

*Note – This page will be replaced with a copy containing the assigned permit number once coverage is authorized.*

**SOUTH DAKOTA DEPARTMENT OF ENVIRONMENT AND NATURAL  
RESOURCES**

**JOE FOSS BUILDING  
523 EAST CAPITOL AVENUE  
PIERRE, SOUTH DAKOTA 57501-3181**

**GENERAL PERMIT FOR STORM WATER DISCHARGES  
FROM SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS**

**AUTHORIZATION TO DISCHARGE UNDER THE  
SURFACE WATER DISCHARGE SYSTEM**

In compliance with the provisions of the South Dakota Water Pollution Control Act and the Administrative Rules of South Dakota (ARSD) Chapters 74:52:01 through 74:52:11, operators of small municipal separate storm sewer systems, located in the State of South Dakota, are authorized to discharge in accordance with the conditions and requirements set forth herein.

This permit shall become effective on **January 1, 2003**.

This permit and the authorization to discharge shall expire at midnight, **December 31, 2007**.

Signed this **24th** day of **December, 2002**



Authorized Permitting Official

Steven M. Pirner  
Secretary  
Department of Environment and Natural Resources

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## 1.0 COVERAGE UNDER THIS PERMIT

### 1.1 Permit Area

This permit shall apply to storm water discharges located within the State of South Dakota.

### 1.2 Discharges Covered

This permit shall authorize the discharges of storm water from **Small Municipal Separate Storm Sewer Systems (MS4s)**.

### 1.3 Discharges Not Covered. The following storm water discharges from small MS4s are not authorized by this permit:

1. **Discharges Requiring a Separate SWD Permit.** This permit does not cover storm water discharges for activities that may require a separate Surface Water Discharge (SWD) permit. For example, this permit does not replace or satisfy any other permit requirements for storm water discharges associated with industrial activity or construction activity that require coverage under a separate storm water general permit.
2. **Discharges Mixed with Non-Storm Water.** This permit does not authorize discharges that are mixed with sources of non-storm water, other than discharges where the non-storm water components are authorized under a separate SWD Permit, if applicable.
3. **Section 404 Permitted Discharges.** This permit does not authorize activities regulated by a Section 404 federal Clean Water Act permit.
4. **Discharges Threatening Water Quality.** This permit does not authorize storm water discharges that the Secretary determines will cause, or have reasonable potential to cause or contribute to, violations of instream water quality standards.
5. **Discharges of Regulated Substances.** This permit does not authorize the discharge of regulated substances resulting from a spill.

### 1.4 Obtaining Authorization.

1. In order for Small Municipal Separate Storm Sewer Systems to be authorized to discharge storm water under this general permit, the operator must submit a Notice of Intent (NOI) form, included in Attachment A, and a summary of the Storm Water Management Program (SWMP) to be implemented. The submittal shall be in accordance with the application requirements presented in Part 2 of this permit;
2. Upon receipt of a complete NOI, the Secretary shall make the decision to grant or deny coverage, or request additional information. A letter of authorization shall be sent to the

permittee granting coverage under this permit for the storm water discharges from the small MS4.

- 3.** Where the operational control changes, or where a new owner or operator is added after the submittal of an application under Part 2, a new application must be submitted in accordance with Part 2 of this permit and prior to the change or addition.

## 2.0 APPLICATION REQUIREMENTS

### 2.1 Deadlines for Notification

1. Small MS4s designated under ARSD Section 74:52:02:36, including small MS4s located within an urbanized area (as determined by the Bureau of Census) and/or those serving a population of at least 10,000 persons, shall submit an NOI and summary of the Storm Water Management Program by March 10, 2003.
2. If an MS4 is designated by SDDENR after the issuance date of this permit, the MS4 shall submit an NOI and description of the SWMP within 180 days of designation.
3. Operators of unregulated small MS4s wishing to obtain coverage under this permit may apply for coverage under this permit at any time.

### 2.2 Contents of the Application

1. **Notice of Intent.** The NOI must be signed in accordance with Part 6.7 of this permit and must include all requested information listed on the NOI form, including:
  - a. Permittee information such as the name and type of the municipal entity, mailing address, and telephone number(s);
  - b. Areas served, location, and receiving water(s); and,
  - c. **Municipal Map.** A location map for the small MS4 indicating areas to be covered under this permit, including municipal (city, town, county, etc.) boundaries and receiving waters within the permitted boundaries. The map must have sufficient detail to allow the exact determination of the boundaries, such as streets or other features.
2. **Storm Water Management Program Summary.** The application shall include a description of the SWMP and plans for implementing the permit requirements, including:
  - a. The Best Management Practices (BMPs) that will be implemented for each of the storm water minimum control measures, as described in Part 4 of this permit,
  - b. The measurable goals for each of the BMPs;
  - c. Rationale for how and why each of the BMPs and measurable goals was selected;
  - d. The estimated timeline(s) in which implementation of each BMP will be undertaken; and
  - e. The person(s) responsible for implementing and/or coordinating each component of the Storm Water Management Program.

