



FACT SHEET

NPDES Permit Number: IDS-028258
Date: August 20, 2007
Public Comment Period Expiration Date: October 18, 2007
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The U.S. Environmental Protection Agency (EPA) Proposes to Issue a National Pollutant Discharge Elimination System (NPDES) Permit for Storm Water Discharges To:

Idaho Transportation Department, District #2

EPA Requests Public Comment on the Proposed Permit

EPA Region 10 proposes to issue a NPDES permit authorizing the discharge of storm water from all municipal separate storm sewer system (MS4) outfalls owned and operated by the Idaho Transportation Department, District # 2 (ITD). Permit requirements are based on Section 402(p) of the Clean Water Act, 33 U.S.C. § 1342(p), and EPA's "Phase II" regulations for MS4 discharges, published in the Federal Register on December 8, 1999, 64 Fed. Reg. 68722.

The draft NPDES permit requires the implementation of a municipal storm water management program (SWMP), and outlines the best management practices (BMPs) to be used by ITD to control pollutants in storm water discharges to the maximum extent practicable. The permit establishes conditions, prohibitions, and management practices for discharges of storm water from the MS4 owned and operated by ITD. Annual reporting is required to provide information on the status of the SWMP implementation. Part III of the permit summarizes the activities and schedule for SWMP implementation.

This fact sheet includes:

- information on public comment, public hearing and appeal procedures;
- a description of ITD's MS4; and
- a description of requirements for the local SWMP, a schedule of compliance, and other conditions.

EPA is requesting comments on all aspects of this proposed permit. Topics about which EPA is particularly interested in receiving public input are identified in this fact sheet using ***bold italic*** text.

The State of Idaho Certification.

EPA has requested that the Idaho Department of Environmental Quality (IDEQ) certify this NPDES permit pursuant to Section 401 of the Clean Water Act, 33 U.S.C. § 1341. EPA may not issue the NPDES permit until the state has granted, denied or waived certification. IDEQ has provided a draft certification for this permit (see Appendix C), and will accept public comment on this draft as indicated below through October 18, 2007. For more information about this review please contact Mr. John Cardwell at (208) 799-3451.

Public Comment

EPA will consider all comments before issuing the final permit. Comments should include a name, address, phone number, the permit number of the draft permit (#IDS-028258), and a concise statement of the basis of the comment, as well as relevant facts upon which the comment is based. All written comments should be postmarked no later than the public comment period expiration date and addressed to the Manager, NPDES Permits Unit, U.S. EPA - Region 10, 1200 Sixth Avenue (OWW-130), Seattle, WA 98101; alternatively, comments can also be submitted by facsimile at (206) 553-0165; or submitted via e-mail to vakoc.misha@epa.gov.

Persons wishing to comment on the State Certification should submit written comments by the public notice expiration date indicated at the beginning of this fact sheet to: Regional Administrator, Idaho Department of Environmental Quality, Lewiston Regional Office, 1118 "F" Street, Lewiston, ID 83501.

Public Meeting and Hearing

EPA has scheduled a public meeting and hearing on the draft permit for Wednesday, October 10, 2007, at the Idaho Department of Fish and Game's Clearwater Conference Room, located at 3316 16th Street, Lewiston, Idaho, 83501. The meeting will begin at 6:30 pm. During the public hearing portion of the evening, EPA will receive written and oral testimony regarding the proposed permit.

After the public comment period expires and all significant comments have been considered, EPA's Director of the Office of Water and Watersheds will make a final decision regarding permit issuance. If no comments requesting a change in the draft permit are received, the tentative conditions in the draft permit become final, and the permit will become effective upon issuance. If comments are submitted, EPA will prepare a response to comments document and if necessary will make changes to the draft permit. After making any necessary changes, EPA will issue the permit with the response to comments, unless issuance of a new draft permit is warranted pursuant to 40 CFR § 122.14. The permit will become effective no earlier than thirty-three (33) days after the issuance date, unless the permit is appealed to the Environmental Appeals Board within 30 days pursuant to 40 CFR § 124.19.

Documents Are Available for Review

The draft NPDES permit and related documents can be reviewed or obtained by contacting EPA's Regional Office in Seattle between 8:30 a.m. and 4:00 p.m., Monday through Friday (see address below). The draft permit and fact sheet can also be found by visiting the Region 10 website at <http://www.epa.gov/region10/stormwater.htm>. Reference materials cited in the fact sheet are available in electronic format or in hard copy. To request copies and other information, please contact the NPDES Permits Unit at:

United States Environmental Protection Agency, Region 10
1200 Sixth Avenue, OWW-130
Seattle, Washington 98101
(206) 553-6650 or
1-800-424-4372, x 6650 (toll free in Alaska, Idaho, Oregon, and Washington)

The draft permit and fact sheet are also available at:

U.S. EPA Idaho Operations Office
1435 North Orchard
Boise, Idaho 83706
(208) 378-5746

Idaho Department of Environmental Quality
Lewiston Regional Office
1118 F Street
Lewiston, ID 83501

For technical questions regarding the draft permit or fact sheet, contact Misha Vakoc at the phone number or e-mail address at the beginning of this fact sheet. Those with impaired hearing or speech may contact a TDD operator at 1-800-833-6384 (ask to be connected to Misha Vakoc at the above phone number). Additional services can be made available to a person with disabilities by contacting Misha Vakoc.

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I. Introduction

Storm water is the surface runoff that results from rain and snow melt. Urban development alters the land's natural infiltration, and human activity generates a host of pollutants that can accumulate on paved surfaces. Uncontrolled storm water discharges from urban areas can negatively impact water quality.

The National Pollutant Discharge Elimination System (NPDES) storm water regulations establish permit requirements for discharges from publicly owned ditches, pipes and other conveyances in urban areas. This fact sheet describes the municipal separate storm sewer systems (MS4s) owned and operated by the Idaho Transportation Department, District #2 (ITD), and explains the rationale for the proposed NPDES permit conditions. Appendix A of this fact sheet details the regulatory background for the MS4 permit program, and the types of pollutants typically found in urban runoff.

A regulated small MS4 is defined as any small MS4 located in an "urbanized area" as defined by the Bureau of the Census, and may also include small MS4s located outside of an urbanized area that are designated a regulated small MS4 by the NPDES permitting authority. See 40 CFR §122.32(a). A regulated small MS4 includes storm drain conveyance systems owned by a state, city, or federal entity, a town, or other public entity where storm water discharges directly to waters of the U.S. The regulated MS4 may drain into another MS4 before ultimately discharging to surface water. MS4s are designed for conveying storm water only, and are not part of a combined sewer system, nor are they part of a publicly owned treatment works.

II. Permit Area and Applicant

In accordance with Section 402(p) of the Clean Water Act (CWA), 33 USC § 1342(p), and federal regulations at 40 CFR §122.32, the draft permit is being proposed on a system-wide basis for the following MS4 operator:

Idaho Transportation Department, District # 2
2600 Frontage Road
P.O. Box 837
Lewiston, Idaho 83501-0837

The MS4 owned and operated by ITD is located within the boundaries of the Lewiston Urbanized Area defined by the Year 2000 Decennial Census. See Appendix B for a map of the Lewiston Urbanized Area. The U.S. Environmental Protection Agency (EPA) received from ITD an application for NPDES permit coverage dated March 6, 2003, describing a Storm Water Management Program (SWMP) to reduce pollutants in discharges from the MS4 to the maximum extent practicable (MEP). An amendment to the application regarding ITD's Lewiston Maintenance Yard was submitted to EPA on June 20, 2005.

III. Description of the MS4 and Discharge Locations

The terms “municipal separate storm sewer” and “small municipal separate storm sewer system” are defined at 40 CFR §122.26(b)(8) and (b)(16), respectively. As previously described, MS4s include any publicly-owned conveyance or system of conveyances used for collecting and conveying storm water that discharges to waters of the United States. Such a system may include roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains. The term “municipality” is defined at 40 CFR §122.2. A MS4 can be owned or operated by a federal, state, local or tribal entity, and includes systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include MS4s in very discrete areas, such as individual buildings.

The MS4 owned and operated by ITD is located in Nez Perce County, Idaho. Discharges from the MS4 enter the Clearwater and Snake Rivers. The portion of the MS4 within the Lewiston Urbanized Area serves approximately 0.367 square miles. Segments of road owned by ITD include the following:

- U.S. 12: Milepost 0 – 3.29. Length of segment is 3.29 miles. Along U.S. 12, beginning at the west city limits on Interstate Bridge via Snake River Ave., First Street, D Street Extension, east along the Dike Bypass to 18th/Main Street Intersection, continuing east along Main Street to 21st Street/G Street Intersection, then across the Memorial Bridge to the east end of the U.S. 12 – U.S. 95 Interchange.
- U.S. 95: Milepost 310.75 – 312.50. Length of segment is 1.75 miles. Along U.S. 95, beginning at the east city limits, through the U.S. 12 – U.S. 95 Interchange, including all ramps, to the base of Lewiston Hill.
- State Highway 128: Milepost 0 – 2.198. Length of segment is 2.198 miles. Along State Highway 128, beginning at the west city limits, continuing east to S.H. 128/U.S. 12 Intersection including all ramps.
- Frontage Road: Milepost 2.403 – 3.398 on U.S. 12. Length of segment is 0.995 miles. Includes the Frontage Road from 3rd Avenue’s intersection of U.S. 12 east to the end of the Frontage Road where it intersects U.S. 95/U.S. 12.

The City of Lewiston (City) and ITD entered into a Cooperative Agreement for Maintenance of State Highway U.S. 12; U.S. 95; State Highway 128; & Frontage Road, dated July 16, 2001 (Cooperative Agreement). Under the Cooperative Agreement, the City operates and maintains the MS4 along these roadways, while ITD has agreed to conduct snow removal, culvert maintenance and maintenance of unimproved roadsides on U.S. 95 and State Highway 128 only.

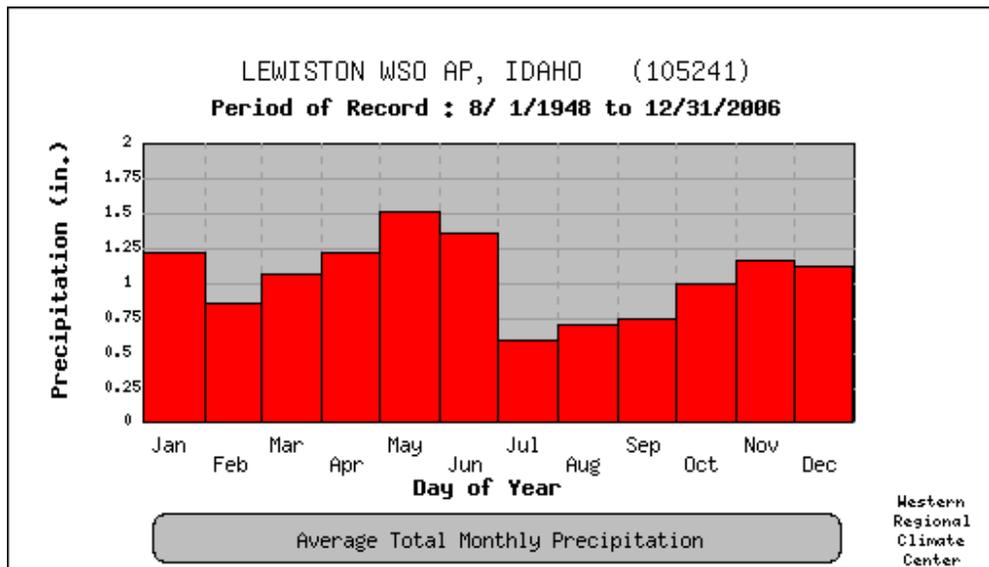
In addition to the road ways, ITD also owns the Lewiston Maintenance Yard within the Lewiston Urbanized Area, located at 2600 Frontage Road, Lewiston, Idaho 83501. Activities at this facility include the storage of sand and salt for road application, fleet storage, fleet maintenance, and fleet washing.

ITD submitted general topographical maps of their area as part of their permit application. Part II.B.3.d of the draft permit requires ITD to update a detailed system assessment and map during the permit term to fully define the extent of the MS4 and verify the location of all outfalls and other system characteristics.

During the 1960s and 1970s, the U.S. Army Corps of Engineers built 7.6 miles of levees and their associated ponds along the Snake and Clearwater Rivers to protect the City of Lewiston from inundation of the rivers during construction of the Lower Granite Lock and Dam project. The levees serve not only to separate the water in the rivers from the City, but also to separate ITD and the City's storm water runoff from the rivers. A series of pumping stations, intakes and outfalls were built so that water could be transferred from the levee ponds to the rivers when water levels dictated. Additionally, water is occasionally pumped from the Snake River into the levee ponds for use in irrigation. These levee ponds are not meaningfully distinct from the Snake and Clearwater Rivers, and are considered waters of the United States for the purposes of this permit.

IV. Average Annual Precipitation in Lewiston

The National Oceanic and Atmospheric Administration's Western Regional Climate Center maintains historical climate information for various weather stations throughout the western United States. The Lewiston area is classified as having a semi-arid climate, with an annual average precipitation of approximately 12.7 inches per year. Most of the precipitation occurs as rain and snow during the winter and spring months.



V. Receiving Waters

A. General Information

EPA proposes to authorize storm water discharges from the MS4 and areas owned by ITD within the Lewiston Urbanized Area to waters of the United States. The receiving waters include the Clearwater River and the Snake River and various drainage channels on the north side of the City of Lewiston. All discharges to waters of the U.S. located within the permit coverage area must comply with this permit and the limitations imposed by the State as part of its water quality certification of NPDES permits pursuant to CWA Section 401, 33 U.S.C. § 1341.

The Idaho Department of Environmental Quality (IDEQ) has classified these water bodies as fresh water with the following designated uses: wildlife habitat, industrial water supply, and agricultural water supply for both livestock watering and irrigation. The Snake River, from the Asotin River to Lower Granite Dam Pool, is also designated for domestic water supply, maintenance and protection of cold water aquatic life, and primary contact recreation. The Clearwater River, from the Potlatch River to Lower Granite Dam, is designated for domestic water supply, maintenance and protection of cold water aquatic life, primary contact recreation, and salmonid spawning, both potential and actual. See Idaho Administrative Code, IDAPA 58.01.02 and IDAPA 58.01.02.150.03. IDEQ has established both numeric and narrative water quality standards for water bodies designated as fresh water.

B. Water Quality Standards and Total Maximum Daily Loads

Any water body that does not and/or is not expected to meet the applicable water quality standards is described as “impaired” or as a “water quality-limited segment.” Section 303(d) of the CWA, 33 U.S.C. § 1313(d), requires States to develop Total Maximum Daily Load (TMDL) management plans for water bodies that are determined by the State to be impaired. TMDLs define both waste load allocations (WLAs) and load allocations (LAs) that specify how much of a particular pollutant can be discharged from both regulated and unregulated sources, respectively, such that the waterbody will again meet State water quality standards

IDEQ’s 2002 *Integrated Section 303(d)/Section 305(b) Report* contains the list of impaired water bodies as required by CWA Section 303(d), 33 U.S.C. § 1313(d). This report lists the portions of the Snake River and Clearwater River within in the Lewiston Urbanized Area as water quality-impaired (*i.e.*, meaning the water body does not meet water quality standards) for temperature and total dissolved gas, respectively.

The portion of the Snake River adjacent to ITD’s MS4 within the Lewiston Urbanized Area is listed as impaired for water temperature. Storm water discharges are not considered a source of the temperature impairment. EPA anticipates addressing this impairment through the development of a watershed-wide Total Maximum Daily Load (TMDL) for both the mainstem segments of the Columbia River from the Canadian Border (River Mile 745) to the Pacific Ocean, and the Snake River from its confluence with the Salmon River (River Mile 188) to its

confluence with the Columbia River. EPA will continue to work with the states of Washington, Oregon and Idaho, tribal governments and the U.S. Army Corps of Engineers to address this issue.

A TMDL for total dissolved gas (TDG) in the Clearwater River is under development by IDEQ. Past operational practices of the Dworkshak Reservoir spillway is the suspected source of prior water quality exceedances for TDG. Stormwater discharges are not considered a source of TDG. Due to changes in operation of the reservoir by the U.S. Army Corps of Engineers, exceedances of the TDG standard are now considered unlikely.

NPDES permit conditions must be consistent with the assumptions and requirements of available WLAs. See 40 C.F.R. § 122.44(d)(1)(vii)(B). However, TMDLs for the Snake and Clearwater Rivers have not yet been completed, and WLAs have not yet been identified. This permit contains specific prohibitions and the implementation of required practices in order to meet Idaho water quality standards. This permit proposes in Part II.C that ITD target temperature and TDG as pollutants of concern through its SWMP activities to address the water quality impairments as necessary until final TMDLs have been completed. More discussion of this requirement is contained in Section VI.B below. In the event that EPA approves TMDLs for the Snake or Clearwater Rivers within the Lewiston Urbanized Area prior to the expiration date of this permit, and waste load allocations are assigned to ITD's MS4, EPA may elect to modify this permit. Part VI.A of the permit addresses such a permit modification, consistent with the regulations at 40 CFR §§122.62, 122.64 and 124.5.

VI. Basis for Permit Conditions

A. General Information

The conditions established in this permit are based on Section 402(p)(3)(B) of the CWA, 33 U.S.C. § 1342(p)(3)(B), which requires any NPDES permit for MS4 discharges to effectively prohibit non-precipitation related flows from entering the MS4. In addition, the NPDES permit must require controls necessary to reduce pollutants in municipal storm water discharges to the maximum extent practicable (MEP), including management practices, control techniques, and system design and engineering methods, and/or other such provisions determined by the NPDES permitting authority to be appropriate. Appendix A of this fact sheet discusses the regulatory background for the municipal storm water program.

NPDES permits for regulated small MS4s must, at a minimum, require the operator to develop, implement, and enforce a SWMP designed to reduce the discharge of pollutants from the small MS4 to the MEP, to protect water quality, and to satisfy the appropriate water quality requirements under the CWA. See 40 CFR § 122.34(a). The SWMP must include six minimum control measures that are set forth in the federal regulations. See 40 CFR § 122.34(b). These six minimum control measures are discussed in more detail below. Absent evidence to the contrary, it is presumed that a permit for a small MS4 operator who implements a SWMP that covers the six minimum measures does not require more stringent limitations to meet water quality standards. See 64 Fed. Reg. at 68753 (Dec. 8, 1999).

In the preamble to the Phase II regulations, EPA has stated that it “considers narrative effluent limitations requiring implementation of Best Management Practices (BMPs) to be the most appropriate form of effluent limitations for MS4s.” 64 Fed. Reg. at 68753 (December 8, 1999). Moreover, in response to previous questions regarding the type of water quality-based effluent limitations appropriate for NPDES storm water permits, EPA adopted an interim permitting approach. This interim permitting approach recommends the use of BMPs in the first 5-year permit round, and the use of expanded or better tailored BMPs in subsequent permits, to provide for the attainment of water quality standards. See “*Interim Permitting Approach for Water Quality-Based Effluent Limitations in Storm Water Permits*,” 61 Fed Reg. 43761 (August 26, 1996). (This policy is also available on-line at <http://www.epa.gov/npdes/pubs/swpol.pdf>.) EPA reiterated the use of this approach for implementing TMDL waste load allocations (WLA) for storm water discharges. See *Establishing Total Maximum Daily Load (TMDL) Wasteload Allocations for Storm Water Sources and NPDES Permit Requirements Based on Those WLAs*, EPA Memorandum, dated November 22, 2002. (This memorandum is available on-line at <http://www.epa.gov/npdes/pubs/final-wwtmdl.pdf>.) If a TMDL were developed which contained a WLA for the ITD MS4 discharges in the Lewiston Urbanized Area, EPA would implement the WLA through the NPDES permit by defining specific BMPs. In addition, EPA would then incorporate monitoring requirements in the permit to ensure compliance with the WLAs in the TMDL.

