3745-39-04 **Ohio EPA NPDES requirements for industries, including construction activites, and large and medium MS4s.**

[Comment: This rule governs the national pollutant discharge elimination system (NPDES) storm water program administrative requirements for industries, construction, and large and medium municipal separate storm sewer systems (MS4s). The administrative requirements include: permit application deadlines, application contents, exempt discharges and no exposure certifications. The administrative requirements for small MS4s are located in rules 3745-39-01 to 3745-39-03 of the Administrative Code.

NPDES storm water permits are based on and issued in accordance with Chapters 3745-33, 3745-38 and 3745-49 of the Administrative Code and 40 C.F.R. Parts 122, 123 and 450. Applicable NPDES storm water general permits for these discharger categories are available on the Ohio EPA division of surface water website.]

[Comment: The rule is organized into the following sections:

(A) Permit requirment;

(B) Definitions;

(C) Application requirements for storm water discharges associated with industrial activity and storm water discharges associated with small construction activity;

(D) Application requirements for large and medium municipal separate storm sewer discharges;

(E) Application deadlines;

(F) Petitions; and

(G) Conditional exclusion for "no exposure" of industrial activities and materials to storm water.]

(A) Permit requirement.

(1) ~~Prior to October 1, 1994,~~The following discharges composed entirely of storm water shall ~~not be required to~~ obtain an Ohio NPDES permit ~~except~~:

(a) A discharge with respect to which a permit has been issued prior to February 4, 1987;

(b) A discharge associated with industrial activity (for discharges associated with industrial activity,see paragraph (A)(4) of this rule for additional requirements);

(c) A discharge from a large municipal separate storm sewer system;

(d) A discharge from a medium municipal separate storm sewer system;

(e) A discharge that the director determines to contribute to a violation of an Ohio water quality standard or is a significant contributor of pollutants to surface waters of the state. This designation may include a discharge from any conveyance or system of conveyances used for collecting and conveying storm water runoff or a system of discharges from municipal separate storm sewers, except for those discharges from conveyances that do not require a permit under paragraph (A)(2) of this rule or agricultural storm water runoff that is exempted from the definition of point source. The director may designate discharges from municipal separate storm sewers on a system-wide or jurisdiction-wide basis. In making this determination the director may consider the following factors:

(i) The location of the discharge with respect to surface waters of the state as defined in rule 3745-39-01 of the Administrative Code;

(ii) The size of the discharge;

(iii) The quantity and nature of the pollutants discharged to surface waters of the state; and

(iv) Other relevant factors.

(2) The director shall not require a permit for discharges of storm water runoff from the following:

(a) Mining operations composed entirely of flows that are from conveyances or systems of conveyances (including, but not limited to, pipes, conduits, ditches and channels) used for collecting and conveying precipitation runoff and that are not contaminated by contact with, or that has not come into contact with, any overburden, raw material, intermediate products, finished product, byproduct or waste products located on the site of such operations, except in accordance with paragraph (C)(1)(d) of this rule.

(b) All field activities or operations associated with oil and gas exploration, production, processing, or treatment operations or transmission

facilities, including activities necessary to prepare a site for drilling and for the movement and placement of drilling equipment, whether or not such field activities or operations may be considered to be construction activities, except in accordance with paragraph (C)(1)(c) of this rule. ~~Discharges of sediment from construction activities associated with oil and gas exploration, production, processing, or treatment operations or transmission facilities are not subject to the provisions of paragraph (C)(1)(c)(iii) of this rule.~~

[Comment: Ohio EPA encourages operators of oil and gas field activities or operations to implement and maintain best management practices (BMPs) to minimize discharges of pollutants, including sediment, in storm water both during and after construction activities to help ensure protection of surface water quality during storm events. Appropriate controls would be those suitable to the site conditions and consistent with generally accepted engineering design criteria and manufacturer specifications. Selection of BMPs could also be affected by seasonal or climate conditions.]

(3) Large and medium municipal separate storm sewer systems.

(a) Permits must be obtained for all discharges from large and medium municipal separate storm sewer systems.

(b) The director may either issue one system-wide permit covering all discharges from municipal separate storm sewers within a large or medium municipal separate storm sewer system or issue distinct permits for appropriate categories of discharges within a large or medium municipal separate storm sewer system including, but not limited to: all discharges owned or operated by the same municipality, located within the same jurisdiction; all discharges within a system that discharge to the same watershed; discharges within a system that are similar in nature; or individual discharges from municipal separate storm sewers within the system.

(c) The operator of a discharge from a municipal separate storm sewer that is part of a large or medium municipal separate storm sewer system must either:

(i) Participate in a permit application (to be a permittee or a co-permittee) with one or more other operators of discharges from the large or medium municipal separate storm sewer system that covers all, or a portion of all, discharges from the municipal separate storm sewer system; or

(ii) Submit a distinct permit application that only covers discharges from the municipal separate storm sewers for which the operator is responsible; or

(iii) A regional authority may be responsible for submitting a permit application under the following guidelines:

(a) The regional authority together with co-applicants shall have authority over a storm water management program that is in existence, or shall be in existence at the time part 1 of the municipal application is due;

(b) The permit applicant or co-applicants shall establish their ability to make a timely submission of part 1 and part 2 of the municipal application; and

(c) Each of the operators of municipal separate storm sewers within the systems described in paragraphs (B)(4)(a) and (B(4)(b) of this rule or in paragraphs ~~(B)(7)(a)~~(B)(6)(a) and ~~(B)(7)(b)~~(B)(6)(b) of this rule, that are under the purview of the designated regional authority, shall comply with the application requirements of paragraph (D) of this rule.

(d) One permit application may be submitted for all or a portion of all municipal separate storm sewers within adjacent or interconnected large or medium municipal separate storm sewer systems. The director may issue one system-wide permit covering all, or a portion of all, municipal separate storm sewers in adjacent or interconnected large or medium municipal separate storm sewer systems.

(e) Permits for all or a portion of all discharges from large or medium municipal separate storm sewer systems that are issued on a system-wide, jurisdiction-wide, watershed or other appropriate basis may specify different conditions relating to different discharges covered by the permit, including different management programs for different drainage areas that contribute storm water to the system.

(f) Co-permittees need only comply with permit conditions relating to discharges from the municipal separate storm sewers for which they are operators.

(4) Discharges through large and medium municipal separate storm sewer systems.

In addition to meeting the requirements of paragraph (C) of this rule, an operator of a storm water discharge associated with industrial activity that discharges through a large or medium municipal separate storm sewer system shall submit, to the operator of the municipal separate storm sewer system receiving the discharge ~~no later than May 15, 1991, or~~within one hundred eighty days prior to commencing such discharge: the name of the facility; a contact person and phone number; the location of the discharge; a description, including standard industrial classification, that best reflects the principal products or services provided by each facility; and any existing Ohio NPDES permit number or a copy of Ohio EPA's letter acknowledging receipt of the operator's no exposure certification. The same information is to be submitted to a small municipal separate storm sewer system by an operator of a storm water discharge associated with industrial activity that discharges through a small municipal separate storm sewer system once that system is an NPDES permitted discharger.

(5) Other municipal separate storm sewers. The director may issue permits for municipal separate storm sewers that are designated under paragraph (A)(1)(e) of this rule on a system-wide basis, jurisdiction-wide basis, watershed basis or other appropriate basis, or may issue permits for individual discharges.

(6) Combined sewer systems. Combined sewers, as that term is defined in rule 3745-39-01 of the Administrative Code, are point sources that ~~must~~shall obtain Ohio NPDES permits in accordance with the procedures of rule 3745-33-03 of the Administrative Code and are not subject to the provisions of this rule.

(7)

(a) ~~On and after October 1, 1994, for~~For discharges composed entirely of storm water, that are not required by paragraph (A)(1) of this rule to obtain a permit, operators shall be required to obtain an Ohio NPDES permit ~~only~~ if:

(i) The discharge is from a small ~~MS4~~municipal separate storm sewer system required to be regulated pursuant to rule 3745-39-03 of the Administrative Code;

(ii) The discharge is a storm water discharge associated with small construction activity pursuant to paragraph ~~(B)(16)~~(B)(15) of this rule;

(iii) The director determines that storm water controls are needed for the discharge based on wasteload allocations that are part of total maximum daily loads (TMDLs) that address the ~~pollutant(s)~~pollutant of concern; or

(iv) The director determines that the discharge, or category of discharges within a geographic area, contributes to a violation of a water quality standard or is a significant contributor of pollutants to surface waters of the state.

(b) Operators of small MS4s designated pursuant to paragraphs (A)(7)(a)(i), (A)(7)(a)(iii) and (A)(7)(a)(iv) of this rule shall seek coverage under an Ohio NPDES permit in accordance with rule 3745-39-03 of the Administrative Code. Operators of non-municipal sources designated pursuant to paragraphs (A)(7)(a)(ii), (A)(7)(a)(iii) and (A)(7)(a)(iv) of this rule shall seek coverage under an Ohio NPDES permit in accordance with paragraph (C)(1) of this rule.

(c) Operators of storm water discharges designated pursuant to paragraphs (A)(7)(a)(iii) and (A)(7)(a)(iv) of this rule shall apply to the director for a permit within one hundred eighty days of receipt of notice, unless permission for a later date is granted by the director.

(B) Definitions. As used in this rule:

(1) "Co-permittee" means a permittee to an Ohio NPDES permit that is only responsible for permit conditions relating to the discharge for which it is operator.

(2) "Illicit discharge" means the same as defined in rule 3745-39-01 of the Administrative Code.

(3) "Incorporated place" means a city, town or village that is incorporated under the laws of Ohio.

(4) "Large municipal separate storm sewer system" means~~, for the purposes of this rule,~~ all municipal separate storm sewers that:

(a) Meet the definition of large MS4 in rule 3745-39-01 of the Administrative Code; or

(b) Are owned or operated by a municipality other than those described in paragraph (B)(4)(a) of this rule and that are designated by the director as part of the large or medium municipal separate storm sewer system due to the interrelationship between the discharges of the designated storm sewer and the discharges from municipal separate storm sewers described under paragraph (B)(4)(a) of this rule. In making this determination the director may consider the following factors:

(i) Physical interconnections between the municipal separate storm sewers;

(ii) The location of discharges from the designated municipal separate storm sewer relative to discharges from municipal separate storm sewers described in paragraph (B)(4)(a) of this rule;

(iii) The quantity and nature of pollutants discharged to surface waters of the state;

(iv) The nature of the receiving waters; and

(v) Other relevant factors; or

(c) The director may, upon petition, designate as a large municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a storm water management regional authority based on a jurisdictional, watershed, or other appropriate basis that includes one or more of the systems described in paragraph (B)(4)(a) of this rule.

(5) "Major municipal separate storm sewer outfall" or "major outfall" means a municipal separate storm sewer outfall that discharges from a single pipe with an inside diameter of thirty-six inches or more or its equivalent (discharge from a single conveyance other than circular pipe that is associated with a drainage area of more than fifty acres); or for municipal separate storm sewers that receive storm water from lands zoned for industrial activity (based on comprehensive zoning plans or the equivalent), an outfall that discharges from a single pipe with an inside diameter of twelve inches or more or from its equivalent (discharge from other than a circular pipe associated with a drainage area of two acres or more).

~~(6) "Major outfall" means a major municipal separate storm sewer outfall.~~

~~(7)~~(6) "Medium municipal separate storm sewer system" means, for the purposes of this rule, all municipal separate storm sewers that:

(a) Meet the definition of medium MS4 in rule 3745-39-01 of the Administrative Code; or

(b) Are owned or operated by a municipality other than those described in paragraph ~~(B)(7)(a)~~(B)(6)(a) of this rule and that are designated by the director as part of the large or medium municipal separate storm sewer system due to the interrelationship between the discharges of the designated storm sewer and the discharges from municipal separate storm sewers described under paragraph ~~(B)(7)(a)~~(B)(6)(a) of this rule. In making this determination the director may consider the following factors:

(i) Physical interconnections between the municipal separate storm sewers;

(ii) The location of discharges from the designated municipal separate storm sewer relative to discharges from municipal separate storm sewers described in paragraph ~~(B)(7)(a)~~(B)(6)(a) of this rule;

(iii) The quantity and nature of pollutants discharged to surface waters of the state;

(iv) The nature of the receiving waters; and

(v) Other relevant factors; or

(c) The director may, upon petition, designate as a medium municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a storm water management regional authority based on a jurisdictional, watershed or other appropriate basis that includes one or more of the systems described in paragraph ~~(B)(7)(a)~~(B)(6)(a) of this rule.

~~(8)~~(7) "Municipal separate storm sewer system" means an MS4 as defined in rule 3745-39-01 of the Administrative Code.

~~(9)~~(8) "Outfall from an MS4" means a point source at the point where a municipal separate storm sewer discharges to surface waters of the state and does not

include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels or other conveyances that connect segments of the same stream or other surface waters of the state and are used to convey surface waters of the state.

~~(10)~~(9) "Overburden" means any material of any nature, consolidated or unconsolidated, that overlies a mineral deposit, excluding topsoil or similar naturally-occurring surface materials that are not disturbed by mining operations.

~~(11)~~(10) "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, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff (see 40 C.F.R. 122.3).

~~(12)~~(11) "Runoff coefficient" means the fraction of total rainfall that will appear at a conveyance as runoff.

~~(13)~~(12) "Significant materials" includes, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, 42 U.S.C. 9601(14) as amended through ~~July 1, 2007~~July 1, 2012; any chemical the facility is required to report pursuant to Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA), 42 U.S.C. 11023 as amended through ~~July 1, 2007~~July 1, 2012; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with storm water discharges.

~~(14)~~(13) "Storm water" means storm water runoff, snow melt runoff, and surface runoff and drainage.

~~(15)~~(14) "Storm water discharge associated with industrial activity" 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. The term does not include discharges from facilities or activities excluded from the Ohio NPDES program. For the categories of industries identified in this paragraph, the term

includes, but is not limited to, storm water discharges from: industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters; sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials and intermediate and final products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water. For the purposes of this paragraph, material handling activities include storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product, by-product or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above described areas. Industrial facilities (including industrial facilities that are federally, state or municipally owned or operated that meet the description of the facilities listed in paragraphs ~~(B)(15)(a)~~(B)(14)(a) to ~~(B)(15)(k)~~(B)(14)(k) of this rule) include those facilities designated under the provisions of paragraph (A)(1)(e) of this rule. Several "industrial activity" categories are defined by standard industrial classification (SIC) codes. ~~SIC codes can be found in the "Standard Industrial Classification Manual," published by the federal "Office of Management and Budget" in 1987 and available in the resource section of most public libraries. SIC codes are also available at the following internet web site: http://www.osha.gov/pls/imis/sicsearch.html.~~ The following categories of facilities are considered to be engaging in "industrial activity" for purposes of paragraph ~~(B)(15)~~(B)(14) of this rule:

(a) Facilities subject to storm water effluent limitations guidelines, new source performance standards or toxic pollutant effluent standards;

(b) Facilities classified as standard industrial classifications 24 (except 2434), 26 (except 265 and 267), 28 (except 283), 29, 31l, 32 (except 323), 33, 344l and 373;

(c) Facilities classified as standard industrial classifications 10 through 14 (mineral industry) including active or inactive mining operations (except for areas of coal mining operations no longer meeting the definition of a reclamation area, because the performance bond issued to the facility by the Ohio department of natural resources, the appropriate Surface Mining Control and Reclamation Act (SMCRA, 30 U.S.C. 1201 ~~et seq.~~to 1328 as amended through ~~July 1, 2007~~July 1,

2012) authority, has been released, or except for areas of non-coal mining operations that have been released from applicable state or federal reclamation requirements after December 17, 1990) and oil and gas exploration, production, processing or treatment operations, or transmission facilities that discharge storm water contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations; (inactive mining operations are mining sites that are not being actively mined, but that have an identifiable ~~owner/operator~~owner or operator; inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim);

(d) Hazardous waste treatment, storage, or disposal facilities, including those that are subject to regulations under Chapter 3734. of the Revised Code;

(e) Landfills, land application sites and open dumps that receive or have received any industrial wastes (waste that is received from any of the facilities described under paragraph ~~(B)(15)~~(B)(14) of this rule), including those that are subject to regulation under Chapter 3734. of the Revised Code;

(f) Facilities involved in the recycling of materials, including metal scrapyards, battery reclaimers, salvage yards and automobile junkyards, including but limited to those classified as standard industrial classification 5015 and 5093;

(g) Steam electric power generating facilities, including coal handling sites;

(h) Transportation facilities classified as standard industrial classifications 40, 41, 42 (except 4221 to 4225), 43, 44, 45 and 5171 that have vehicle maintenance shops, equipment cleaning operations or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling and lubrication), equipment cleaning operations, airport deicing operations or that are otherwise identified under paragraphs ~~(B)(15)(a)~~(B)(14)(a) to ~~(B)(15)(g)~~(B)(14)(g) of this rule or under paragraphs ~~(B)(15)(i)~~(B)(15)(i) to ~~(B)(15)(k)~~(B)(14)(k) of this rule are associated with industrial activity;

(i) Treatment works treating domestic sewage or any other sewage sludge or

wastewater treatment device or system, used in the storage treatment, recycling and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of 1.0 million gallons per day or more, or required to have an approved pretreatment program. Not included are farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and that are not physically located in the confines of the facility, or areas that are in compliance with Section 405 of the act;

(j) Construction activity including clearing, grading and excavation, except operations that result in the disturbance of less than five acres of total land area. Construction activity also includes the disturbance of less than five acres of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more;

(k) Facilities under standard industrial classifications 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, and 4221 to 4225.

~~(16)~~(15) "Storm water discharge associated with small construction activity" means the discharge of storm water from:

(a) Construction activities including clearing, grading and excavating that result in land disturbance of equal to or greater than one acre and less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility. The director may waive the otherwise applicable requirements in a general permit for a storm water discharge from construction activities that disturb less than five acres where:

(i) The value of the rainfall erosivity factor ("R" in the revised universal soil loss equation) is less than five during the period of construction activity (see 40 C.F.R. 122.26(b)(15)(i)(A)). An operator must certify to the director that the construction activity will take place during a period when the value of the rainfall erosivity factor is less than five; or

(ii) Storm water controls are not needed based on a TMDL approved or established by the director that addresses the ~~pollutant(s)~~pollutant of concern or, for non-impaired waters that do not require TMDLs, an equivalent analysis that determines allocations for small construction sites for the ~~pollutant(s)~~pollutant of concern or that determines that such allocations are not needed to protect water quality based on consideration of existing in-stream concentrations, expected growth in pollutant contributions from all sources and a margin of safety. For the purpose of this paragraph, the ~~pollutant(s)~~pollutant of concern include sediment or a parameter that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity. The operator must certify to the director that the construction activity will take place, and storm water discharges will occur, within the drainage area addressed by the TMDL or equivalent analysis; or

(b) Any other construction activity designated by the director, based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to surface waters of the state.

~~(17)~~(16) "Municipal separate storm sewer systems" include all separate storm sewers that are:

(a) Defined as large or medium municipal separate storm sewer systems pursuant to paragraphs (B)(4) and ~~(B)(7)~~(B)(6) of this rule; or

(b) Defined as small municipal separate storm sewer systems pursuant to rule 3745-39-01 of the Administrative Code; or

(c) Designated under paragraph (A)(1)(e) of this rule.

~~(18) "MS4" means a municipal separate storm sewer system and is defined in rule 3745-39-01 of the Administrative Code.~~

~~(19)~~(17) "Uncontrolled sanitary landfill" means a landfill or open dump, whether in operation or closed, that does not meet the requirements for run-on or runoff controls established pursuant to Chapter 3734. of the Revised Code.

~~(20)~~(18) "40 C.F.R." means Title 40 of the Code of Federal Regulations effective ~~July 1, 2007~~July 1, 2012.

~~(21)~~(19) "Act" means the federal Water Pollution Control Act (commonly referred to as the Clean Water Act), 33 U.S.C. sections 1251 ~~et seq.~~to 1387, as amended through ~~July 1, 2007~~July 1, 2012.

(20) "Standard industrial classification code or SIC code" is a numeric number assigned to categories of industrial activities. SIC codes can be found in the "Standard Industrial Classification Manual," published by the federal "Office of Management and Budget" in 1987 and available in the resource section of most public libraries. SIC codes are also available at the following internet website: http://www.osha.gov/pls/imis/sicsearch.html.

[Comment: The code of federal regulations and federal statutes listed in this rule can generally be found in public libraries, and can be viewed electronically online at http://www.gpo.gov/fdsys/ and purchased by writing to: "Superintendent of Documents. Attn: New Orders, PO Box 371954, Pittsburg, PA 15250-7954."]

(C) Application requirements for storm water discharges associated with industrial activity and storm water discharges associated with small construction activity.

(1) Individual application. Dischargers of storm water associated with industrial activity and with small construction activity are required to apply for an individual permit or seek coverage under a ~~issued~~currently enforced storm water general permit (see Chapter 3745-38 of the Administrative Code for general permit application requirements). Facilities that are required to obtain an individual permit, or any discharge of storm water that the director is evaluating for designation under paragraph (A)(1)(e) of this rule and is not a municipal separate storm sewer, shall submit an Ohio NPDES application as modified and supplemented by the provisions of the remainder of this paragraph.

