

**NOTICE OF INTENT**

Department of Environmental Quality  
Office of the Secretary  
Legal Division

**Municipal Separate Storm Sewer Systems General Permit Revisions  
(LAC 33:IX.2515, 2521, 2523 and 2525) (WQ095ft)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Quality regulations, LAC 33:IX.2515, 2521, 2523 and 2525 (Log #WQ095ft).

This Rule is identical to federal regulations found in 40 CFR 122.28-122.35, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or P.O. Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule revises the Municipal Separate Storm Sewer Systems (MS4s) general permit requirements and is identical to portions of the recent MS4 General Permit Remand Rule, as discussed below which was finalized by EPA on November 17, 2016. In their rule, the EPA changed the regulations on how small MS4s obtain coverage under NPDES general permits. This change addresses the partial 2003 remand of the Phase II storm water regulations by the U.S. Court of Appeals. The court found that EPA failed in two areas: (1) to require permitting authority review of the best management practices (BMPs) to be used at a particular MS4 to ensure that the small MS4 permittee reduces pollutants in the storm water discharges to the maximum extent practicable (MEP); and (2) failed to provide for adequate public notice and opportunity to request a hearing. The final EPA rule provides two methods to the permitting authority on how to develop small MS4 general permits and issue coverage to regulated small MS4s. The final rule also changes notice of intent requirements and clarifies that it is the permitting authority's responsibility to establish permit terms and conditions that meet the MS4 regulatory standards. The EPA rule also emphasizes that permit requirements must be expressed in "clear, specific and measurable" terms. This Rule is identical to the EPA changes. The basis and rationale for this Rule are to mirror federal regulations, ensuring consistency regarding the issuance of NPDES permits for small MS4s. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Family Impact Statement**

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Poverty Impact Statement**

This Rule has no known impact on poverty as described in R.S. 49:973.

### **Provider Impact Statement**

This Rule has no known impact on providers as described in HCR 170 of 2014.

### **Public Hearing**

A public hearing will be held on May 25, 2017, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

### **Public Comments**

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by WQ095ft. Such comments must be received no later than May 25, 2017, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-4068 or by e-mail to [deidra.johnson@la.gov](mailto:deidra.johnson@la.gov). The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of WQ095ft. This regulation is available on the Internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx).

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson  
General Counsel

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part IX. Water Quality**  
**Subpart 2. The Louisiana Pollutant Discharge Elimination System (LPDES) Program**

**Chapter 25. Permit Application and Special LPDES Program Requirements**

**§2515. General Permits**

A. – B.2.g. ...

h. Small Municipal Separate Storm Sewer Systems (MS4s). For general permits issued under Paragraph B of this Section for small MS4s, the state administrative authority shall establish the terms and conditions necessary to meet the requirements of LAC 33:IX.2523 using one of the two permitting approaches in Clauses i-ii of this Section. The state administrative authority shall indicate in the permit or fact sheet which approach is being used.

i. Comprehensive General Permit. The state administrative authority includes all required permit terms and conditions in the general permit; or

ii. Two-step General Permit. The state administrative authority includes required permit terms and conditions in the general permit applicable to all eligible small MS4s; and during the process of authorizing small MS4s to discharge, establishes additional terms and conditions not included in the general permit to satisfy one or more of the permit requirements in LAC 33:IX.2523 for individual small MS4 operators.

(a). The general permit shall require that any small MS4 operator seeking authorization to discharge under the general permit submit a Notice of Intent (NOI) consistent with LAC 33:IX.2515.B.2.b.

(b). The state administrative authority shall review the NOI submitted by the small MS4 operator to determine whether the information in the NOI is complete and to establish the additional terms and conditions necessary to meet the requirements of LAC 33:IX.2523. The state administrative authority may require the small MS4 operator to submit additional information. The public notice, the process for submitting public comments and hearing requests, and the hearing process, if a request for a hearing is granted, shall follow the procedures applicable to draft permits set forth in LAC 33:IX.315. If the state administrative authority makes a preliminary decision to authorize the small MS4 operator to discharge under the general permit, the state administrative authority shall give the public notice of:

(i). an opportunity to comment and request a public hearing on its proposed authorization and the NOI;

(ii). the proposed additional terms and conditions; and

(iii). the basis for these additional requirements.