EPA considered the program information submitted by ITD in the NPDES permit application, as well as input from the IDEQ, to develop the requirements in the draft permit. The permit application and other documents are included in the administrative record supporting this permitting decision. After reviewing all of this information, EPA has determined that BMPs, implemented and enforced through a comprehensive SWMP, are the most effective means for reducing the discharge of pollutants to the MEP and for complying with the water quality provisions of the CWA. Thus, the draft permit proposes the use of BMPs as the primary means to control sources of pollution in urban storm water discharges.

Numeric effluent limitations are not proposed at this time. Numeric limitations may be included in the final permit if required by the State as a condition for certification of the permit pursuant to Section 401 of the CWA, 33 U.S.C. § 1341. However, IDEQ’s draft certification of this permit does not include numeric effluent limitations as a condition of certification (see Appendix C). After permit issuance, EPA may elect to add numeric limitations to the permit through a permit modification process, if EPA determines that the designated beneficial uses of receiving waters are not being met due to the contributions of contaminants by ITD’s storm water discharges, and such permit modifications are reasonable to ensure the attainment of water quality standards. See 40 C.F.R. § 122.62.

B. Discharges Authorized By This Permit

The draft permit authorizes all existing storm water discharges to waters of the United States from the portions of the MS4s owned or operated by ITD within the Lewiston Urbanized Area. In Part I.C, the permit limits the authorization to discharge municipal storm water in the following manner:

- Storm water runoff commingled with process wastewater, non-process wastewater, storm water associated with industrial or construction activity (as defined in 40 CFR §122.26(b)(14) and (15)) and/or other discharge flows are allowed, provided the commingled flows are already authorized by a separate individual or general NPDES permit.
- Certain types of runoff that are unrelated to precipitation events (referred to as “non-storm water”) and which may be listed in 40 CFR §122.26(d)(2)(iv)(B)(1) are also allowed to enter the MS4, provided these discharges are not considered to be sources of pollution to the waters of the United States in the Lewiston Urbanized Area. Part II.B.3 of the permit complements this limitation, by requiring ITD to prohibit, through ordinance or other enforceable means, all other types of non-storm water discharges into the MS4. ITD is responsible for the quality of all combined discharges through its MS4 outfalls, and therefore has an interest in locating any uncontrolled and/or un-permitted discharges to its MS4.
- Discharges from the MS4 must not cause violations of federally approved State water quality standards, nor violate the State anti-degradation policy for water quality standards.
- Snow disposal directly into waters of the United States, or directly to the MS4, is prohibited, due to concerns that the accumulated snow and melt water may contain elevated levels of pollutants.
- As requested by IDEQ, EPA is emphasizing that the permittee must comply with other applicable environmental laws. This provision is part of the permit’s standard conditions in Part VI, but has been repeated in Part I.C for emphasis.

C. Permittee Responsibilities

EPA regulations at 40 CFR §122.41 require the permittee to comply with all terms and conditions of a NPDES permit. See Part V.A of the permit.

EPA regulations allow that one or more of the SWMP measures may be implemented by an entity other than the permittee (*e.g.*, an organization which is not a regulated MS4 may implement a street sweeping program on behalf of the permittee). See 40 CFR § 122.35(a). As such, Part II.A.4 of the permit allows ITD to rely on another entity to implement some of the required minimum control measures if: 1) the other entity in fact implements the control measure; 2) the particular control measure is at least as stringent as the corresponding permit requirement; and 3) the other entity agrees to implement the control measure on the permittee’s behalf. Formal agreements are recommended in the regulation, however, this permit requires that the permittee enter into binding agreements with such outside parties to minimize any uncertainty about compliance with the permit. ITD remains responsible for compliance with the permit obligations in the event the other entity fails to implement the control measure (or any component thereof).

EPA has proposed a similar NPDES permit for storm water discharges from the City (Permit #IDS-028061) and expects to issue permits to other regulated MS4s within the Lewiston Urbanized Area as necessary in the future. ITD may choose to work with the City or others to accomplish their responsibilities under their respective NPDES permits for municipal stormwater discharges. EPA encourages the MS4 operators to work together on stormwater management issues. The previously mentioned Cooperative Agreement between ITD and the City for maintenance of state highways within the Lewiston area does not address the minimum control measures outlined in the permit, and therefore does not currently conform to this requirement.

D. Storm Water Management Program (SWMP) Requirements

The permit requires ITD to develop, implement, and enforce a comprehensive SWMP designed to reduce pollutants to the MEP and to protect water quality. Regulations at 40 CFR §122.34 require the following six minimum pollution control measures to be included in a SWMP:

- Public Education and Outreach on Storm Water Impacts;
- Public Involvement and Participation
- Illicit Discharge Detection and Elimination;
- Construction Site Storm Water Runoff Control;
- Post Construction Storm Water Management in New Development and Redevelopment; and
- Pollution Prevention/Good Housekeeping for Municipal Operations.

For each measure, the regulations specify certain required activities that must be implemented, and provide guidance on other BMPs to include in an adequate SWMP. EPA has also developed separate guidance documents to assist MS4 operators in developing their SWMP activities and determining appropriate measurable goals to be included in the SWMP.

ITD's permit application, submitted on March 6, 2003, contains the various elements of the ITD's initial SWMP and identifies specific BMPs and accompanying measurable goals to accomplish each of the six required program elements. Part II of the permit incorporates the required minimum actions, including those specific activities set forth by ITD in their application. Milestones and compliance dates are identified in Part II.B and are summarized in tabular form in Part III of the permit. Part II.C of the permit requires ITD to target their SWMP activities as necessary to address the pollutants of concern in the Clearwater and Snake Rivers. ITD may update their SWMP as described in Part II.D. EPA and IDEQ may jointly review and approve any plans or plan modifications submitted by ITD. Part II.E of the permit specifies that areas annexed by ITD during the permit term must be included in the SWMP within one year of annexation. Part II.F requires that sufficient resources must be available to implement the activities of the SWMP. Part IV.C of the permit requires ITD to submit annual reports to document program accomplishments. (See 40 CFR §122.34 (g)). Water quality or storm water discharge monitoring is optional, however any data collection activities must be conducted as described in Part IV.

The following sections discuss the SWMP requirements in detail:

1. Public Education and Outreach (40 CFR §122.34(b)(1))

ITD must implement a public education program to distribute educational materials to the community or conduct equivalent outreach activities about the impacts of storm water discharges on water bodies and steps the public can take to reduce pollutants in storm water runoff.

Since there is greater support for the SWMP as the public gains a better understanding of the reasons why the SWMP is necessary and important, an informed and knowledgeable community is crucial to the success of a SWMP. Public support is particularly beneficial when operators of small MS4s attempt to institute new funding initiatives for the program or seek volunteers to help implement aspects of the program. Education can lead to greater compliance with the local programs, as the public becomes aware of the personal responsibilities expected of them and others in the community, including individual actions they can take to protect or improve the quality of area waters.

As a state highway department, ITD does not have a traditional “resident population” as do cities and counties. The ITD application states that ITD will incorporate storm water management education into its in-house certification and training courses to its employees to accomplish this control measure. ITD also plans to include storm water information on its website, which will have pollution prevention information available on it.

EPA has chosen to strengthen the requirement to educate ITD employees beyond what was included in the ITD application to include a specific requirement for continuing education and training of ITD District #2 employees throughout the term of this permit. At a statewide level, and separate from this permit action, ITD and EPA entered into a Consent Decree for violations of the NPDES General Permit for Storm Water Discharges from Construction Activity, #IDR10-0000 (Construction General Permit or CGP) (see U.S. v. Idaho Transportation Department and Scarcella Brothers, Inc., No. CV-04-428-N-EJL, filed 6/23/2006). The requirement for continuing education and training of employees allows ITD to directly fulfill the “public education and outreach” minimum control measure, and is broadly consistent with the existing ITD Consent Decree.

EPA encourages ITD to work with the City and other MS4 operators in the area to accomplish their education activities. EPA believes that mutual cooperation and coordination will benefit the permittees as well as the Lewiston area -audiences.

EPA requests comment on the breadth, scope and adequacy of these public education activities, in light of the other actions required by this permit.

2. *Public Involvement and Participation (40 CFR §122.34(b)(2))*

The draft permit requires that all public participation efforts comply with the applicable requirements of state and local law. If given the opportunity to participate, members of the public generally will become more supportive of a program. EPA encourages MS4 operators to provide more opportunities for public participation, and to attempt to engage all groups serviced by the MS4.

EPA believes that the public can provide valuable input and assistance in the development of a successful SWMP. As such, the public should be given opportunities to play an active role in both the development and implementation of the SWMP. Broad public support is crucial to the success of a SWMP because citizens who participate in the development and decision making process may be less likely to raise legal challenges to the SWMP and are more likely to take an active role in its implementation. In addition, the community is a valuable intellectual resource that can provide a broader base of expertise and economic benefit. Citizens involved in the SWMP development process provide important cross-connections and relationships with other community and government programs that can be particularly valuable when trying to implement a SWMP on a watershed basis.

In its application, ITD committed to holding public meetings for all major construction activities. EPA has proposed to define a “major construction project” as one that disturbs one acre of land or more. This definition is consistent with the construction storm water regulations. See 40 C.F.R. § 122.26(b)(14)(x) and (b)(15). This permit includes an additional requirement that all documents relevant to the SWMP (including annual reports) be posted on a website sponsored by the ITD in order to provide reasonable public access to program information.

Again, EPA encourages ITD to work cooperatively with the City and other MS4 operators to coordinate their collective efforts to engage citizens in the discussion of effective storm water management in the Lewiston Urbanized Area.

EPA requests comment on the breadth, scope and adequacy of the public involvement activities of Part II.B.2, in light of the other actions required by this permit.

3. *Illicit Discharge Detection and Elimination (40 CFR §122.34(b)(3))*

This minimum measure requires the MS4 operator to detect and eliminate illicit discharges from their system. An illicit discharge is any discharge to a MS4 that is not composed entirely of storm water. There are some exceptions to this definition, such as fire fighting activities and discharges already authorized by another NPDES permit. Part I.C. of the draft permit lists the types of allowable non-precipitation, or non-storm water drainage, which can be discharged to the MS4, provided that the discharges are not significant contributors of pollutants to the MS4.