(a) Except as provided in paragraphs (C)(1)(b) to (C)(1)(d) of this rule, the operator of a storm water discharge associated with industrial activity subject to this rule shall provide:

(i) A site map showing topography (or indicating the outline of drainage areas served by the outfall or outfalls covered in the application if a topographic map is unavailable) of the facility including: each of its drainage and discharge structures; the drainage area of each storm water outfall; paved areas and buildings within the drainage area of each storm water outfall; each past or present area used for outdoor storage or disposal of significant materials; each existing structural control measure to reduce pollutants in storm water runoff; materials loading and access areas; areas where pesticides,

herbicides, soil conditioners and fertilizers are applied; each of its hazardous waste treatment, storage or disposal facilities (including each area not required to have a permit under a federal law, other than the act, that is used for accumulating hazardous waste under Chapter 3734. of the Revised Code); each well where fluids from the facility are injected underground; and springs and other surface water bodies that receive storm water discharges from the facility;

(ii) An estimate of the area of impervious surfaces (including paved areas and building roofs) and the total area drained by each outfall (within a mile radius of the facility) and a narrative description of the following: significant materials that in the three years prior to the submittal of this application have been treated, stored or disposed in a manner to allow exposure to storm water; method of treatment, storage or disposal of such materials; materials management practices employed, in the three years prior to the submittal of this application, to minimize contact by these materials with storm water runoff; materials loading and access areas; the location, manner and frequency in which pesticides, herbicides, soil conditioners and fertilizers are applied; the location and a description of existing structural and non-structural control measures to reduce pollutants in storm water runoff; and a description of the treatment the storm water receives, including the ultimate disposal of any solid or fluid wastes other than by discharge;

(iii) A certification that all outfalls that should contain storm water discharges associated with industrial activity have been tested or evaluated for the presence of non-storm water discharges that are not covered by an Ohio NPDES permit; tests for such non-storm water discharges may include smoke tests, fluorometric dye tests, analysis of accurate schematics, as well as other appropriate tests. The certification shall include a description of the method used, the date of any testing, and the on-site drainage points that were directly observed during a test;

(iv) Existing information regarding significant leaks or spills of toxic or hazardous pollutants at the facility that have taken place within the three years prior to the submittal of this application;

(v) Quantitative data based on samples collected during storm events, and collected in accordance with 40 C.F.R. 122.21, from all outfalls containing a storm water discharge associated with

industrial activity for the following parameters:

(a) Any pollutant limited in an effluent guideline to which the facility is subject;

(b) Any pollutant listed in the facility's Ohio NPDES permit for its process wastewater (if the facility is operating under an existing Ohio NPDES permit);

(c) Oil and grease, pH, five-day biochemical oxygen demand (BOD5), chemical oxygen demand (COD), total suspended solids (TSS), total phosphorus, total Kjeldahl nitrogen and nitrate plus nitrite nitrogen;

(d) Any information on the discharge required under 40 C.F.R. 122.21(g)(7)(vi) and (vii);

(e) Flow measurements or estimates of the flow rate, and the total amount of discharge for the storm ~~event(s)~~event sampled, and the method of flow measurement or estimation; and

(f) The date and duration (in hours) of the storm ~~event(s)~~event sampled, rainfall measurements or estimates of the storm event (in inches) that generated the sampled runoff and the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event (in hours);

(vi) Operators of a discharge that is composed entirely of storm water are exempt from the requirements of 40 C.F.R. 122.21(g)(2), (g)(3), (g)(4), (g)(5), (g)(7)(iii), (g)(7)(iv), (g)(7)(v), and (g)(7)(viii); and

(vii) Operators of new sources or new discharges (as defined in 40 C.F.R. 122.2) that are composed in part or entirely of storm water must include estimates for the pollutants or parameters listed in paragraph (C)(1)(a)(v) of this rule instead of actual sampling data, along with the source of each estimate. Operators of new sources or new discharges composed in part or entirely of storm water must provide quantitative data for the parameters listed in paragraph (C)(1)(a)(v) of this rule within two years after commencement of discharge, unless such data has already been

reported under the monitoring requirements of the Ohio NPDES permit for the discharge. Operators of a new source or new discharge that is composed entirely of storm water are exempt from the requirements of 40 C.F.R. 122.21(k)(3)(ii), (k)(3)(iii), and (k)(5).

(b) An operator of an existing or new storm water discharge that is associated with industrial activity solely under paragraph ~~(B)(15)(j)~~(B)(14)(j) of this rule or is associated with small construction activity solely under paragraph ~~(B)(16)~~(B)(15) of this rule, is exempt from the requirements of paragraph (C)(1)(a) of this rule. Such operator shall provide a narrative description of:

(i) The location (including a map) and the nature of the construction activity;

(ii) The total area of the site and the area of the site that is expected to undergo excavation during the life of the permit;

(iii) Proposed measures, including best management practices, to control pollutants in storm water discharges during construction, including a brief description of applicable state and local erosion and sediment control requirements;

(iv) Proposed measures to control pollutants in storm water discharges that will occur after construction operations have been completed, including a brief description of applicable state or local erosion and sediment control requirements;

(v) An estimate of the runoff coefficient of the site and the increase in impervious area after the construction addressed in the permit application is completed, the nature of fill material and existing data describing the soil or the quality of the discharge; and

(vi) The name of the receiving water.

(c) The operator of an existing or new discharge composed entirely of storm water from an oil or gas exploration, production, processing or treatment operation, or transmission facility is not required to submit a permit application in accordance with paragraph (C)(1)(a) of this rule, unless the facility:

(i) Has had a discharge of storm water resulting in the discharge of a reportable quantity for which notification is or was required pursuant to 40 C.F.R. 117.21 or 40 C.F.R. 302.6 at any time since November 16, 1987; or

(ii) Has had a discharge of storm water resulting in the discharge of a reportable quantity for which notification is or was required pursuant to 40 C.F.R. 110.6 at any time since November 16, 1987; or

(iii) Contributes to a violation of a water quality standard.

(d) The operator of an existing or new discharge composed entirely of storm water from a mining operation is not required to submit a permit application unless the discharge has come into contact with any overburden, raw material, intermediate products, finished product, byproduct or waste products located on the site of such operations.

(e) Applicants shall provide such other information the director may ~~reasonably~~ require to determine whether to issue a permit and may require any facility subject to paragraph (C)(1)(b) of this rule to comply with paragraph (C)(1)(a) of this rule.

(D) Application requirements for large and medium municipal separate storm sewer discharges. The operator of a discharge from a large or medium municipal separate storm sewer or a municipal separate storm sewer that is designated by the director under paragraph (A)(1)(e) of this rule, may submit a jurisdiction-wide or system-wide permit application. Where more than one public entity owns or operates a municipal separate storm sewer within a geographic area (including adjacent or interconnected municipal separate storm sewer systems), such operators may be a co-applicant to the same application. Permit applications for discharges from large and medium municipal storm sewers or municipal storm sewers designated under paragraph (A)(1)(e) of this rule shall include the following.

(1) Part 1. Part 1 of the application shall consist of the following.

(a) General information. The applicant's name, address, telephone number of contact person, ownership status and status as a state or local government entity.

(b) Legal authority. A description of existing legal authority to control discharges to the municipal separate storm sewer system. When

existing legal authority is not sufficient to meet the criteria provided in paragraph (D)(2)(a) of this rule, the description shall list additional authorities as will be necessary to meet the criteria and shall include a schedule and commitment to seek such additional authority that will be needed to meet the criteria. (This is not required of small MS4 individual permit applicants unless applicants want the director to take this information into account when developing permit conditions.)

(c) Source identification.

(i) A description of the historic use of ordinances, guidance or other controls that limited the discharge of non-storm water discharges to any publicly owned treatment works serving the same area as the municipal separate storm sewer system (not required of small MS4 individual permit applicants).

(ii) A "United States Geological Survey" 7.5 minute topographic map (or equivalent topographic map with a scale between 1:10,000 and 1:24,000 if cost effective) extending one mile beyond the service boundaries of the municipal storm sewer system covered by the permit application. The following information shall be provided:

(a) The location of known municipal storm sewer system outfalls discharging to surface waters of the state;

(b) A description of the land use activities (e.g., divisions indicating undeveloped, residential, commercial, agricultural and industrial uses) accompanied with estimates of population densities and projected growth for a ten-year period within the drainage area served by the separate storm sewer. For each land use type, an estimate of an average runoff coefficient shall be provided;

(c) The location and a description of the activities of the facility of each currently operating or closed municipal landfill or other treatment, storage or disposal facility for municipal waste;

(d) The location and the permit number of any known discharge to the municipal storm sewer that has been issued an Ohio NPDES permit;

(e) The location of major structural controls for storm water discharge (retention basins, detention basins, major infiltration devices, etc.); and

(f) The identification of publicly owned parks, recreational areas and other open lands.