(c). Upon authorization for the MS4 to discharge under the general permit, the final additional terms and conditions applicable to the MS4 operator become effective. The state administrative authority shall notify the permittee and inform the public of the decision to authorize the MS4 to discharge under the general permit and of the final additional terms and conditions specific to the MS4.

B.3. – C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2276 (October 2000), LR 26:2553 (November 2000), LR 28:468 (March 2002), LR 29:1466 (August 2003), repromulgated LR

30:230 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2511 (October 2005), LR 33:2167 (October 2007), LR 35:651 (April 2009), amended by the Office of the Secretary, Legal Division, LR 43:

**§2521. If I am an operator of a regulated small MS4, how do I apply for an LPDES permit and when do I have to apply? Requirements for Obtaining Permit Coverage for Regulated Small MS4s.**

A. ~~If you operate a~~The operator of any regulated small MS4 under LAC 33:IX.2519;  
~~you must~~shall seek coverage under an LPDES permit issued by the ~~Office of Environmental Services~~state administrative authority.

B. ~~You~~The operator of any regulated small MS4 mustshall seek authorization to discharge under a general or individual LPDES permit, as follows:

1. General Permit Notices of Intent

a. ~~If the Office of Environmental Services has issued a general permit applicable to your discharge and you are seeking coverage under the general permit, you seeking coverage under a general permit issued by the state administrative authority in accordance with LAC 33:IX.2519, the small MS4 operator shall~~must submit a Notice of Intent (NOI) ~~that includes the information on your best management practices and measurable goals required by~~consistent with LAC 33:IX.2523-D2515.B.2.b. ~~You~~The small MS4 operator may file ~~your~~its own NOI or ~~you~~the small MS4 operator and other municipalities or governmental entities may jointly submit a NOI. If ~~you~~the small MS4 operator wants to share responsibilities for meeting the minimum measures with other municipalities or governmental entities, ~~you~~the small MS4 operator shall ~~must~~submit a NOI that describes which minimum measures ~~you~~it will implement and identify the entities that will implement the other minimum measures within the area served by ~~the~~your MS4. The general permit will explain any other steps necessary to obtain permit authorization.

b. If seeking coverage under a general permit issued by the state administrative authority, in accordance with LAC 33:IX.2515, the small MS4 operator shall submit a NOI to the state administrative authority consisting of the minimum required information in LAC 33:IX.2515.B.2.b, and any other information the state administrative authority identifies as necessary to establish additional terms and conditions that satisfy the permit requirements of LAC 33:IX.2523, such as the information required under LAC 33:IX.2521.B.2.a. The general permit will explain any other steps necessary to obtain permit authorization.

2. Individual Permit Application Requirements

a. ~~If you are seeking authorization to discharge under an individual permit and wish to implement a program under LAC 33:IX.2523, you the small M4 operator must~~shall submit an application to the ~~Office of Environmental Services~~state administrative authority that includes the information required under LAC 33:IX.2501.F and ~~2523.D~~the following; ~~an estimate of square mileage served by your small MS4, and any additional information that the Office of Environmental Services requests. A storm sewer map that satisfies the requirement of LAC 33:IX.2523.B.3.a will satisfy the map requirement in LAC 33:IX.2501.F.7;~~

i. the best management practices (BMPs) that the small MS4 operator or another entity proposes to implement for each of the storm water minimum control measures described in LAC 33:IX.2523;

ii. the proposed measurable goals for each of the BMPs including, as appropriate, the months and years in which the small MS4 operator proposes to undertake required actions, including interim milestones and the frequency of the action;

iii. the person or persons responsible for implementing or coordinating the storm water management program;

iv. an estimate of square mileage served by the small MS4;

v. any additional information required by the state administrative authority; and

vi. a storm sewer system map that satisfies the requirement of LAC 33:IX.2523B.3.a satisfies the map requirement in LAC 33:IX.2501.F.7.

