MS4s. MS4 discharges in larger metropolitan areas are addressed by a separate individual permit.

Summary of Changes from the May 2010 Draft Permit

Part I.B.2.	Corrected typographical error
Part I.C.1.	Corrected typographical error
Part I.E.1.	Replaced "should" with "shall" in the second sentence to clarify that Permittees are required to modify their programs when water quality considerations warrant greater attention in specific components.
Part I.E.2.	Replaced "needs to" with "must" to clarify that Permittees must tailor BMPs to address pollutants of concern associated with an applicable TMDL or water-quality standard.
Part I.E.3.	Added to clarify the schedule of implementation described earlier.
Part II.C.2.(c) Part IV.A.1.	Added or revised language to clarify that the Permittee remains responsible for compliance with the Permit if it is relying on another entity for performance or a required activity and the other entity fails to perform that activity.
Part III.B.1(a)	Added reference to MEP standard.
Part III.A.1. Part III.B.1(a) Part III.B.2(a) Part III.B.3(a)(i)	Deleted duplicative language related to the schedule of implementation, which is described elsewhere in the Permit.
Part III.B.4. Part III.B.5.	Modifications to these conditions are described in the Response to Comments above.
Part III.B.6.	Modifications to address formatting and grammatical errors. Added reference to MEP standard.
Part IV.A.	Modifications to these conditions are described in the Response to Comments above.
Part IV.D.1(a)	Removed the phrase "directly or indirectly."
Part VI.T.15.	Added definition of "Priority Construction Site" which is referenced by the modified Part III.B.4.