(d) Discharge characterization.

(i) Monthly mean rain and snow fall estimates (or summary of weather bureau data) and the monthly average number of storm events (not required of small MS4 individual permit applicants).

(ii) Existing quantitative data describing the volume and quality of discharges from the municipal storm sewer, including a description of the outfalls sampled, sampling procedures and analytical methods used.

(iii) A list of water bodies that receive discharges from the municipal separate storm sewer system, including downstream segments, lakes and estuaries, where pollutants from the system discharges may accumulate and cause water degradation and a brief description of known water quality impacts. At a minimum, the description of impacts shall include a description of whether the water bodies receiving such discharges have been:

(a) Assessed and reported in reports submitted by the state under Section 305(b) of the act, the basis for the assessment (evaluated or monitored), a summary of designated use support and attainment of goals in Section 101 of the act (fishable and swimmable waters) and causes of non-support of designated uses;

(b) Listed under Section 304(l)(1)(A)(i), Section 304(l)(1)(A)(ii), or Section 304(l)(1)(B) of the act that is not expected to meet water quality standards or water quality goals;

(c) Listed in state nonpoint source assessments required by Section 319(a) of the act that, without additional action to control nonpoint sources of pollution, cannot reasonably be expected to attain or maintain water quality standards due to storm sewers, construction, highway maintenance and

runoff from municipal landfills and municipal sludge adding significant pollution (or contributing to a violation of water quality standards);

(d) Identified and classified according to eutrophic condition of publicly owned lakes listed in state reports required under Section 314(a) of the act (include the following: a description of those publicly owned lakes for which uses are known to be impaired; a description of procedures, processes and methods to control the discharge of pollutants from municipal separate storm sewers into such lakes; and a description of methods and procedures to restore the quality of such lakes);

(e) Areas of concern of the "Great Lakes" identified by the "International Joint Commission;"

(f) Designated estuaries under the "National Estuary Program" under Section 320 of the act;

(g) Recognized by the applicant as highly valued or sensitive waters;

(h) Defined by the state or "U.S. Fish and Wildlife Services's National Wetlands Inventory" as wetlands; and

(i) Found to have pollutants in bottom sediments, fish tissue or biosurvey data.

(iv) Field screening. Results of a field screening analysis for illicit connections and illegal dumping for either selected field screening points or major outfalls covered in the permit application. At a minimum, a screening analysis shall include a narrative description, for either each field screening point or major outfall, of visual observations made during dry weather periods. If any flow is observed, two grab samples shall be collected during a twenty-four-hour period with a minimum period of four hours between samples. For all such samples, a narrative description of the color, odor, turbidity, the presence of an oil sheen or surface scum as well as any other relevant observations regarding the potential presence of non-storm water discharges or illegal dumping shall be provided. In addition, a narrative description of the results of a field analysis using

suitable methods to estimate pH, total chlorine, total copper, total phenol and detergents (or surfactants) shall be provided along with a description of the flow rate. Where the field analysis does not involve analytical methods approved under 40 C.F.R. 136, the applicant shall provide a description of the method used including the name of the manufacturer of the test method along with the range and accuracy of the test. Field screening points shall be either major outfalls or other outfall points (or any other point of access such as manholes) randomly located throughout the storm sewer system by placing a grid over a drainage system map and identifying those cells of the grid that contain a segment of the storm sewer system or major outfall. The field screening points shall be established using the following guidelines and criteria:

(a) A grid system consisting of perpendicular north-south and east-west lines spaced one-fourth mile apart shall be overlaid on a map of the municipal storm sewer system, creating a series of cells;

(b) All cells that contain a segment of the storm sewer system shall be identified; one field screening point shall be selected in each cell; major outfalls may be used as field screening points;

(c) Field screening points should be located downstream of any sources of suspected illegal or illicit activity;

(d) Field screening points shall be located to the degree practicable at the farthest manhole or other accessible location downstream in the system, within each cell; however, safety of personnel and accessibility of the location should be considered in making this determination;

(e) Hydrological conditions; total drainage area of the site; population density of the site; traffic density; age of the structures or buildings in the area; history of the area; and land use types;

(f) For medium municipal separate storm sewer systems, no more than two hundred fifty cells need to have identified field screening points; in large municipal separate storm sewer systems, no more than five hundred cells need to have identified field screening points; cells established by the

grid that contain no storm sewer segments will be eliminated from consideration; if fewer than two hundred fifty cells in medium municipal sewers are created, and fewer than five hundred in large systems are created by the overlay on the municipal sewer map, then all those cells that contain a segment of the sewer system shall be subject to field screening (unless access to the separate storm sewer system is impossible); and

(g) Large or medium municipal separate storm sewer systems that are unable to utilize the procedures described in paragraphs (D)(1)(d)(iv)(a) to (D)(1)(d)(iv)(f) of this rule, because a sufficiently detailed map of the separate storm sewer systems is unavailable, shall field screen no more than five hundred or two hundred fifty major outfalls respectively (or all major outfalls in the system, if less); in such circumstances, the applicant shall establish a grid system consisting of north-south and east-west lines spaced one-fourth mile apart as an overlay to the boundaries of the municipal storm sewer system, thereby creating a series of cells; the applicant will then select major outfalls in as many cells as possible until at least five hundred major outfalls (large municipalities) or two hundred fifty major outfalls (medium municipalities) are selected; a field screening analysis shall be undertaken at these major outfalls.

(v) Characterization plan. Information and a proposed program to meet the requirements of paragraph (D)(2)(c) of this rule. Such description shall include: the location of outfalls or field screening points appropriate for representative data collection under paragraph (D)(2)(c)(i) of this rule; a description of why the outfall or field screening point is representative; the seasons during which sampling is intended; and a description of the sampling equipment. The proposed location of outfalls or field screening points for such sampling should reflect water quality concerns (see paragraph (D)(1)(d)(iii) of this rule) to the extent practicable.

(e) Management programs.

(i) A description of the existing management programs to control pollutants from the municipal separate storm sewer system. The description shall provide information on existing structural and

source controls, including operation and maintenance measures for structural controls, that are currently being implemented. Such controls may include, but are not limited to: procedures to control pollution resulting from construction activities; floodplain management controls; wetland protection measures; best management practices for new subdivisions; and emergency spill response programs. The description may address controls established under state law as well as local requirements.

(ii) A description of the existing program to identify illicit connections to the municipal storm sewer system. The description should include inspection procedures and methods for detecting and preventing illicit discharges, and describe areas where this program has been implemented.

(f) Fiscal resources. A description of the financial resources currently available to the municipality to complete part 2 of the permit application. A description of the municipality's budget for existing storm water programs, including an overview of the municipality's financial resources and budget, including overall indebtedness and assets, and sources of funds for storm water programs.

(2) Part 2. Part 2 of the application shall consist of the following (not required of small MS4 individual permit applicants regarding legal authority unless applicants want the director to take this information into account when developing permit conditions).