b. ~~If you are seeking authorization to discharge under an individual permit and wish to implement a program that is different from the program under LAC 33:IX.2523, you will need to~~ the small MS4 operator shall comply with the permit application requirements of LAC 33:IX.2511.D. ~~You~~ The small MS4 operator must shall submit both parts of the application requirements in LAC 33:IX.2511.D.1 and 2 at least 180 days before the expiration of the small MS4 operator's existing permit by March 10, 2003. You do not need to submit the information required by LAC 33:IX.2511.D.1.b and 2 regarding your its legal authority is not required, unless ~~you~~ the small MS4 operator intends for the permit writer to take such information into account when developing ~~your~~ other permit conditions; ~~and~~

c. ~~If approved by the Office of Environmental Services~~ state administrative authority, you the small MS4 operator and another regulated entity may jointly apply under either Subparagraph B.2.a or b of this Section to be co-permittees under an individual permit;

3. ~~if you~~ the regulated small MS4 is in the same urbanized area as a medium or large MS4 with an LPDES storm water permit and that other MS4 is willing to have ~~you~~ the small MS4 operator participate in its storm water program, ~~you and the other MS4~~ the parties

may jointly seek a modification of the other MS4 permit to include the small MS4 operator as a limited co-permittee. As a limited co-permittee, the small MS4 operator will be responsible for compliance with the permit's conditions applicable to its jurisdiction. If the small MS4 operator chooses this option ~~you will need to~~ it shall comply with the permit application requirements of LAC 33:IX.2511, rather than the requirements of LAC 33:IX.2521.B.223. ~~You~~ The small MS4 operator does not need to comply with the specific application requirements of LAC 33:IX.2511.D.1.c, d, and 2.c (discharge characterization). ~~You~~ The small MS4 operator may satisfy the requirements in LAC 33:IX.2511.D.1.e and 2.e (identification of a management program) by referring to the other MS4's storm water management program; ~~and~~

4. Guidance for Paragraph B.3 of this Section —in referencing ~~an~~ the other MS4's storm water management program, ~~you~~ the small MS4 operator should briefly describe how the existing ~~plan~~ program will address discharges from ~~you~~ the small MS4 or would need to be supplemented in order to adequately address ~~you~~ the discharges. ~~You~~ The small MS4 operator should also explain ~~your~~ its role in coordinating storm water pollutant control activities in ~~you~~ the MS4 and detail the resources available to ~~you~~ the small MS4 operator to accomplish the ~~plan~~ program.

C. If ~~they~~ you operate a regulated small MS4:

1. ~~—designated under LAC 33:IX.2519.A.1, you must apply for coverage under an LPDES permit or apply for a modification of an existing LPDES permit under Paragraph B.3 of this Section by March 10, 2003, unless your MS4 serves a jurisdiction with a population under 10,000 and the state administrative authority has established a phasing; and~~



2. ~~is~~ is designated under LAC 33:IX.2519.A.2, ~~you~~ the small MS4 operator ~~must~~ shall apply for coverage under an LPDES permit, or apply for a modification of an existing LPDES permit under Paragraph B.3 of this Section within 180 days of notice of such designation, unless the state administrative authority grants a later date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2278 (October 2000), repromulgated LR 30:230 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2511 (October 2005), LR 33:2167 (October 2007), amended by the Office of the Secretary, Legal Division, LR 43:

**~~§2523. As an operator of a regulated small MS4, what will my LPDES MS4 storm water permit require?~~ Permit Requirements for Regulated Small MS4s.**

A. General Requirements. ~~Your LPDES MS4 permit will require, at a minimum, that you develop, implement, and enforce a storm water management program designed~~ For any permit issued to a regulated small MS4, the state administrative authority shall include permit terms and conditions to reduce the discharge of pollutants from the ~~your~~ MS4 to the maximum extent practicable (MEP), to protect water quality and to satisfy the appropriate water quality requirements of the Louisiana Water Control Law and the federal Clean Water Act. Your storm water management program must include the minimum control measures described in Subsection B of this Section unless you apply for a permit under LAC 33:IX.2511.D. Terms and conditions that satisfy the requirements of this Section shall be expressed in clear, specific, and measurable terms. Such terms and conditions may include narrative, numeric, or other types of requirements (e.g., implementation of specific tasks or best management practices (BMPs), BMP design requirements, performance requirements, adaptive management requirements, schedules for implementation, maintenance, and frequency of actions). ~~For purposes of this Section,~~