Discharges from MS4s often include wastes and wastewater from non-storm water sources. For example, a 1987 study conducted in Sacramento, California found

that almost one-half of the water discharged from a local MS4 was not directly attributable to precipitation runoff. A significant portion of these dry weather flows were from illicit and/or inappropriate discharges and connections to the MS4.

Illicit discharges enter the system through either direct connections (*e.g.*, wastewater piping either mistakenly or deliberately connected to the storm drains) or indirect connections (*e.g.*, infiltration into the MS4 from cracked sanitary systems, spills collected by drain inlets, or paint or used oil dumped directly into a drain). Examples of other sources include, but are not limited to: sanitary waste water effluent from septic tanks; car wash waste waters; radiator flushing disposal; laundry waste waters; and improper disposal of auto and household toxic waste. The result can be untreated discharges that contribute high levels of pollutants, including heavy metals, toxics, oil and grease, solvents, nutrients, viruses, and bacteria to receiving water bodies. EPA studies have shown that pollutant levels from these illicit discharges can be high enough to significantly degrade receiving water quality and threaten aquatic, wildlife, and human health.

The regulations at 40 CFR §122.34 (b)(3) contain four required components to this control measure. The MS4 operator must:

- a. Develop a map of the MS4 that shows the location of all outfalls and names of the receiving waters;
- b. Effectively prohibit discharges of non-storm water to the MS4 through the use of an ordinance or other regulatory mechanism, and provide for enforcement procedures and actions. (EPA recognizes that some MS4 operators - like ITD - may not have the legal authority to pass an ordinance; therefore, the MS4 operators may evaluate their existing policies and procedures and use those policies and procedures in developing a regulatory mechanism);
- c. Develop and implement a plan to detect and address non-storm water discharges. EPA recommends that this plan contain procedures to identify the problem areas in the community, determine the source of the problem(s), remove the source if one is identified, and document the actions taken; and
- d. Inform public employees, businesses, and the general public of the hazards associated with illegal discharges and improper disposal of waste.

Guidance, including model ordinances, is available from EPA and other organizations to assist in the implementation of an illicit discharge detection and elimination program.

In Part II.B.3 of the permit, EPA outlines the expected scope of the illicit discharge program to be conducted by ITD. In its application, ITD describes that it will work with the City to respond to illicit discharges to the MS4. ITD must generate a comprehensive map of its storm sewer system, including all drainage ways and outfalls, and which includes the ITD Lewiston Maintenance Yard in north Lewiston. Additionally, ITD must work with the City to prohibit illicit discharges to its MS4, and

implement an ongoing program to identify illicit discharges, inspect problem areas, educate those entities that are inappropriately discharging to the MS4, and eliminate inappropriate discharges

EPA is also proposing an additional requirement for ITD to inventory any industrial facilities in their jurisdiction that discharge runoff to either the MS4 or directly to waters of the United States. The types of industrial facilities to be inventoried are those facility types listed in 40 CFR § 122.26(b)(14), and are summarized in Appendix D of this fact sheet. The inventory must consist of the facility name, facility location, outfall location, and NPDES permit status (*i.e.*, whether the facility has been permitted by EPA's NPDES Multi-Sector General Permit for Storm Water Discharges Associated with Industrial Activity, # IDR05-0000 (MSGP); an individual NPDES permit, or does not have permit coverage.) EPA intends this inventory activity to be mandatory for all regulated MS4 operators in Idaho; EPA will use this information gathered during this activity to contact and educate those facility operators who may be unaware of the federal permitting requirements for discharges of industrial storm water. In addition, this information can be used by ITD to identify sources that may be contributing pollutants to the MS4.

EPA requests comment on the breadth, scope and adequacy of these illicit discharge detection and elimination activities, in light of the other actions required by this permit.

4. Construction Site Storm Water Runoff Control (40 CFR §122.34(b)(4))

MS4 operators are required to develop, implement and enforce a program to reduce pollutants in storm water runoff from construction activities that result in a land disturbance of greater than or equal to one acre. This program must also include controlling runoff from construction activity disturbing less than one acre if the construction is part of a larger common plan of development of sale that would disturb one acre or more.

Polluted storm water runoff from construction sites often flows to MS4s and ultimately is discharged into local rivers and streams. Sediment is usually the main pollutant of concern, as it has been demonstrated that sediment runoff rates from construction sites are typically 10 to 20 times greater than those of agricultural lands, and 1,000 to 2,000 times greater than those of forest lands. (64 FR 68728-68730, December 8, 1999) During a short period of time, construction sites can contribute more sediment to streams than can be deposited naturally during several decades. The resulting siltation, and the contribution of other pollutants from construction sites, can cause physical, chemical, and biological harm to nearby waters. For example, excess sediment can quickly fill rivers and lakes, requiring dredging and destroying aquatic habitats.

Although discharges from all construction sites disturbing more than one acre in Idaho are independently subject to the NPDES General Permit for Storm Water Discharges from Construction Activity, #IDR10-0000 (Construction General Permit or CGP) issued by EPA, this minimum program measure is necessary to enable the local

MS4 operator to effectively and directly control construction site discharges into their MS4s. The regulations at 40 CFR §122.34(b)(4) contain four required program components. All regulated MS4 operators must incorporate the following elements into their local programs:

- a. An ordinance or other regulatory mechanism requiring proper sediment and erosion control, and proper waste management controls, at construction sites;
- b. Procedures for site plan review that considers potential water quality impacts;
- c. Procedures for site inspection and enforcement; and
- d. Procedures for the receipt and consideration of information submitted by the public.

In their permit application, ITD describes their responsibility for construction activities related to its road and drainage system and their oversight of construction activities through contracts using specific contract requiring appropriate storm water management. Additionally, ITD staff review site plans for proper controls, perform inspections, and take enforcement action if controls are not implemented. ITD manuals are used to define appropriate erosion, sediment and onsite materials management.

In Part II.B.4 of the permit, EPA has outlined the scope of the required construction site runoff control program to comply with the minimum requirements of 40 CFR § 122.34(b)(4) and has incorporated the actions outlined by ITD.

ITD should review all existing construction requirements currently in place within their jurisdiction to ensure that their requirements are substantially similar to EPA's Construction General Permit. As previously mentioned, ITD is subject to a preexisting Consent Decree with EPA that is separate from this permitting action. Oversight of construction projects by ITD in compliance with the Consent Decree will largely address the requirements of Part II.B.4.

ITD must continue to provide sufficient direction and oversight of its contractors and ensure that its construction projects comply with the CGP.

The draft permit allows ITD to exempt from local regulation those sites which qualify for EPA's "low rainfall erosivity waiver" set forth in the EPA Construction General Permit. This waiver is based on the "R" factor from the Revised Universal Soil Loss Equation (RUSLE) and applies to projects when (and where) negligible rainfall/runoff is expected. See 40 CFR §122.26(b)(15)(i)(A) and the CGP. EPA provides project waiver information granted under NPDES Construction General Permit through a publicly accessible EPA website at www.epa.gov/npdes/stormwater/noisearch. ITD can consider whether this waiver may be utilized for certain projects in their area and how to implement the requirement in the most efficient manner.

EPA encourages ITD to work with the City and others to coordinate local requirements for construction projects throughout the area. ***EPA requests comment on***

the breadth, scope and adequacy of these construction site runoff control activities, in light of the other actions required by this permit.

5. Post Construction Storm Water Management in New and Redevelopment (40 CFR §122.34(b)(5))

Post-construction storm water management controls are necessary because runoff from newly developed land can significantly affect receiving water quality. This control measure applies in areas undergoing new development or redevelopment that disturbs more than one acre of land, including projects that are less than one acre that are part of a larger common plan of development or sale that disturbs more than once acre. The term “redevelopment” refers to alterations of a property that change the “footprint” of a site or building in such a way that results in the disturbance of one or more acres. (64 Fed. Reg. 68760, December 8, 1999.) Many studies indicate that prior planning and design to minimize pollutants in post-construction storm water discharges is the most cost-effective storm water management approach.

Post-construction storm water runoff can cause an increase in the type and quantity of pollutants discharged to the MS4. Specifically, as runoff flows over areas altered by development, it can pick up harmful sediment and chemicals such as oil and grease, pesticides, heavy metals, and nutrients (*i.e.*, nitrogen and phosphorus). These pollutants often become suspended in runoff and are carried to receiving waters, such as lakes, ponds, and streams.

Post-construction storm water runoff also increases the quantity of water delivered to the receiving waters during storms. Increased impervious surfaces interrupt the natural cycle of gradual percolation of water through vegetation and soil. Instead, water is collected from surfaces such as asphalt and concrete, and routed to drainage systems where large volumes of runoff quickly flow to the nearest receiving water. The effects of this process include stream bank scouring and downstream flooding, which often lead to a loss of aquatic life and damage to property.

This minimum measure requires the MS4 operator to implement and enforce a program to reduce pollutants to the MEP in post-construction runoff from areas of new development and redevelopment. This measure applies, at minimum, to newly developed project areas greater than or equal to one acre in size. The permittee must:

- a. Develop and implement locally appropriate strategies that include a combination of structural and/or nonstructural BMPs requirements. Non-structural requirements include, but are not limited to, planning, zoning, and other local requirements such as buffer zones. Structural controls include, but are not limited to, the use of storage, infiltration basins, or vegetative practices such as rain gardens or artificial wetlands;
- b. Adopt an ordinance or other regulatory mechanism to address post-construction discharges; and
- c. Ensure adequate long-term operation and maintenance of these BMPs.

EPA encourages ITD to consider using low impact development (LID) practices for controlling storm water runoff volume and reducing pollutant loadings to receiving waters. In general, LID measures are more cost effective and require less maintenance than conventional, structural storm water controls. Information on LID can be found through the internet, in particular through the EPA website at <http://www.epa.gov/nps/lid/index.html>.

ITD has already formally adopted the following documents, which describe criteria for the design and operation of the structural controls that collect, convey, store, treat, or discharge storm water runoff: *ITD's Design Manual*, *ITD Standard Specifications for Highway Construction*, *ITD Maintenance Operations Procedures Manual*, *ITD Maintenance Manual*, and the *Catalog of Storm Water Best Practices for Highway Construction and Maintenance*. ITD will implement a program to address post-construction storm water runoff from its projects, including site inspections and site plan reviews, and will implement an enforcement plan for the site inspection program.

EPA requests comment on the breadth, scope and adequacy of these post construction requirements and activities of Part II.B.5, in light of the other actions required by this permit.

6. *Pollution Prevention and Good Housekeeping (40 CFR §122.34(b)(6))*

This control measure requires operators to implement an operation and maintenance program to prevent or reduce pollutant runoff from activities conducted by the municipality. The MS4 operator must examine and subsequently alter their own actions to reduce the amount and type of pollution that: (1) collects on streets, parking lots, open spaces, storage and vehicle maintenance areas, that may be discharged into local waterways; and (2) results from actions such as environmentally damaging land development and flood management practices or poor maintenance of storm sewer systems. Activities associated with maintenance of parks and open spaces, as well as fleet and building maintenance, must also be considered for possible water quality impacts. While this measure is meant primarily to improve or protect receiving water quality by improving municipal or facility operations, it can also result in a cost savings for the MS4 operator, since proper and timely maintenance of MS4s can help avoid repair costs from damage caused by age and neglect.

As part of this control measure, ITD must evaluate existing maintenance activities, schedules, and inspection procedures for appropriate controls to reduce floating debris and other pollutants. Using this evaluation, ITD must improve operations as necessary to reduce or eliminate polluted discharges from areas under their control, including, for example, from public roads, municipal parking lots, maintenance and storage yards, waste transfer stations, and salt/sand storage locations.

The permit does not specify particular housekeeping BMPs, nor does it specify a frequency for any BMPs. It is expected that ITD will determine the appropriate

housekeeping BMPs that are necessary to protect water quality, and will train their employees on proper techniques to ensure such activities are accomplished.

EPA has proposed in Part II.B.6 that ITD review and update their operations and maintenance programs to optimize continued water quality protection, and to provide annual training for appropriate employees regarding these optimum practices. EPA has also proposed that the ITD develop site-specific storm water pollution prevention plans for the ITD Lewiston Maintenance Yard in north Lewiston.

7. *Discharges to Water Quality Impaired Receiving Waters*

All NPDES permits must include requirements necessary to achieve state water quality standards. (see 40 CFR 122.44(d)). This permit contains narrative limits to achieve the Idaho water quality standards to the maximum extent practicable. Based on the water quality impairment in the Snake River and Clearwater River due to temperature and total dissolved gas, respectively, EPA has proposed in Part II.C that ITD identify in its first Annual Report whether storm water discharges from the MS4 contribute these particular pollutants, and identify the actions that will be taken in its SWMP to prevent the discharge of these pollutants to these waterways as necessary.

8. *Reviewing and Updating the SWMP*

The SWMP is the set of structural and nonstructural actions and activities used by the permittee to reduce the discharge of pollutants from the MS4 to the MEP and to protect water quality. Minor changes and adjustments to the various SWMP elements are expected and may be necessary to more successfully adhere to these goals and the requirements of this permit. EPA has determined that minor changes to the SWMP shall not constitute the need for permit modifications as defined in the regulations at 40 CFR § 122.6. Part II.D of the permit describes procedures to be used to perform additions and minor changes to the SWMP. The permit does not allow the ITD to remove elements in the SWMP that are required through permit conditions or regulatory requirements. Both EPA and IDEQ will review any changes to the SWMP requested by ITD. If the requested changes are found to be major modifications to the permit, as defined in 40 CFR § 122.62(a), then EPA will notify ITD and comply with permit modification procedures, including public notice procedures.

9. *Transfer of Ownership, Operational Authority or Responsibility for SWMP Implementation*

Through Part II.E of the permit, EPA does not intend to mandate a permit modification should ITD annex additional lands or accept the transfer of operational authority over portions of the MS4. Implementation of appropriate SWMP elements for these additions (annexed land or transferred authority) is required. ITD must notify EPA of any such additions or transfers in the Annual Report(s). EPA may require a modification to the permit based on such new information pursuant to 40 CFR §§ 122.61 and 122.62.

10. SWMP Resources

Part II.F of the permit requires ITD to provide adequate support to implement SWMP activities. Compliance with Part II.F will be demonstrated by ITD's ability to fully implement the SWMP and other permit requirements as scheduled. The permit does not require specific funding or staffing levels, thus providing ITD the ability and incentive to adopt the most efficient and cost effective methods to comply with permit requirements.

E. Schedule for SWMP Implementation and Compliance

Part III of the permit summarizes the schedule for SWMP implementation and compliance.

F. Monitoring, Recordkeeping and Reporting Requirements

40 CFR §122.34(g) requires MS4 operators to evaluate program compliance, the appropriateness of BMPs in their SWMPs, and progress towards meeting their SWMP goals. These requirements have been included in Part IV of the permit.

EPA expects that during the initial five year term of the permit, ITD will opt for measurable goals which define and reflect an appropriate level of effort for implementation of the SWMP. Monitoring will largely consist of keeping track of these efforts. This information must be submitted in the Annual Report as described below.

EPA's Phase II storm water regulations do not require MS4s to conduct monitoring; however, EPA acknowledges that water quality monitoring is often valuable in order to support documentation of compliance with permit conditions and/or water quality standards. (64 FR 68769, December 8, 1999)

EPA is not proposing to require ITD to conduct analytical sampling at this time, because ITD's MS4 discharges exclusively to the Snake and Clearwater Rivers, and there is currently no TMDL analysis identifying ITD as a source of pollution to either river. If ITD chooses to conduct chemical, biological or physical storm water monitoring, Part IV.A.2 of the permit includes requirements related to representative monitoring, test procedures and recording results.

Part IV.B of the permit requires ITD to keep all records required by this permit for a period of at least five years. Records need to be submitted only when requested by EPA. ITD's SWMP materials must be available to the public; MS4 operators may charge a reasonable fee for copies, and may require a member of the public to provide advance notice of their request. ITD will make their program materials available to the public electronically via a website within the term of this permit.

Part IV.C of the permit describes the contents of the Annual Reports, as required by 40 CFR §122.34(g)(3). EPA is requiring these reports to be submitted to both EPA and IDEQ at the addresses listed in Part IV.D. The Annual Reports must contain an evaluation of the SWMP for compliance with the terms of the permit, the appropriateness of the identified

BMPs, and progress towards achieving their measurable goals. ITD may need to change the SWMP based on this evaluation process. The Annual Report must also contain a summary of any information that has been collected and analyzed, including any and all types of data and discharge monitoring reports. ITD must indicate what activities are planned for the next reporting cycle, and discuss any changes to either BMPs or measurable goals, and if necessary must indicate if any minimum control measure or measurable goal is the responsibility of another entity.

Appendix E of this fact sheet contains a suggested format for the Annual Report. To conserve resources, EPA will accept the Annual Report document in a readily accessible electronic format, such as Adobe Acrobat or other commonly available word processing program, and the documents may be sent to EPA on CD-ROM. ITD should note that the signed certification statement required for all reports submitted to EPA must be printed and submitted in hard copy. Any documents comprising the Annual Report may accompany the signed certification statement and be submitted electronically on CD-ROM.

EPA requests comment on the breadth, scope and adequacy of the monitoring and reporting requirements, in light of the other actions required by this permit.

G. Standard Permit Conditions

Parts V and VI of the draft permit contain standard regulatory language that must be included in all NPDES permits, consistent with 40 CFR §122.41. Because they are regulations, they cannot be challenged in the context of an NPDES permit action. This standard regulatory language covers requirements such as monitoring, recording, reporting requirements, compliance responsibilities, and other general requirements.

VII. Other Legal Requirements

A. Endangered Species Act

The Endangered Species Act requires federal agencies to consult with the National Oceanic and Atmospheric Administration – National Marine Fisheries Service (NOAA-Fisheries) and the U.S. Fish and Wildlife Service (USFWS) if their actions could beneficially or adversely affect any threatened or endangered species.

EPA is currently evaluating the potential effects of the stormwater discharges from the City of Lewiston and Idaho Transportation Department District #2 and other regulated MS4s on listed endangered and threatened species in the vicinity of the Lewiston Urbanized Area; EPA has not yet completed its Biological Evaluation and determination whether issuance of this permit is likely to adversely affect any threatened or endangered species. EPA expects to complete its evaluation in the near future and will consult with NOAA-Fisheries and USFWS as required by the Endangered Species Act.

B. Essential Fish Habitat

Essential fish habitat (EFH) is the waters and substrate (sediments, etc.) necessary for fish to spawn, breed, feed, or grow to maturity. The Magnuson-Stevens Fishery Conservation and Management Act (January 21, 1999) requires EPA to consult with the NOAA-Fisheries when a proposed discharge has the potential to adversely affect (reduce quality and/or quantity of) EFH. Because of the location of these municipal storm water discharges, EPA has tentatively determined that the issuance of these permits will not affect any EFH species in the vicinity of the discharges, therefore consultation is not required for this action.

C. National Historic Preservation Act

With regard to the National Historic Preservation Act, EPA believes that the reduction of pollutants in runoff from the MS4 will not result in the disturbance of any site listed or eligible for listing in the National Historic Register. Therefore, EPA believes that the actions associated with this permit are in compliance with the terms and conditions of the National Historic Preservation Act. If the City of Lewiston engages in any activity which meets all of the following criteria, the City must consult with and obtain approval from the State Historic Preservation Office prior to initiating the activity:

- 1) the permitted entity is conducting the activity in order to facilitate compliance with this permit;
- 2) the activity includes excavation and/or construction; and
- 3) the activity disturbs previously undisturbed land.

Some examples of activities subject to this permit condition and the above criteria include, but are not limited to: retention/detention basin construction; storm drain line construction; infiltration basin construction; dredging; and stabilization projects (*e.g.*, retaining walls, gabions). The requirement to submit information on plans for future earth disturbing is not intended for activities such as maintenance and private development construction projects.

D. State Certification of the Draft Permit

Concurrent with the public notice of today's draft permit, EPA is formally requesting state certification of the permit, as required by Section 401(a)(1) of the CWA 33 USC § 1341 (a)(1), and 40 CFR §124.53. IDEQ has provided a draft certification, which is included in Appendix C of this fact sheet. Persons wishing to comment on the draft State Certification should submit written comments by the public notice expiration date indicated at the beginning of this fact sheet to: Regional Administrator, Idaho Department of Environmental Quality, Lewiston Regional Office, 1811 F Street, Lewiston, ID 83501.

References Used in this Permitting Decision

National Oceanic and Atmospheric Administration's Western Regional Climate Center
<http://www.wrcc.dri.edu/>

U.S. EPA, 2006. *National Management Measures to Control Nonpoint Source Pollution from Urban Areas*, EPA-841-B-05-004, Office of Water.

U.S. EPA, 2004. *The Use of Best Management Practices in Urban Watersheds*, EPA-600-R-04-184, Office of Research and Development.

U.S. EPA, 2002. Memorandum: *Establishing Total Maximum Daily Load Wasteload Allocations for Storm Water Sources and NPDES Permit Requirements Based on Those WLAs*, Office of Water, November 2002.

U.S. EPA, October 2000. *National Menu of BMPs for Storm Water Phase II*
<http://cfpub.epa.gov/npdes/stormwater/menuofbmps/menu.cfm>

U.S. EPA, October 2001. *Measurable Goals Guidance for Phase II Small MS4s*.
<http://cfpub.epa.gov/npdes/stormwater/measurablegoals/index.cfm>

U.S. EPA, *Regulations for Revision of the Water Pollution Control Program Addressing Storm Water Discharges (e.g. Phase II Storm Water Regulations)*, 64 Fed. Reg. 68722 -68851, December 8, 1999

- Discussion of the impacts of urban runoff on waters of the United States: 64 FR 68725-27
- Discussion of Construction site impacts : 64 Fed. Reg. at 68728-68730
- Summary of findings from the Nationwide Urban Runoff Program: 64 FR 68726
- Discussion of narrative effluent limitations: 64 Fed. Reg. 68753
- Discussion of Maximum Extent Practicable standard for MS4s: 64 FR 68754
- Effects of construction activities on water quality: 64 FR 68728 – 68731
- Post-Construction Storm Water Management: 64 FR 68725-68728 and 68759

40 CFR Part 122, specifically 40 CFR §§ 122.30-35.

U.S. EPA 1983. *Results of the Nationwide Urban Runoff Program, Executive Summary*, Office of Water, Washington D.C.

U.S. EPA 1992. *NPDES Stormwater Sampling Guidance Document*, Office of Water, Washington D.C. EPA 833-B-92-001

U.S. EPA, 1999. *Report to Congress on the Phase II Storm Water Regulations*, Office of Water, Washington D.C. EPA-833-R-99-001

State of Idaho's Water Quality Standards:

Idaho Department of Environmental Quality Website:

http://www.deq.state.id.us/water/data_reports/surface_water/monitoring/standards.cfm

IDAPA 58.01.02: <http://adm.idaho.gov/adminrules/rules/idapa58/0102.pdf>

Idaho's 2002 *Integrated Report* [CWA §§ 303(d) and 305(b)]:

http://www.deq.state.id.us/water/data_reports/surface_water/monitoring/integrated_report.cfm

Idaho's Catalog of Stormwater Best Management Practices for Idaho Cities and Counties

http://www.deq.state.id.us/water/data_reports/storm_water/catalog/

Cleland, B. 2007. TMDL Development from the "Bottom Up" – Part IV: Connecting to Stormwater Management Programs. National TMDL Science and Policy 2007. WEF Speciality Conference. Bellevue, WA.

Pitt, R., M. Lalor, R. Field, D.D. Adrian and D. Barbe. 1993. *Investigation of Inappropriate Pollutant Entries into Storm Drainage Systems: A User's Guide*. US EPA Office of Research and Development, EPA/600/R-92/238

New England Interstate Water Pollution Control Commission, 2003. *Illicit Discharge Detection and Elimination Manual: A Handbook for Municipalities*.

Center for Watershed Protection, and Pitt, R.M., October 2004. *Illicit Discharge Detection and Elimination – A Guidance Manual for Program Development and Technical Assessments*.

Low Impact Development Information: <http://www.epa.gov/owow/nps/lid/lid.pdf>

Appendix A - Statutory and Regulatory Background

Storm water is the surface runoff that results from precipitation events and snow melt. Storm water flowing across land surfaces may contain or mobilize high levels of contaminants. Under most natural conditions, storm water runoff is slowed and filtered as it flows through vegetation and wetlands. These flows soak into the ground, gradually recharging groundwater, and eventually seep into receiving waters.

Urban development has significantly altered the natural infiltration capability of the land, and often generates a host of pollutants that are associated with the activities of dense populations. This developed area in turn causes an increase in storm water runoff volumes and pollutant loadings in the storm water discharged to receiving waters. Urban development increases the amount of impervious surface in a watershed, as naturally vegetated areas are replaced with parking lots, roadways, and commercial, industrial, and residential structures. These surfaces inhibit rainfall infiltration into the soil and reduce evaporation and transpiration, thereby increasing the amount of precipitation which is converted to runoff. Storm water and snow melt runoff washes over impervious surfaces, picking up pollutants while gaining speed and volume because of the inability to disperse and filter into the ground.¹

Uncontrolled storm water discharges from areas of urban development can negatively impact receiving waters by changing the physical, biological and chemical composition of the water, resulting in an unhealthy environment for aquatic organisms, wildlife and humans. The Nationwide Urban Runoff Program (NURP), conducted by EPA between 1978 through 1983, demonstrated that storm water runoff is a significant source of pollutants. The study indicated that discharges from separate storm sewer systems draining from residential, commercial and light industrial areas carried more than 10 times the annual loadings of total suspended solids (TSS) than discharges from municipal sewage treatment plants providing secondary treatment. The study also identified a variety of other contaminants, such as oil and grease, copper, lead, and zinc, that were detected frequently at levels of concern. Numerous other studies and reports have confirmed the average pollutant concentration data collected in the NURP study.²

EPA's report entitled "National Water Quality Inventory, 1998 Report to Congress" concludes that storm water related discharges from both non-point and point sources remain the leading causes of existing water quality impairments.

More information and copies of documents with additional information on environmental impacts of storm water discharges are available via EPA's storm water web page, <http://www.epa.gov/npdes/stormwater>.

In 1987, Congress amended the Clean Water Act (CWA) and added Section 402(p). This section requires a comprehensive program for addressing storm water discharges through the National Pollutant Discharge Elimination System (NPDES) program. Specifically, CWA §402(p)(1) and (2) require NPDES discharge permits for the following five categories of storm water discharges:

1. Discharges permitted prior to February 4, 1987;
2. Discharges associated with industrial activity;
3. Discharges from large Municipal Separate Storm Sewer Systems (MS4s) serving a population of 250,000 or more;

¹ 64 Fed. Reg. 68725-27 (December 8, 1999)

² U.S. EPA 1983. *Results of the Nationwide Urban Runoff Program, Executive Summary*, Office of Water, Washington D.C.; and 64 FR 68726 (December 8, 1999).

4. Discharges from medium MS4s serving a population of 100,000 but less than 250,000; and
5. Discharges judged by the NPDES permitting authority to be significant contributor of pollutants or which contribute to a violation of a water quality standard.

CWA §402(p)(3) requires that industrial storm water discharges meet technology-based requirements and any more stringent requirements necessary to meet water quality standards. Municipal storm water discharges, however, are held to different standards. This section also specifies a new technology-related level of control for pollutants in the municipal discharges, namely, control to the maximum extent practicable (MEP). Permits for MS4 discharges may be issued on a system or jurisdiction-wide basis, and must effectively prohibit non-storm water discharges into the sewer system. Such permits must also require controls to reduce pollutant discharges to the maximum extent practicable including best management practices (BMPs), and other provisions as the EPA determines to be appropriate for the control of such pollutants. Currently, EPA believes that water quality-based controls, implemented with BMPs through an iterative process, are appropriate for the control of pollutants for storm water discharges from municipalities.

CWA §402 (p)(5) required EPA to conduct additional studies on the impacts of storm water and submit a report to Congress. The purpose of the report was to identify unregulated sources of storm water discharges, determine the nature and extent of pollutants in the discharges, and establish procedures and methods to mitigate the impacts of those discharges on water quality. EPA published this report on December 8, 1999,³ and recommended the following:

- a. Establish a phased compliance with water quality standards approach for discharges from municipal separate storm sewer systems, with priority on controlling discharges from municipal growth and development areas;
- b. Clarify that the MEP standard should be applied in a site-specific, flexible manner, taking into account cost considerations as well as water quality effects;
- c. Provide an exemption from the NPDES program for storm water discharges from industrial facilities where there are no activities where significant material is exposed to storm water;
- d. Provide extensions to the statutory deadline to complete implementation of the NPDES program for the storm water program;
- e. Target urbanized areas for the requirements in the NPDES program for storm water; and
- f. Provide control of discharges from inactive and abandoned mines located on federal lands.

CWA §402(p)(6) requires that EPA provide a comprehensive program that designates and controls additional sources of storm water discharges to protect water quality. EPA regulations promulgated under the authority of section 402(p)(6) are commonly referred to as the “Phase II storm water regulations” and were published by EPA on December 8, 1999 (64 Fed. Reg. 68722-68851).⁴ Additional sources regulated during this second phase of the storm

³ Report to Congress on the Phase II Storm Water Regulations, EPA-833-R-99-001.

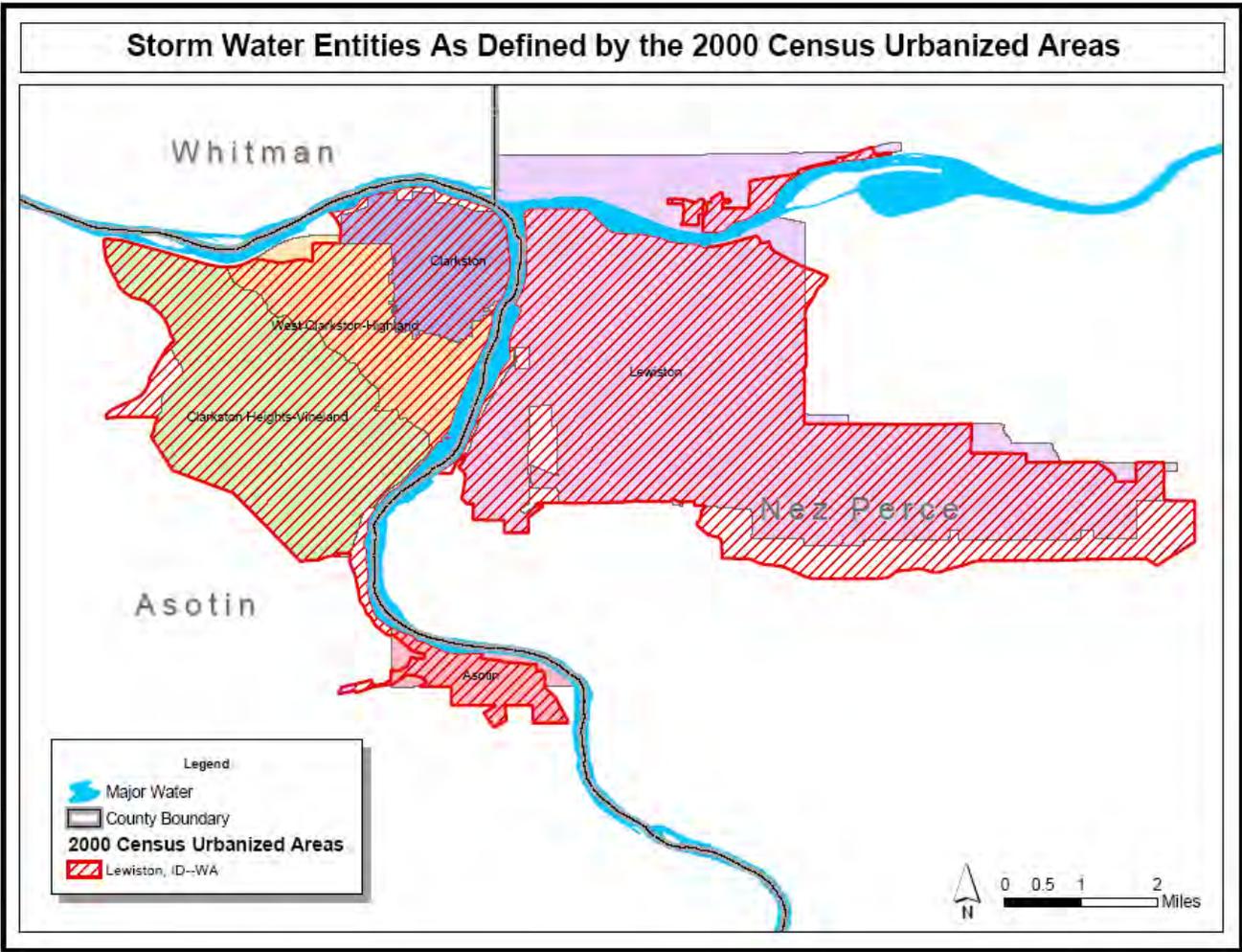
⁴ 40 CFR §§ 122.30-35.

water program include municipal storm water discharges from urbanized areas defined by the Decennial Census, and discharges from construction activities with land disturbances greater than or equal to one acre and less than five. (Requirements for construction-related discharges are addressed through other NPDES permits issued by EPA Region 10; more information on requirements for storm water from construction sites can be found at <http://www.epa.gov/npdes/stormwater/cgp>.)

The draft permit associated with this fact sheet implements the requirements of the Phase II storm water program for small municipal separate storm sewer systems in urbanized areas, and requires the permittee to initiate a comprehensive storm water quality management program. As provided under 40 CFR §122.34(a), the permit allows up to five years during this first permit term for the permittee to fully develop and implement their storm water management program.

Appendix B – Lewiston Urbanized Area Map

Detailed maps of the Lewiston Urbanized Area can be viewed on-line at
[http://cfpub1.epa.gov/npdes/storm Water/urbanmapresult.cfm?state=ID](http://cfpub1.epa.gov/npdes/storm%20Water/urbanmapresult.cfm?state=ID)



Appendix C – Draft Clean Water Act § 401 Certification from Idaho DEQ

Editorial Note: The correct NPDES Permit Number for the Idaho Transportation Department District #2 MS4 is #IDS-028258; IDEQ provided the following draft certification for the ITD #2 MS4 permit using an incorrect permit number provided by EPA Region 10.



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY



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C.L. "Butch" Otter, Governor
Toni Hardesty, Director

July 7, 2007

Michael J. Lidgard, Manager
NPDES Permit Unit
United States Environmental Protection Agency
Region 10
1200 Sixth Avenue
Seattle, Washington 98101

RE: Draft 401 Water Quality Certification for Lewiston and Idaho Transportation Department District 2 Municipal Separate Storm Sewer Systems (MS4s) NPDES Permit No. IDS028061 and IDS0208058

Dear Mr. Lidgard:

The Idaho Department of Environmental Quality has reviewed the final draft MS4 NPDES permits No. IDS-028061 for Lewiston, and IDS-028058 for District 2 of the Idaho Transportation Department that will authorize the permittees to discharge municipal storm water to the Snake River, Clearwater River, Lindsay Creek, Tammany Creek, and other associated waters of the United States once the permits, and subsequently the 401 certifications, are finalized. DEQ has set forth below a draft section 401 certification for the above-referenced permits.

Draft Water Quality Certification

The Department certifies, pursuant to the provisions of Section 401 of the Federal Water Pollution Control Act (Clean Water Act) as amended, 33 USC Section 1341, and Idaho Code Sections 39-101 et. seq., and 39-3601 et. seq., that if the co-permittees comply with the terms and conditions as written in the draft Permits IDS-028061 and IDS-028058, there is a reasonable assurance that the authorized discharges of storm water will comply with applicable requirements of Sections 301, 302, 303, 306 and 307 of the Clean Water Act.

This draft certification contains no additional conditions as the final draft permit includes those conditions necessary for the Department to provide a final certification under section 401 of the Clean Water Act and applicable state law.

The final § 401 certification decision may be appealed pursuant to the Idaho Environmental Protection and Health Act, Idaho Code § 39-107(5) and the Idaho Administrative Procedure Act. Such an appeal is a prerequisite to any district court action and must be initiated by filing a petition for a contested case in accordance with the Rule of Administrative Procedure before the Department of Environmental Quality

Board (IDAPA 58.01.23) within thirty five days of the date of the Department's decision regarding the 401 certification.

If you or your staff have any questions regarding our draft certification, please feel free to contact John Cardwell of my staff at (208) 799-4370.

Sincerely,



Kerby Cole,
Regional Administrator
Lewiston Regional Office

Appendix D– Sectors of Industrial Activity That Require NPDES Permit Coverage for Storm Water Discharges

The term “Storm Water Discharges Associated with Industrial Activity,” defined in federal regulations at 40 CFR §122.26(b)(14)(i)-(xi), indicates which industrial facilities are potentially subject to the storm water permit program. Definitions of the 11 industrial categories use either SIC (Standard Industrial Classification) codes or narrative descriptions to characterize the activities. Table D-1 is a summary list of industrial activities listed in the regulations, provided for informational purposes only. Table D-2 contains a decision tree for determining which facilities must have NPDES permit coverage. More information can be obtained through EPA’s website at <http://www.epa.gov/npdes/stormwater/msgp> or by contacting EPA Region 10 directly.

Category (i)

Facilities subject to a storm water effluent limitation guideline, new source performance standards, or toxic pollutant effluent standards under 40 CFR subchapter N (except facilities with toxic pollutant effluent standards which are exempted under category (xi)). These types of facilities include the following

40 CFR Subchapter N

405	Dairy products processing
406	Grain mills
407	Canned & preserved fruits & vegetable*
408	Canned & preserved seafood processing
409	Beet, crystalline & liquid cane sugar
410	Textile mills
411	Cement manufacturing
412	Feedlots
414	Org. Chem plastics & synthetic fibers
415	Inorganic chemical manufacturing *
417	Soap and detergent manufacturing
418	Fertilizer manufacturing
419	Petroleum refining
420	Iron and steel manufacturing
421	Nonferrous metal manufacturing
422	Phosphate manufacturing *
423	Steam electric power
424	Ferroalloy manufacturing *
425	Leather tanning and finishing
426	Glass manufacturing *
427	Asbestos manufacturing
428	Rubber manufacturing
429	Timber products processing
430	Pulp, paper, and paperboard *
431	Builder’s paper and board mills
432	Meat products
433	Metal finishing
434	Coal Mining *
436	Mineral mining & processing *
439	Pharmaceutical manufacturing *
440	Ore mining & dressing *
443	Paving and roofing materials
446	Paint formulating
447	Ink formulating
455	Pesticide Chemicals *
458	Carbon Black manufacturing
461	Battery manufacturing

- 463 Plastics molding and forming
- 464 Metal molding and casting
- 465 Coil coating
- 466 Porcelain enameling
- 467 Aluminum forming
- 468 Copper forming *
- 469 Electrical & electronic component
- 471 Nonferrous metal forming & powders

* some facilities in group do not have limits or standards, see 40 CFR subchapter N to verify

Category (ii)

Facilities classified by the following SIC codes:

- 24 lumber and wood products (except 2434 wood kitchen cabinets, see (xi))
- 26 paper & allied products (except 265 paperboard containers, 267 converted paper, see (xi))
- 28 chemicals & allied products (except 283 drugs, see (xi))
- 29 petroleum & coal products
- 311 leather tanning & finishing
- 32 stone, clay & glass production (except
- 323 products of purchased glass, see (xi))
- 33 primary metal industry
- 3441 fabricated structural metal
- 373 ship and boat building and repair

Category (iii) Mineral Industry

Facilities classified as SIC codes 10-14 including active or inactive mining operations, and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge storm water contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations (inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator; inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim).

SIC Code

- 10 metal mining (metallic mineral/ores)
- 12 coal mining
- 13 oil and gas extraction
- 14 non-metallic minerals except fuels

Category (iv) Hazardous Waste

Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under Subtitle C of the Resource Conservation and Recovery Act (RCRA).

Category (v) Landfills

Landfills, land application sites, and open dumps that receive or have received any industrial waste (waste that is received from any of the facilities described under categories (i) - (xi)) including those that are subject to regulations under Subtitle D of RCRA.

Category (vi)

Facilities involved in the recycling of materials, including metal scrap yards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as SIC 5015 (used motor vehicle parts) and 5093 (scrap and waste materials).

Category (vii) Steam Electric Plants

Steam electric power generating facilities, including coal handling sites.

Category (viii) Transportation

Transportation facilities classified by the SIC codes listed below which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or which are otherwise identified under categories (i)-(vii) or (ix)-(xi) are associated with industrial activity, and need permit coverage.

SIC Code

- 40 railroad transportation
- 41 local and interurban passenger transit
- 42 trucking & warehousing (except 4221-25, see (xi))
- 43 US postal service
- 44 water transportation
- 45 transportation by air
- 5171 petroleum bulk stations and terminals

Category (ix) Treatment Works

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

Category (x) Construction

Note: Construction activity in Idaho is permitted through the EPA Construction General Permit, and is not listed here as an industrial activity to be tracked by the MS4 operator(s).

Category (xi) Light industry

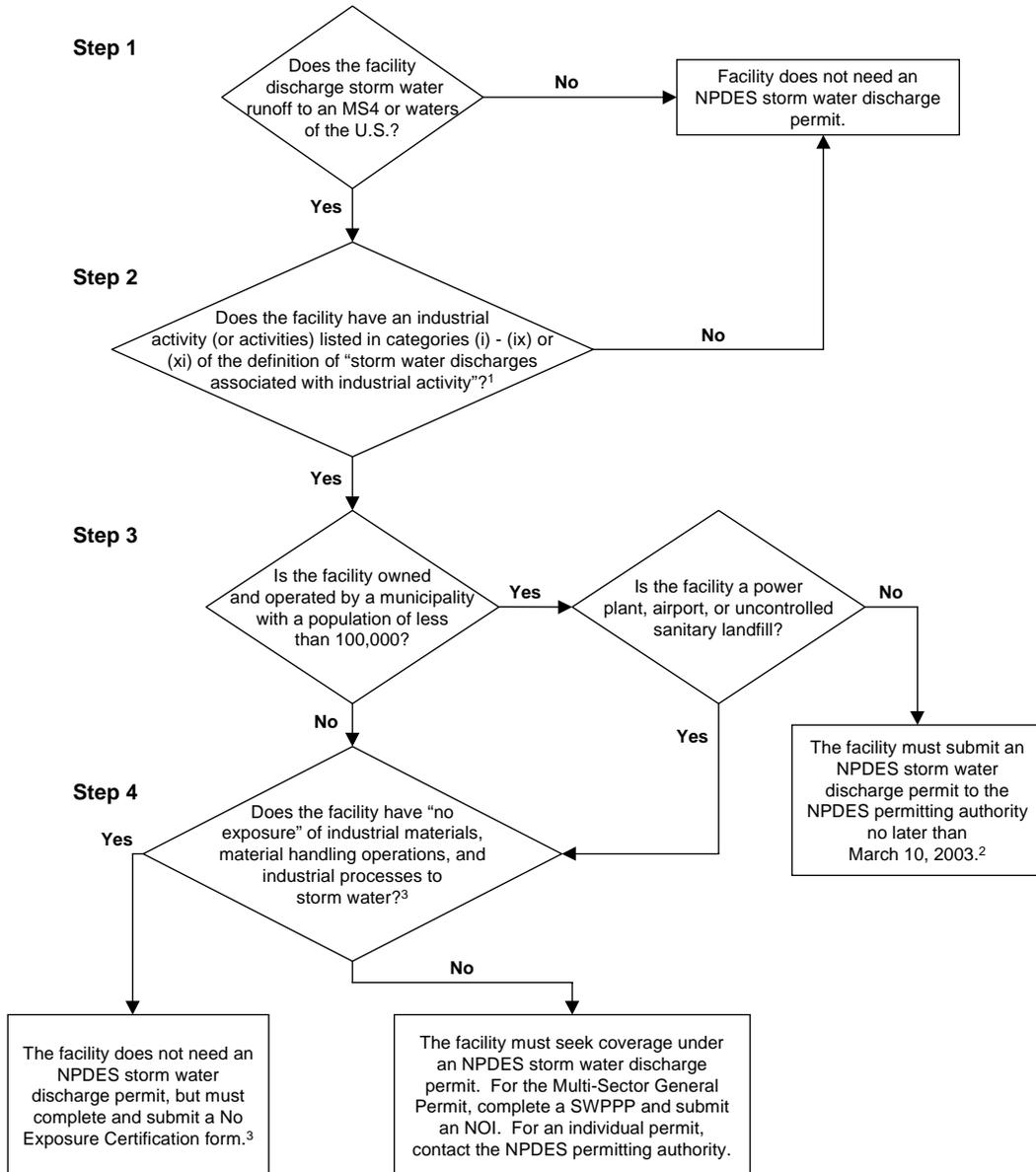
Facilities classified by the following SIC codes:

SIC Code

- 20 food and kindred product
- 21 tobacco products
- 22 textile mill products
- 23 apparel and other textile product
- 2434 wood kitchen cabinets
- 25 furniture and fixtures
- 265 paperboard containers and boxes
- 267 miscellaneous converted paper products
- 27 printing and publishing
- 283 drugs
- 285 paints and allied products
- 30 rubber and miscellaneous plastic
- 31 leather and products (except 311)
- 323 products of purchased glass
- 34 fabricated metal products (except 3441)
- 35 industrial machinery and equipment
- 36 electronic and other electric equipment
- 37 transportation equipment (except 373)
- 38 instruments and related products
- 39 miscellaneous manufacturing
- 4221 farm product storage
- 4222 refrigerated storage
- 4225 general warehouse and storage

(and which are not otherwise included in categories (ii) - (x)) with storm water discharges from all areas (except access roads and rail lines) where material handling equipment, or activities, raw materials, immediate products, final products, waste materials, by-products, or industrial machinery are exposed to storm water. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate produce, finished product, by-product, or waste product.

Table D-2
Industrial Facilities Storm Water Program Permitting Decision Tree



1. See 40 CFR 122.26(b)(14)(i)-(ix), (xi).
 2. See new 122.26(e)(1)(ii). A permit is required unless there is a condition of no exposure as defined at new 122.26(g).
 3. See new 122.26(g) for the definition of "no exposure" and the certification requirements.

NOTE: For more information contact the EPA Region 10 Storm Water Program at (800) 424-4372, extension 6650 or visit the website <http://www.epa.gov/npdes/stormwater/msgp>.

Appendix E - Suggested Annual Report Format

EPA provides the following format as a possible means of submitting the Annual Report information required under Part IV.C. of this permit. The Annual Report information may be submitted to EPA and IDEQ in electronic format on CD-ROM(s) using universally available document formats, such as Microsoft Word, Adobe Acrobat PDF or other available means. However, please note that while the Annual Report text can be submitted in electronic format, the required certification statement must be signed and dated in hard copy by the permittee as directed in Part VI.E. of this permit. *Other guidance on the required elements of the Annual Report is provided in italics below.*

A. PERMITTEE INFORMATION

Permit Number: _____

Permittee: _____

Mailing Address:

City, State and Zip Code:

Phone Number: _____

Have any areas been added to the MS4 due to annexation or other legal means? YES NO
(If yes, include updated map.)

B. REPORTING PERIOD _____ to _____

C. STATUS OF STORM WATER MANAGEMENT PROGRAM

For each of the six minimum control measures in Part II.B. regarding public education, public participation/involvement, illicit discharge detection and elimination, construction runoff control, post-construction runoff control, and good housekeeping for municipal operations) address each of the following items. The status of each program area must be addressed, even if the program area was completed and fully implemented in a previous reporting year or has not yet been implemented yet. (Depending on the size of the municipality and the complexity of the programs, the attachments for this section will likely comprise 1 to 5 pages per control measure.)

- a. General summary of accomplishments to date.
- b. An evaluation of compliance with the requirements of this permit, the appropriateness of identified BMPs, and progress toward achieving identified measurable goals of the SWMP for each minimum control measure.
- c. Results of any information collected and analyzed during the previous 12-month reporting period, including storm water discharge data, surface water monitoring data, and any other information used to assess the success of the program at reducing the discharge of pollutants to the maximum extent practicable. *Examples of data sources other than monitoring data include survey/polling results, miles of*

riverbank cleaned up, number of illicit discharge complaints addressed; number of hits on a website before and after a public education campaign, etc.

- d. A summary of the number and nature of inspections and formal enforcement actions performed.
- e. A general summary of the activities the permittee will undertake during the next reporting cycle (including an implementation schedule) for each minimum control measure. *Provide a short summary based on the Storm Water Management Program implementation schedule. .*
- f. Proposed changes to the SWMP, including changes to any BMPs or any identified measurable goals for any minimum control measures since previous report or permit application. *Significant changes that involve replacing or deleting an ineffective or unfeasible BMP may require permit modification as outlined in Part II.D .*
- g. Notice if the permittee is relying on another entity to satisfy some of the permit obligations, if applicable. *Another entity may be relied on to perform requirements of your MS4 permit. However, as the permittee, the MS4 operator remains liable for compliance with the terms of the permit if the requirements are not fulfilled. The permittee must complete this Annual Report for the geographic areas covered under its permit, for all program areas, even if one or more program elements is being performed by another entity.*

D. OTHER REQUIRED DOCUMENTS AND REPORTS

Include documents such as the Structural Control Plan, monitoring reports, etc.

E. 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, 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.”

Signature of Permittee (legally responsible person)

Date Signed

Name & Title (printed)

Note: Collection of Annual Report information required under 40 CFR §122.34(g)(3) is covered under Paperwork Reduction Act Information Collection Request #1820.03, OMB NO.: 2040-0211, Expiration Date: 06/30/2006.