(a) Adequate legal authority. A demonstration that the applicant can operate pursuant to legal authority established by statute, ordinance or series of contracts that authorizes or enables the applicant at a minimum to:

(i) Control through ordinance, permit, contract, order or similar means, the contribution of pollutants to the municipal storm sewer by storm water discharges associated with industrial activity and the quality of storm water discharged from sites of industrial activity;

(ii) Prohibit through ordinance, order or similar means, illicit discharges to the municipal separate storm sewer;

(iii) Control through ordinance, order or similar means the discharge to a municipal separate storm sewer of spills, dumping or disposal of materials other than storm water;

(iv) Control through interagency agreements among co-applicants the contribution of pollutants from one portion of the municipal system to another portion of the municipal system;

(v) Require compliance with conditions in ordinances, permits, contracts or orders; and

(vi) Carry out all inspection, surveillance and monitoring procedures necessary to determine compliance and noncompliance with permit conditions including the prohibition on illicit discharges to the municipal separate storm sewer.

(b) Source identification. The location of any major outfall that discharges to surface waters of the state that was not reported under paragraph (D)(1)(c)(ii)(a) of this rule. Provide an inventory, organized by watershed of the name and address, and a description (such as standard industrial classification codes) that best reflects the principal products or services provided by each facility that may discharge, to the municipal separate storm sewer, storm water associated with industrial activity.

(c) Characterization data. When "quantitative data" for a pollutant are required under paragraph (D)(2)(c)(i)(c) of this rule, the applicant must collect a sample of effluent in accordance with 40 C.F.R. 122.21(g)(7) and analyze it for the pollutant in accordance with analytical methods approved under 40 C.F.R. 136. When no analytical method is approved the applicant may use any suitable method but must provide a description of the method. The applicant must provide information characterizing the quality and quantity of discharges covered in the permit application, including (not required of small MS4 individual permit applicants):

(i) Quantitative data from representative outfalls designated by the director (based on information received in part 1 of the application, the director shall designate between five and ten outfalls or field screening points as representative of the commercial, residential and industrial land use activities of the drainage area contributing to the system or, where there are less than five outfalls covered in the application, the director shall designate all outfalls) developed as follows:

(a) For each outfall or field screening point designated under

paragraph (D)(2)(c)(i) of this rule, samples shall be collected of storm water discharges from three storm events occurring at least one month apart in accordance with the requirements of 40 C.F.R. 122.21(g)(7). (The director may allow exemptions to sampling three storm events when climatic conditions create good cause for such exemptions);

(b) A narrative description shall be provided of the date and duration of the storm ~~event(s)~~event sampled, rainfall estimates of the storm event that generated the sampled discharge and the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event;

(c) For samples collected and described under paragraphs (D)(2)(c)(i)(a) and (D)(2)(c)(i)(b) of this rule, quantitative data shall be provided for the organic pollutants listed in table II of appendix D of 40 C.F.R. 122, the pollutants listed in table III (toxic metals, cyanide and total phenols) of appendix D of 40 C.F.R. 122, and the following pollutants: total suspended solids (TSS), total dissolved solids (TDS), chemical oxygen demand (COD), five-day biochemical oxygen demand (BOD5), oil and grease, fecal coliform, fecal streptococcus, pH, total Kjeldahl nitrogen, nitrate plus nitrite, dissolved phosphorus, total ammonia plus organic nitrogen, and total phosphorus; and

(d) Additional limited quantitative data required by the director for determining permit conditions (the director may require that quantitative data shall be provided for additional parameters, and may establish sampling conditions such as the location, season of sample collection, form of precipitation (snow melt, rainfall) and other parameters necessary to insure representativeness);

(ii) Estimates of the annual pollutant load of the cumulative discharges to surface waters of the state from all identified municipal outfalls and the event mean concentration of the cumulative discharges to surface waters of the state from all identified municipal outfalls during a storm event (as described under 40 C.F.R. 122.21(c)(7)) for BOD5, COD, TSS, TDS, total nitrogen, total ammonia plus organic nitrogen, total phosphorus, dissolved phosphorus, cadmium, copper, lead and zinc. Estimates shall be accompanied by a description of the procedures for estimating constituent loads

and concentrations, including any modeling, data analysis and calculation methods;

(iii) A proposed schedule to provide estimates for each major outfall identified in either paragraph (D)(2)(b) or (D)(1)(c)(ii)(a) of this rule of the seasonal pollutant load and of the event mean concentration of a representative storm for any constituent detected in any sample required under paragraph (D)(2)(c)(i) of this rule; and

(iv) A proposed monitoring program for representative data collection for the term of the permit that describes the location of outfalls or field screening points to be sampled (or the location of in stream stations), why the location is representative, the frequency of sampling, parameters to be sampled and a description of sampling equipment.

(d) Proposed management program. A proposed management program covers the duration of the permit. It shall include a comprehensive planning process that involves public participation and where necessary intergovernmental coordination, to reduce the discharge of pollutants to the maximum extent practicable using management practices, control techniques and system, design and engineering methods, and such other provisions that are appropriate. The program shall also include a description of staff and equipment available to implement the program. Separate proposed programs may be submitted by each co-applicant. Proposed programs may impose controls on a systemwide basis, a watershed basis, a jurisdiction basis, or on individual outfalls. Proposed programs will be considered by the director when developing permit conditions to reduce pollutants in discharges to the maximum extent practicable. Proposed management programs shall describe priorities for implementing controls. Such programs shall be based on:

(i) A description of structural and source control measures to reduce pollutants from runoff from commercial and residential areas that are discharged from the municipal storm sewer system that are to be implemented during the life of the permit, accompanied with an estimate of the expected reduction of pollutant loads and a proposed schedule for implementing such controls. At a minimum, the description shall include:

(a) A description of maintenance activities and a maintenance schedule for structural controls to reduce pollutants (including floatables) in discharges from municipal separate

storm sewers;

(b) A description of planning procedures including a comprehensive master plan to develop, implement and enforce controls to reduce the discharge of pollutants from municipal separate storm sewers that receive discharges from areas of new development and significant redevelopment. Such plan shall address controls to reduce pollutants in discharges from municipal separate storm sewers after construction is completed. (Controls to reduce pollutants in discharges from municipal separate storm sewers containing construction site runoff are addressed in paragraph (D)(2)(d)(iv) of this rule);

(c) A description of practices for operating and maintaining public streets, roads and highways and procedures for reducing the impact on receiving waters of discharges from municipal storm sewer systems, including pollutants discharged as a result of deicing activities;

(d) A description of procedures to assure that flood management projects assess the impacts on the water quality of receiving water bodies and that existing structural flood control devices have been evaluated to determine if retrofitting the device to provide additional pollutant removal from storm water is feasible;

(e) A description of a program to monitor pollutants in runoff from operating or closed municipal landfills or other treatment, storage or disposal facilities for municipal waste, that shall identify priorities and procedures for inspections and establishing and implementing control measures for such discharges (this program can be coordinated with the program developed under paragraph (D)(2)(d)(iii) of this rule); and

(f) A description of a program to reduce to the maximum extent practicable, pollutants in discharges from municipal separate storm sewers associated with the application of pesticides, herbicides and fertilizer that will include, as appropriate, controls such as educational activities, permits, certifications and other measures for commercial applicators and distributors, and controls for application in public right-of-ways and at municipal facilities;

(ii) A description of a program, including a schedule, to detect and remove (or require the discharger to the municipal separate storm sewer to obtain a separate Ohio NPDES permit for) illicit discharges and improper disposal into the storm sewer. The proposed program shall include:

(a) A description of a program, including inspections, to implement and enforce an ordinance, orders or similar means to prevent illicit discharges to the municipal separate storm sewer system; this program description shall address all types of illicit discharges, however the following category of non-storm water discharges or flows shall be addressed where such discharges are identified by the municipality as sources of pollutants to surface waters of the state: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (as defined at 40 C.F.R. 35.2005(20)) to separate storm sewers, 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 (program descriptions shall address discharges or flows from fire fighting only where such discharges or flows are identified as significant sources of pollutants to surface waters of the state);