~~narrative effluent limitations requiring implementation of best management practices (BMPs) are generally the most appropriate form of effluent limitations when designed to satisfy technology requirements (including reductions of pollutants to the MEP) and to protect water quality. Implementation of best management practices consistent with the provisions of the storm water management program required in accordance with this Section and the provisions of the permit required in accordance with LAC 33:IX.2521 constitutes compliance with the standard of reducing pollutants to the maximum extent practicable. Your state administrative authority will specify a time period of up to five years from the date of permit issuance for you to develop and implement your program.~~

1. For permits providing coverage to any small MS4s for the first time, the state administrative authority may specify a time period of up to five years from the date of permit issuance for the permittee to fully comply with the conditions of the permit and to implement necessary BMPs.

2. For each successive permit, the state administrative authority shall include terms and conditions that meet the requirements of this Section based on its evaluation of the current permit requirements, record of permittee compliance and program implementation progress, current water quality conditions, and other relevant information.

B. Minimum Control Measures. The permit shall include requirements that ensure the permittee implements, or continues to implement, the minimum control measures in Paragraphs 1-6 of this Section during the permit term. The permit shall also require a written storm water management program document or documents that, at a minimum, describe in detail how the permittee intends to comply with the permit's requirements for each minimum control measure.

1. Public Education and Outreach on Storm Water Impacts

a. ~~You must implement~~ The permit shall identify the minimum elements and require implementation of a public education program to distribute educational materials to the community or conduct equivalent outreach activities about the impacts of storm water discharges on water bodies and the steps that the public can take to reduce pollutants in storm water runoff.

b. EPA Guidance for the State Administrative Authority and Regulated Small MS4s. ~~You~~ The permittee may use storm water educational materials provided by ~~you~~ the state, tribe, EPA, environmental, public interest or trade organizations, or other MS4s. The public education program should inform individuals and households about the steps they can take to reduce storm water pollution, such as ensuring proper septic system maintenance, ensuring the proper use and disposal of landscape and garden chemicals including fertilizers and pesticides, protecting and restoring riparian vegetation, and properly disposing of used motor oil or household hazardous wastes. ~~The department~~ EPA recommends that the program inform individuals and groups how to become involved in local stream and beach restoration activities as well as activities that are coordinated by youth service and conservation corps or other citizen groups. ~~The department~~ EPA recommends that the permit require the permittee to tailor the public education program ~~be tailored,~~ using a mix of locally appropriate strategies, to target specific audiences and communities. Examples of strategies include distributing brochures or fact sheets, sponsoring speaking engagements before community groups, providing public service announcements, implementing educational programs targeted at school age children, and conducting community-based projects such as storm drain stenciling and watershed and beach cleanups. In addition, ~~the department~~ EPA recommends that the permit require that some of the materials or outreach programs be directed toward targeted groups of

commercial, industrial, and institutional entities likely to have significant storm water impacts. Examples of this ~~would~~ include providing information to restaurants on the impact of grease clogging storm drains and to garages on the impact of oil discharges. ~~You are~~ The permit should encouraged the permittee to tailor ~~your~~ the outreach program to address the viewpoints and concerns of all communities, particularly minority and disadvantaged communities, as well as any special concerns relating to children.

2. Public Involvement/Participation

a. ~~You~~ The permit shall identify the minimum elements and require implementation of ~~must, at a minimum, comply with state, tribal, and local public notice requirements when implementing a public involvement/participation program that complies with state, tribal, and local public notice requirements.~~

b. EPA Guidance for the State Administrative Authority and Regulated Small MS4s. ~~The department~~ EPA recommends that the permit include provisions addressing the need for the public to be included in developing, implementing, and reviewing ~~your~~ the storm water management program and that the public participation process should make efforts to reach out and engage all economic and ethnic groups. Opportunities for members of the public to participate in program development and implementation include serving as citizen representatives on a local storm water management panel, attending public hearings, working as citizen volunteers to educate other individuals about the program, assisting in program coordination with other pre-existing programs, or participating in volunteer monitoring efforts. (Citizens should obtain approval where necessary for lawful access to monitoring sites.)

