

Minutes

Quarterly Teleconference for Florida Phase II MS4 NPDES Coordinators

Tuesday, March 31, 2020

Next quarterly teleconference for Phase II NPDES Coordinators:

- **June 24, 2020 1:30 pm**
- Submit agenda items to Robin.Starkie@FloridaDEP.gov.
- Sign up for GovDelivery teleconference notifications at:
https://public.govdelivery.com/accounts/FLDEP/subscriber/new?topic_id=FLDEP_440

NPDES Stormwater Contacts:

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Jason Maron	Phase II MS4 Coordinator	850-245-7568
Sarah Ketron	FDOT Coordinator/Rulemaking	850-245-8495
Matt Irwin	MS4 Support	850-245-8643
Michelle Bull	Phase I MS4 Coordinator	850-245-7561
Steve Cioccia	Phase I MS4 Coordinator	850-245-8568

NOTES

Welcome, Staff Updates – Borja Crane-Amores

- Most DEP employees are currently teleworking. While we have access to our voicemails, we can respond to emails more quickly; we also have access to Microsoft Teams, and other means of communication, should the need arise.
- We still expect business as usual on both our end and on your end, including submission and review of annual reports and required documentation. If a time extension for any report is needed, reach out to your coordinator.
- This is in accordance with FDEP Emergency Order Due to the Effects of COVID-19, which states: “the Department finds that it is appropriate to extend certain regulatory deadlines by 30 days to accommodate disruptions. This Order does not provide relief from any other regulatory requirements including those of other federal, state, or local agencies.”

- The emergency order can be found at the following link:
https://floridadep.gov/sites/default/files/EFO_Due_to_the_Effects_of_COVID-19_-_OGC_20-0239.pdf
- Matt Irwin joined the team in February and is helping with program consistency and efficiency.

FDEP Biennial Assessment – Kevin O'Donnell, FDEP Watershed Assessment Section

(presentation attached)

- Contact Kevin for any questions at (850) 245-8469 or Kevin.ODonnell@FloridaDEP.gov

Phase II Rulemaking Updates – Sarah Ketron

- We began Phase II MS4 rulemaking on January 13, 2020 and have a draft on the DWRM website; a GovDelivery link to the draft was emailed on March 9, 2020. The link is provided again as follows:
<https://floridadep.gov/water/water/content/water-resource-management-rules-development> please scroll down to “NPDES Stormwater” and click the link to draft 62-621.300(7)(a).
- We are taking comments for two more weeks from this teleconference before proceeding.
- Despite the present situation of teleworking, we are proceeding as planned.

Questions:

Fred Noble, FDOT: What do you anticipate the schedule to be after the two-week period? What is the contemplated final date?

Sarah: We anticipate an additional two weeks following the closure of comment. So a total of a month from today until we obtain permission to proceed into proposed rulemaking.

Common Deficiencies and Recommendations – Jason Maron & Hector Rivera

Land Development Code and Illicit Discharge Detection and Elimination, Jason:

- The intent of the illicit discharge regulatory mechanism is to prohibit non-stormwater (i.e. illicit) discharges from ALL entities, as any individual, industry, or business could discharge pollutants to the MS4.
- If you are currently utilizing a Land Development Code, or equivalent, to prohibit illicit discharges, we strongly recommend you reevaluate this mechanism.

- The Land Development Code would only prohibit discharges from entities who are conducting construction per the LDC. While prohibiting discharges from construction in your Land Development Code is beneficial this would not meet the intent of Element 3b.
- These statements do not apply to all MS4s, as some may have to rely on enforceable policies, procedures, or partnerships with other MS4s to prohibit discharges.
- Attached you will find EPA's model non-stormwater discharge ordinance.

Record Keeping, Hector:

- For those permittees that use pamphlet or brochure distribution as one of your BMPs under Element 1, please ensure you track the total quantity distributed, and report them in your annual reports for the associated measurable goals.
- The goal of Element 1 is to educate the community on how stormwater discharge can effect water quality, as well as steps the public can take to reduce pollutants from stormwater runoff. Some brochures examples include: the proper application of fertilizer, collection of pet waste, and proper disposal of household chemicals.
- For those permittees that have an outreach event as a BMP under Element 2 - Public Participation, and the measurable goal requires tracking attendance, please ensure to report the number of people in attendance through techniques such as: a sign-in sheet, wristband distribution, an entry headcount, or potential other means.
- For BMP 6b-01: Employee training, please make sure you keep track of and report the number of personnel trained through appropriate means.

Questions:

Leicester Dudley, Orange City: We are using land development code, but switching over to other regulatory mechanisms. Is there a code we have to enact prior to enforcing inspections?

Jason: We can provide you an EPA model illicit discharge ordinance which you may review with your city commission and other parties in order to adopt to give the city enforcement authority. The City may have the ability to enforce prohibition of illicit discharges through other codes and ordinances, but this would be dependent on the language in your regulations.

General Updates – Borja Crane-Amores & Jason Maron

- **Borja** - The Non-Point Source Program, Educational Toolkit -The Florida Department of Environmental Protection values your opinion and would like your feedback on how we can increase the implementation of Low Impact Development in Florida. You will receive a link to an anonymous survey within the next few weeks. Your participation would be greatly appreciated.
- **Jason** - eReporting: The wireframes and instructional document have been drafted by the IT Consultant and has been sent to our program for review. We will be reviewing the document to ensure consistency with the state's rules and regulations and ensure clarity for users. Once the wireframe review is complete, the IT Consultant will move forward with development.

Q&A / Open Discussion

- Sally Atkins, Gainesville inquired on what changes will be made through Phase II MS4 rulemaking, and concerns that it will be double reporting, as they already have requirements for a BMAP.
 - Sarah: The main change has to do with how the permit addresses a TMDL waterbody that doesn't have a BMAP. In this instance the new generic permit will require permittees to prioritize a TMDL waterbody and focus their SWMP accordingly.
- Rick Baird, Osceola County raised concerns over the ability to meet reporting deadlines with staff teleworking and other effects of COVID-19.
 - Borja: We are amenable to granting extensions and will accommodate these types of issues. Send an email with a justification to your coordinator and we will respond accordingly.
- Dale Majewski, Port St. Lucie raised similar concerns with Good Housekeeping and IDDE training requirements; they cannot congregate due to social distancing, and some of his staff lack email and computers.
 - Borja: There are free online courses you can use, which FDOT has available.
 - Jason: Depending on the conditions of the permit, you can postpone annual training to a future date.

- Rick Baird, Osceola County, in reference to the LID survey, pointed out that they frequently delete third-party emails for cybersecurity, and was curious if the survey email will come from a DEP account or a third-party.
 - The survey will be in a link sent through GovDelivery.

Meeting adjourned at 2:33 p.m. Thank you to all who attended. Please submit agenda topics at any time.



Florida Department of Environmental Protection

2-Year Statewide Watershed Assessment

Kevin O'Donnell

Environmental Administrator

Watershed Assessment Section





Watershed Management Approach

- Watershed Management Approach = Basin Rotation
 - Established five-phase cycle that rotates through all basins in the state over five-year period.
 - Divided the state's basins into 5 Groups
 - Designed to address 1998 303(d) Consent Decree list
- What is the reality?
 - Consent Decree Is Over
 - Completed 3rd cycle of rotation
 - Produce 1-2 IWR Runs Per Year
 - Program Efficiencies

Table 2: Basin Management Cycle

Phase	Schedule	Activities
Phase 1: Preliminary Basin Evaluation	Years 1-2	Identify stakeholders/participants Obtain data and enter into Florida STORET Conduct public meeting to introduce cycle Build basin team Primary Product: draft Status Report that includes: • Evaluation of water body health based on the Impaired Waters Rule (62-303,F.A.C.) • Planning List of potentially impaired waters • Inventory of existing and proposed management activities • Identification of management goals and objectives, resource issues of concern • Identification of current monitoring entities and their activities • Development of a Strategic Monitoring Plan
Phase 2: Strategic Monitoring	Years 2-3	Carry out strategic monitoring to collect additional data. Obtain data and enter into Florida STORET Evaluate new data and incorporate findings into Assessment Report that will include the proposed Verified List of Impaired Waters
Phase 3: Data Analysis and TMDL Development	Years 2-4	Complete TMDLs for verified impaired waters
Phase 4: Basin Management Action Plan	Years 4-5	Finalize management goals/objectives Develop draft BMAP, including TMDL allocation Identify monitoring and management partnerships, needed rule changes and legislative action, funding opportunities Develop Monitoring and Evaluation Plans Seek funding Obtain participants' commitment to implement plan
Phase 5: Implementation	Year 5+	Implement BMAP Carry out rule development/legislative action



Benefits to Statewide Approach

- Statewide Assessment (ALL Basins) in a 2 Year Period
 - One Basin every 5 Years  Five Basins every 2 Years
- Statewide Assessment in a 2 YR Period
 - One Methodology Applied to All Basins
 - Reduced Off-Cycle Assessments (Amendments)
 - Synchronizing 305(b) Integrated Report & 303(d) List Submittals; Submittals to ATTAINS
 - Other Programs in the Division have the Ability to Utilize Updated Assessments
 - TMDL, BMAP, WQBEL
 - Other Divisions have the Ability to Utilize Updated Assessments
 - NPDES Permitting
 - EPA's Review and Approval Process is Consistent
 - Stakeholder Review is Consolidated
 - Anticipated Stakeholder Support
 - Potential for Reduced Public Meetings
 - By Removal of Revised List Meetings
 - Stakeholders Representing Multiple Basins at One Meeting
 - Potential for More Turn Out



Revised Assessment Approach

- Current Discussion

- What are the impacts to permitting programs?
 - What is the workload change for WAS staff?
 - What change occurs to assessment decisions?
- How to gain internal and external support?
- What impacts are there to Strategic Monitoring Data Collection and Prioritization?

Priority	G1	G2	G3	G4	G5
Extra Hi	Revised SMP Strategy - 2 YR Approach				
Hi					
Medium	Current SMP Strategy				
Low					



Biennial Assessment

What does this mean for data providers?

- Requesting all data providers to load data to WIN by June 15th, 2020
- If data are not loaded by the extraction date, it will be picked up in the next biennial assessment cycle
- There will be additional IWR runs produced between biennial assessment cycles



Biennial Assessment Next Steps

- Finalize the Group 2 Assessments as scheduled
 - Scheduled for Adoption in April by Secretary
- Group 3 basins are still the priority, but we will be working to assess all groups
- Create a webpage to provide more information on our Watershed Assessment Section website
- Finalize Biennial Assessment Process Document
- Requesting data loading to WIN by June 15th, 2020
- Data extraction from WIN and other databases in in July, 2020
- Biennial assessment will kickoff in July, 2020



New GovDelivery Notification Process for Stakeholders

- If you'd like to receive notifications, please go to this link <https://floridadep.gov/dear/dear/content/subscribe#IWR> to subscribe to this topic.
- Additional subscription topics include:
 - Total Maximum Daily Load (TMDL)
 - Basin Management Action Plan (BMAP)
 - Algal Bloom Response



New GovDelivery Notification Process for Stakeholders

https://floridadep.gov/dear/dear/content/subscribe#IWR

Impaired Waters Rule (IWR) Updates/Notifications

Thank you for your interest in the Florida Department of Environmental Protection's Water Quality Assessment Program and Impaired Waters Rule (IWR). To receive notifications on upcoming public meetings and the department's activities related to the development and implementation of 303(d) lists and watershed assessments please enter your email address at our [subscriber page](#) and you will be taken to the subscription page. You may update your subscription preferences at any time. Below is a brief description of each distribution list.

Impaired Waters Rule (IWR) Updates/Notifications	Notifications on upcoming public meetings and the department's activities related to the development and implementation of 303(d) lists and watershed assessments
Group 1 Basin Assessments	Updates on basin assessments for waters in the Ochlockonee - St. Marks, Suwannee, Ocklawaha, Tampa Bay, Everglades West Coast, and Lake Okeechobee basins.
Group 2 Basin Assessments	Updates on basin assessments for waters in the Apalachicola - Chipola, Lower St. Johns, Middle St. Johns, Tampa Bay Tributaries, Charlotte Harbor, and St. Lucie - Loxahatchee basins.
Group 3 Basin Assessments	Updates on basin assessments for waters in the Choctawhatchee - St. Andrews, Upper St. Johns, Sarasota Bay - Peace Myakka, Caloosahatchee, and Lake Worth Lagoon -

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Model Illicit Discharge and Connection Stormwater Ordinance

ORDINANCE NO. _____

SECTION 1. PURPOSE/INTENT.

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of (_____) through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:

- (1) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user
- (2) To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system
- (3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance

SECTION 2. DEFINITIONS.

For the purposes of this ordinance, the following shall mean:

Authorized Enforcement Agency: employees or designees of the director of the municipal agency designated to enforce this ordinance.

Best Management Practices (BMPs): schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act. The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Construction Activity. Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of 5 acres or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

Hazardous Materials. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illegal Discharge. Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section X of this ordinance.

Illicit Connections. An illicit connection is defined as either of the following:

Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or,

Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Industrial Activity. Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit. means a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Non-Storm Water Discharge. Any discharge to the storm drain system that is not composed entirely of storm water.

Person : means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

Pollutant. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Storm Drainage System. Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Storm Water. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Stormwater Pollution Prevention Plan: A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

Wastewater means any water or other liquid, other than uncontaminated storm water, discharged from a facility.

SECTION 3. APPLICABILITY.

This ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

SECTION 4. RESPONSIBILITY FOR ADMINISTRATION.

The _____ [authorized enforcement agency] shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the Director of the authorized enforcement agency to persons or entities acting in the beneficial interest of or in the employ of the agency.

SECTION 5. SEVERABILITY.

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or

circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

SECTION 6. ULTIMATE RESPONSIBILITY.

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

SECTION 7. DISCHARGE PROHIBITIONS.

Prohibition of Illegal Discharges.

No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.

The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

- (1) The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if dechlorinated - typically less than one PPM chlorine), fire fighting activities, and any other water source not containing Pollutants.**
- (2) Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.
- (3) Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency **prior to the time of the test.**
- (4) The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

Prohibition of Illicit Connections.

- (1) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
- (2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (3) A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

SECTION 8. SUSPENSION OF MS4 ACCESS.

Suspension due to Illicit Discharges in Emergency Situations

The _____ [authorized enforcement agency] may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an

actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.

Suspension due to the Detection of Illicit Discharge

Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing.

A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the authorized enforcement agency.

SECTION 9. INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the _____ [authorized enforcement agency] prior to the allowing of discharges to the MS4.

SECTION 10. MONITORING OF DISCHARGES

1. Applicability.

This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

2. Access to Facilities.

(1) The _____ [authorized enforcement agency] shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. **If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger** shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.

(2) Facility operators shall allow the _____ [authorized enforcement agency] ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.

(3) The _____ [authorized enforcement agency] shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's storm water discharge.

(4) The _____ [authorized enforcement agency] has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling

and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

- (5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the _____ [authorized enforcement agency] and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- (6) Unreasonable delays in allowing the _____ [authorized enforcement agency] access to a permitted facility is a violation of a storm water discharge permit and of this ordinance. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.
- (7) If the _____ [authorized enforcement agency] has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

SECTION 11. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

_____ [Authorized enforcement agency] will adopt requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

SECTION 12. WATERCOURSE PROTECTION.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately

owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

SECTION 13. NOTIFICATION OF SPILLS.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the [authorized enforcement agency] within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

SECTION 14. ENFORCEMENT.

1. Notice of Violation.

Whenever the _____ [authorized enforcement agency] finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- (a) The performance of monitoring, analyses, and reporting;
- (b) The elimination of illicit connections or discharges;
- (c) That violating discharges, practices, or operations shall cease and desist;
- (d) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and
- (e) Payment of a fine to cover administrative and remediation costs; and
- (f) The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

SECTION 15. APPEAL OF NOTICE OF VIOLATION

Any person receiving a Notice of Violation may appeal the determination of the authorized enforcement agency. The notice of appeal must be received within __ days from the date of the Notice of Violation. Hearing on the appeal before the appropriate authority or his/her designee shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the municipal authority or their designee shall be final.

SECTION 16. ENFORCEMENT MEASURES AFTER APPEAL

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within __ days of the decision of the municipal authority upholding the decision of the authorized enforcement agency, then representatives of the authorized enforcement agency shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

SECTION 17. COST OF ABATEMENT OF THE VIOLATION

Within __ days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within __ days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

Any person violating any of the provisions of this article shall become liable to the city by reason of such violation. The liability shall be paid in not more than 12 equal payments. Interest at the rate of __ percent per annum shall be assessed on the balance beginning on the st day following discovery of the violation.

SECTION 18. INJUNCTIVE RELIEF

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. If a person has violated or continues to violate the provisions of this ordinance, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

SECTION 19. COMPENSATORY ACTION

In lieu of enforcement proceedings, penalties, and remedies authorized by this Ordinance, the authorized enforcement agency may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

SECTION 20. VIOLATIONS DEEMED A PUBLIC NUISANCE

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

SECTION 21. CRIMINAL PROSECUTION

Any person that has violated or continues to violate this ordinance shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of _____ dollars per violation per day and/or imprisonment for a period of time not to exceed ____ days.

The authorized enforcement agency may recover all attorney's fees court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

SECTION 22. REMEDIES NOT EXCLUSIVE

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement

agency to seek cumulative remedies.

SECTION 23. ADOPTION OF ORDINANCE

This ordinance shall be in full force and effect ___ days after its final passage and adoption. All prior ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

PASSED AND ADOPTED this ____ day of _____, 19__, by the following vote: