



FACT SHEET

NPDES Permit Number: IDS-028070
Date: November 30, 2006
Public Comment Period Expiration Date: January 19, 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 the:

City of Idaho Falls and Idaho Transportation Department, District #6

EPA Requests Public Comment on the Proposed Permit

EPA Region 10 proposes to issue a NPDES permit authorizing the discharge of stormwater from all municipal separate storm sewer system (MS4) outfalls owned and operated by the City of Idaho Falls (City) and the Idaho Transportation Department District #6 (ITD). The City and ITD submitted a joint permit application to EPA, and are referred to as “co-permittees” in both this document and the draft permit. 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 the co-permittees 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 MS4s owned and operated by the co-permittees. Annual reporting is required to provide information on the status of the SWMP implementation.

This fact sheet includes:

- information on public comment, public hearing and appeal procedures;
- a description of the co-permittees’ MS4s; and
- a description of permit requirements for the local SWMP, a schedule of compliance, and other conditions.

EPA is requesting comments on all aspects of the 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(p). 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 January 19, 2007. For more information about this review please contact Mr. Troy Saffle at (208) 528-2650.

Public Comment

EPA will consider all comments before issuing the final permit. Comments should include a name, address, phone number, the permit number of this draft permit (#IDS-028070), 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, Idaho Falls Regional Office, 900 North Skyline, Suite B, Idaho Falls, ID 83402.

Requests for Public Hearing

Persons wishing to request a public hearing must do so, in writing, by the expiration date of this public notice. A request for a public hearing must state the nature of the issues to be raised as they relate to the permit, as well as the requester's name, address, and telephone number. Based on the requirements of 40 CFR §124.12, EPA will hold a public hearing if there is a significant degree of public interest in the draft permit. All comments and requests for public hearing must be submitted to EPA as described in the "Public Comments" section of this document.

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 and if necessary will make changes to the draft permit. After making any necessary changes, EPA will issue the permit with a 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
Idaho Falls Regional Office
900 N. Skyline, Suite B
Idaho Falls, ID 83402

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 City of Idaho Falls (City) and the Idaho Transportation Department, District #6 (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, as well as those 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 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 Applicants

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 operators:

City of Idaho Falls
P.O. Box 4169
911 North 7th Avenue
Idaho Falls, Idaho 83205-4169

Idaho Transportation Department, District #6
P.O. Box 5604
Rigby, Idaho 83202

Portions of the MS4s owned and operated by the co-permittees are located within the boundaries of the Idaho Falls Urbanized Area as defined by the Year 2000 Decennial Census. See Appendix B for a map of the Idaho Falls Urbanized Area. The U.S. Environmental Protection Agency (EPA) received an application from the City for NPDES permit coverage on March 6, 2003. ITD submitted an application on April 25, 2003, and requested that ITD be considered a co-permittee with the City. A supplement to the ITD portion of the application was submitted to EPA on December 2, 2005.

III. Description of the Co-Permittee’s MS4s in the Idaho Falls Urbanized Area 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. 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.

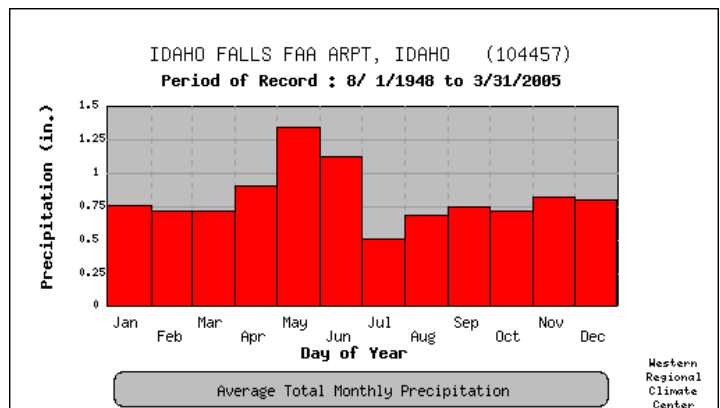
Within the Idaho Falls Urbanized Area, the co-permittees’ MS4s drain approximately 18.5 square miles. The applications describe these systems as follows:

- The City’s MS4 consists of storm water retention and detention basins, as well as open irrigation channels, and closed conduits. The retention basins allow runoff to evaporate or infiltrate into the ground. The detention basins allow storm runoff to be stored for a period of time allowing sediments to settle out; thereafter, the runoff water is pumped into irrigation channels that drain to the Snake River. In the older areas of the City, storm water is collected and conveyed through open channels and conduits to the Snake River.
- ITD maintain a constructed MS4. Runoff from US-20, US-26 and Interstate 15 is discharged to ditches leading to the Snake River or other adjacent drainages, to detention ponds, or directly to the City’s MS4.

The permit application provides a general description of the storm sewer systems and outfalls based on the co-permittees’ current knowledge. A map of the City, including the location of all storm water outfalls, was submitted as part of the application. Part II.B.3.d of the draft permit requires both co-permittees to update the detailed system assessment and map during the permit term to fully define the extent of the MS4s and verify the location of all outfalls and other system characteristics.

IV. Average Annual Precipitation in Idaho Falls

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 climate of the greater Idaho Falls area is considered semiarid high desert. Normal annual rainfall averages approximately 10-12 inches per year, and average total snowfall is approximately 28.5 inches per year. The months of May and June receive the highest amounts of precipitation



V. Receiving Water

A. General Information

EPA proposes to authorize storm water discharges from the co-permittees' MS4s within the Idaho Falls Urbanized Area to waters of the United States, which includes the Snake River and various drainage channels that discharge to the Snake River. All discharges to waters of the U.S. located within the permit coverage area must comply with any limitations imposed by the Idaho Department of Environmental Quality (IDEQ) as part of its water quality certification of NPDES permits pursuant to CWA Section 401, 33 U.S.C. § 1341.

Discharges from the co-permittees' MS4s enter the portion of the Snake River located within the Idaho Falls Subbasin (HUC 17040201-01). IDEQ has classified this portion of the Snake River as fresh water, with the following designated uses: cold water aquatic life (salmonid spawning), primary contact recreation, and agricultural/domestic water supply. 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.

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 an 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.

Small MS4 NPDES permits must, at a minimum, require the operator of the small MS4 to develop, implement, and enforce a storm water management program (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. 68753 (Dec. 8, 1999).

In the preamble to the Phase II regulations, EPA has stated that it “considers narrative effluent limitations requiring implementation of BMPs to be the most appropriate form of effluent limitations for MS4s.” 64 Fed. Reg. 68753 (Dec. 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 BMPs in first 5-year permit rounds, and 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 considered the program information submitted by the co-permittees in their NPDES permit application, as well as input from the IDEQ, to develop the requirements in this draft permit. The permit application, associated amendment, 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 local 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 add numeric limitations to the permit through a permit modification process, if EPA determines that the designated beneficial uses of the receiving waters are not being met due to the contributions of contaminants by the co-permittees’ storm water discharges, and such permit modifications are reasonable to ensure the attainment of water quality standards. See Part VII of the draft permit.

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 the co-permittees within the Idaho Falls Urbanized Area. In Part I.D, the permit limits the authorization to discharge municipal storm water in the following manner:

- Storm water runoff commingled with process wastewater, non-process wastewater, and storm water associated with industrial or construction activity (as defined in 40 CFR §122.26(b)(14) and (15)) 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 Idaho Falls Urbanized Area. Part II.B.3 of this permit complements this limitation, by requiring the co-permittees to prohibit, through ordinance or other enforceable means, all other types of non-storm water discharges into the MS4(s). The co-permittees are responsible for the quality of all combined discharges through their

MS4 outfalls, and therefore have an interest in locating any uncontrolled and/or un-permitted discharges to their MS4s

- Discharges from the MS4s 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 meltwater may contain elevated levels of pollutants.

C. Permittee Responsibilities

EPA regulations at 40 CFR §122.41 require the permittees to comply with all terms and conditions of the NPDES permit. See Part V.A of the permit. Subsequent EPA regulations at 40 CFR §122.33(b)(2)(iii) allow regulated entities to jointly develop a SWMP and apply together to obtain discharge authorization under an individual permit. Once a permit is issued, each co-permittee is responsible for compliance with the terms and conditions of the permit. The City and ITD have decided to work together to implement their respective SWMPs, and, thus, applied for permit coverage together.

In Part I.C of the draft permit, EPA has specifically required the co-permittees to maintain a binding intergovernmental agreement to clarify the respective roles and responsibilities with regard to accomplishing the SWMP actions and activities to control discharges of storm water from their respective MS4s. Through the agreement, the specific portions or areas of the permittee responsibility, including areas where the permittees share joint responsibility, must be delineated and submitted to EPA and DEQ.

EPA regulations allow that one or more of the program measures may be implemented by an entity other than the co-permittees (*e.g.*, an organization which is not a regulated MS4 may implement a street sweeping program for a given city). See 40 CFR § 122.35(a). As such, Part II.A.4 of the permit allows the co-permittees to rely on another entity to implement some of the required minimum 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 co-permittees' behalf. Formal agreements are recommended in the regulation, however, this permit requires that the co-permittees enter into legally binding agreements with such outside parties to minimize any uncertainty about compliance with the permit. Co-permittees, however, remain responsible for compliance with the permit obligations in the event the other entity fails to implement the control measure (or any component thereof).

D. Storm Water Management Program Requirements

The permit requires the co-permittees to develop, implement, and enforce a 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:

1. Public Education and Outreach on Storm Water Impacts;
2. Public Involvement and Participation;
3. Illicit Discharge Detection and Elimination;
4. Construction Site Storm Water Runoff Control;
5. Post Construction Storm Water Management in New Development and Redevelopment; and
6. 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 in developing their SWMP activities and determining appropriate measurable goals to be included in the SWMP.

The permit application materials submitted by the co-permittees contain the various elements of the initial SWMP. Part II.B of the proposed permit incorporates those specific activities put forth by the co-permittees. Milestones and compliance dates are identified in Part II.B and summarized in Part III of the permit. Part IV of the permit requires annual reports to document program accomplishments. See 40 CFR §122.34 (g). Water quality or stormwater discharge monitoring is optional, however any data collection activities must be conducted as described in Part IV. Updating the SWMP may be done by the co-permittees as described in Part II.C and Part VII. Areas annexed by the co-permittees during the permit term must be included in the SWMP within one year of annexation; and sufficient resources must be available to implement the activities of the SWMP.

The following sections discuss the SWMP requirements in detail:

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

The co-permittees 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.

The co-permittees have identified a general education program to accomplish this measure. Specifically, the co-permittees will develop informational materials relevant to the hazardous waste disposal program, and will target their information to local developers, real estate agents and citizens. The co-permittees will develop a stormwater educational website. In addition, through cooperation with other local groups, the co-permittees intend to begin a storm drain stenciling program. The co-permittees will work together to accomplish these education efforts.

As a condition of its certification of this permit under CWA §401, IDEQ has requested the opportunity to review and comment on any materials used for public outreach to ensure accuracy, completeness and consistency with the Department's pollution prevention efforts. Consequently, EPA has included the following condition in Part II.B.1.a of the permit: “No later than 60 days prior to the distribution or use of educational material in support of this public education program, the co-permittees must provide IDEQ with copies of such material for review and comment.”

EPA encourages the City and ITD to work with other MS4 operators in the area to accomplish these education activities. Specifically, Bonneville County must accomplish similar stormwater education activities in a separate NPDES permit. EPA believes that mutual cooperation and coordination will benefit the MS4 operators as well as the Idaho Falls area-audience receiving this outreach and education. For example, the required stormwater webpage may be co-sponsored and mutually supported by all area MS4 permittees, as is currently done in the Boise, Idaho, urban area (see Clean Water Partnership website, <http://www.partnersforcleanwater.org/>)

At the request of IDEQ, EPA has chosen to include a specific requirement for continued education and training of ITD District #6 employees throughout the term of this permit. At a statewide level, it should be noted that ITD and EPA separately entered a Consent Decree for violations of the federal NPDES Construction General Permit (see U.S. v. Idaho Transportation Department and Scarcella Brothers, Inc., No. CV-04-428-N-EJL, filed 6/23/2006). The requirement for continued 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 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 communities 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.

The co-permittees have identified that they will engage the public through local public meetings as necessary and will participate with other local groups in the local “Adopt a Canal” cleanup program. EPA is also requiring that all documents relevant to the SWMP and all Annual Reports be posted on a co-permittees’ website. In addition, EPA expects the co-permittees to engage and invite citizens representing a broad cross section of the community to participate in discussions regarding the local SWMP.

EPA encourages the City and ITD to work with Bonneville County and others in the greater Idaho Falls area to encourage public participation and input into the SWMP. Given the proximity of the County, City and ITD municipal storm sewer systems and possible interconnections between systems, EPA feels that such cooperation among all regulated MS4 operators in the Idaho Falls Urbanized Area is reasonable and appropriate.

EPA requests comment on the breadth, scope and adequacy of these public involvement activities, 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 municipal separate storm sewer system 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.D. of the draft permit lists the types of allowable non-storm water that can be discharged to the MS4, provided that they 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 is 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 are 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 measure. The MS4 operator must:

- a. Develop a map of the storm sewer system 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 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.

The co-permittees have initiated an illicit detection program and currently conduct investigations, as discussed in the application materials. EPA has outlined the scope of the expected program to be developed in Part II.B.3. This program includes an enforceable ordinance to the extent possible under state law, a comprehensive storm sewer map, training for City and ITD staff to respond to reports of illicit discharges, and an effort to conduct dry weather screening of at least half of the co-permittees' stormwater outfalls. The permit allows the co-permittees to review their existing program and update the program over time to comply with this permit. For example, although a storm sewer system map has been developed for the City, it does not yet fully represent all the combined characteristics of the ITD system and other necessary information. EPA therefore describes in Part II.B.3.d the expectations for a comprehensive storm sewer map.

EPA is also proposing an additional requirement for the co-permittees to inventory all industrial facilities in their jurisdictions that discharge runoff to either the MS4s 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 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 is covered 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. Information gathered by this activity will be used by EPA to 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 the co-permittees to identify source(s) that may be contributing substantial pollutant amounts to the MS4s.

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.¹ 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 operators to effectively and directly control construction site discharges into their MS4s. The regulations at 40 CFR §122.34(b)(4) contain four required components to this measure. 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;

¹ See EPA's *National Pollutant Discharge Elimination System – Regulations for Revision of the Water Pollution Control Program Addressing Stormwater Discharges*, 64 FR 68728-68730, December 8, 1999.

- 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, the City identifies that it currently requires an extensive site plan review for construction projects to determine compliance with the existing stormwater policy. The City also conducts periodic site inspections to ensure compliance with the approved stormwater runoff plan. The application does not describe any existing local requirements with which the construction site activity must comply. ITD's portion of the application cites existing ITD construction and environmental manuals. 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).

The co-permittees should review all existing construction requirements currently in place within their jurisdictions, and should develop local requirements that are substantially similar to the federal Construction General Permit to ensure complementary implementation of construction requirements in the Idaho Falls Urbanized Area. As previously mentioned, ITD is subject to a preexisting Consent Decree with EPA, and oversight of construction projects by ITD in compliance with that Consent Decree will largely address the requirements of this permit.

In addition, to further ensure the complementary implementation of federal and local construction site requirements, this permit requires the City to provide information regarding the EPA Construction General Permit to operators of proposed new development and redevelopment sites, and for ITD to provide sufficient direction and oversight of its contractors regarding the CGP. For the City, this information sharing can be accomplished by distributing EPA's existing brochures and directing construction site operators to EPA's web-based information regarding the CGP requirements. Alternatively, the co-permittees may develop other appropriate means to provide such information to operators of new development or redevelopment sites. Both the City and the ITD must continue to ensure that its own construction projects comply with the CGP.

The draft permit allows MS4 operators to exempt from local regulation those sites which qualify for EPA's "low rainfall erosivity waiver" set forth in the 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. The co-permittees can consider whether this waiver may be utilized by project proponents within their jurisdictions and how to implement the requirement in the most efficient manner.

EPA encourages the City and ITD to work with Bonneville County to coordinate local requirements for construction projects throughout the area.

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

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. See 64 Fed. Reg. 68760 (December 8, 1999). Post-construction controls are necessary because runoff from newly developed land can significantly affect receiving water quality. 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 municipal operators 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 co-permittees 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.

The City currently has an ordinance in place that requires retention or detention basins for new subdivision development or redevelopment. EPA has proposed the minimum components of this post construction runoff control program for both the City and ITD, which requires the co-permittees to review and update their program as necessary to meet these requirements.

EPA encourages the co-permittees to consider requiring or promoting other low impact development (LID) practices for controlling storm water runoff volume and reducing pollutant loadings to receiving waters. In general, LID measures have been found to be more cost effective and require less in 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>.

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 storm sewer systems can help avoid repair costs from damage caused by age and neglect.

As part of this control measure, the co-permittees must evaluate existing maintenance activities, schedules, and inspection procedures for appropriate controls to reduce floating debris and other pollutants. Using this evaluation, the City and ITD must improve operations as necessary to reduce or eliminate polluted discharges from areas under the co-permittees' 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 each co-permittee will determine the appropriate good 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 the co-permittees review and update their operations and maintenance program to optimize continued water quality protection, and to provide annual training for appropriate employees regarding these optimum practices.

7. *Reviewing and Updating the Storm Water Management Program*

The SWMP is the set of structural and nonstructural actions and activities used by the co-permittees to reduce the discharge of pollutants from the MS4 to the maximum extent practicable 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.C of the permit describes procedures to be used to perform additions and minor changes to the SWMP. The permit does not allow the co-permittees 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 the co-permittees. 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 the co-permittees and comply with permit modification procedures, including public notice procedures.

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

In Part II.D, EPA does not intend to mandate a permit modification should the co-permittees 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. The co-permittees 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.

9. Storm Water Management Program Resources

Part II.E of the permit requires the co-permittees to provide adequate support to implement their activities under the SWMP. Compliance with Part II.E will be demonstrated by the co-permittees' ability to fully implement the SWMP and other permit requirements as scheduled. The permit does not require specific funding or staffing levels, thus providing the co-permittees 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. In particular, Part III specifies the dates by which SWMP activities/milestones will be accomplished and the entity responsible for ensuring the activity is completed.

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 measurable goals. These requirements have been included in Part IV of the permit.

EPA expects that during the initial five year term of the permit, the co-permittees will opt for measurable goals which define and reflect a 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. If chemical, biological or physical storm

water monitoring is conducted by the co-permittees, Part IV.A.2 of the permit includes requirements related to representative monitoring, test procedures and recording results.

EPA's Phase II stormwater regulations do not require MS4s to conduct monitoring and EPA has determined that mandatory chemical monitoring of storm water discharges or in-stream water quality is not necessary in the Idaho Falls Urbanized Area at this time. However, EPA acknowledges that water quality monitoring may be valuable in order to 1) characterize water quality and ecosystem health in a watershed over time, 2) to determine causes of existing and future water quality and ecosystem health problems in a watershed and develop a watershed management program, 3) to assess progress of watershed management program or effectiveness of pollution prevention and control practices, and 4) to support documentation of compliance with permit conditions and/or water quality standards.

Part IV.B. of the permit requires co-permittees to keep all required records required by this permit for a period of at least five years. Records need to be submitted only when requested by EPA. The co-permittees' SWMP 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. The co-permittees 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. The co-permittees 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. The co-permittees 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. At the request of IDEQ, EPA is also requiring the co-permittees to include in the Annual Report a summary of any water quality compliance-related enforcement actions received during the previous year from regulatory agencies other than EPA.

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. The co-permittees 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 on CD-ROM.

G. Standard Permit Conditions

Sections 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 evaluated the potential effects of the discharges from the MS4s on listed endangered and threatened species in the vicinity of the Idaho Falls Urbanized Area, and has determined that issuance of this permit is not likely to adversely affect any threatened or endangered species or critical habitat.

EPA reviewed the current lists of endangered and threatened species from the USFWS, dated March 1, 2006 and September 1, 2006 respectively (SL 06-0294 and 2006 SL-0896). For Bonneville County, Idaho, the following species are listed: Gray wolf (*Canis lupus*), Canada lynx (*Lynx canadensis*), Bald eagle (*Haliaeetus leucocephalus*), Ute Ladies'-tresses (*Spiranthes diluvialis*), and Utah valvata snail (*Valvata utahensis*) as federally-listed endangered species. NOAA Fisheries has not identified any additional listed endangered species within this portion of the Snake River basin.

Hunting and habitat destruction are the primary causes of the Canada lynx and Gray wolf's decline. Issuance of an NPDES permit for the City of Idaho Falls and ITD municipal storm water discharges within the Idaho Falls Urbanized Area will not result in habitat destruction, nor will it result in changes in population that could result in increased habitat destruction. Furthermore, issuance of this permit will not impact the food sources of the Canada lynx or Gray wolf. The primary reasons for the decline of the Bald eagle are destruction of their habitat and food sources and widespread application of DDT. This draft permit will have no impact on any these issues. The primary reasons for the decline of the Ute ladies'-tresses are habitat destruction associated with land development, agricultural, and water system alterations. This permit is targeted to the area within Bonneville County located within the Idaho Falls Urbanized Area, and will have no impact on the Ute ladies'-tresses because it does not change existing land uses or modify the species' riparian habitat. The issuance of this permit is not likely to affect the Utah valvata snail since the snail is not known to be present upstream of the American Falls Reservoir. EPA therefore concludes that issuance of this permit is not likely to adversely affect any threatened or endangered species or critical habitat.

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 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 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 also in compliance with the terms and conditions of the National Historic Preservation Act. If any permitted entity engages in any activity which meets all of the following criteria, they 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 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, Idaho Falls Regional Office, 900 North Skyline, Suite B, Idaho Falls, ID 83402.

References Used in this Permitting Decision

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

U.S. EPA, October 2000. *National Menu of BMPs for Storm Water Phase II*, October 2000.
<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* (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
- 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, 1999. *Report to Congress on the Phase II Storm Water Regulations*, Office of Water, Washington D.C. EPA-833-R-99-001

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

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

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.²

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.³

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;

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

³ 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, 1999,⁴ 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).⁵ Additional sources regulated during this second phase of the storm water

⁴ Report to Congress on the Phase II Storm Water Regulations, EPA-833-R-99-001

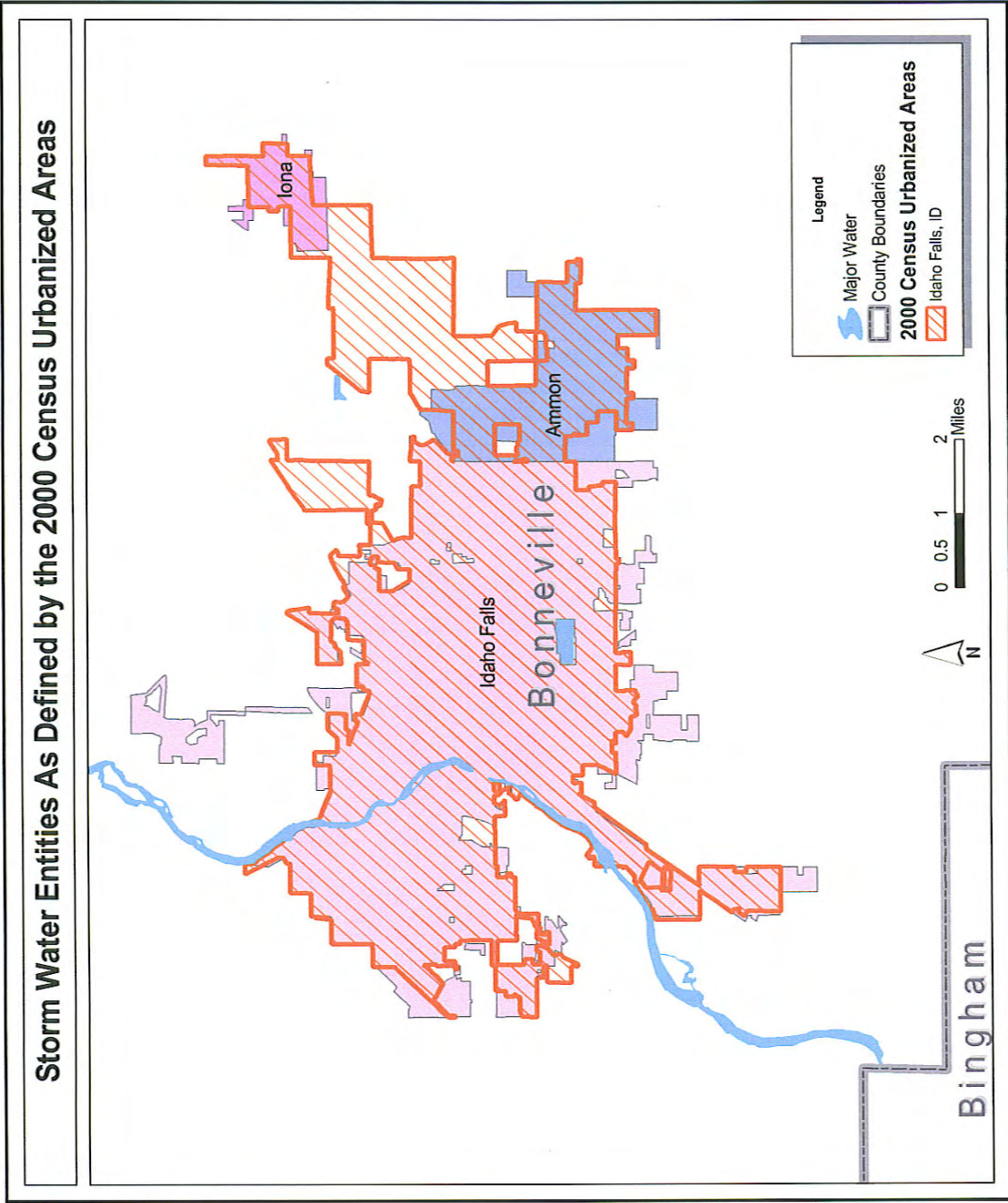
⁵ 40 CFR §§ 122.30-35

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 co-permittees 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 co-permittees to fully develop and implement their storm water management program.

Appendix B - Idaho Falls Urbanized Area Map

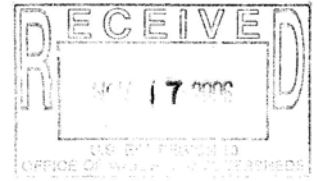
Detailed maps of the Idaho Falls Urbanized Area can be viewed on-line at
[http://cfpub1.epa.gov/npdes/storm Water/urbanmapresult.cfm?state=ID](http://cfpub1.epa.gov/npdes/storm%20Water/urbanmapresult.cfm?state=ID)



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



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY



900 NORTH SKYLINE DRIVE, SUITE B • IDAHO FALLS, IDAHO 83402 • (208) 528-2650

JAMES E. RISCH, GOVERNOR
TONI HARDESTY, DIRECTOR

November 13, 2006

Mr. Michael Lidgard
US Environmental Protection Agency
Region 10
1200 6th Avenue, OW-130
Seattle, Washington 98101

RE: DRAFT 401 Water Quality Certification for the Idaho Falls, Bonneville County and Idaho Transportation Department District 6 Municipal Separate Storm Sewer Systems (MS4s) NPDES Permit Nos. IDS-028070 and IDS-028096.

Dear Mr. Lidgard:

The State of Idaho Department of Environmental Quality (Department) has reviewed the proposed MS4 permits for the city of Idaho Falls, Bonneville County and the Idaho Transportation Department District 6. This letter will serve as the Department's draft Water Quality Certification.

DRAFT WATER QUALITY CERTIFICATION

Based on the Department's review of the referenced permit, 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 Permit Nos. IDS-028070 and IDS-028096, then 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.

DEQ does not believe there are additional conditions that must be in the permits to ensure compliance with the applicable provisions of the Clean Water Act. The Department, however, on October 4, 2006, provided comments to EPA regarding the proposed permits. The Department requests that EPA include provisions in the permit that reflect the DEQ comments. The Department specifically requests that EPA include provisions in the permit that: (1) require the permittee provide to the Department:

- a. copies of all required reporting documents concurrent with submission to EPA;
- b. signed copies of enforceable intergovernmental cooperative agreements;
- c. storm sewer maps in ArcGIS format (within 2 years from permit issuance); and
- d. annual reports outlining project status, compliance status, inspection reports and other material as defined in the permits.

(2) require all public outreach material drafted for permit compliance be submitted for review and comment by the Department prior to publication of the material.

LFRO

36388



This certification does not constitute authorization of the permitted activities by any other local, state or federal agency or private person or entity. This certification does not excuse the permit holder from any obligation that may exist to obtain any other necessary approvals, authorizations or permits, including without limitation, any approval, if one is required, from the owner of a water conveyance system to use the system in connection with the permitted activities.

This § 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 Rules of Administrative Procedure before the Department of Environmental Quality Board (IDAPA 58.01.23) within thirty-five (35) days of the date of the Department's decision regarding the 401 certification.

If the Department can clarify any portion of this water quality certification, please contact Troy Saffle at 208.528.2650 or troy.saffle@deq.idaho.gov.

Sincerely,



James S. Johnston
Regional Administrator
Idaho Falls Regional Office

c: Doug Conde, Deputy AG

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	430	Pulp, paper, and paperboard *
405 Dairy products processing	431	Builder’s paper and board mills
406 Grain mills	432	Meat products
407 Canned & preserved fruits & vegetable*	433	Metal finishing
408 Canned & preserved seafood processing	434	Coal Mining *
409 Beet, crystalline & liquid cane sugar	436	Mineral mining & processing *
410 Textile mills	439	Pharmaceutical manufacturing *
411 Cement manufacturing	440	Ore mining & dressing *
412 Feedlots	443	Paving and roofing materials
414 Org. Chem plastics & synthetic fibers	446	Paint formulating
415 Inorganic chemical manufacturing *	447	Ink formulating
417 Soap and detergent manufacturing	455	Pesticide Chemicals *
418 Fertilizer manufacturing	458	Carbon Black manufacturing
419 Petroleum refining	461	Battery manufacturing
420 Iron and steel manufacturing	463	Plastics molding and forming
421 Nonferrous metal manufacturing	464	Metal molding and casting
422 Phosphate manufacturing *	465	Coil coating
423 Steam electric power	466	Porcelain enameling
424 Ferroalloy manufacturing *	467	Aluminum forming
425 Leather tanning and finishing	468	Copper forming *
426 Glass manufacturing *	469	Electrical & electronic component
427 Asbestos manufacturing	471	Nonferrous metal forming & powders
428 Rubber manufacturing		* some facilities in group do not have limits or standards, see 40 CFR subchapter N to verify.
429 Timber products processing		

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:

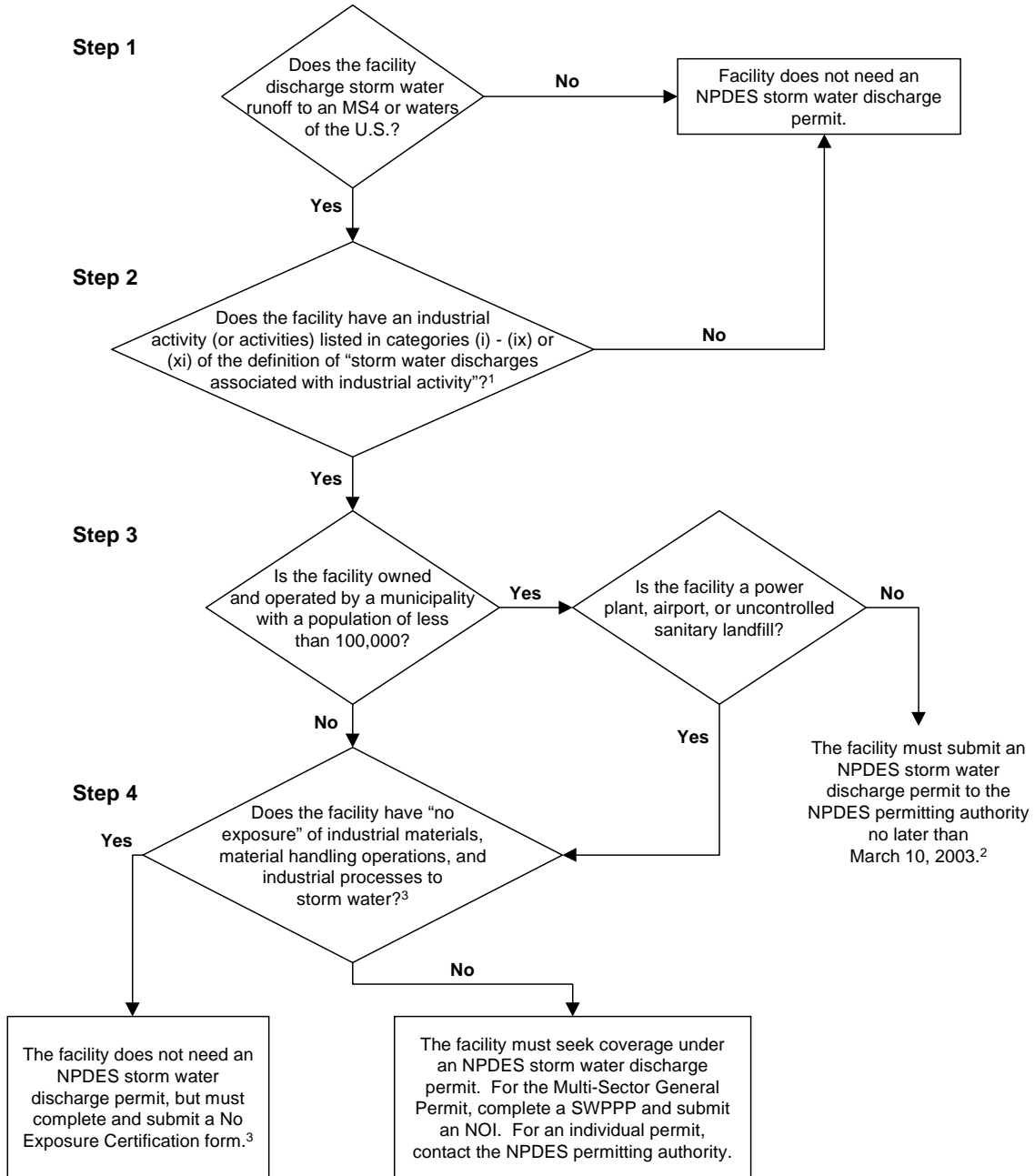
SIC Code

- 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: Operators of industrial facilities seeking more information about industrial Storm Water Pollution Prevention Plans (SWPPPs), Notices of Intent (NOI), the industrial No Exposure Certification, etc. can 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 each co-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.) Include all reports and specific information for each minimum measure as outlined in Parts IV.C.3.

- 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 co-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 co-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.