3. Illicit Discharge Detection and Elimination

- a. The permit shall identify the minimum elements and require the development, implementation, and enforcement of ~~You must develop, implement, and enforce a~~ program to detect and eliminate illicit discharges (see LAC 33:IX.2511.B.2) into ~~your~~the small MS4.
- b. At a minimum, the permit shall require the permittee to ~~You must:~~
- i. develop, if not already completed, a storm sewer system map showing the location of all outfalls and the names and location of all waters of the state that receive discharges from those outfalls;
  - ii. to the extent allowable under state, tribal, or local law, effectively prohibit, through ordinance or other regulatory mechanism, non-storm water discharges into your storm sewer system and implement appropriate enforcement procedures and actions;
  - iii. develop and implement a plan to detect and address non-storm water discharges, including illegal dumping, to ~~your~~the system; and
  - iv. ...
- c. The permit shall also require the permittee ~~You need~~ to address the following categories of non-storm water discharges or flows (e.g., illicit discharges) only if the permittee identifies ~~you identify~~ them as a significant contributors of pollutants to ~~your~~the small MS4: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(b)(20)), uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats

and wetlands, dechlorinated swimming pool discharges, and street wash water (discharges or flows from firefighting activities are excluded from the effective prohibition against non-storm water and need only be addressed where they are identified as significant sources of pollutants to waters of the state).

d. EPA Guidance for the State Administrative Authority and Regulated Small MS4s. The ~~department~~EPA recommends that the permit require the plan to detect and address illicit discharges include the following four components: procedures for locating priority areas likely to have illicit discharges; procedures for tracing the source of an illicit discharge; procedures for removing the source of the discharge; and procedures for program evaluation and assessment. The ~~department~~EPA recommends that the permit require the permittee to visually screening outfalls during dry weather and conducting field tests of selected pollutants as part of the procedures for locating priority areas. Illicit discharge education actions may include storm drain stenciling, a program to promote, publicize, and facilitate public reporting of illicit connections or discharges, and distribution of outreach materials.

#### 4. Construction Site Storm Water Runoff Control

a. The permit shall identify the minimum elements and require the development, implementation, and enforcement of ~~You must develop, implement, and enforce a~~ program to reduce pollutants in any storm water runoff to ~~your~~the small MS4 from construction activities that result in a land disturbance of greater than or equal to 1 acre. Reduction of storm water discharges from construction activity disturbing less than 1 acre ~~must~~shall be included in ~~your~~the program if that construction activity is part of a larger common plan of development or sale that would disturb 1 acre or more. If the state administrative authority waives requirements for storm water discharges associated with small construction activity in accordance with LAC

33:IX.2511.B.15.a, ~~you are~~ the permittee is not required to develop, implement, and/or enforce a program to reduce pollutant discharges from such sites.

b. At a minimum, the permit shall require the permittee to develop and implement ~~Your program must include the development and implementation of, at a minimum:~~

i. an ordinance or other regulatory mechanism to require erosion and sediment controls, as well as sanctions to ensure compliance, to the extent allowable under state, tribal, or local law;

ii. requirements for construction site operators to implement appropriate erosion and sediment control best management practices;

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

iv. procedures for site plan review that incorporate consideration of potential water quality impacts;

v. procedures for receipt and consideration of information submitted by the public; and

vi. procedures for site inspection and enforcement of control measures.

c. EPA Guidance for the State Administrative Authority and Small Regulated MS4s. Examples of sanctions to ensure compliance include non-monetary penalties, fines, bonding requirements, and/or permit denials for noncompliance. The ~~department~~ EPA recommends that the procedures for site plan review include the review of individual

preconstruction site plans to ensure consistency with local sediment and erosion control requirements. Procedures for site inspections and enforcement of control measures could include steps to identify priority sites for inspection and enforcement based on the nature of the construction activity, topography, and the characteristics of soils and receiving water quality. ~~You are encouraged~~The EPA also recommends that the permit require the permittee to provide appropriate educational and training measures for construction site operators, and require. ~~You may wish to require~~ a storm water pollution prevention plan<sub>s</sub> for construction sites within ~~your~~the MS4's jurisdiction that discharge into ~~your~~the system. See LAC 33:IX.2707.R (LPDES permitting authorities' option to incorporate qualifying state, tribal, and local erosion and sediment control programs into LPDES permits for storm water discharges from construction sites). Also, see LAC 33:IX.2525.B. (The state administrative authority may recognize that another government entity, ~~including the administrative authority~~, may be responsible for implementing one or more of the minimum measures on ~~your~~the permittee's behalf.)