(b) A description of procedures to conduct on-going field screening activities during the life of the permit, including areas or locations that will be evaluated by such field screens;

(c) A description of procedures to be followed to investigate portions of the separate storm sewer system that, based on the results of the field screen, or other appropriate information, indicate a reasonable potential of containing illicit discharges or other sources of non-storm water (such procedures may include: sampling procedures for constituents such as fecal coliform, fecal streptococcus, surfactants (MBAS), residual chlorine, fluorides and potassium; testing with fluorometric dyes; or conducting in

storm sewer inspections where safety and other considerations allow. Such description shall include the location of storm sewers that have been identified for such evaluation);

(d) A description of procedures to prevent, contain, and respond to spills that may discharge into the municipal separate storm sewer;

(e) A description of a program to promote, publicize and facilitate public reporting of the presence of illicit discharges or water quality impacts associated with discharges from municipal separate storm sewers;

(f) A description of educational activities, public information activities and other appropriate activities to facilitate the proper management and disposal of used oil and toxic materials; and

(g) A description of controls to limit infiltration of seepage from municipal sanitary sewers to municipal separate storm sewer systems where necessary;

(iii) A description of a program to monitor and control pollutants in storm water discharges to municipal systems from municipal landfills, hazardous waste treatment, disposal and recovery facilities, industrial facilities that are subject to Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA), 42 U.S.C. 11023 as amended through ~~July 1, 2007~~July 1, 2012, and industrial facilities that the municipal permit applicant determines are contributing a substantial pollutant loading to the municipal storm sewer system. The program shall:

(a) Identify priorities and procedures for inspections and establishing and implementing control measures for such discharges; and

(b) Describe a monitoring program for storm water discharges associated with the industrial facilities identified in paragraph (D)(2)(d)(iii) of this rule, to be implemented during the term of the permit, including the submission of quantitative data on the following constituents: any

pollutants limited in effluent guidelines subcategories, where applicable; any pollutant listed in an existing Ohio NPDES permit for a facility; oil and grease, COD, pH, BOD5, TSS, total phosphorus, total Kjeldahl nitrogen, nitrate plus nitrite nitrogen, and any information on discharges required under 40 C.F.R. 122.21(g)(7)(vi) and (vii); and

(iv) A description of a program to implement and maintain structural and non-structural best management practices to reduce pollutants in storm water runoff from construction sites to the municipal storm sewer system, that shall include:

(a) A description of procedures for site planning that incorporate consideration of potential water quality impacts;

(b) A description of requirements for nonstructural and structural best management practices;

(c) A description of procedures for identifying priorities for inspecting sites and enforcing control measures that consider the nature of the construction activity, topography and the characteristics of soils and receiving water quality; and

(d) A description of appropriate educational and training measures for construction site operators.

(e) Assessment of controls. Estimated reductions in loadings of pollutants from discharges of municipal storm sewer constituents from municipal storm sewer systems expected as the result of the municipal storm water quality management program. The assessment shall also identify known impacts of storm water controls on ground water.

(f) Fiscal analysis. For each fiscal year to be covered by the permit, a fiscal analysis of the necessary capital and operation and maintenance expenditures necessary to accomplish the activities of the programs under paragraphs (D)(2)(c) and (D)(2)(d) of this rule. Such analysis shall include a description of the source of funds that are proposed to meet the necessary expenditures, including legal restrictions on the use of such funds.

(g) Where more than one legal entity submits an application, the application shall contain a description of the roles and responsibilities of each legal entity and procedures to ensure effective coordination.

(h) Where requirements under paragraphs (D)(1)(d)(v), (D)(2)(b), (D)(2)(c)(ii) and (D)(2)(d) of this rule are not practicable or are not applicable, the director may exclude any operator of a discharge from a municipal separate storm sewer system that is designated under paragraph (A)(1)(e), (B)(4)(b) or ~~(B)(7)(b)~~(B)(6)(b) of this rule from such requirements. The director shall not exclude the operator of a discharge from a large or medium municipal separate storm sewer system, from any of the permit application requirements under paragraph (D) of this rule except where authorized under this rule.

(E) Application deadlines. Any operator of a point source required to obtain a permit under this rule that does not have an effective Ohio NPDES permit authorizing discharges from its storm water outfalls shall submit an application in accordance with the following deadlines.

(1) Storm water discharges associated with industrial activity.

(a) Except as provided in paragraph (E)(1)(b) of this rule, for any storm water discharge associated with industrial activity identified in paragraphs ~~(B)(15)(a)~~(B)(14)(a) to ~~(B)(15)(k)~~(B)(14)(k) of this rule, that is not part of the federal group application process or that is not authorized by a storm water general permit, a permit application made pursuant to paragraph (C) of this rule must be submitted to the director by October 1, 1992.

(b) For any storm water discharge associated with industrial activity from a facility that is owned or operated by a municipality with a population of less than one hundred thousand that is not authorized by a general or individual permit, other than an airport, power plant, or uncontrolled sanitary landfill, the permit application must be submitted to the director by March 10, 2003.

(2) For any discharge from a large municipal separate storm sewer system:

(a) Part 1 of the application shall be submitted to the director by November 18, 1991;

(b) Based on information received in the part 1 application the director will

approve or deny a sampling plan under paragraph (D)(1)(d)(v) of this rule within ninety days after receiving the part 1 application; and

(c) Part 2 of the application shall be submitted to the director by November 16, 1992.

(3) For any discharge from a medium municipal separate storm sewer system:

(a) Part 1 of the application shall be submitted to the director by May 18, 1992;

(b) Based on information received in the part 1 application the director will approve or deny a sampling plan under paragraph (D)(1)(d)(v) of this rule within ninety days after receiving the part 1 application; and

(c) Part 2 of the application shall be submitted to the director by May 17, 1993.

(4) A permit application shall be submitted to the director within one hundred eighty days of notice, unless permission for a later date is granted by the director (see 40 C.F.R. 124.52(c)), for:

(a) A storm water discharge that the director determines contributes to a violation of a water quality standard or is a significant contributor of pollutants to surface waters of the state (see paragraphs (A)(1)(e) and ~~(B)(16)(b)~~(B)(15)(b) of this rule); and

(b) A storm water discharge subject to paragraph (C)(1)(e) of this rule.

(5) Facilities with existing Ohio NPDES permits for storm water discharges associated with industrial activity shall maintain existing permits. Facilities with permits for storm water discharges associated with industrial activity that expire on or after May 18, 1992 shall submit a new application in accordance with the requirements of 40 C.F.R. 122.21 and paragraph (C)(1)(a) of this rule one hundred eighty days before the expiration of such permits.

(6) The director shall issue or deny permits for discharges composed entirely of storm water under this rule in accordance with the following schedule:

(a) Except as provided in paragraph (E)(6)(b) of this rule, the director shall

issue or deny permits for storm water discharges associated with industrial activity no later than October 1, 1993 or, for new sources or existing sources that fail to submit a complete permit application by October 1, 1992, one year after receipt of a complete permit application;

(b) The director shall issue or deny permits for large municipal separate storm sewer systems no later than November 16, 1993 or, for new sources or existing sources that fail to submit a complete permit application by November 16, 1992, one year after receipt of a complete permit application; and

(c) The director shall issue or deny permits for medium municipal separate storm sewer systems no later than May 17, 1994 or, for new sources or existing sources that fail to submit a complete permit application by May 17, 1993, one year after receipt of a complete permit application.

(7) For any storm water discharge associated with small construction activity identified in paragraph ~~(B)(16)(a)~~(B)(15)(a) of this rule (see 40 C.F.R. 122.21(c)(1)). Discharges from these sources require permit authorization by March 10, 2003, unless designated for coverage before then.

(F) Petitions.

(1) Any operator of a municipal separate storm sewer system may petition the director to require a separate Ohio NPDES permit for any discharge into the municipal separate storm sewer system.

(2) Any person may petition the director to require an Ohio NPDES permit for a discharge that is composed entirely of storm water that contributes to a violation of a water quality standard or is a significant contributor of pollutants to surface waters of the state.

(3) The owner or operator of a municipal separate storm sewer system may petition the director to reduce the census estimates of the population served by such separate system to account for storm water discharged to combined sewers as defined by 40 C.F.R. 35.2005(b)(11) that is treated in a publicly owned treatment works (see rule 3745-39-01 of the Administrative Code). In municipalities in which combined sewers are operated, the census estimates of population may be reduced proportional to the fraction, based on estimated lengths, of the length of combined sewers over the sum of the length of combined sewers and municipal separate storm sewers where an applicant has submitted the Ohio NPDES permit number associated with each discharge

point and a map indicating areas served by combined sewers and the location of any combined sewer overflow discharge point.

(4) Any person may petition the director for the designation of a large or medium municipal separate storm sewer system as defined by paragraph (B)(4)(b) or ~~(B)(7)(b)~~(B)(6)(b) of this rule.

(5) The director shall make a final determination on any petition received under this paragraph (F) of this rule within ninety days after receiving the petition.

(G) Conditional exclusion for "no exposure" of industrial activities and materials to storm water. Discharges composed entirely of storm water are not storm water discharges associated with industrial activity if there is "no exposure" of industrial materials and activities to rain, snow, snowmelt ~~and/or~~or runoff, and the discharger satisfies the conditions in paragraphs (G)(1) to (G)(4) of this rule. "No exposure" means that all industrial materials and activities are protected by a storm resistant shelter to prevent exposure to rain, snow, snowmelt ~~and/or~~or runoff. Industrial materials or activities include, but are not limited to, material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, final products or waste products. Material handling activities include the storage, loading and unloading, transportation or conveyance of any raw material, intermediate product, final product or waste product.

(1) Qualification. To qualify for this exclusion, the operator of the discharge must:

(a) Provide a storm resistant shelter to protect industrial materials and activities from exposure to rain, snow, snow melt and runoff;

(b) Complete and sign (according to 40 C.F.R. 122.22) a certification that there are no discharges of storm water contaminated by exposure to industrial materials and activities from the entire facility, except as provided in paragraph (G)(2) of this rule;

(c) Submit the signed certification to the director once every five years;

(d) Allow the director to inspect the facility to determine compliance with the "no exposure" conditions;

(e) Allow the director to make any "no exposure" inspection reports available to the public upon request; and

(f) For facilities that discharge through an MS4, upon request, submit a copy

of the certification of "no exposure" to the MS4 operator, as well as allow inspection and public reporting by the MS4 operator.

(2) Industrial materials and activities not requiring storm resistant shelter. To qualify for this exclusion, storm resistant shelter is not required for:

(a) Drums, barrels, tanks, and similar containers that are tightly sealed, provided those containers are not deteriorated and do not leak ("sealed" means banded or otherwise secured and without operational taps or valves);

(b) Adequately maintained vehicles used in material handling; and

(c) Final products, other than products that would be mobilized in storm water discharge (e.g., rock salt).

(3) Limitations.

(a) Storm water discharges from construction activities identified in paragraphs ~~(B)(15)(j)~~(B)(14)(j) and ~~(B)(16)~~(B)(15) of this rule are not eligible for this conditional exclusion.

(b) This conditional exclusion from the requirement for an Ohio NPDES permit is available on a facility-wide basis only, not for individual outfalls. If a facility has some discharges of storm water that would otherwise be "no exposure" discharges, individual permit requirements ~~should~~may be adjusted accordingly.

(c) If circumstances change and industrial materials or activities become exposed to rain, snow, snow melt ~~and/or~~or runoff, the conditions for this exclusion no longer apply. In such cases, the discharge becomes subject to enforcement for un-permitted discharge. Any conditionally exempt discharger who anticipates changes in circumstances ~~should~~shall apply for and obtain permit authorization prior to the change of circumstances.

(d) Notwithstanding the provisions of paragraphs (G)(3)(a) to (G)(3)(c) of this rule, the director retains the authority to require permit authorization (and deny this exclusion) upon making a determination that the discharge causes, has a reasonable potential to cause or contributes to an in stream excursion above an applicable water quality standard, including designated uses.

(4) Certification. The "no exposure" certification must require the submission of the following information, at a minimum, to aid the director in determining if the facility qualifies for the "no exposure" exclusion:

(a) The legal name, address and phone number of the discharger;

(b) The facility name and address, the county name and the latitude and longitude where the facility is located;

(c) The certification must indicate that none of the following materials or activities are, or will be in the foreseeable future, exposed to precipitation:

(i) Using, storing or cleaning industrial machinery or equipment, and areas where residuals from using, storing or cleaning industrial machinery or equipment remain and are exposed to storm water;

(ii) Materials or residuals on the ground or in storm water inlets from ~~spills/ leaks~~spills or leaks;

(iii) Materials or products from past industrial activity;

(iv) Material handling equipment (except adequately maintained vehicles);

(v) Materials or products during ~~loading/unloading~~loading or unloading or transporting activities;

(vi) Materials or products stored outdoors (except final products intended for outside use; e.g., new cars, where exposure to storm water does not result in the discharge of pollutants);

(vii) Materials contained in open, deteriorated or leaking storage drums, barrels, tanks, and similar containers;

(viii) Materials or products handled/stored on roads or railways owned or maintained by the discharger;

(ix) Waste material (except waste in covered, non-leaking containers; e.g., dumpsters);

(x) Application or disposal of process wastewater (unless otherwise permitted); and

(xi) Particulate matter or visible deposits of residuals from roof ~~stacks/vents~~stacks or vents not otherwise regulated; i.e., under an air quality control permit and evident in the storm water outflow; and

(d) All "no exposure" certifications must include the following certification statement, and be signed in accordance with the signatory requirements of 40 C.F.R. 122.22: "I certify under penalty of law that I have read and understand the eligibility requirements for claiming a condition of "no exposure" and obtaining an exclusion from Ohio NPDES storm water permitting; and that there are no discharges of storm water contaminated by exposure to industrial activities or materials from the industrial facility identified in this document (except as allowed under paragraph (G)(2) of rule 3745-39-04 of the Administrative Code). I understand that I am obligated to submit a "no exposure" certification form once every five years to the Ohio EPA director and, if requested, to the operator of the local MS4 into which this facility discharges (where applicable). I understand that I must allow the Ohio EPA director, or MS4 operator where the discharge is into the local MS4, to perform inspections to confirm the condition of "no exposure" and to make such inspection reports publicly available upon request. I understand that I must obtain coverage under an Ohio NPDES permit prior to any point source discharge of storm water from the facility. I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based upon my inquiry of the person or persons who manage the system, or those persons directly involved in gathering the information, the information submitted is to the best of my knowledge and belief true, accurate and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Effective:

R.C. 119.032 review dates: 04/08/2013

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Certification

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Date

Promulgated Under:	119.03
Statutory Authority:	6111.03
Rule Amplifies:	6111.03, 6111.035
Prior Effective Dates:	11/1/2007