APPENDIX

Minnesota Pollution Control Agency

GENERAL PERMIT
AUTHORIZATION TO DISCHARGE STORM WATER
ASSOCIATED WITH MUNICIPAL SEPARATE STORM SEWER SYSTEMS
UNDER THE NATIONAL POLLUTANT DISCHARGE ELIMINATION
SYSTEM/STATE DISPOSAL SYSTEM PERMIT PROGRAM

EFFECTIVE DATE: June 1, 2006 **EXPIRATION DATE: May 31, 2011**

In compliance with the provisions of the Clean Water Act, as amended, (33 U.S.C. 1251 et seq.; hereinafter, the "**Act**"), 40 CFR 122, 123, and 124, as amended, et seq.; Minnesota Statutes Chapters 115 and 116, as amended, and Minnesota Rules Chapter 7001.

This permit establishes conditions for discharging **Storm Water** and specific other related discharges to **Waters of the State**. This permit is required for discharges that are from **Small Municipal Separate Storm Sewer Systems,** as defined in this permit.

Upon approval by the **Commissioner** applicants who submit a completed application in accordance with the requirements of this permit, are authorized to discharge **Storm Water** from **Small Municipal Separate Storm Sewer Systems,** under the terms and conditions of this permit.

Signature:

Sheryl A. Corrigan
Commissioner
Minnesota Pollution Control Agency

Issuance Date: 3/3/06

If **You** have questions on this permit, including the specific permit requirements, permit reporting or permit compliance status, please contact the appropriate Minnesota Pollution Control Agency offices.

Storm Water Management Unit
Storm Water Section
Municipal Division
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155-4194

Phone (651) 296-6300, or
Toll free in MN 800-657-3864
Fax (651) 297-2343

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PART I. PERMIT GOALS

The primary goal of this permit is to restore and maintain the chemical, physical, and biological integrity of **Waters of the State** through management and treatment of urban **Storm Water** runoff. This is accomplished by management of **Municipal Separate Storm Sewer Systems** through a **Storm Water Pollution Prevention Program.** The purpose is to maintain water quality standards where there is compliance, and help bring waters that do not meet water quality standards into compliance. It should be noted that when there is a discharge to waters where there are limitations on coverage (Part II.B), there may be more stringent requirements that must be addressed. **You** may also voluntarily adopt more stringent measures to meet local goals.

PART II. COVERAGE UNDER THIS PERMIT

A. Eligibility

This permit, including appendices, authorizes discharges of **Storm Water** from **Small Municipal Separate Storm Sewer Systems** as defined in 40 CFR § 122.26(b)(16).

B. Limitations on Coverage

1. This permit does not authorize discharges other than **Storm Water**. Non-**Storm Water** discharges may include: combined sewer overflow, noncontact cooling water, sewage, wash water, scrubber water, spills, oil, hazardous substances, fill, commercial equipment/vehicle cleaning and maintenance wastewaters. A separate National Pollutant Discharge Elimination System (NPDES) permit may be required for these discharges.

2. This permit does not authorize the discharge of **Storm Water** when a separate NPDES permit is required for these activities. For example, while **Storm Water** from industrial activity or construction activity may be discharged from a **MS4** with authorized **Storm Water** discharges, this permit does not replace or satisfy any other permits required for those discharges.

3. This permit does not authorize the discharge of **Storm Water** from any other entity located in the drainage area or outside the drainage area. Only your system and the portions of the storm sewer system that are under your operational control are authorized by your permit.

4. This permit does not authorize the following **discharges** as described in Appendix C unless the requirements of Part IX (Appendix C) are met:

    a. Discharges to waters with Prohibited Discharges as defined in Minn. R. 7050.0180, subp. 3, 4, and 5.

b. Discharges to waters with Restricted Discharge as defined in Minn. R. 7050.0180, subp. 6, 6a, and 6b.

c. Discharges to Trout Waters as defined in Minn. R. 6264.0050, subp. 2 and 4.

d. Discharges to **Wetlands** as defined in Minn. R. 7050.0130, subp. F (see also Minn. R. 7050.0186).

e. Discharges requiring Environmental Review required by Minn. Stat. ch. 116D and 42 U.S.C. §§ 4321 – 4370 f.

f. Discharges Affecting Threatened or Endangered Species or Their Habitat.

g. Discharges Affecting Historic or Archeological Sites.

h. Discharges Affecting Source Water Protection Areas.

5. This permit does not allow **discharges** if the requirements of Part X (Appendix D) and schedule of Part XI (Appendix E) are applicable, unless the **MS4** is in compliance with those appendices.

C. Obtaining Authorization

In order for **Storm Water** discharges from **Small Municipal Separate Storm Sewer Systems** to be authorized to discharge under this **General Permit**:

1. Submit an application with the **Storm Water Pollution Prevention Program You** intend to implement under this permit, in accordance with the requirements of Part III, using a form provided by the **Commissioner** (or a facsimile thereof).

2. Where the ownership or significant operational control of the **MS4** changes, after the submittal of an application under Part III, a new application must be submitted in accordance with Part III.

3. The **Commissioner** will review the application and **Storm Water Pollution Prevention Program** for completeness and compliance with this permit. The **Commissioner** shall determine whether to approve coverage or to deny coverage to dischargers who submit a complete application. In accordance with the procedures of this permit and requirements of Minn. R. ch. 7001, the **Commissioner** shall provide public notice with the opportunity for hearing on the determination. Upon approval by the **Commissioner**, dischargers are authorized to discharge **Storm Water** from **Small Municipal Separate Storm Sewer Systems** under the terms and conditions of this permit.

4. The **Commissioner** may deny coverage under this permit and require submittal of an application for an individual NPDES permit based on a review of the application or other information, in accordance with Minn. R. ch. 7000 and 7001.

PART III. APPLICATION REQUIREMENTS (Notice of Intent)

A. Deadlines for Application

If **You** are an **Owner** or **Operator** of a **Small Municipal Separate Storm Sewer System** regulated under 40 CFR § 122.32(a)(1), **You** must apply to obtain coverage under this permit within 90 days after the permit issuance date on page 1 of this permit. If **You** fail to make the application deadline, **You** are out of compliance and must submit an application. The **Owner** or **Operator** of an **MS4** that is not designated for coverage by federal rules, but has been designated under Minn. R. ch. 7090, must apply by the date specified in the **Commissioner's** designation documents.

B. Signature

The Application shall be signed in accordance with application forms provided by the **Commissioner** and shall include the following information:

1. The street address, county, and the **Owner** or **Person** with operational control of the **MS4** for which the notification is submitted; and

2. The name, address, and telephone number of the individual responsible for overall permit compliance.

C. Application Attachment: Storm Water Pollution Prevention Program

The proposed **Storm Water Pollution Prevention Program** for implementing the permit shall be attached to the application on forms provided by the **Commissioner** (or reasonable facsimiles), including:

1. The **Best Management Practices** or **BMPs** that **You** will implement for each of the **Storm Water** minimum control measures at Part V.G of this permit;

2. The measurable goals for each of the **BMPs**, including, as appropriate, the months and years in which **You** will undertake required actions, including interim milestones and the frequency of the action, in narrative or numeric form, as appropriate;

3. Estimated timeline(s) (months, years) in which **You** will implement each **BMP**; and

4. Individual(s) responsible for implementing and/or coordinating each component of the **Storm Water Pollution Prevention Program**. This should be the individual **You** want the **Agency** to contact for the particular component; it may be the overall coordinator or other individual.

D. Where to Submit

Applications signed in accordance with Part III.B of this permit, **Storm Water Pollution Prevention Programs** submitted under Part III.C, annual reports under Part VI.D, and submittals under Appendices C, D, and E, are to be submitted to the **Commissioner** at the following address:

Storm Water Management Unit
Storm Water Section
Municipal Division
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155-4194

Phone (651) 296-6300, or
Toll free in MN 800-657-3864
Fax (651) 297-2343

E. Record Retention

The applicant shall retain copies of the permit application, the **Storm Water Pollution Prevention Program,** all data and information used by the applicant to complete the application, and any information developed as a requirement of this permit or as requested by the **Commissioner**, for a period of at least three (3) years beyond the date of permit expiration. This period is automatically extended during the course of an unresolved enforcement action regarding the **MS4** or as requested by the **Commissioner**.

PART IV. RIGHTS AND RESPONSIBILITIES

A. The **Commissioner** may modify this permit or issue other permits, in accordance with Minn. R. ch. 7001, to include more stringent effluent limitations or permit requirements that modify or are in addition to the minimum control measures in Part V.G of this permit, or both. These modifications may be based on the **Commissioner**'s determination that such modifications are needed to protect water quality.

B. Additional **MS4s** may be designated for coverage under this permit in accordance with Minn. R. ch. 7090. The **Owner** or **Operator** of an **MS4** that is designated for coverage must comply with the permit requirements by the dates specified in the **Commissioner's** designation documents.

C. **You** may request individual permits based on Minn. R. ch. 7000, 7001, and other applicable rules.

D. Section 303(d) listings and **Total Maximum Daily Load (TMDL)**

If your **MS4** discharges to a **Water of the State** that appears on the current **USEPA** approved list of impaired waters under Section 303(d) of the Clean Water Act (33 U.S.C. § 303 (d)), **You** must review whether changes may be warranted in your **Storm Water Pollution Prevention Program** to **Reduce** the impact of your discharge. If a **USEPA**-approved **TMDL(s)** has been developed, **You** must review the adequacy of your **Storm Water Pollution Prevention Program** to meet the **TMDL's** Waste Load Allocation set for **Storm Water** sources. If the **Storm Water Pollution Prevention Program** is not meeting the applicable requirements, schedules and objectives of the **TMDL**, **You** must modify your **Storm Water Pollution Prevention Program**, as appropriate, within 18 months after the **TMDL** Waste Load Allocation is approved.

PART V. STORM WATER POLLUTION PREVENTION PROGRAM

A. **You** must develop, implement, and enforce a **Storm Water Pollution Prevention Program** designed to **Reduce** the discharge of pollutants from your **Small MS4**, to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act. Upon approval by the **Commissioner**, the **Storm Water Pollution Prevention Program** shall be implemented as specified in the permit or in the **Commissioner's** approval letter.

B. Your **Storm Water Pollution Prevention Program** must be designed and managed to **Reduce** the discharge of pollutants from your storm sewer system to the **Maximum Extent Practicable (MEP)**. **You** must manage your municipal storm sewer system in compliance with the Clean Water Act and with the terms and conditions of this permit. **You** must manage, operate, and maintain the storm sewer system and areas **You** control that discharge to the storm sewer system in a manner to **Reduce** the discharge of pollutants to the **MEP**. The **Storm Water Pollution Prevention Program** will consist of a combination of **Best Management Practices**, including education, maintenance, control techniques, system design and engineering methods, and such other provisions as **You** determined to be appropriate, as long as the **BMPs** meet the requirements of this permit.

C. **You** shall submit an annual report on the implementation of the **Storm Water Pollution Prevention Program** by June 30 of each year, or on another later date if established for your **MS4** by the **Commissioner**. The report shall cover the entire previous calendar year, in accordance with the reporting requirements of Part VI.D.

D. Your **Storm Water Pollution Prevention Program** must include **BMPs** that control or **Reduce** pollutants, as appropriate for your community. In the development of **BMPs** for your **Storm Water Pollution Prevention Program,**

You must consider the sources of pollutants, the potentially polluting activities being conducted in the watershed, and the sensitivity of the receiving waters. For **MS4s** that have discharges to waters listed in Part II.B.4, see Part IX (Appendix C) for additional requirements. For **MS4s** listed in Part XI (Appendix E), see Part X (Appendix D) for additional requirements.

E. For each minimum control measure, there shall be a description of the **BMPs** for this measure, responsible department in charge, an implementation schedule, including any request by **You** for consideration by the Commissioner of an extension or exemption from any deadlines and timelines set forth in this permit, and measurable goals that will be used to determine the success or benefits of the **BMPs**.

F. The **Storm Water Pollution Prevention Program** shall become an enforceable part of this permit upon approval by the **Commissioner**. Modifications to the **Storm Water Pollution Prevention Program** that are required or allowed by this permit (see Part V.H) shall also become enforceable provisions.

G. The six minimum control measures to be included in your **Storm Water Pollution Prevention Program** are listed below. **You** must define appropriate **BMPs** for these minimum control measures and measurable goals for each **BMP**. The **Storm Water Pollution Prevention Program** must include all **BMPs** required below, must include annual schedules or procedures for implementation, and, where appropriate, must be implemented or established in ordinance, plan or policy by June 30, 2010, unless other timelines have been specifically established in this permit Part V.G.1-6, or by the **Commissioner** under Part IV.B, or under other rules and authorities.

1. Public education and outreach on **Storm Water** impacts. **You** must select and implement a program of appropriate **BMPs** and measurable goals for this minimum control measure consisting of, at minimum:

    a. **You** 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 the steps that the public can take to **Reduce** pollutants in **Storm Water** runoff.

    b. **You** must specifically implement an education program that individually addresses each minimum control measure (Part V.G.1-6):

        1) Public education and outreach;
        2) Public 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.

c. For each control measure, your education program must identify:

1) The audience or audiences involved;
2) Educational goals for each audience in terms of increased awareness, increased understanding, acquired skills, and/or desired changes in behavior;
3) Activities used to reach educational goals for each audience;
4) Activity implementation plans, including responsible department in charge, entities responsible for given activities, and schedules; and
5) Available performance measures that can be used to determine success in reaching educational goals.

d. **You** must describe how your education program is coordinated with and makes effective use of other **Storm Water** education programs being conducted in your area by other entities as appropriate for your **MS4**, including, but not limited to: community groups, nonprofit organizations, lake conservation districts, soil and water conservation districts, watershed districts, watershed management organizations, school districts, University of Minnesota Extension, and county, regional, state, and federal government.

e. **You** must hold at least one public meeting per year addressing the **Storm Water Pollution Prevention Program**. **You** must hold the public meeting prior to submittal to the **Commissioner** of the annual report required in Part VI.D.

1) Location. The public informational meeting must be held in the general vicinity of the **MS4** that is the subject of the permit. Otherwise, the public informational meeting must be held in a place that is generally convenient to **Persons** expected to attend the meeting.
2) Notice. **You** must issue a notice of the public informational meeting at least 30 days prior to the meeting. The notice must contain a reference to the **Storm Water Pollution Prevention Program**, the date, time, and location of the public informational meeting; a concise description of the manner in which the public informational meeting will be conducted; and shall indicate the location where a copy of the **Storm Water Pollution Prevention Program** is available for public review.
3) Distribution of notice. **You** must publish the notice in a **Newspaper** of general circulation in the general vicinity of the

MS4, and shall make available a copy of the notice to the **Agency**, the appropriate city and county officials, and all other **Persons** who have requested that they be informed of public meetings for the **Storm Water Pollution Prevention Program**.

4) Joint meetings. **You** may consolidate two or more matters, issues, or related groups of issues, or hold joint **MS4** public meetings with other permittees to meet the requirements of this part. These public meetings may be part of a larger public meeting, such as a city council meeting, provided that adequate public notice and opportunity to participate is provided.

2. Public participation/involvement. **You** must select and implement a program of appropriate **BMPs** and measurable goals for this minimum control measure consisting of, at minimum:

   a. **You** must comply with applicable public notice requirements of Part V.G.1.e.2 when implementing the provisions of the **Storm Water Pollution Prevention Program**.

   b. **You** must solicit public input and opinion on the adequacy of the **Storm Water Pollution Prevention Program**, including input from the public meeting, described in Part V.G.1.e, each year prior to submittal of the annual report to the **Commissioner**, which is described in Part VI.D.

      1) **You** must afford interested **Persons** a reasonable opportunity to make oral statements concerning the **Storm Water Pollution Prevention Program**.
      2) **You** must consider timely, relevant written materials that interested **Persons** submit concerning the **Storm Water Pollution Prevention Program**.
      3) **You** may establish procedures and processes for each speaker's presentation, require speakers with similar views to select a spokesperson, specify the timing and format of written materials, or make similar rules to help ensure an opportunity for full and fair consideration of all views.

   c. **You** must consider the public input, oral and written, to the **Storm Water Pollution Prevention Program** and shall make adjustments **You** find appropriate.

3. Illicit discharge detection and elimination. **You** must develop, implement, and enforce a program to detect and eliminate illicit discharges as defined at 40 CFR § 122.26(b)(2) into your **Small MS4**. **You** must also select and implement a program of appropriate **BMPs** and measurable goals for this minimum control measure consisting of, at minimum:

a. **You** must develop, if not already completed, a storm sewer system map by June 30, 2008, or on another date established by the **Commissioner**, showing the location of:

1) Ponds, streams, lakes and **Wetlands** that are part of your system;
2) Structural pollution control devices (grit chambers, separators, etc.) that are part of your system;
3) All pipes and conveyances in your system as a goal, but at minimum, those pipes that are 24 inches in diameter and over; and
4) **Outfalls**, including discharges from your system to other **MS4s**, or waters and **Wetlands** that are not part of your system (where **You** do not have operational control); structures that discharge storm water directly into groundwater; overland discharge points and all other points of discharge from your system that are outlets, but not diffuse flow areas.

b. **You** must, to the extent allowable under law, effectively prohibit, through ordinance or **Other Regulatory Mechanism**, non-**Storm Water** discharges into your storm sewer system and implement appropriate enforcement procedures and actions.

c. **You** must develop and implement a program to detect and address non-**Storm Water** discharges, including illegal dumping, to your system.

d. **You** must inform employees, businesses, and the general public in your **MS4** area of hazards associated with illegal discharges and improper disposal of waste.

e. **You** must address the following categories of non-**Storm Water** discharges or flows (i.e., illicit discharges), <u>only</u> if **You** identify them as significant contributors of pollutants to your **Small MS4**:

water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (as defined at 40 CFR § 35.2005(b)(20)), uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and **Wetlands**, dechlorinated swimming pool discharges, and street wash water, discharges or flows from fire fighting activities.

4. Construction site **Storm Water** runoff control. Within six months after extension of coverage under this permit, **You** must have developed and must have commenced to implement and enforce a program to **Reduce** pollutants in any **Storm Water** runoff to your **Small MS4** from construction activities

within your jurisdiction that result in a land disturbance of greater than or equal to one acre. Controls on **Storm Water** discharges from construction activity disturbing less than one acre must be included in your program, if that construction activity is part of a larger **Common Plan of Development or Sale** that would disturb one acre or more. **You** must also select and implement a program of appropriate **BMPs** and measurable goals for this minimum control measure consisting of, at minimum:

a. An ordinance or **Other Regulatory Mechanism** to require erosion and sediment controls, as well as sanctions to ensure compliance, to the extent allowable under law;

b. Requirements for construction site operators to implement appropriate erosion and sediment control **Best Management Practices**;

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

d. Procedures for site plan review which incorporate consideration of potential water quality impacts;

e. Procedures for receipt and consideration of reports of noncompliance or other information on construction related issues submitted by the public; and

f. Procedures for site inspection and enforcement of control measures.

5. Post-construction **Storm Water** management in **New Development** and **Redevelopment**. **You** must develop, implement, and enforce a program to address **Storm Water** runoff from **New Development** and **Redevelopment** projects within your jurisdiction that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger **Common Plan of Development or Sale** that discharge into your **Small MS4** by June 30, 2008, or on another date established by the **Commissioner**. Your program must ensure that controls are in place that would prevent or **Reduce** water quality impacts. **You** must also select and implement a program of appropriate **BMPs** and measurable goals for this minimum control measure consisting of, at minimum:

a. Develop and implement strategies which include a combination of structural and/or non-structural **BMPs** appropriate for your community;

b. Use an ordinance or **Other Regulatory Mechanism** to address post-construction runoff from **New Development** and **Redevelopment** projects to the extent allowable under law; and

c. Ensure adequate long-term operation and maintenance of **BMPs** installed as a result of these requirements.

6. Pollution prevention/good housekeeping for municipal operations. **You** must select and implement a program of appropriate **BMPs** and measurable goals for this minimum control measure consisting of, at minimum:

a. An operation and maintenance program that includes a training component and has the ultimate goal of preventing or **Reducing** pollutant runoff from **MS4** operations. Training materials that are available from the **USEPA**, state and regional agencies, or other organizations may be used as appropriate or modified for your community. Your program must include employee training to prevent and **Reduce Storm Water** pollution from activities such as park and open space maintenance, fleet and building maintenance, new construction and land disturbances, and **Storm Water** system maintenance.

b. **You** must also:

1) Operate and maintain your **Storm Water** system in a manner so as to **Reduce** the discharge of pollutants to the **Maximum Extent Practicable**.
2) Inspect annually all structural pollution control devices, such as trap manholes, grit chambers, sumps, floatable skimmers and traps, separators, and other small settling or filtering devices.
3) Inspect, at minimum, 20% of the **MS4 Outfalls**, sediment basins and ponds each year on a rotating basis, during the effective period of this permit.
4) Inspect all exposed stockpile, storage and material handling areas at least annually.
5) Based on your inspection, determine if repair, replacement, or maintenance measures are necessary for proper operation and to prevent environmental impacts such as erosion. The necessary measures shall be completed as soon as possible, usually during the same year as the inspection. When this is not practicable, the reasons and a schedule for completion shall be submitted in the annual report.
6) Summarize the results of all inspections in the annual report. Keep records on the dates of inspection and responses to the inspections, including the date of completion of repairs and major additional protection measures.

7) Keep records of inspection results, including as appropriate, the date, antecedent weather conditions, sediment storage and capacity remaining, and any maintenance performed or recommended. After two years of inspections, if patterns of maintenance become apparent, the frequency of inspections may be adjusted. If maintenance or sediment removal is required as a result of each of the first two annual inspections, the frequency of inspection shall be increased to at least two (2) times annually, or more frequently as needed to prevent carry-over or washout of pollutants from the structures and maximize pollutant removal. If maintenance or sediment removal is not required as a result of both of the first two (2) annual inspections, the frequency may be reduced to once every two (2) years.

H. Modifications to the Storm Water Pollution Prevention Program

1. The **Commissioner** may require **You** to modify the **Storm Water Pollution Prevention Program** as needed, in accordance with the procedures of Minn. R. ch. 7001, and may consider the following factors:

   a. Discharges from the storm sewer system are impacting the quality of receiving waters;

   b. More stringent requirements are necessary to comply with state or federal regulations;

   c. Measures are necessary to meet the applicable requirements of Appendices C and D, or

   d. Additional conditions are deemed necessary to comply with the goals and requirements of the Clean Water Act or water quality standards.

2. Modifications that **You** wish to make in your **Storm Water Pollution Prevention Program**, other than modifications allowed in Part H.3 below, must be approved by the **Commissioner** in accordance with the procedures of Minn. R. ch. 7001. All requests must be in writing, setting forth schedules for compliance. The request should discuss alternative program modifications, assure compliance with requirements of the permit, and meet other requirements of the permit and applicable laws.

3. The **Storm Water Pollution Prevention Program** may only be modified by **You** without prior approval of the **Commissioner**, provided it is in accordance with the following:

   a. A **BMP** is added, and none subtracted, from the **Storm Water Pollution Prevention Program**; or

b. A less effective **BMP** identified in the **Storm Water Pollution Prevention Program** is replaced with a more effective **BMP**. The alternate **BMP** shall address the same, or similar, concerns as the ineffective or failed **BMP**; and

c. The **Commissioner** is notified of the modification in the annual report for the year the modification is made.

PART VI. EVALUATING, RECORDKEEPING AND REPORTING

A. Evaluation and Assessment

For each annual report, **You** must evaluate program compliance, the appropriateness of your identified **Best Management Practices**, and progress towards achieving your identified measurable goals.

B. Recordkeeping

You must keep records required by the NPDES permit for at least three (3) years beyond the term of the permit. **You** must submit your records to the **Commissioner** only if specifically asked to do so.

C. Public Availability

You must make your records, including your **Storm Water Pollution Prevention Program**, available to the public at reasonable times during regular business hours (see 40 CFR § 122.7 for confidentiality provision). **You** may assess a reasonable charge for copying. **You** may require a member of the public to provide advance notice.

D. Annual Reporting

You must submit annual reports to the **MPCA** by June 30 of each year. The report must cover the entire previous calendar year. Your annual report must summarize:

1. The status of compliance with permit conditions, including an assessment of the appropriateness of your identified **Best Management Practices** and progress towards achieving your identified measurable goals for each of the minimum control measures. Your assessment must be based on results of information collected and analyzed, including monitoring (if any), inspection findings, and public input received during the reporting period;

2. The **Storm Water** activities **You** plan to undertake during the next reporting cycle;

3. A change in any identified **Best Management Practices** or measurable goals for any of the minimum control measures; and

4. A statement that **You** are relying on another entity to satisfy some of your permit obligations (if applicable), and what agreements **You** have entered into in support of this effort.

E. Reporting Submittals

The applications, annual reports, **Storm Water Pollution Prevention Program**, and other submittals required by this permit shall be submitted to:

Storm Water Management Unit
Storm Water Section
Municipal Division
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155-4194

PART VII. APPENDIX A: STANDARD CONDITIONS

A. The **Agency's** issuance of a permit does not release the permittee from any liability, penalty, or duty imposed by Minnesota or federal statutes or rules or local ordinances, except the obligation to obtain the permit.

B. The **Agency's** issuance of a permit does not prevent the future adoption by the **Agency** of pollution control rules, standards, or orders more stringent than those now in existence and does not prevent the enforcement of these rules, standards, or orders against the permittee.

C. The permit does not convey a property right or an exclusive privilege.

D. The **Agency's** issuance of a permit does not obligate the **Agency** to enforce local laws, rules, or plans beyond that authorized by Minnesota statutes.

E. The permittee shall perform the actions or conduct the activity authorized by the permit in accordance with the plans and specifications approved by the **Agency** and in compliance with the conditions of the permit.

F. The permittee shall at all times properly operate and maintain the facilities and systems of treatment and control and the appurtenances related to them which are installed or used by the permittee to achieve compliance with the conditions of the permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. The permittee shall install and maintain appropriate backup or auxiliary facilities if they are necessary to achieve compliance with the conditions of the permit and, for all permits other than hazardous waste facility permits, if these backup or auxiliary facilities are technically and economically feasible.

G. The permittee may not knowingly make a false or misleading statement, representation, or certification in a record, report, plan, or other document required to be submitted to the **Agency** or to the **Commissioner** by the permit. The permittee shall immediately upon discovery report to the **Commissioner** an error or omission in these records, reports, plans, or other documents.

H. The permittee shall, when requested by the **Commissioner**, submit within a reasonable time the information and reports that are relevant to the control of pollution regarding the construction, modification, or operation of the facility covered by the permit or regarding the conduct of the activity covered by the permit.

I. When authorized by Minn. Stat. §§ 115.04; 115B.17, subd. 4; and 116.091, and upon presentation of proper credentials, the **Agency**, or an authorized employee or agent of the **Agency**, shall be allowed by the permittee to enter at reasonable times

upon the property of the permittee to examine and copy books, papers, records, or memoranda pertaining to the construction, modification, or operation of the facility covered by the permit or pertaining to the activity covered by the permit; and to conduct surveys and investigations, including sampling or monitoring, pertaining to the construction, modification, or operation of the facility covered by the permit or pertaining to the activity covered by the permit.

J. If the permittee discovers, through any means, including notification by the **Agency**, that noncompliance with a condition of the permit has occurred, the permittee shall take all reasonable steps to minimize the adverse impacts on human health, public drinking water supplies, or the environment resulting from the noncompliance.

K. If the permittee discovers that noncompliance with a condition of the permit has occurred which could endanger human health, public drinking water supplies, or the environment, the permittee shall, within 24 hours of the discovery of the noncompliance, orally notify the **Commissioner**. Within five days of the discovery of the noncompliance, the permittee shall submit to the **Commissioner** a written description of the noncompliance; the cause of the noncompliance; the exact dates of the period of the noncompliance; if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

L. The permittee shall report noncompliance with the permit not reported under item K as a part of the next report, which the permittee is required to submit under this permit. If no reports are required within 30 days of the discovery of the noncompliance, the permittee shall submit the information listed in item K within 30 days of the discovery of the noncompliance.

M. The permittee shall give advance notice to the **Commissioner** as soon as possible of planned physical alterations or additions to the permitted facility (**MS4**) or activity that may result in noncompliance with a Minnesota or federal pollution control statute or rule or a condition of the permit.

N. The permit is not transferable to any **Person** without the express written approval of the **Agency** after compliance with the requirements of Minn. R. 7001.0190. A **Person** to whom the permit has been transferred shall comply with the conditions of the permit.

O. The permit authorizes the permittee to perform the activities described in the permit under the conditions of the permit. In issuing the permit, the state and **Agency** assume no responsibility for damage to **Persons**, property, or the environment caused by the activities of the permittee in the conduct of its actions, including those activities authorized, directed, or undertaken under the permit. To the extent the state and **Agency** may be liable for the activities of its employees, that liability is explicitly limited to that provided in the Tort Claims Act, Minn. Stat. § 3.736.

P. This permit incorporates by reference the applicable portions of 40 CFR §§ 122.41 and 122.42 parts (c) and (d) and Minn. R. 7001.1090, which are enforceable parts of this permit.

PART VIII. APPENDIX B: DEFINITIONS

The definitions in this Part are for purposes of this permit only.

"Agency" or **"Agency members"** means the **Commissioner** and the eight persons appointed to the Minnesota Pollution Control Agency, pursuant to Minn. Stat. § 116.02, subd. 1.

"Best Management Practices" or **"BMPs"** means practices to prevent or **Reduce** the pollution of the **Waters of the State**, including schedules of activities, prohibitions of practices, and other management practices, and also includes treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge, or waste disposal or drainage from raw material storage.

"Commissioner" means the **Commissioner** of the Minnesota Pollution Control Agency or the **Commissioner's** designee.

"Common Plan Of Development Or Sale" means a contiguous area where multiple separate and distinct construction activities are planned to occur at different times on different schedules under one plan, for example, a housing development of five one-quarter-acre lots (40 CFR § 122.26(b)(15)(i)).

"Designated MS4" means an MS4 designated in accordance with Minn. R. ch. 7090.

"EPA" means the U.S. Environmental Protection Agency.

"Expanded Discharge" means a discharge that changes in volume, quality, location, or any other manner after January 1, 1988 or the effective date an outstanding resource value water was designated as described in Minn. R. 7050.0460 and 7050.0470, such that an increased loading of one or more pollutants results. In determining whether an increased loading of one or more pollutants would result from the proposed change in the discharge, the **Agency** shall compare the loading that would result from the proposed discharge with the loading allowed by the **Agency** as of January 1, 1988 or the effective date of outstanding resource value water designation. This definition does not apply to the discharge of bioaccumulative chemicals of concern, as defined in Minn. R. 7052.0010, subp. 4, to outstanding resource value waters in the Lake Superior Basin. For purposes of Minn. R. 7050.0180, an expanded discharge of a bioaccumulative chemical of concern to an outstanding resource value water in the Lake Superior Basin is defined in Minn. R. 7052.0010, subp. 18.

"General Permit" means a permit issued under Minn. R. 7001.0210 to a category of permittees whose operations, emissions, activities, discharges, or facilities are the same or substantially similar.

"Maximum Extent Practicable" "MEP" is the statutory standard (33 U.S.C. § 1342(p)(3)(B)(iii)) that establishes the level of pollutant reductions that an **Owner** or

Operator of **Regulated MS4s** must achieve. The **USEPA** has intentionally not provided a precise definition of **MEP** to allow maximum flexibility in **MS4** permitting. The pollutant reductions that represent **MEP** may be different for each **Small MS4**, given the unique local hydrologic and geologic concerns that may exist and the differing possible pollutant control strategies. Therefore, each permittee will determine appropriate **BMPs** to satisfy each of the six minimum control measures through an evaluative process. The **USEPA** envisions application of the **MEP** standard as an iterative process.

"MPCA" means the Minnesota Pollution Control Agency.

"MS4" means a **Municipal Separate Storm Sewer System**.

"Municipal Separate Storm Sewer System" means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

1. Owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, **Storm Water**, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management Agency under section 208 of the CWA (33 U.S.C. § 1288) that discharges to waters of the United States;

2. Designed or used for collecting or conveying **Storm Water**;

3. Which is not a combined sewer; and

4. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR § 122.2.

"New Development" means construction activities that create new impervious surface.

"New Discharge" For all waters that are not outstanding resource value waters **New Discharge** means a discharge that was not in existence before January 1, 1988. For outstanding resource value waters **New Discharge** means a discharge that was not in existence on the effective date the outstanding resource value water was designated as described in Minn. R. 7050.0460 and 7050.0470.

"Newspaper" means a publication containing news of general interest in the vicinity of the **MS4**. It can include other publications if the distribution includes the general population of potentially interested parties.

"Notice of Intent" as referenced in the **USEPA** documents is synonymous with the term "permit application" for the purposes of this permit.

"Other Regulatory Mechanism" means any legally enforceable document, such as a contract or other agreement that has penalties such as withholding payments, fines or other measures to prevent non compliance.

"Operator" means the **Person** with primary operational control and legal responsibility for the **Municipal Separate Storm Sewer System**.

"Outfall" means the point source where a **Municipal Separate Storm Sewer System** discharges from a pipe, ditch, or other discrete conveyance to receiving waters, or to other **Municipal Separate Storm Sewer Systems**. It does not include diffuse runoff or conveyances which connect segments of the same stream or water systems.

"Owner" means the **Person** that owns the **Municipal Separate Storm Sewer System**.

"Person" means the state or any agency or institution thereof, any municipality, governmental subdivision, public or private corporation, individual, partnership, or other entity, including, but not limited to, association, commission or any interstate body, and includes any officer or governing or managing body of any municipality, governmental subdivision, or public or private corporation, or other entity.

"Physical Alteration" except as used in Part VII.M, means the dredging, filling, draining, or permanent inundating of a **Wetland**. Restoring a degraded **Wetland** by reestablishing its hydrology is not a **Physical Alteration**.

"Rebuttable Presumption" is a presumption that may be rebutted by the evidence.

"Record of Decision" means a record of the comments and the permittee's response to comments where such record is required in this permit.

"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 equal to or greater than one (1) acre of land. The term is not intended to include such activities as exterior remodeling, which would not be expected to cause adverse **Storm Water** quality impacts and offer no new opportunity for **Storm Water** controls.

"Reduce" means **Reduce** to the "**Maximum Extent Practicable**" unless otherwise defined in the context in which it is used.

"Regulated MS4" means an **MS4** that is regulated pursuant to 40 CFR § 122.32(a)(1), or an **MS4s** that is designated for coverage by the **Commissioner**.

"Selected MS4" means **MS4s** listed in Part XI (Appendix E).

"Small Municipal Separate Storm Sewer System" means all separate storm sewers that are:

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

2. Not defined as "large" or "medium" **Municipal Separate Storm Sewer Systems** pursuant to 40 CFR §122.26 paragraphs (b)(4) and (b)(7) or designated under paragraph (a)(1)(v).

3. This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.

"Small MS4" means a **Small Municipal Separate Storm Sewer System**.

"Storm Water" means **Storm Water** runoff, snowmelt runoff, surface runoff and drainage.

"Storm Water Pollution Prevention Program" or **"SWPPP"** is a compilation of **BMPs** to address the six minimum control measures and other provisions of the **MS4** permit, that is designed and managed to **Reduce** the discharge of pollutants from your **MS4** to the **Maximum Extent Practicable** as appropriate to your community.

"Total Maximum Daily Load" or **"TMDL"** is the process established by the **USEPA** for the allocation of pollutant loads, including **Storm Water**, to a particular water body or reach of a water body.

"USEPA" or **"EPA"** means the U.S. Environmental Protection Agency.

"Waters of the State" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

"Wetlands" are those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. **Wetlands** generally include swamps, marshes, bogs, and similar areas. Constructed **Wetlands** designed for wastewater treatment are not **Waters of the State**. **Wetlands** must have the following attributes:

1. A predominance of hydric soils;

2. Inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in a saturated soil condition; and

3. Under normal circumstances support a prevalence of such vegetation.

"You" means the **Owner**, **Operator** or permittee as appropriate.

PART IX. APPENDIX C: LIMITATIONS ON COVERAGE

Contents of Appendix C:

A. ***Discharges to Waters With Prohibited Discharges*** *(pages 25-26)*

B. ***Discharges to Waters With Restricted Discharges*** *(pages 26-28)*

C. ***Discharges to Trout Waters*** *(page 28)*

D. ***Discharges to Wetlands*** *(page 28)*

E. ***Discharges Requiring Environmental Review*** *(page 28)*

F. ***Discharges Affecting Threatened or Endangered Species or Their Habitat*** *(page 29)*

G. ***Discharges Affecting Historic or Archeological Sites*** *(page 29)*

H. ***Discharges Affecting Source Water Protection Areas*** *(page 29)*

This part describes more stringent requirements for discharges that meet the following specified criteria, A through H. Whenever two or more requirements, restrictions, or prohibitions apply, both or all must be met. Whenever two or more requirements, restrictions or prohibitions conflict, the more restrictive conditions must be met.

A. Discharges to Waters with Prohibited Discharges *(Minn. R. 7050.0180, subp. 3, 4 and 5)*. This permit does not authorize **New or Expanded Discharges** to waters, or discharges adversely impacting waters, where the applicable water quality standards prohibit **New or Expanded Discharges** as described in Minn. R. 7050.0180, subp. 3, 4, and 5 unless the following requirements are met:

1. **List. You** must identify as part of your application for permit the Waters with Prohibited Discharges to which your **MS4** discharges. The list must be included with your application, to be submitted within 90 days after the permit effective date on page 1 of this permit or for **Designated MS4s** in accordance with Part IV.B.

2. **Map. You** must mark on U.S.G.S. watershed or topographic maps of 1:24,000 scale or better at minimum the DNR minor subwatersheds in your jurisdiction that discharge in whole or in part to Waters with Prohibited Discharges. **You** must provide a narrative estimate of the percent impervious surface based on current land use, the percent expected future impervious surface based on zoning or comprehensive plans, and other information that may significantly affect your runoff to the listed waters. The map must be included with your application, to be submitted within 90 days after the permit

effective date on page 1 of this permit or for **Designated MS4s** in accordance with Part IV.B.

3. **Assessment. You** must then assess how your **Storm Water Pollution Prevention Program** can be reasonably modified to eliminate **New or Expanded Discharges** to Waters with Prohibited Discharges. This assessment must be developed for **New or Expanded Discharges** created from 1988 until the year 2020. **You** must present this assessment, together with your proposed changes to your **Storm Water Pollution Prevention Program,** for public comment during the annual public comment period required in the permit, prior to your first annual report (see Part VI.D) or prior to the schedule in Appendix E for **Selected MS4s**.

4. **Assessment Submittal**. **You** must submit the assessment from Part IX.A.3 above, including your response to any public comments and proposed changes to your **Storm Water Pollution Prevention Program,** (a) with your first annual report, (b) on another later date if established for your **MS4** by the **Commssioner**, or (c) in accordance with the schedule in Appendix E for **Selected MS4s**. The assessment will be reviewed by the **Commissioner**, who will provide opportunity for public input and hearing prior to denial or approval of your proposed **Storm Water Pollution Prevention Program**. The **MPCA** reserves the right to incorporate as much available information as possible in the decision making process, including the right to independently develop and evaluate potential alternatives to the discharge.

5. **Implementation. You** must implement your approved plan, including all approved **BMPs**, in accordance with the schedule in the approved **Storm Water Pollution Prevention Program**.

B. Discharges to Waters with Restricted Discharges *(Minn. R. 7050.0180, subp.6, 6a, and 6b)*. This permit does not authorize **New or Expanded Discharges** to waters where the applicable water quality standards restrict **New or Expanded Discharges**, unless such discharges are in accordance with Minn. R. 7050.0180, subpart 6, 6a, and 6b, and other applicable rules, and the following requirements. For **MS4s** that have discharges to outstanding resource value waters listed in Minn. R. 7050.0180, subp. 6, 6a or 6b (listed waters, or Waters with Restricted Discharges), the **MPCA** makes a **Rebuttable Presumption** that those **MS4s** have or will create a **New or Expanded Discharge** to a listed water. The following requirements create a schedule to bring discharges to listed waters into compliance:

1. In order to allow a **New or Expanded Discharge** to Waters with Restricted Discharges, the **MPCA** must determine that there are no prudent and feasible alternatives to the **New or Expanded Discharge**. The determination will be based on your demonstration. This demonstration should include, but is not limited to developing a plan to address prudent and feasible alternatives to the discharge. If **You** intend to argue that there are no prudent and feasible

alternatives to the discharge to these waters, **You** must develop a plan to restrict the discharge to the extent necessary to preserve the existing high quality, or to preserve the wilderness, scientific, recreational, or other special characteristics that make the listed water an outstanding resource value water.

2. Here are the specific actions **You** must take:

   a. **List. You** must identify as part of your application for permit the waters with restricted discharges to which your **MS4** discharges. The list must be included with your application, to be submitted within 90 days after the permit effective date on page 1 of this permit or for **Designated MS4s** in accordance with Part IV.B.

   b. **Map. You** must mark on U.S.G.S. watershed or topographic maps of 1:24,000 scale or better at minimum the DNR minor subwatersheds in your jurisdiction that discharge in whole or in part to waters with restricted discharges. **You** must provide a narrative estimate of the percent impervious surface based on current land use, the percent of future expected impervious surface based on zoning or comprehensive plans, and other information that may significantly affect your runoff to the listed waters. **You** must submit this map with your application within 90 days after the permit effective date on page 1 of this permit or other later date if established by the **Commissioner.**

   c. **Assessment. You** must then assess how your **Storm Water Pollution Prevention Program** can be reasonably altered to eliminate **New or Expanded Discharges** to waters with restricted discharges. This assessment must be developed for **New or Expanded Discharges** produced from 1988 until the year 2020. Where **You** intend to argue that there are no prudent and feasible alternatives **to New or Expanded Discharges** to these waters, **You** must propose measures **You** will implement to restrict the discharge to the extent necessary to preserve the existing high quality, or to preserve the wilderness, scientific, recreational, or other special characteristics that make the listed waters outstanding resource value waters. Measures that can be proposed include ordinances and zoning changes or other **BMPs. You** must present this assessment, together with your proposed changes to your **Storm Water Pollution Prevention Program,** for public comment during the annual public comment period required in the permit, prior to your first annual report (see Part VI.D) or prior to the schedule in Appendix E for **Selected MS4s.**

   d. **Assessment Submittal**. **You** must submit the assessment from Part IX.B.2.c above, and your response to any public comments, with your plan and proposed changes to your **Storm Water Pollution Prevention Program** and submit it with your first annual report, or on another later date if established for your **MS4** by the **Commissioner,** or according to the schedule in Appendix E for **Selected MS4s**. The plan and proposed changes to the **Storm Water Pollution Prevention Program** will be reviewed by the **Commissioner**, who will provide opportunity for public input and hearing pursuant to Minn. R. ch. 7001 prior to denial or approval of your proposed **Storm Water Pollution Prevention**

Program modifications. The **MPCA** reserves the right to incorporate as much available information as possible in the decision making process, including the right to independently develop and evaluate potential prudent and feasible alternatives to the discharge.

e. **Implementation. You** must implement your approved **Storm Water Pollution Prevention Program**, including all **BMP**s in accordance with the schedule described in the approved **Storm Water Pollution Prevention Program**.

C. Discharges Adversely Impacting Trout Waters *(Minn. R. 6264.0050 subp. 2 and 4)*. The following requirements apply to Trout Waters listed in Minn. R. 6264.0050, subp. 2 and 4:

1. This permit does not authorize **New or Expanded Discharges** adversely impacting Trout Waters unless, at minimum, **You** establish administrative procedures or other measures to assure that **You** make the following determinations and document the basis for your decision:

   a. That there is no feasible and prudent alternative to the proposed discharge; and

   b. All prudent and feasible measures needed to avoid or **Reduce** impacts to Trout Waters, and to preserve the existing high quality of the water will be implemented (see Part IX.C.2 below).

2. If the discharge cannot be avoided, **You** must consider measures to protect water quality and prevent temperature increases. Acceptable measures include reduce the impervious surfaces, diversion away from the stream and use of filter strips, infiltration, biofiltration, or enhanced grass swales to treat runoff before discharge to the Trout Water. Innovative alternatives to ponds are specifically encouraged for Trout Water discharges if they provide equivalent treatment.

D. Discharges to Wetlands *(Minn. R. 7050.0130, subp. F; also 7050.0186)*. This permit does not authorize **Physical Alterations** to **Wetlands**, or other discharge adversely affecting **Wetlands**, if the alteration will have a significant adverse impact to the designated uses of a **Wetland**. Any **Physical Alterations** to **Wetlands** that will cause a potential for a significant adverse impact to a designated use must be implemented in accordance with the avoidance, minimization and mitigation requirements of Minn. R. 7050.0186 and other applicable rules.

E. Discharges Requiring Environmental Review *(Minn. Stat. ch. 116D, and 42 U.S.C. §§ 4321 – 4370 f)*. This permit does not replace or satisfy any environmental review requirements, including those under the Minnesota Environmental Policy Act (Minn. Stat. ch. 116D), the National Environmental Policy Act (42 U.S.C. §§ 4321 – 4370 f), and rules implementing those laws. Any environmental review required of **You** by law, including preparation of environmental review documents such as environmental assessment worksheets, environmental impact statements, or environmental assessments, must be completed in accordance with those requirements.

F. Discharges Affecting Threatened or Endangered Species. This permit does not replace or satisfy any review requirements for Threatened or Endangered Species, from discharges whose direct, indirect, interrelated, interconnected, or independent impacts would jeopardize a listed Threatened or Endangered Species or adversely modify a designated critical habitat. For any project resulting in a discharge having the potential to adversely impact Threatened or Endangered species, or their critical habitat, **You** must conduct your required review and coordination with appropriate agencies in accordance with those requirements.

G. Discharges Affecting Historic or Archeological Sites. This permit does not replace or satisfy any review requirements for Historic or Archeological Sites from discharges which adversely affect properties listed or eligible for listing in the National Register of Historic Places or adversely affecting known or discovered archeological sites. For any project resulting in a discharge having the potential to adversely impact Historic or Archeological Sites, including significant anthropological sites and any burial sites, **You** must conduct your required review and coordination with the Minnesota State Historic Preservation Officer or other appropriate agencies in accordance with those requirements.

H. Discharges Affecting Source Water Protection Areas *(Minn. R. 4720.5100 – 4720.5590).* **You** shall incorporate **BMPs** into your **Storm Water Pollution Prevention Program** to protect any of the following drinking water sources that your **MS4** discharge may affect, and **You** shall include the map of these sources with the **Storm Water Pollution Prevention Program** if they have been mapped:

1. Wells and source waters for drinking water supply management areas identified as vulnerable under Minn. R. 4720.5205, 4720.5210, and 4720.5330, and

2. Source water protection areas for surface intakes identified in the source water assessments conducted by or for the Minnesota Department of Health under the federal Safe Drinking Water Act, U.S.C. §§ 300j – 13.

PART X. APPENDIX D: NONDEGRADATION FOR SELECTED MS4s

The requirements of this section apply only to **MS4s** called **Selected MS4s** as described in Part XI (Appendix E). Certain **MS4s** have been selected to perform the requirements of this part because their size and growth may be closely correlated with increased **Storm Water** flows and pollutant loading. Nondegradation review applies to all significant **New or Expanded Discharges** to all waters but does not negate the applicable requirements for outstanding resource value waters, requirements for special classes of waters, other requirements in Appendix C or the general requirements of the permit.

A. Selected MS4s

The basic requirement for all **MS4s** regulated under this permit is to develop a **Storm Water Pollution Prevention Program** that meets the requirements of the permit. An additional process is required of a limited number of permittees (30) that are listed in Appendix E. These **Selected MS4s** must submit to the **Commissioner** information described below to determine whether additional control measures beyond those of the permit Parts I through IX can be reasonably taken to minimize the impacts of the discharges. Selection, for purposes of this permit, is described in Appendix E.

B. Loading Assessment

Each **Selected MS4** must assess the change in **Storm Water** discharge loading for its permitted area using a pollutant loading water quality model that, at minimum, addresses changes in Average Annual Flow Volume, Total Suspended Solids, and Phosphorus. This modeling will be based on two time periods: from 1988 (1988-1990) to the present (2000-2005), and from the present to 2020. The **Selected MS4s** must use a simple model, or another more complex model that they find to be more appropriate, that addresses the parameters of concern. This may include a model that the **Selected MS4** has already used. Other assessment methods may be used if they can be shown to be as effective at quantifying the increase in loading as the modeling methods. The models and/or other methods will be used as part of the assessment to develop the Nondegradation Report, to help in selecting appropriate **BMPs** that address nondegradation, to determine whether additional control measures can reasonably be taken to **Reduce** pollutant loading, and for a few **Selected MS4s** that elect to do so, to evaluate the significance of the **New or Expanded Discharge**.

C. Nondegradation Report

Selected MS4s that have significant **New or Expanded Discharges** are required to complete a Nondegradation Report and, upon approval, to incorporate its findings on **BMPs** that address nondegradation into their **Storm Water Pollution Prevention Program.** The **BMPs** shall address changes in pollutant loadings as far as is reasonable and practical through future development. Additionally, the **BMPs** shall address, as far as is reasonable and practical, the negative impacts of increased **Storm Water** discharge volumes that cause increased depth and duration of inundation of **Wetlands** having the potential for a significant adverse impact to a designated use of the **Wetland**, or changes in stream morphology that have the potential for a significant adverse impact to a designated use of the streams.

The Nondegradation Report must include consideration of the Loading Assessment, which must include analysis of flow and may include removal of pollutants by **BMPs** already initiated. For purposes of this **General Permit**, 1988 levels consistently attained means runoff that would have been produced under approximately average conditions of rainfall. Local **Storm Water** management plans and other pertinent factors may also be considered. **BMPs** implemented by other parties may be considered when those **BMPs** affect the **Storm Water** from the area of the **Selected MS4**. If the pollutant loadings cannot be **Reduced** to levels consistently attained in 1988, the Report must describe reasonable and practical **BMPs** that the **Selected MS4** plans to incorporate into a modified **Storm Water Pollution Prevention Program**. The **Selected MS4** must consider alternatives, explain which alternatives have been studied but rejected and why, and propose alternatives that are reasonable and practical. The Report must give high priority to **BMPs** that address impacts of future growth, such as ordinances for **New Development**. Where increases in pollutant loading have already occurred due to past development, the Report must consider retrofit and mitigation options (**BMPs**) that the **Selected MS4** determines to be reasonable, practical and appropriate for the community. The **Selected MS4** is responsible for developing any site specific cost/benefit, social, and environmental information that the **Selected MS4** wishes to bring to the **Agency's** attention. The **Selected MS4** must incorporate the **BMPs** into a modified **Storm Water Pollution Prevention Program** and include an implementation schedule that addresses **New Development** and retrofit **BMPs** it proposes to implement.

D. Public Participation

Prior to submittal to the **MPCA**, the proposed **Storm Water Pollution Prevention Program** modifications to address nondegradation will be public noticed at the local level as required in the permit (Part V.G.1.e). Each **Selected MS4** shall also submit its **Storm Water Pollution Prevention Program** modifications to address nondegradation to the appropriate local water authority (e.g. watershed organizations or county water planning authority) in time to allow for their review and comment. The Nondegradation Report explaining the proposed **BMPs** and the entire **Storm Water Pollution Prevention Program** must be made available to the public and local water authority upon request.

E. Submittals for Selected MS4s

Selected MS4s must submit their proposed changes to the **Storm Water Pollution Prevention Program**, reports addressing nondegradation for all waters (and restricted waters or prohibited waters if applicable), together with other supporting documents, to the **MPCA** in accordance with the schedule in Appendix E. This submittal must include:

1. The Loading Assessment;

2. The Nondegradation Report;

3. The proposed **Storm Water Pollution Prevention Program** modifications to address nondegradation;

4. The public and local water authority comments on the proposed **Storm Water Pollution Prevention Program** modifications to address nondegradation, with a **Record of Decision** on the comments; and

5. An application to modify the permit.

F. MPCA Review

The **MPCA** will review the above submittals in accordance with Minn. R. ch. 7001. After consideration of the Loading Assessment, the Nondegradation Report, public and local water authority comments, the **Record of Decision** by the **Selected MS4**, and other pertinent information, the **MPCA** will make a determination on the preliminary approval of the proposed **Storm Water Pollution Prevention Program**. The role of the **MPCA** during the review process will generally be limited to reviewing the information presented by the **Selected MS4** and comments made by others during the review process. However, the **MPCA** reserves the right to incorporate as much available information as possible in the decision making process, including the right to independently develop and evaluate potential reasonable and practical alternatives.

G. Notice and Preliminary Determination

The **MPCA** will provide statewide public notice and opportunity for hearing on any **MPCA** determination of intent to deny or approve the **Storm Water Pollution Prevention Program** modifications to be implemented under this permit. The **MPCA** will provide public and **MPCA** comments to the **Selected MS4**. The **Selected MS4** will have the opportunity to respond to the comments prior to the **MPCA** making a final determination.

H. Final Determination

The **Commissioner** will make a final determination on the modifications to the **Storm Water Pollution Prevention Program** in accordance with Minn. R. ch. 7001.

I. Implementation of the Approved Storm Water Pollution Prevention Program

Following approval by the **MPCA** (as described in Part X.H above), the approved **Storm Water Pollution Prevention Program** modifications, including any changes required by the **MPCA**, must be implemented by the **Selected MS4** in accordance with the schedule in the approved **Storm Water Pollution Prevention Program** and modifications.

PART XI. APPENDIX E: SELECTED MS4s

This part describes the schedule of submittals of the items listed in Part X (Appendix D), item E to the **MPCA** for review and approval. The **Commissioner** has selected the **MS4s** listed below for further nondegradation review. The selection was based on the population growth experienced by the community during three time periods: from 1990 to 2000, based on census data; from 2000 to 2003, based on projections by the State Demographer and Metropolitan Council; and from 2000 to 2020, also based on the State Demographer and Metropolitan Council projections. The **Commissioner** also considered the size of the community as represented by the 2000 census. The **Commissioner** may also determine that additional **MS4s** be selected based on the same factors, or other factors in accordance with Minn. R. ch. 7001 and other applicable rules.

The following **Selected MS4s** shall submit the items listed in Part X (Appendix D), item E, to the **MPCA** for review and approval, postmarked on or before the listed dates.

	Selected MS4	**Submittal date**
1	Rochester	15 months after the effective date of the Permit
2	Woodbury	15 months after the effective date of the Permit
3	Maple Grove	15 months after the effective date of the Permit
4	Lakeville	15 months after the effective date of the Permit
5	Eden Prairie	15 months after the effective date of the Permit
6	Eagan	16 months after the effective date of the Permit
7	Plymouth	16 months after the effective date of the Permit
8	Blaine	16 months after the effective date of the Permit
9	Bloomington	16 months after the effective date of the Permit
10	Duluth	16 months after the effective date of the Permit
11	Brooklyn Park	17 months after the effective date of the Permit
12	Shakopee	17 months after the effective date of the Permit
13	Apple Valley	17 months after the effective date of the Permit
14	St. Cloud	17 months after the effective date of the Permit
15	Burnsville	17 months after the effective date of the Permit
16	Prior Lake	18 months after the effective date of the Permit
17	Maplewood	18 months after the effective date of the Permit
18	Coon Rapids	18 months after the effective date of the Permit
19	Andover	18 months after the effective date of the Permit
20	Elk River	18 months after the effective date of the Permit
21	Savage	19 months after the effective date of the Permit
22	Farmington	19 months after the effective date of the Permit
23	St. Louis Park	19 months after the effective date of the Permit
24	Edina	19 months after the effective date of the Permit
25	Minnetonka	19 months after the effective date of the Permit
26	Chanhassen	20 months after the effective date of the Permit
27	Chaska	20 months after the effective date of the Permit
28	Inver Grove Heights	20 months after the effective date of the Permit
29	Rosemount	20 months after the effective date of the Permit
30	Cottage Grove	20 months after the effective date of the Permit