### **2.3 Where to Submit**

Legible copies of these, and all other reports required herein, shall be signed and certified in accordance with Section 6.7 and submitted to the Secretary at the following address:

South Dakota Department of  
Environment and Natural Resources  
Surface Water Quality Program  
523 East Capitol Avenue  
Pierre, South Dakota 57501-3181

### 3.0 STORM WATER MANAGEMENT PROGRAM

The permittee must develop, implement, and enforce a Storm Water Management Program (SWMP) designed to reduce the discharge of pollutants from the small municipal separate storm sewer system, to protect water quality, and to satisfy the appropriate water quality requirements of the federal Clean Water Act. The following conditions must be met:

3.1 **Maximum Extent Practicable.** The SWMP must be designed and managed to minimize the discharge of pollutants from the storm sewer system to the Maximum Extent Practicable.

3.2 **Best Management Practices.** The MS4 shall be managed, operated, and maintained in a manner to minimize the discharge of pollutants. The SWMP shall consist of a combination of Best Management Practices (BMPs), including education, maintenance, control techniques, system design, engineering methods, and other provisions determined appropriate to meet the minimum requirements of this permit.

3.3 **Pollutant Identification.** In the development of BMPs, the operator must consider the source(s) of pollutants, the potentially polluting activities being conducted in the watershed, and the sensitivity of the receiving waters.

3.4 **Program Requirements.** The storm water management program must include the following information for each of the six minimum control measures described in Part 4 of this permit:

1. The Best Management Practices that will be implemented for each of the storm water minimum control measures;
2. The measurable goals for each of the BMPs;
3. A rationale for how and why each of the BMPs and measurable goals were selected for the storm water management program;
4. An implementation schedule (month and year), including interim milestones and the frequency of each action; and,
5. Identification of the entity/individual(s) responsible for implementation of the BMP.

3.5 **Compliance Schedule.**

1. The Storm Water Management Program shall be fully developed and implemented within 5 years of when the NOI was submitted.
2. Goals and implementation dates should be included for each minimum control measure for each year of permit coverage. The schedule for the goals must reflect a relatively



steady level of effort throughout the permit term. That is, the compliance dates should not all be near the end of the permit term.

**3.6 Sharing Responsibility.** Implementation of one or more of the minimum measures may be shared with another entity if:

1. The other entity, in fact, implements all or part of the control measure;
2. The particular control measure, or component of that measure, satisfies the corresponding permit requirement; and,
3. The other entity agrees to implement the measure on behalf of the permittee. This agreement must be documented in writing and maintained as part of the storm water management plan and retained by the permittee for the duration of this permit. If the other entity fails to implement the control measure on behalf of the permittee, the permittee remains liable for any compliance violations.

**3.7 Enforceable.** The SWMP shall become an enforceable part of this permit upon authorization of coverage under this permit by the Secretary. Modifications to the program, in accordance with Part 3.8, shall also become enforceable provisions.

**3.8 Modifications.**

1. The Secretary may require modifications of the SWMP as needed. Modification requirements shall be made in writing, set forth schedules for compliance, and offer the permittee opportunity to propose alternative program modifications to meet the objections of the requested modification.
2. The permittee may modify the storm water management program, without prior approval, provided the modification is in accordance with the following:
  - a. A component, control, or requirement is being added (with no elimination or replacement) to the SWMP
  - b. A BMP identified in the SWMP is found to be ineffective or infeasible and is replaced with an alternative BMP. The alternative must address the same, or similar, concerns as the eliminated/replaced BMP.
3. If a Total Maximum Daily Load (TMDL) is developed and implemented for any waterbody into which the MS4 discharges, the SWMP must be reviewed to determine whether the program meets the requirements of the TMDL implementation plan. If not, the SWMP must be modified, as appropriate, to meet the applicable requirements and schedules of the TMDL allocation(s).

**3.9 Annual Report.** An annual report on the implementation of the Storm Water Management Program shall be submitted to the Secretary by March 10<sup>th</sup> of each year, beginning in 2004. The report must include:

1. The status of compliance with permit conditions;
2. An assessment of the appropriateness of the identified best management practices and progress towards achieving the identified measurable goals for each of the minimum control measures;
3. Results of information collected and analyzed, including monitoring data, if any, during the reporting period;
4. A summary of the storm water activities to be undertaken during the next year;
5. A description of changes in any identified best management practices or measurable goals for any of the minimum control measures; and,
6. If applicable, notice that another entity will be relied on to satisfy some of the permit obligations.

#### 4.0 MINIMUM CONTROL MEASURES

The six minimum control measures listed below must be included in the Storm Water Management Program. Appropriate BMPs for these minimum control measures and measureable goals for each BMP must be defined. These measureable goals must reduce the discharge of pollutants from the storm sewer system to the maximum extent practicable.

4.1 **Public Education and Outreach on Storm Water Impacts.** To satisfy this minimum control measure, the permittee must implement public education activities, which include the following:

1. Distribute educational materials to the community or conduct equivalent outreach activities about the impacts of storm water discharges and the steps the public can take to reduce pollutants in storm water runoff.
2. Target local businesses with informational materials appropriate to them on potential storm water impacts of improper waste disposal and illegal discharges.

4.2 **Public Involvement/Participation.** To satisfy this minimum control measure, the permittee must develop and implement procedures for involving the public in the SWMP, including the following:

1. Include the public in developing, reviewing, and implementing the SWMP;
2. Make efforts to reach out and engage the entire community;
3. Comply with any applicable public notice requirements using an effective mechanism for reaching the public; and
4. Document efforts to involve the public and ensure that members of the community were given opportunities to be involved.

4.3 **Illicit Discharge Detection and Elimination.** To satisfy this minimum control measure, the permittee must develop, implement, and enforce procedures to detect and eliminate illicit discharges into the permittee's MS4. The permittee must:

1. Develop, if not already completed, a storm sewer system map showing the location of all municipal storm sewer outfalls and the names and location of all waters of the state that receive discharges from those outfalls.
2. To the extent allowable under state or local law, effectively prohibit, through ordinance or other regulatory mechanism, non-storm water discharges into the storm sewer system, and implement appropriate enforcement procedures and actions.

3. Develop and implement a plan to detect and address non-storm water discharges, including illicit discharges and illegal dumping, to the system. The plan must include the following components:
  - ♦ procedures for locating priority areas likely to have illicit discharges;
  - ♦ procedures for tracing the source of an illicit discharge;
  - ♦ procedures for removing the source of the discharge; and
  - ♦ procedures for evaluating and assessing the illicit discharge plan.
4. Inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste.

**4.4 Construction Site Storm Water Runoff Control.** To satisfy this minimum control measure, the permittee must develop, implement, and enforce requirements for construction activities to address pollutants in storm water runoff to the MS4. At a minimum, activities disturbing one or more acres must be addressed. Construction activities disturbing less than one acre must also be included if that construction activity is part of a larger common plan of development or sale that would disturb at least an acre.

1. The selected mechanism must include the development and implementation of, at a 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 state or local law;
  - b. Requirements for construction site operators to implement appropriate erosion and sediment control BMPs;
  - 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 that consider potential water quality impacts;
  - e. Procedures for receipt and consideration of information submitted by the public; and
  - f. Procedures for site inspection and enforcement of control measures.
2. The following mechanisms can assist in meeting the requirements of this measure:
  - a. The MS4 operator can incorporate storm water pollution prevention requirements (such as erosion control plans, design standards, and/or the use of BMPs) into an existing “Building Permit” or development approval process.

- b. The MS4 operator can reference the state's Storm Water Construction Permit requirements and provide cooperation or assistance to the state in determining compliance with their program, such as providing information on active construction projects and reporting lack of erosion control measures.

**4.5 Post-Construction Storm Water Management in New Development and Redevelopment.** To satisfy this minimum control measure, the permittee must develop, implement, and enforce measures to address storm water runoff from new development and redevelopment projects that disturb at least one acre, including projects less than one acre that are part of a larger common plan of development or sale, that discharge into the MS4. The program must ensure that controls are in place that would prevent or minimize water quality impacts. Strategies developed and implemented must include:

1. A combination of structural and non-structural BMPs that are appropriate for the community.
2. Use of an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects to the extent allowable under state or local law.
3. Requirements to ensure adequate long-term operation and maintenance of BMPs.

**5.6 Pollution Prevention/Good Housekeeping for Municipal Operations.** To satisfy this minimum control measure, the permittee must develop and implement pollution prevention guidelines for preventing or reducing pollutant runoff from municipal operations.

1. The permittee must prevent or reduce storm water pollution from facilities and activities such as:
  - ♦ streets, roads, highways, municipal parking lots;
  - ♦ maintenance and storage yards;
  - ♦ fleet or maintenance shops with outdoor storage areas;
  - ♦ salt and sand storage locations and snow disposal areas operated by the permittee;
  - ♦ waste transfer stations;
  - ♦ park and open space maintenance;
  - ♦ fleet and building maintenance;
  - ♦ street maintenance;
  - ♦ new construction of municipal facilities; and
  - ♦ storm water system maintenance.
2. The permittee must include training to inform employees of impacts associated with illicit discharge and improper disposal of waste from municipal operations.

## 5.0 RETENTION OF RECORDS

1. The permittee shall retain copies of the Notice of Intent, Storm Water Management Program, all reports required by this permit, and records of all data used to complete the reports and application package, for a period of at least **three** (3) years. This period may be extended by request of the Secretary at any time.
2. All reports and documents required by this permit shall, upon request of the Secretary, be submitted to DENR at the address below:

South Dakota Department of Environment and Natural Resources  
Surface Water Quality Program  
523 East Capitol Ave.  
Pierre, SD 57501-3181

## 6.0 STANDARD PERMIT CONDITIONS

### 6.1 Duty to Comply.

1. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the South Dakota Water Pollution Control Act and the federal Clean Water Act and is grounds for enforcement action; for termination of permit coverage, revocation and reissuance, or modification; or for denial of a permit renewal. The permittee shall give the Secretary advance notice of any planned changes that may result in permit noncompliance.
2. Any person who violates a permit condition or makes any false statement, representation, or certification, may be subject to enforcement action under South Dakota Codified Law (SDCL), Chapter 34A-2.
3. The permittee is responsible for complying with all local ordinances and requirements. Local governments may have additional or more stringent requirements than those included in this permit.

6.2 **Continuation of the Expired General Permit.** An expired general permit continues in force and effect until a new general permit is issued. Upon the effective date of the new permit, the existing permit will be terminated, and permittees seeking authorization under a new general permit must submit an NOI and/or application in accordance with the terms of the new permit.

6.3 **Need to Halt or Reduce Activity Not a Defense.** It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

6.4 **Duty to Mitigate.** The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

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

6.6 **Other Information.** When the permittee becomes aware that he or she failed to submit any relevant facts or submitted incorrect information in the NOI or in any other report to the Secretary, he or she shall promptly submit such facts or information.

6.7 **Signatory Requirements.** All Notices of Intent, plans, reports, certifications or information submitted to the Secretary shall be signed and certified.

1. All NOIs and Application Packages shall be signed by either a principal executive officer or ranking elected official.
2. All reports required by the permit and other information requested by the Secretary shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
  - a. The authorization is made in writing by a person described above and submitted to the Secretary. The authorization shall specify either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of manager, operator, superintendent, or position of equivalent responsibility or an individual or position having overall responsibility for environmental matters for the MS4.
  - b. If an authorization under this section is no longer accurate because a different operator has responsibility for the overall operation of the MS4, a new letter of authorization satisfying the requirements of this section must be submitted to the Secretary prior to, or together with, any reports, information, or applications to be signed by an authorized representative.
3. The following certification statement must be included with any documents signed under this section:

"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 gather and evaluate 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."

**6.8 Oil and Hazardous Substance Liability.** Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the federal Clean Water Act.

**6.9 Property Rights.** The Secretary's issuance of this permit does not convey any property rights of any sort, any exclusive privileges, any authorization to damage, injure, or use any private property, any authority to invade personal rights, any authority to violate federal, state, or local laws or regulations, or any taking, condemnation, or use of eminent domain against any property owned by third parties. The state does not warrant that the permittee's compliance with this permit and operation under this permit will not cause damage, injury, or use of private property, an invasion of personal rights, or violation of federal, state, or local laws or regulations. The permittee is solely and severally liable for all damage, injury, or use of private property, invasion of personal rights, infringement of federal, state, or local laws and regulations, or taking or condemnation of property owned by third parties, which may result from actions taken under the permit.



**6.10 Severability.** Any portion of this permit that is found to be void, or is challenged, shall not affect the validity of the various permit requirements that are not void or challenged.

**6.11 Requiring an Individual Permit or an Alternative General Permit.** The Secretary may either deny coverage or require any person requesting coverage under the general permit to apply for, and obtain, an individual SWD permit or coverage under an alternative general permit. Cases where an individual permit may be required include the following:

1. The permittee is not in compliance with the conditions of the general permit;
2. A change has occurred in the availability of demonstrated technologies or practices for the control or abatement of pollutants applicable to MS4s;
3. Effluent limitation guidelines are promulgated for point sources covered by this general permit;
4. A discharge is determined to cause or contribute to a violation of water quality standards, and violations remain or re-occur despite changes to the SWMP;
5. A TMDL is developed and implemented for a waterbody into which the MS4 discharges, and the SWMP is not modified to meet the TMDL allocations; or
6. The discharge is a significant contributor of pollution to waters of the state or it presents a health hazard.

**6.12 Proper Operation and Maintenance.** The permittee shall at all times properly operate and maintain all systems of treatment and control that are used to achieve compliance with the conditions of this permit. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by a permittee only when necessary to achieve compliance with the conditions of the permit.

**6.13 Inspection and Entry.** The permittee shall allow the Secretary or the EPA Regional Administrator, upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and,

4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the South Dakota Water Pollution Control Act and federal Clean Water Act, any substances or parameters at any location.
- 6.14 **Permit Actions.** This permit may be modified, revoked and reissued, or terminated by the Secretary for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

## 7.0 DEFINITIONS

1. “**ARSD**” means the Administrative Rules of South Dakota.
2. “**Best Management Practices**” (“**BMPs**”) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control construction site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
3. “**Control Measures**” as used in this permit, refers to any Best Management Practice or other method used to prevent or reduce the discharge of pollutants to waters of the state.
4. “**DENR**” means the South Dakota Department of Environment and Natural Resources.
5. “**EPA**” means the United States Environmental Protection Agency.
6. “**Illicit Discharge**” means any discharge to a municipal separate storm sewer system that is not entirely composed of storm water, except discharges authorized under a Surface Water Discharge permit or discharges resulting from fire-fighting activities; or as defined at 40 CFR 122.26(b)(2).
7. A “**Larger 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.
8. “**Maximum Extent Practicable**” means the technology-based discharge standard for municipal separate storm sewer systems to reduce pollutants in storm water discharges, as established by the federal Clean Water Act §402(p). EPA 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. A discussion of MEP as it applies to small MS4s is found at 40 CFR 122.34.
9. “**Municipal Separate Storm Sewer System**” or “**MS4**” 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), as defined in 40 CFR 122.26(b)(8), and:
  - (i) Owned or operated by a municipality;
  - (ii) Designed or used for collecting or conveying storm water;
  - (iii) Which is not a combined sewer; and
  - (iv) Which is not part of a Publicly Owned Treatment Works.

10. **“Municipality”** means a city, town, county, district, sanitary district, or other public body created by or under state law with jurisdiction over the disposal of sewage, industrial wastes, or other wastes.
11. **“NOI”** means Notice of Intent, which is the application to obtain coverage under this general permit (See Attachment A).
12. **“Operator”** means the owner, party, person, general contractor, corporation, or other entity that has operational control over the system. The operator is responsible for ensuring compliance with all conditions of the permit and with development and implementation of the “storm water management program”.
13. **“Point Source”** means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, animal feeding operation, vessel or other floating craft from which pollutants are or may be discharged.
14. **“Pollutant”** is defined at ARSD § 74:52:01:35. A partial listing from this definition includes: dredged spoil, solid waste, sewage, garbage, sewage sludge, chemical wastes, biological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial or municipal waste.
15. **“Redevelopment”** means alterations of a property that change the “footprint” of a site or building in such a way that there is a disturbance of land equal to or greater than one acre. The term is not intended to include such activities as exterior remodeling water controls
16. **“Regulated Substance”** means the compounds designated by the department under South Dakota Codified Law, §§ 23A-27-25, 34A-1-39, 34A-6-1.3(17), 34A-11-9, 34A-12-1 to 34A-12-15, inclusive, 38-20A-9, 45-6B-70, 45-6C-45, 45-6D-60, and 45-9-68, including pesticides and fertilizers regulated by the Department of Agriculture, the hazardous substances designated by the EPA pursuant to section 311 of the Federal Water Pollution Control Act Amendments of 1972, Pub.L. 92-500 as amended by the Clean Water Act of 1977, Pub.L. 95-217, the toxic pollutants designated by Congress or the EPA pursuant to section 307 of the Toxic Substances Control Act, Pub.L. 99-519, the hazardous substances designated by the EPA pursuant to section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub.L. 96-510, and petroleum, petroleum substances, oil, gasoline, kerosene, fuel oil, oil sludge, oil refuse, oil mixed with other wastes, crude oils, substances or additives to be utilized in the refining or blending of crude petroleum or petroleum stock, and any other oil or petroleum substance. This term does not include sewage and sewage sludge.
17. **“Secretary”** means the Secretary of the South Dakota Department of Environment and Natural Resources, or an authorized representative.
18. **“Small Municipal Separate Storm Sewer System”** means a separate storm sewer system that is: owned or operated by a federal, state, city, town, county, association,

district, sanitary district, or other public body with jurisdiction over the disposal of sewage, industrial wastes, or other wastes; and is located in an incorporated place which serves a population of less than 100,000 or that is located in one or more counties with unincorporated urbanized populations serving less than 100,000. 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.

19. **“Storm Water”**, for the purpose of this permit, means storm water runoff, snow melt runoff, or surface runoff and drainage.
20. **“Storm Water Discharge Associated with Construction Activity”** means the storm water runoff from construction activities including clearing, grading, and excavating, that result in the disturbance of five or more acres of total land area, or that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb five or more acres of land.
21. **“Storm Water Discharge Associated with Industrial Activity”**, as defined in 40 CFR § 122.26(b)(14), means the discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing, processing or raw materials storage areas at an industrial plant and considered to be engaging in “industrial activity”. The term does not include discharges from facilities or activities excluded from the program under 40 C.F.R. Part 122.
22. **“Storm Water Discharge Associated with Small Construction Activity”** means the storm water runoff from construction activities including clearing, grading, and excavating, that result in the disturbance of land equal to or greater than one acre and less than five acres, or that are part of a larger common plan of development or sale; or as defined in 40 CFR § 122.26(b)(15) as promulgated on December 8, 1999.
23. **“SWD”** means Surface Water Discharge.
24. **“SWMP”** means Storm Water Management Program.
25. **“TMDL”** means Total Maximum Daily Load.
26. **“Waters of the State”** means all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, situated wholly or partly within or bordering upon the state, but not waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the federal Clean Water Act other than cooling ponds as defined in 40 C.F.R. § 423.11(m) (July 1, 1991).

**ATTACHMENT A**

**Notice of Intent**



**DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

**NOTICE OF INTENT (NOI)**

to Obtain Coverage Under the SWD General Permit for  
Storm Water Discharges from Small Municipal Separate Storm Sewer Systems

Return to: SD Department of Environment and Natural Resources  
Surface Water Quality Program  
523 East Capitol Avenue  
Pierre, South Dakota 57501-3181  
Telephone: (605) 773-3351 or 1-800-SDSTORM

**GENERAL INFORMATION**

Name of owner or agency with operational control of the MS4 (city, town, county, SDDOT, etc.):			
Contact person responsible for permit compliance		Telephone no.	
Mailing address	City	State	Zip code

Name of the MS4 (city, town, county, SDDOT, etc.):
Briefly describe the location/area of the MS4 ( <b>Please attach a location map for the MS4 – see Part 3.2 of the permit for requirements</b> ):

FOR DENR USE ONLY
Postmark Date: _____
Permit Number: _____

Briefly Describe the receiving waters for your MS4 (include the names of water bodies and other MS4s receiving storm water from your system)

Provide the location of transportation facilities with vehicle maintenance activities, public works maintenance yards, and wastewater treatment works with a design flow of 1.0 mgd or greater.

Provide the location and description of systems operated by other public entities within the MS4.(include a description of the level of control you have over the interconnected or contributing system(s)). For example, a storm sewer system within a college campus or military complex.

If applicable, provide the name and contact information of entity that will be responsible for implementing a portion of the storm water management program and a brief detail of their responsibility.



**APPLICATION REQUIREMENTS AND PREREQUISITES**

The general permit requires that a Storm Water Management Program be developed and implemented. A summary, or outline, of the program must be included as part of your application. The summary must include the information for each of the six minimum control measures indicated in the general permit for storm water discharges from small MS4s (See Parts 4 & 5 of the permit). For each of the measures you must indicate the Best Management Practices (BMPs) you intend to implement, the measurable goals for the BMPs, estimated timelines for the BMPs and indicate who is responsible for implementing each measure. Continue by completing the check lists regarding your planned program and summary.

**Does your planned Storm Water Pollution Prevention Program address the following minimum control measures?**

1. Public education and outreach on storm water impacts	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
2. Public participation and involvement	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
3. Illicit discharge detection and elimination	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
4. Construction site storm water runoff control	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
5. Post construction storm water management in new development and redevelopment	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
6. Pollution prevention/good housekeeping for municipal operations	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>

**Are the following items addressed for each of the control measures in the attachment to this application summarizing the Storm Water Management Program:**

1. The Best Management Practices (BMPs) that you will implement for each of the minimum control measures described in the permit	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
2. The measurable goals for the BMPs you plan to implement, including as appropriate, a description of the planned actions, timing and frequency of actions, and milestones	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
3. Rationale for how and why each of the BMPs and their measurable goals were selected	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
4. Estimated timeline(s) (months, years) in which you will implement each Best Management Practice	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
5. Person(s) responsible for implementing and/or coordinating each component of the Storm Water Pollution Prevention Program. (This should be the person(s) you want the Department to contact regarding the overall program or the particular components)	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>

**CERTIFICATION AND SIGNATURE**

<p>" 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 gather and evaluate 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."</p>	
Printed Name of Applicant	Title
Signature of Applicant	Date

**CERTIFICATION OF APPLICANT (COA)**

I, \_\_\_\_\_, the applicant in the above matter after being duly sworn upon oath hereby certify the following information in regard to this application:

South Dakota Codified Laws Section 1-40-27 provides:

"The secretary may reject an application for any permit filed pursuant to Titles 34A or 45, including any application by any concentrated swine feeding operation for authorization to operate under a general permit, upon making a specific finding that:

*(1) The applicant is unsuited or unqualified to perform the obligations of a permit holder based upon a finding that the applicant, any officer, director, partner or resident general manager of the facility for which application has been made:*

- (a) Has intentionally misrepresented a material fact in applying for a permit;*
- (b) Has been convicted of a felony or other crime involving moral turpitude;*
- (c) Has habitually and intentionally violated environmental laws of any state or the United States which have caused significant and material environmental damage;*
- (d) Has had any permit revoked under the environmental laws of any state or the United States; or*
- (e) Has otherwise demonstrated through clear and convincing evidence of previous actions that the applicant lacks the necessary good character and competency to reliably carry out the obligations imposed by law upon the permit holder; or*

*(2) The application substantially duplicates an application by the same applicant denied within the past five years which denial has not been reversed by a court of competent jurisdiction. Nothing in this subdivision may be construed to prohibit an applicant from submitting a new application for a permit previously denied, if the new application represents a good faith attempt by the applicant to correct the deficiencies that served as the basis for the denial in the original application.*

All applications filed pursuant to Titles 34A and 45 shall include a certification, sworn to under oath and signed by the applicant, that he is not disqualified by reason of this section from obtaining a permit. In the absence of evidence to the contrary, that certification shall constitute a prima facie showing of the suitability and qualification of the applicant. If at any point in the application review, recommendation or hearing process, the secretary finds the applicant has intentionally made any material misrepresentation of fact in regard to this certification, consideration of the application may be suspended and the application may be rejected as provided for under this section.

Applications rejected pursuant to this section constitute final agency action upon that application and may be appealed to circuit court as provided for under chapter 1-26."

Pursuant to SDCL 1-40-27, I certify that I have read the forgoing provision of state law, and that I am not disqualified by reason of that provision from obtaining the permit for which application has been made.

**NOTE:** The Notice of Intent must be signed by the authorized chief elective, an executive officer or a corporate responsible official of the applicant, or by the applicant, if an individual.

***I declare and affirm under the penalties of perjury that this certification has been examined by me, and to the best of my knowledge and belief, is in all things true and correct.***

Name (print) \_\_\_\_\_

Title \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

**PLEASE ATTACH SHEET DISCLOSING ALL FACTS PERTAINING TO SDCL 1-40-27 (1) (a) THROUGH (e). ALL VIOLATIONS MUST BE DISCLOSED, BUT WILL NOT AUTOMATICALLY RESULT IN THE REJECTION OF AN APPLICATION.**

## **ATTACHMENT B**

### **Menu of Best Management Practices**

**Note:**

The United States Environmental Protection Agency has developed the “National Menu of Best Management Practices for Storm Water Phase II.” The menu is intended to provide guidance to Small Municipal Separate Storm Sewer Systems as to the types of practices they may use to develop and implement a Storm Water Management Program as required under this general permit. The menu of BMPs may be downloaded from the EPA storm water website at the following address:

<http://cfpub.epa.gov/npdes/stormwater/menuofbmps/menu.cfm>

An electronic copy may also be requested from DENR by calling 1-800-SDSTORM (737-8676). The Menu introduction is included here for your information.

## National Menu of Best Management Practices for Storm Water Phase II



Welcome to EPA's Storm Water Phase II Menu of Best Management Practices (BMPs). The menu is intended to provide guidance to regulated small MS4s as to the types of practices they could use to develop and implement their storm water management programs. The menu is intended as guidance only.

The [Storm Water Phase II rule](#) was published on December 8, 1999, and generally requires operators of small MS4s in urbanized areas to develop and implement a storm water management program which addresses six minimum control measures. A series of [fact sheets](#) describe the various components of the Phase II rule.

The information below provides guidance for regulated small MS4s developing a Phase II storm water program.

The storm water pollution problem has two main components: the increased volume and rate of runoff from impervious surfaces, and the concentration of pollutants in the runoff. Both components are directly related to development in urban and urbanizing areas. Together, these components cause changes in hydrology and water quality that result in a variety of problems, including habitat modification and loss, increased flooding, decreased aquatic biological diversity, and increased sedimentation and erosion. Effective management of stormwater runoff offers a multitude of possible benefits, including protection of wetlands and aquatic ecosystems, improved quality of receiving waterbodies, conservation of water resources, protection of public health, and flood control.

In addition to chemical pollutants in storm water, the physical aspects related to urban runoff, such as erosion and scour, can significantly affect a receiving water's fish population and associated habitat (EPA, 2000). Alterations in hydraulic characteristics of streams receiving runoff include higher peak flow rates, increased frequency and duration of bankfull and subbankfull flows, increased occurrences of downstream flooding, and reduced baseflow levels (EPA, 1999). Traditional flood control measures that rely on the detention (storage) of the peak flow (referred to as peak shaving) have been characteristic of many storm water management approaches, have generally not targeted pollutant reduction and in many cases have exacerbated the problems associated with changes in hydrology and hydraulics. EPA recommends an approach that integrates the control of storm water peak flows and the protection of natural channels to sustain the physical and chemical properties of aquatic habitat.

### ***Minimum Measures and BMPs***

The Phase II rule describes six minimum control measures which most regulated small MS4s will need to implement. EPA anticipates that these minimum control measures typically will be implemented by applying one or more BMPs appropriate to the source, location, and climate. The practices listed in the menu of BMPs have been found by EPA to be representative of the types of practices that can be applied successfully to achieve the minimum control measures. EPA recognizes that there is often site-specific, regional, and national variability in the selection of appropriate BMPs, as well as in the design constraints and pollution control effectiveness of practices. The list of practices for each minimum control measure is not all-inclusive and does not preclude MS4s from using other technically sound practices. In all cases, however, the practice or set of practices chosen by the MS4 needs to achieve the minimum measure.

EPA recognizes as well that some MS4s may already be meeting the minimum measures, or that only one or two practices may need to be added to achieve the measures. Existing storm water management practices should be recognized and appropriate credit given to those who have already made progress toward protecting water quality. There is no need to spend additional resources for a practice that is already in existence and operational.

### ***BMPs as Systems***

Effective storm water management is often achieved from a management systems approach, as opposed to an approach that focuses on individual practices. That is, the pollutant control achievable from any given management system is viewed as the sum of the parts, taking into account the range of effectiveness associated with each single practice, the costs of each practice, and the resulting overall cost and effectiveness. Some individual practices may not be very effective alone but, in combination with others, may provide a key function in highly effective systems. The Phase II rule encourages such system-building by stating the minimum requirements in more general terms, which allows for the use of appropriate situation-specific sets of practices that will achieve the minimum measures.

### ***Prevention vs. Treatment***

Once pollutants are present in a water body, or after a receiving water body's physical structure and habitat have been altered, it is much more difficult and expensive to restore it to an undegraded condition. Therefore, the use of a management system that relies first on preventing degradation of receiving waters is recommended. BMPs under each of the minimum measures—particularly the obvious category of pollution prevention, as well as outreach, education, and erosion and sediment control—focus on the prevention of pollutants from ever getting into storm water. Similarly, some of the practices under the post-construction runoff control minimum measure address site design issues that can result in pollution prevention.

The menu of BMPs is based on Phase II's six minimum control measures. Click on the minimum control measure below to see the Phase II requirements for that minimum measure and the BMPs which could be used to implement the measure.

1. **Public education and outreach on storm water impacts.**
2. **Public involvement/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.**
6. **Pollution prevention/good housekeeping for municipal operations.**

## ATTACHMENT C

### Measurable Goals Guidance

Note:

The United States Environmental Protection Agency has developed the “Measurable Goals Guidance for Phase II Small MS4s.” The guidance provides information to assist MS4 operators in the development of measurable goals in compliance with the Phase II regulations and the Municipal Storm Water Management Program. The complete guidance document may be downloaded from the EPA storm water website at the following address:

<http://cfpub.epa.gov/npdes/stormwater/measurablegoals/index.cfm>

An electronic copy may also be requested from DENR by calling 1-800-SDSTORM (737-8676). The Guidance introduction is included here for your information.

# MEASURABLE GOALS GUIDANCE

## FOR PHASE II SMALL MS4s

According to the Storm Water Phase II Rule, small MS4 owners/operators must reduce pollutants in storm water to the maximum extent practicable (MEP) to protect water quality. The regulations specify that compliance with the MEP requirement can be attained by developing a storm water management plan that addresses the six minimum control measures described in the storm water regulations. These six minimum measures are described in detail in [a series of fact sheets](#) developed by EPA. One component of the storm water management program is to select measurable goals to evaluate the effectiveness of individual control measures and the storm water management program as a whole.

This guidance<sup>1</sup> is designed to assist small municipal separate storm sewer system (MS4) operators to comply with the measurable goals storm water permitting requirements. The guidance presents an approach for MS4 operators to develop measurable goals as part of their storm water management plan.

Measurable goals allow permitting authorities to assess the effectiveness of storm water controls (known as best management practices or BMPs). These BMPs and measurable goals should be key components of a MS4's storm water management program.

### WHAT CAN I FIND UNDER THIS TOPIC?

This guidance is divided into five main parts:

**Part 1** - [Background and Regulatory Context](#)

**Part 2** - [Process for Developing Measurable Goals](#)

**Part 3** - [Examples of BMPs and Associated Measurable Goals](#)

**Part 4** - [Process for Developing a Storm Water Management Program](#)

**Part 5** - [Environmental Indicators](#)

**Part 1** provides background on the storm water regulations and describes the regulatory context for developing measurable goals.

**Part 2** outlines a process for MS4 operators to develop measurable goals to evaluate the removal of pollutants to the MEP and describes the relationship to other EPA requirements. This part includes a step-by-step guidance on how to design and select measurable goals.

**Part 3** presents a number of examples of BMPs for each of the minimum control measures with corresponding measurable goals that will assure reduction of pollutants to the MEP.

**Part 4** describes guidance on how to develop a storm water management program that includes appropriate BMPs and measurable goals. This part also includes suggestions on how to conduct a Measurable Goals Guidance for Phase II Small MS4s



self-audit and develop an action plan for implementation of the requirements set forth in the Phase II Storm Water Rule.

Finally, **Part 5** describes environmental indicators that can be used to document the effectiveness of both individual control measures and the storm water program as a whole.

Additional information on the requirements of the Storm Water Phase II Rule can be found in a [series of fact sheets](#) and a [compliance assistance guide](#) developed by EPA.

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<sup>1</sup> The discussion in this document is intended solely as guidance. The statutory provisions and EPA regulations described in this document contain legally binding requirements. This document is not a regulation itself, nor does it change or substitute for those provisions and regulations. Thus, it does not impose legally binding requirements on EPA, States, or the regulated community. This guidance does not confer legal rights or impose legal obligations upon any member of the public. While EPA has made every effort to ensure the accuracy of the discussion in this guidance, the obligations of the regulated community are determined by statutes, regulations, or other legally binding requirements. In the event of a conflict between the discussion in this document and any statute or regulation, this document would not be controlling. The general description provided here may not apply to a particular situation based upon the circumstances. Interested parties are free to raise questions and objections about the substance of this guidance and the appropriateness of the application of this guidance to a particular situation. EPA and other decisionmakers retain the discretion to adopt approaches on a case-by-case basis that differ from those described in this guidance where appropriate. This is a living document and may be revised periodically without public notice. EPA welcomes public input on this document at any time.