5. Post-Construction Storm Water Management in New Development and Redevelopment

a. ~~You must develop, implement, and enforce~~The permit shall identify the minimum elements and require the development, implementation, and enforcement of a program to address storm water runoff from new development and redevelopment projects that disturb greater than or equal to 1 acre, including projects less than 1 acre that are part of a larger common plan of development or sale, that discharge into ~~your~~the small MS4. ~~Your~~The permit program mustshall ensure that controls are in place that would prevent or minimize water quality impacts.

b. At a minimum, the permit shall require the permittee to~~You must:~~



i. develop and implement strategies that include a combination of structural and/or non-structural BMPs appropriate for ~~you~~the community;

ii. – iii. ...

c. EPA Guidance for the State Administrative Authority and Regulated Small MS4s. If water quality impacts are considered from the beginning stages of a project, new development and, potentially, redevelopment provide more opportunities for water quality protection. ~~The department~~EPA recommends that the permit ensure that the BMPs included in the program~~chosen~~ be appropriate for the local community, minimize water quality impacts, and attempt to maintain pre-development runoff conditions. ~~In choosing appropriate BMPs, the department~~The EPA encourages the permittee~~you~~ to participate in locally-based watershed planning efforts that attempt to involve a diverse group of stakeholders including interested citizens. When developing a program that is consistent with this measure's intent, ~~the department~~EPA recommends that the permit requires the permittee to~~you~~ adopt a planning process that identifies the municipality's program goals (e.g., minimize water quality impacts resulting from post-construction runoff from new development and redevelopment), implementation strategies (e.g., adopt a combination of structural and/or non-structural BMPs), operation and maintenance policies and procedures, and enforcement procedures. In developing ~~you~~the program, ~~you~~the permit should also require the permittee to assess~~should consider~~ ~~assessing~~ existing ordinances, policies, programs, and studies that address storm water runoff quality. In addition to assessing these existing documents and programs, ~~you should~~the permit should require the permittee to provide opportunities to the public to participate in the development of the program. Non-structural BMPs are preventative actions that involve management and source controls such as: policies and ordinances that provide requirements and

standards to direct growth to identified areas, protect sensitive areas such as wetlands and riparian areas, maintain and/or increase open space (including a dedicated funding source for open space acquisition), provide buffers along sensitive water bodies, minimize impervious surfaces, and minimize disturbance of soils and vegetation; policies or ordinances that encourage infill development in higher density urban areas and areas with existing infrastructure; education programs for developers and the public about project designs that minimize water quality impacts; and measures such as minimization of percent impervious area after development and minimization of directly connected impervious areas. Structural BMPs include: storage practices such as wet ponds and extended-detention outlet structures; filtration practices such as grassed swales, sand filters, and filter strips; and infiltration practices such as infiltration basins and infiltration trenches. The ~~department~~EPA recommends that the permit~~you~~ ensures the appropriate implementation of the structural BMPs by considering some or all of the following: pre-construction review of BMP designs; inspections during construction to verify BMPs are built as designed; post-construction inspection and maintenance of BMPs; and penalty provisions for the noncompliance with design, construction, or operation and maintenance. Storm water technologies are constantly being improved, and ~~the department~~EPA recommends that ~~you~~the permit requirements be responsive to these changes, developments, or improvements in control technologies.

6. Pollution Prevention/Good Housekeeping for Municipal Operations

a. ~~You must develop and implement~~The permit shall identify the minimum elements and require the development and implementation of an operation and maintenance program that includes a training component and has the ultimate goal of preventing or reducing pollutant runoff from municipal operations. Using training materials that are

available from EPA, ~~you~~the state, tribe, or other organizations, ~~you~~the program ~~must~~shall include employee training to prevent and reduce storm water pollution from activities such as park and open space maintenance, fleet and building maintenance, new construction and land disturbances, and storm water system maintenance.

b. EPA Guidance for the State Administrative Authority and Small Regulated MS4s. The ~~department~~EPA recommends that the permit address the following, ~~at a minimum, you consider the following in developing your program~~: maintenance activities, maintenance schedules, and long-term inspection procedures for structural and non-structural storm water controls to reduce floatables and other pollutants discharged from ~~you~~the separate storm sewers; controls for reducing or eliminating the discharge of pollutants from streets, roads, highways, municipal parking lots, maintenance and storage yards, fleet or maintenance shops with outdoor storage areas, salt/sand storage locations and snow disposal areas operated by the permittee~~you~~, and waste transfer stations; procedures for properly disposing of waste removed from the separate storm sewers and areas listed above (such as dredge spoil, accumulated sediments, floatables, and other debris); and ways to ensure that new flood management projects assess the impacts on water quality and examine existing projects for incorporating additional water quality protection devices or practices. Operation and maintenance should be an integral component of all storm water management programs. This measure is intended to improve the efficiency of these programs and require new programs where necessary. Properly developed and implemented operation and maintenance programs reduce the risk of water quality problems.

~~C. — If an existing qualifying local program requires you to implement one or more of the minimum control measures of Subsection B of this Section, the state administrative authority may include conditions in your LPDES permit that direct you to follow that qualifying program's~~

~~requirements rather than the requirements of Subsection B of this Section. A qualifying local program is a local, state, or tribal municipal storm water management program that imposes, at a minimum, the relevant requirements of Subsection B of this Section.~~

~~D. 1. In your permit application (either a notice of intent for coverage under a general permit or an individual permit application) you must identify and submit to the Office of Environmental Services the following information:~~

~~a. the BMPs that you or another entity will implement for each of the storm water minimum control measures at Paragraphs B.1-6 of this Section;~~

~~b. the measurable goals for each of the BMPs including, as appropriate, the months and years in which you will undertake required actions, interim milestones, and the frequency of the action; and~~

~~c. the person or persons responsible for implementing or coordinating your storm water management program.~~

~~2. If you obtain coverage under a general permit, you are not required to meet any measurable goal(s) identified in your notice of intent in order to demonstrate compliance with the minimum control measures in Paragraphs B.3-6 of this Section unless, prior to submitting your NOI, the Office of Environmental Services has provided or issued a menu of BMPs that addresses each such minimum measure. Even if that office does not issue the menu of BMPs, however, you still must comply with other requirements of the general permit, including good faith implementation of BMPs designed to comply with the minimum measures.~~

~~3. Guidance. Either EPA or the department will provide a menu of BMPs. You may choose BMPs from the menu or select others that satisfy the minimum control measures.~~

CE.1. Other Applicable Requirements1. As appropriate, the permit will include:

a. ~~You must comply with any more stringent terms and~~  
~~conditionseffluent limitations in your permit,~~ including permit requirements that modify, or are  
in addition to, the minimum control measures based on an approved total maximum daily load  
(TMDL) or equivalent analysis~~;~~, ~~or where the state administrative authority~~~~The department may~~  
include such more stringent limitations based on a TMDL or equivalent analysis that determines  
such terms and conditions~~limitations~~ are needed to protect water quality~~;~~ and

2. ~~Guidance. EPA has strongly recommended that until the evaluation of the~~  
~~storm water program in LAC 33:IX.2529, no additional requirements beyond the minimum~~  
~~control measures be imposed on regulated small MS4s without the agreement of the operator of~~  
~~the affected small MS4, except where an approved TMDL or equivalent analysis provides~~  
~~adequate information to develop more specific measures to protect water quality.~~

Fb. ~~You must comply with other applicable LPDES permit~~  
requirements, standards, and conditions established in the individual or general permit,  
developed consistently with the provisions of LAC 33:IX.2701-2715, as appropriate.

DG. Evaluation and Assessment Requirements

1. Evaluation. ~~You must~~The permit shall require the permittee to evaluate  
~~program compliance;~~ with the terms and conditions of the permit, including the  
~~effectiveness~~appropriateness of the components of its storm water management program~~your~~  
~~identified best management practices, and progress towards~~the status of achieving your identified  
~~the measurable goals~~requirements in the permit.

[NOTE: The state administrative authority may determine monitoring requirements for the permittee in accordance with state/tribal monitoring plans appropriate to the watershed. Participation in a group monitoring program is encouraged.]

2. Recordkeeping. ~~You must keep~~ The permit shall require that the permittee keep records required by the LPDES permit for at least three years. ~~You must and submit your~~ such records to the state administrative authority ~~only~~ when specifically asked to do so. ~~You must~~ The permit shall require the permittee to make ~~your~~ records, including a written description of ~~the~~ storm water management program, available to the public at reasonable times during regular business hours (see LAC 33:IX.2323 for confidentiality provision). ~~You~~ The permittee may assess a reasonable charge for copying. ~~You may~~ The permit may allow the permittee to require a member of the public to provide advance notice.

3. Reporting. Unless ~~you are~~ the permittee is relying on another entity to satisfy ~~your~~ its LPDES permit obligations under LAC 33:IX.2525.A, ~~you~~ the permittee must shall submit annual reports to the state administrative authority for ~~its~~ your first permit term. For subsequent permit terms, ~~you~~ the permittee must shall submit reports in years two and four unless the state administrative authority requires more frequent reports. ~~The~~ Your report must shall include:

a. the status of compliance with permit terms and conditions, ~~an~~ assessment of the appropriateness of your identified best management practices, and progress towards achieving your identified measurable goals for each of the minimum control measures;

b. results of information collected and analyzed, including monitoring data, if any, during the reporting period;

c. a summary of the storm water activities the permittee proposes~~you plan~~ to undertake to comply with the permit during the next reporting cycle;

d. any changes made during the reporting period to the permittee's storm water management program~~in any identified best management practices or measurable goals for any of the minimum control measures~~; and

e. notice that ~~you are~~ the permittee is relying on another governmental entity to satisfy some of ~~your~~ the permit obligations (if applicable), consistent with LAC 33:IX.2525.

E. If an existing qualifying local program requires the permittee to implement one or more of the minimum control measures of Subsection B of this Section, the state administrative authority may include conditions in the LPDES permit that direct the permittee to follow that qualifying program's requirements rather than the requirements of Subsection B of this Section. A qualifying local program is a local, state, or tribal municipal storm water management program that imposes, at a minimum, the relevant requirements of Subsection B of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2278 (October 2000), repromulgated LR 30:230 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2511 (October 2005), LR 33:2167 (October 2007), amended by the Office of the Secretary, Legal Division, LR 43:

**§2525. ~~As an~~ May the operator of a regulated small MS4, may I share the responsibility to implement the minimum control measures with other entities?**

A. ~~You~~ The permittee may rely on another entity to satisfy ~~its~~ your LPDES permit obligations to implement a minimum control measure if:

1. the other entity, in fact, implements the control measure;

2. the particular control measure, or component thereof, is at least as stringent as the corresponding LPDES permit requirement; and

3. the other entity agrees to implement the control measure on ~~you~~the permittee's behalf. In the reports ~~you~~the permittee must~~shall~~ submit under LAC 33:IX.2523.G.3, ~~you~~the permittee must~~shall~~ also specify ~~that you rely~~it is relying on another entity to satisfy some of ~~you~~the permit obligations. If ~~you are~~the permittee is relying on another governmental entity regulated under LAC 33:IX.Chapters 23-71 to satisfy all of ~~you~~the permit obligations, including ~~you~~the obligation to file periodic reports required by LAC 33:IX.2523.GD.3, ~~you~~the permittee must~~shall~~ note that fact in ~~your~~its NOI, but ~~you are~~the permittee is not required to file the periodic reports. ~~You~~The permittee remains responsible for compliance with ~~you~~the permit obligations if the other entity fails to implement the control measure (or component thereof). Therefore, the department encourages ~~you~~the permittee to enter into a legally binding agreement with that entity if ~~you~~the permittee wants to minimize any uncertainty about compliance with ~~you~~the permit.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2282 (October 2000), repromulgated LR 30:230 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2512 (October 2005), LR 33:2167 (October 2007), amended by the Office of the Secretary, Legal Division, LR 43: