



**CITY OF TUSCALOOSA**  
**PHASE II STORM WATER PROGRAM**

**ANNUAL REPORT**  
**MARCH 2003–MARCH 2004**





# Comprehensive Minimum Control Measure Report

The City of Tuscaloosa NPDES program consists of the 6 following minimum control measures.

1. Public Education and Outreach
2. Public Participation/Involvement
3. Illicit Discharge Detection and Elimination
4. Construction Site Runoff Control
5. Post-Construction Runoff Control
6. Pollution Prevention/Good Housekeeping

**This report has been generated to document the City of Tuscaloosa's efforts to meet these minimum control measures and the terms of our NOI in the first permit year.**



# Public Education and Outreach

## What is Required?:

To satisfy this minimum control measure, the operator of a regulated small MS4 needs to:

1. Implement a public education program to distribute educational materials to the community, or conduct equivalent outreach activities about the impacts of storm water discharges on local waterbodies and the steps that can be taken to reduce storm water pollution; and
2. Determine the appropriate best management practices (BMPs) and measurable goals for this minimum control measure.

## Why is it Necessary?:

An informed and knowledgeable community is crucial to the success of a storm water management program since it helps to ensure the following:

1. Greater support for the program as the public gains a greater understanding of the reasons why it is necessary and important. Public support is particularly beneficial when operators of small MS4s attempt to institute new funding initiatives for the program or seek volunteers to help implement the program; and
2. Greater compliance with the program as the public becomes aware of the personal responsibilities expected of them and others in the community, including the individual actions they can take to protect or improve the quality of area waters.

## Summary of Goal(s) (BMPs) Associated with this Control Measure

<b>Name:</b> Develop Educational Resources	<b>Start Date:</b> 3/10/2003
<b>Permit Years:</b> Year 1: <input checked="" type="checkbox"/> Year 2: <input type="checkbox"/> Year 3: <input type="checkbox"/> Year 4: <input type="checkbox"/> <b>Accomplished?:</b> Yes	<b>End Date:</b> 3/10/2004
<b>Name:</b> Advertise Stormwater Hotline	<b>Start Date:</b> 3/10/2003
<b>Permit Years:</b> Year 1: <input checked="" type="checkbox"/> Year 2: <input type="checkbox"/> Year 3: <input type="checkbox"/> Year 4: <input type="checkbox"/> <b>Accomplished?:</b> Yes	<b>End Date:</b> 3/10/2004
<b>Name:</b> Storm Drain Stenciling	<b>Start Date:</b> 3/10/2004
<b>Permit Years:</b> Year 1: <input type="checkbox"/> Year 2: <input checked="" type="checkbox"/> Year 3: <input checked="" type="checkbox"/> Year 4: <input checked="" type="checkbox"/> <b>Accomplished?:</b> No	<b>End Date:</b> 3/10/2007
<b>Name:</b> Expand Educational Resources	<b>Start Date:</b> 3/10/2005
<b>Permit Years:</b> Year 1: <input type="checkbox"/> Year 2: <input type="checkbox"/> Year 3: <input checked="" type="checkbox"/> Year 4: <input type="checkbox"/> <b>Accomplished?:</b> No	<b>End Date:</b> 3/10/2006
<b>Name:</b> Conduct Public Education	<b>Start Date:</b> 3/10/2003
<b>Permit Years:</b> Year 1: <input checked="" type="checkbox"/> Year 2: <input checked="" type="checkbox"/> Year 3: <input checked="" type="checkbox"/> Year 4: <input checked="" type="checkbox"/> <b>Accomplished?:</b> No	<b>End Date:</b> 3/10/2004

The following page(s) provide details for each of the individual goal(s).



**Goal Name:** Develop Educational Resources

**Goal** Develop or collect existing brochures, fact sheets, print advertisements, radio and television  
**Description:** media, and other educational materials to build a stormwater toolbox. Identify volunteer educators to be used for public education programs.

**Actions undertaken for this goal during this period**

Action Name	Owner	Date
Started Stormwater Toolbox Collected numerous fact sheets and materials for use in education programs. Access gained to Phase II print and television media through the ADEM Office of Education and Outreach.	Chad Christian	
Created Tuscaloosa Phase II Brochure Printed first run of City of Tuscaloosa Stormwater brochures. Brochure was created based on an EPA example brochure. Sample copy included in Appendix.	Chad Christian	7/2/2003
Identified Volunteer Educators Joe Robinson and Chad Christian trained as NEMO trainers.	Joe Robinson/Chad Christian	
Created Educational Paper on Legal Aspects of Phase II Paper written for educational effort covering the legal aspects of the Phase II program. Presented originally to real estate seminar and subsequently distributed at WaterQuest 2004. Copy included in Appendix.	Bennett Bearden	10/10/2003

**Goal Name:** Advertise Stormwater Hotline

**Goal** Advertise the Stormwater Hotline once established. This will promote citizen interest and  
**Description:** participation in the stormwater management plan and establish a direct link from the community and stakeholders to the program.

**Actions undertaken for this goal during this period**

Action Name	Owner	Date
Started Distribution of Phase II Brochure Began distribution of Tuscaloosa stormwater brochure with contact information and telephone number. Approximately 1000 copies distributed to date at numerous small public meetings and speaking engagements as well as the major presentations listed.	Chad Christian	7/2/2003

**Goal Name:** Storm Drain Stenciling

**Goal** Stencil storm drain tops with messages like "Do Not Dump - Drains to River". Utilize volunteer  
**Description:** groups to help accomplish this task.

**Actions undertaken for this goal during this period**

Action Name	Owner	Date
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There were no actions taken during this time period.

**Goal Name:** Expand Educational Resources

**Goal** Develop a school curricula to educate students about stormwater issues. Create an  
**Description:** informational website describing the City of Tuscaloosa Stormwater Management Plan.

**Actions undertaken for this goal during this period**

Action Name	Owner	Date
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There were no actions taken during this time period.





**Goal Name:** Conduct Public Education

**Goal** Speak at seminars and public meetings to raise awareness of the City's Phase II program and  
**Description:** begin education of the public concerning BMP's. Distribute brochures and other educational materials.

**Actions undertaken for this goal during this period**

Action Name	Owner	Date
Tuscaloosa Phase II Presentation Delivered Model Community presentation on details of the City of Tuscaloosa Phase II Program. Copy of meeting notice included in Appendix.	Chad Christian	6/25/2003
NEMO Presentation Gave NEMO Presentation to Alabama General Contractors Seminar "Employee Training for Inspecting BMPs". Copy of meeting notice included in Appendix.	Chad Christian	8/27/2003
Legal Aspects of Phase II Speech Speech conducted and paper presented to ABICLE "What Every Real Estate Lawyer Needs to Know" Conference covering all legal aspects of the EPA Phase II Program as it relates to affected municipalities.	Bennett Bearden	10/10/2003
WaterQuest Presentation Conducted presentation on the Tuscaloosa Phase II Program at WaterQuest Nonpoint Source Watershed Forum and distributed ordinance, brochures, legal paper, and outfall mapping requirements. Copy of meeting notice included in Appendix.	Chad Christian	2/11/2004
Speech to Local Realtor's Meeting Delivered talk to Tuscaloosa Realtor's group and distributed ordinance and brochures.	Joe Robinson	3/2/2004



# Public Participation/Involvement

## What is Required?:

To satisfy this minimum control measure, the operator of a regulated small MS4 must:

1. Comply with applicable State, Tribal, and local public notice requirements; and
2. Determine the appropriate best management practices (BMPs) and measurable goals for this minimum control measure.

## Why is it Necessary?:

EPA believes that the public can provide valuable input and assistance to a regulated small MS4's municipal storm water management program and, therefore, suggests that the public be given opportunities to play an active role in both the development and implementation of the program. An active and involved community is crucial to the success of a storm water management program because it allows for:

1. Broader public support since citizens who participate in the development and decision making process are partially responsible for the program and, therefore, may be less likely to raise legal challenges to the program and more likely to take an active role in its implementation;
2. Shorter implementation schedules due to fewer obstacles in the form of public and legal challenges and increased sources in the form of citizen volunteers;
3. A broader base of expertise and economic benefits since the community can be a valuable, and free, intellectual resource; and
4. A conduit to other programs as citizens involved in the storm water program development process provide important cross-connections and relationships with other community and government programs. This benefit is particularly valuable when trying to implement a storm water program on a watershed basis, as encouraged by EPA.

## Summary of Goal(s) (BMPs) Associated with this Control Measure

Name:	Public Meetings - Print Media				Start Date:	3/10/2003
Permit Years:	Year 1: <input checked="" type="checkbox"/>	Year 2: <input type="checkbox"/>	Year 3: <input type="checkbox"/>	Year 4: <input type="checkbox"/>	Accomplished?:	No
					End Date:	3/10/2004
Name:	Establish Citizen Volunteer Organization				Start Date:	3/10/2003
Permit Years:	Year 1: <input checked="" type="checkbox"/>	Year 2: <input type="checkbox"/>	Year 3: <input type="checkbox"/>	Year 4: <input type="checkbox"/>	Accomplished?:	No
					End Date:	3/10/2004
Name:	Finalize Citizen Panel Recommendations				Start Date:	3/10/2004
Permit Years:	Year 1: <input type="checkbox"/>	Year 2: <input checked="" type="checkbox"/>	Year 3: <input type="checkbox"/>	Year 4: <input type="checkbox"/>	Accomplished?:	No
					End Date:	3/10/2005
Name:	Public Awareness - Radio Media/Television				Start Date:	3/10/2004
Permit Years:	Year 1: <input type="checkbox"/>	Year 2: <input checked="" type="checkbox"/>	Year 3: <input type="checkbox"/>	Year 4: <input type="checkbox"/>	Accomplished?:	No
					End Date:	3/10/2005
Name:	Community Clean-Ups				Start Date:	3/10/2005
Permit Years:	Year 1: <input type="checkbox"/>	Year 2: <input type="checkbox"/>	Year 3: <input checked="" type="checkbox"/>	Year 4: <input type="checkbox"/>	Accomplished?:	No
					End Date:	3/10/2006
Name:	Establish Citizen Watch Groups				Start Date:	3/10/2006
Permit Years:	Year 1: <input type="checkbox"/>	Year 2: <input type="checkbox"/>	Year 3: <input type="checkbox"/>	Year 4: <input checked="" type="checkbox"/>	Accomplished?:	No
					End Date:	3/10/2007

The following page(s) provide details for each of the individual goal(s).



**Goal Name:** Public Meetings - Print Media

**Goal** Notify citizens of public meetings in several different print media.

**Description:**

**Actions undertaken for this goal during this period**

Action Name	Owner	Date
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Amend NOI to Move Goal to Permit Year Two	Chad Christian	
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We have not accomplished this task and wish to move this goal to Permit Year Two.

**Goal Name:** Establish Citizen Volunteer Organization

**Goal** Create a citizen group to provide input from various viewpoints concerning storm water

**Description:** management policies and BMPs. Use the group to assist with water quality monitoring and location of outfalls, identifying illicit discharges, and stenciling storm drains.

**Actions undertaken for this goal during this period**

Action Name	Owner	Date
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Amend NOI to Move Goal to Permit Year Two	Chad Christian	
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We have not accomplished this task and wish to move this goal to Permit Year Two.

**Goal Name:** Finalize Citizen Panel Recommendations

**Goal** Compile the final recommendations of the Citizen Panel and publish the results. Make copies of

**Description:** the report freely available to the citizens.

**Actions undertaken for this goal during this period**

Action Name	Owner	Date
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There were no actions taken during this time period.

**Goal Name:** Public Awareness - Radio Media/Television

**Goal** Radio and television spots promoting personal responsibility for compliance with the stormwater

**Description:** program and/or informing the public about the construction permit process.

**Actions undertaken for this goal during this period**

Action Name	Owner	Date
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There were no actions taken during this time period.

**Goal Name:** Community Clean-Ups

**Goal** Plan and schedule community clean-ups for ordinary citizens to gain hands-on experience while

**Description:** cleaning stream segments of trash and debris. Coordinate through the Citizen Panel.

**Actions undertaken for this goal during this period**

Action Name	Owner	Date
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There were no actions taken during this time period.



**Goal Name:** Establish Citizen Watch Groups

**Goal** Establish citizen watch groups and/or work with existing groups to monitor watersheds for  
**Description:** potential and existing impacts to water quality.

**Actions undertaken for this goal during this period**

**Action Name**

**Owner**

**Date**

There were no actions taken during this time period.





# Illicit Discharge Detection and Elimination

## What is Required?:

Recognizing the adverse effects illicit discharges can have on receiving waters, the final rule requires an operator of a regulated small MS4 to develop, implement and enforce an illicit discharge detection and elimination program. This program must include the following:

1. A storm sewer system map, showing the location of all outfalls and the names and location of all waters of the United States that receive discharges from those outfalls;
2. Through an ordinance, or other regulatory mechanism, a prohibition (to the extent allowable under State, Tribal, or local law) on non-storm water discharges into the MS4, and appropriate enforcement procedures and actions;
3. A plan to detect and address non-storm water discharges, including illegal dumping, into the MS4;
4. The education of public employees, businesses, and the general public about the hazards associated with illegal discharges and improper disposal of waste; and
5. The determination of appropriate best management practices (BMPs) and measurable goals for this minimum control measure.

## Why is it Necessary?:

Discharges from MS4s often include wastes and wastewater from non-storm water sources. A study conducted in 1987 in Sacramento, California, found that almost one-half of the water discharged from a local MS4 was not directly attributable to precipitation runoff. A significant portion of these dry weather flows were from illicit and/or inappropriate discharges and connections to the MS4. Illicit discharges enter the system through either direct connections (e.g., wastewater piping either mistakenly or deliberately connected to the storm drains) or indirect connections (e.g., infiltration into the MS4 from cracked sanitary systems, spills collected by drain outlets, or paint or used oil dumped directly into a drain). The result is untreated discharges that contribute high levels of pollutants, including heavy metals, toxics, oil and grease, solvents, nutrients, viruses, and bacteria to receiving waterbodies. Pollutant levels from these illicit discharges have been shown in EPA studies to be high enough to significantly degrade receiving water quality and threaten aquatic, wildlife, and human health.

## Summary of Goal(s) (BMPs) Associated with this Control Measure

<b>Name:</b> Sewer System Map	<b>Start Date:</b> 3/10/2003
<b>Permit Years:</b> Year 1: <input checked="" type="checkbox"/> Year 2: <input checked="" type="checkbox"/> Year 3: <input checked="" type="checkbox"/> Year 4: <input checked="" type="checkbox"/> <b>Accomplished?:</b> No	<b>End Date:</b> 12/9/2006
<b>Name:</b> Ordinance/Regulatory Mechanism Evaluation	<b>Start Date:</b> 3/10/2003
<b>Permit Years:</b> Year 1: <input checked="" type="checkbox"/> Year 2: <input checked="" type="checkbox"/> Year 3: <input checked="" type="checkbox"/> Year 4: <input type="checkbox"/> <b>Accomplished?:</b> Yes	<b>End Date:</b> 3/10/2006
<b>Name:</b> Implement Illicit Discharge Tracking System	<b>Start Date:</b> 3/10/2003
<b>Permit Years:</b> Year 1: <input checked="" type="checkbox"/> Year 2: <input type="checkbox"/> Year 3: <input type="checkbox"/> Year 4: <input type="checkbox"/> <b>Accomplished?:</b> Yes	<b>End Date:</b> 3/10/2004
<b>Name:</b> Illicit Discharge Employee Training	<b>Start Date:</b> 3/10/2003
<b>Permit Years:</b> Year 1: <input checked="" type="checkbox"/> Year 2: <input checked="" type="checkbox"/> Year 3: <input type="checkbox"/> Year 4: <input type="checkbox"/> <b>Accomplished?:</b> No	<b>End Date:</b> 3/10/2005
<b>Name:</b> Recycling Program	<b>Start Date:</b> 3/10/2003
<b>Permit Years:</b> Year 1: <input checked="" type="checkbox"/> Year 2: <input checked="" type="checkbox"/> Year 3: <input type="checkbox"/> Year 4: <input type="checkbox"/> <b>Accomplished?:</b> No	<b>End Date:</b> 3/10/2005
<b>Name:</b> Illicit Discharge Detection and Elimination	<b>Start Date:</b> 3/10/2004
<b>Permit Years:</b> Year 1: <input type="checkbox"/> Year 2: <input checked="" type="checkbox"/> Year 3: <input checked="" type="checkbox"/> Year 4: <input checked="" type="checkbox"/> <b>Accomplished?:</b> No	<b>End Date:</b> 3/10/2007

The following page(s) provide details for each of the individual goal(s).



**Goal Name:** Sewer System Map

<b>Goal</b>	20% of system mapped	March 2004
<b>Description:</b>	50% of system mapped	March 2005
	80% of system mapped	March 2006
	100% of system mapped	November 2006

**Actions undertaken for this goal during this period**

Action Name	Owner	Date
Began Outfall Mapping	Chad Christian	8/5/2003

Tuscaloosa City Council authorizes contract with local engineering firm to undertake GPS mapping of outfalls. Copy of Council action and description of data collected for each outfall is included in the Appendix. 275 outfalls have been surveyed to date; this represents approximately 20% of the total number of outfalls that will eventually be identified. The contract will be amended to continue in the 2004 permit year.

**Goal Name:** Ordinance/Regulatory Mechanism Evaluation

<b>Goal</b>	March 2004
<b>Description:</b>	Evaluate existing ordinances/regulations
	Prepare draft of revised ordinances/regulations
	March 2005
	Gather stakeholder comments and other input
	March 2006
	Revise and enact new ordinances and regulations

**Actions undertaken for this goal during this period**

Action Name	Owner	Date
Ordinance Adopted	Tuscaloosa City Council	2/3/2004

A new ordinance was written with input from various stakeholder groups. It evolved over 9 drafts and assimilated concerns of the stakeholders. The final version of the Tuscaloosa Phase II ordinance was adopted by the City Council on February 3, 2004. A copy of the ordinance as adopted is included in the Appendix.

**Goal Name:** Implement Illicit Discharge Tracking System

<b>Goal</b>	Implement an information management system to gather and document all information concerning illicit discharge detention and elimination. Summarize results including outfalls screened, number of illicit discharges discovered through screening or complaints, and illicit discharges resolved.
<b>Description:</b>	

**Actions undertaken for this goal during this period**

Action Name	Owner	Date
ASIST Software Implemented	Chad Christian	1/1/2003

ASIST Software Suite purchased and implemented. Description of software capabilities included in Appendix.

**Goal Name:** Illicit Discharge Employee Training

<b>Goal</b>	Design and administer a training program for employees to teach them to recognize and document potential illicit discharges.
<b>Description:</b>	

**Actions undertaken for this goal during this period**

Action Name	Owner	Date
There were no actions taken during this time period.		



**Goal Name:** Recycling Program

**Goal** Initiate or publicize an existing recycling program to collect commonly dumped wastes such as  
**Description:** antifreeze, motor oil, paint, and pesticides.

**Actions undertaken for this goal during this period**

Action Name	Owner	Date
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Recycling Program Expanded

Environmental Services

The City of Tuscaloosa Curbside Recycling Program has been expanded to now cover 20 neighborhoods and serve 2400 households. There are also 8 fixed drop-off sites and 1 major industry participating with on-site recycling collection. In the forthcoming permit year this program will be expanded to include 20+ additional neighborhoods and serve 2000+ additional households.

**Goal Name:** Illicit Discharge Detection and Elimination

**Goal** Utilizing the System Map and Illicit Discharge Information Management System, begin  
**Description:** systematic inspection of outfall lines to identify potential problems. After identifying actual illicit connections, take steps to eliminate them and report the action taken and results.

**Actions undertaken for this goal during this period**

Action Name	Owner	Date
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There were no actions taken during this time period.



# Construction Site Runoff Control

## What is Required?:

The Phase II Final Rule requires an operator of a regulated small MS4 to develop, implement, and enforce a program to reduce pollutants in storm water runoff to their MS4 from construction activities that result in a land disturbance of greater than or equal to one acre.

The small MS4 operator is required to:

1. Have an ordinance or other regulatory mechanism requiring the implementation of proper erosion and sediment controls, and controls for other wastes, on applicable construction sites;
2. Have procedures for site plan review of construction plans that consider potential water quality impacts;
3. Have procedures for site inspection and enforcement of control measures;
4. Have sanctions to ensure compliance (established in the ordinance or other regulatory mechanism);
5. Establish procedures for the receipt and consideration of information submitted by the public; and
6. Determine the appropriate best management practices (BMPs) and measurable goals for this minimum control measure.

## Why is it Necessary?:

Polluted storm water runoff from construction sites often flows to MS4s and ultimately is discharged into local rivers and streams. Of the pollutants listed in Table 1, sediment is usually the main pollutant of concern. Sediment runoff rates from construction sites are typically 10 to 20 times greater than those of agricultural lands, and 1,000 to 2,000 times greater than those of forest lands. During a short period of time, construction sites can contribute more sediment to streams than can be deposited naturally during several decades. The resulting siltation, and the contribution of other pollutants from construction sites, can cause physical, chemical, and biological harm to our nation's waters. For example, excess sediment can quickly fill rivers and lakes, requiring dredging and destroying aquatic habitats.

Table 1  
Pollutants Commonly Discharged From Construction Sites

Sediment  
Solid and sanitary wastes  
Phosphorous (fertilizer)  
Nitrogen (fertilizer)  
Pesticides  
Oil and grease  
Concrete truck washout

## Summary of Goal(s) (BMPs) Associated with this Control Measure

**Name:** Statewide Program Established

**Start Date:**

**Permit Years:** Year 1:      Year 2:      Year 3:      Year 4:      **Accomplished?:** Yes

**End Date:**

The following page(s) provide details for each of the individual goal(s).





**Goal Name:** Statewide Program Established.

**Goal Description:** ADEM Administrative Code Ch. 335-6-12 implements a State-wide construction storm water regulatory program consistent with NPDES requirements for construction activities.

**Actions undertaken for this goal during this period**

**Action Name**

**Owner**

**Date**

There were no actions taken during this time period.



# Post-Construction Runoff Control

## What is Required?:

The Phase II Final Rule requires an operator of a regulated small MS4 to develop, implement, and enforce a program to reduce pollutants in post-construction runoff to their MS4 from new development and redevelopment projects that result in the land disturbance of greater than or equal to 1 acre. The small MS4 operator is required to:

1. Develop and implement strategies which include a combination of structural and/or non-structural best management practices (BMPs);
2. Have an ordinance or other regulatory mechanism requiring the implementation of post-construction runoff controls to the extent allowable under State, Tribal or local law,
3. Ensure adequate long-term operation and maintenance of controls;
4. Determine the appropriate best management practices (BMPs) and measurable goals for this minimum control measure.

## Why is it Necessary?:

Post-construction storm water management in areas undergoing new development or redevelopment is necessary because runoff from these areas has been shown to significantly effect receiving waterbodies. Many studies indicate that prior planning and design for the minimization of pollutants in post-construction storm water discharges is the most cost-effective approach to storm water quality management.

There are generally two forms of substantial impacts of post-construction runoff. The first is caused by an increase in the type and quantity of pollutants in storm water runoff. As runoff flows over areas altered by development, it picks up harmful sediment and chemicals such as oil and grease, pesticides, heavy metals, and nutrients (e.g., nitrogen and phosphorus). These pollutants often become suspended in runoff and are carried to receiving waters, such as lakes, ponds, and streams. Once deposited, these pollutants can enter the food chain through small aquatic life, eventually entering the tissues of fish and humans. The second kind of post-construction runoff impact occurs by increasing the quantity of water delivered to the waterbody during storms. Increased impervious surfaces interrupt the natural cycle of gradual percolation of water through vegetation and soil. Instead, water is collected from surfaces such as asphalt and concrete and routed to drainage systems where large volumes of runoff quickly flow to the nearest receiving water. The effects of this process include streambank scouring and downstream flooding, which often lead to a loss of aquatic life and damage to property.

## Summary of Goal(s) (BMPs) Associated with this Control Measure

Name: Ordinance Evaluation					Start Date:	3/10/2004
Permit Years:	Year 1: X	Year 2: X	Year 3: X	Year 4:	Accomplished?: Yes	End Date: 3/10/2006
Name: Identification of BMP's					Start Date:	3/10/2003
Permit Years:	Year 1: X	Year 2:	Year 3:	Year 4:	Accomplished?: Yes	End Date: 3/10/2004
Name: Publication of BMP's					Start Date:	3/10/2004
Permit Years:	Year 1:	Year 2: X	Year 3:	Year 4:	Accomplished?: No	End Date: 3/10/2005
Name: Statewide Program Established					Start Date:	
Permit Years:	Year 1:	Year 2:	Year 3:	Year 4:	Accomplished?: Yes	End Date:

The following page(s) provide details for each of the individual goal(s).



**Goal Name:** Ordinance Evaluation

**Goal** March 2004

**Description:** Evaluate existing ordinances/regulations  
Prepare draft of revised ordinances/regulations  
March 2005  
Gather stakeholder comments and other input  
March 2006  
Revise and enact new ordinances and regulations

**Actions undertaken for this goal during this period**

Action Name	Owner	Date
Ordinance Adopted	Tuscaloosa City Council	2/3/2004
A new ordinance was written with input from various stakeholder groups. It evolved over 9 drafts and assimilated concerns of the stakeholders. The final version of the Tuscaloosa Phase II ordinance was adopted by the City Council on February 3, 2004. A copy of the ordinance as adopted is included in the Appendix.		

**Goal Name:** Identification of BMP's

**Goal** Identify and catalog a mix of effective BMPs tailored to the geography and rainfall patterns of

**Description:** Tuscaloosa. Utilize existing manuals or guidance available from regulatory bodies when possible.

**Actions undertaken for this goal during this period**

Action Name	Owner	Date
BMP Manual Adopted	Tuscaloosa City Council	2/3/2004
Tuscaloosa City Council adopted Alabama Handbook for Erosion Control, Sediment Control, and Storm Water Management on Construction Sites and Urban Areas.		

**Goal Name:** Publication of BMP's

**Goal** Distribute the previously developed BMP Manual to developers, municipal staff and interested

**Description:** citizens.

**Actions undertaken for this goal during this period**

Action Name	Owner	Date
There were no actions taken during this time period.		

**Goal Name:** Statewide Program Established

**Goal** ADEM Administrative Code Ch. 335-6-12 implements a State-wide construction storm water

**Description:** regulatory program consistent with NPDES requirements for post-construction activities.

**Actions undertaken for this goal during this period**

Action Name	Owner	Date
There were no actions taken during this time period.		



# Pollution Prevention/Good Housekeeping

## What is Required?:

Recognizing the benefits of pollution prevention practices, the rule requires an operator of a regulated small MS4 to:

1. Develop and implement an operation and maintenance program with the ultimate goal of preventing or reducing pollutant runoff from municipal operations into the storm sewer system;
2. Include employee training on how to incorporate pollution prevention/good housekeeping techniques into municipal operations such as park and open space maintenance, fleet and building maintenance, new construction and land disturbances, and storm water system maintenance. To minimize duplication of effort and conserve resources, the MS4 operator can use training materials that are available from EPA, their State or Tribe, or relevant organizations;
3. Determine the appropriate best management practices (BMPs) and measurable goals for this minimum control measure.

## Why is it Necessary?:

The Pollution Prevention/Good Housekeeping for municipal operations minimum control measure is a key element of the small MS4 storm water management program. This measure requires the small MS4 operator to examine and subsequently alter their own actions to help ensure a reduction in the amount and type of pollution that: (1) collects on streets, parking lots, open spaces, and storage and vehicle maintenance areas and is discharged into local waterways; and (2) results from actions such as environmentally damaging land development and flood management practices or poor maintenance of storm sewer systems. While this measure is meant primarily to improve or protect receiving water quality by altering municipal or facility operations, it also can result in a cost savings for the small MS4 operator, since proper and timely maintenance of storm sewer systems can help avoid repair costs from damage caused by age and neglect.

## Summary of Goal(s) (BMPs) Associated with this Control Measure

<b>Name:</b> Implement Information Management System	<b>Start Date:</b> 3/10/2003
<b>Permit Years:</b> Year 1: <input checked="" type="checkbox"/> Year 2: <input type="checkbox"/> Year 3: <input type="checkbox"/> Year 4: <input type="checkbox"/> <b>Accomplished?:</b> Yes	<b>End Date:</b> 3/10/2004
<b>Name:</b> Develop Pollution Prevention Plan	<b>Start Date:</b> 3/10/2003
<b>Permit Years:</b> Year 1: <input checked="" type="checkbox"/> Year 2: <input checked="" type="checkbox"/> Year 3: <input type="checkbox"/> Year 4: <input type="checkbox"/> <b>Accomplished?:</b> No	<b>End Date:</b> 3/10/2005
<b>Name:</b> Employee Training Materials	<b>Start Date:</b> 3/10/2003
<b>Permit Years:</b> Year 1: <input checked="" type="checkbox"/> Year 2: <input type="checkbox"/> Year 3: <input type="checkbox"/> Year 4: <input type="checkbox"/> <b>Accomplished?:</b> Yes	<b>End Date:</b> 3/10/2004
<b>Name:</b> Train Employees	<b>Start Date:</b> 3/10/2004
<b>Permit Years:</b> Year 1: <input type="checkbox"/> Year 2: <input checked="" type="checkbox"/> Year 3: <input type="checkbox"/> Year 4: <input type="checkbox"/> <b>Accomplished?:</b> No	<b>End Date:</b> 3/10/2005
<b>Name:</b> Pollution Prevention/Housekeeping Effectiveness	<b>Start Date:</b> 3/10/2004
<b>Permit Years:</b> Year 1: <input type="checkbox"/> Year 2: <input checked="" type="checkbox"/> Year 3: <input checked="" type="checkbox"/> Year 4: <input checked="" type="checkbox"/> <b>Accomplished?:</b> No	<b>End Date:</b> 3/10/2007

The following page(s) provide details for each of the individual goal(s).

**Goal Name:** Implement Information Management System

**Goal Description:** Implement an information management system to track the inventory of stormwater facilities and outfalls. Use system to schedule and perform inspections and document and report any actions taken.

## Actions undertaken for this goal during this period

Action Name	Owner	Date
ASIST Software Implemented	Chad Christian	1/1/2003
ASIST Software Suite purchased and implemented. Description of software capabilities included in Appendix.		





**Goal Name:** Develop Pollution Prevention Plan

**Goal** Develop a comprehensive Pollution Prevention Plan that identifies the following: BMP's,  
**Description:** Management Practices and Maintenance Schedules, Recycling Efforts, Waste Disposal Guidelines, and Areas of Concern.

**Actions undertaken for this goal during this period**

Action Name	Owner	Date
BMPs Identified	Chad Christian	2/3/2004
BMP menu identified with the adoption of the Alabama Handbook for Erosion Control, Sediment Control, and Storm Water Management on Construction Sites and Urban Areas.		
Rough Draft of Plan Initiated	TDOT/Environmental Services	
A preliminary plan has been formulated including some of the necessary aspects. A regular schedule has been established for street sweeping activities and the recycling program is now serving 20 neighborhoods.		
City of Tuscaloosa Comprehensive Plan Input	Natural Resources Subcommittee	1/13/2004
The City of Tuscaloosa Comprehensive Plan is being updated currently. A Stormwater/Watershed Task Force was formed from members of the Comprehensive Plan Natural Resources Subcommittee to submit goals and guidelines for inclusion in the new Comprehensive Plan. A summary of the recommendations made is included in the Appendix.		

**Goal Name:** Employee Training Materials

**Goal** Develop and collect training materials to educate staff about pollution prevention and good  
**Description:** housekeeping. Some items will need to be specifically tailored to Tuscaloosa while others are available from EPA and other external sources.

**Actions undertaken for this goal during this period**

Action Name	Owner	Date
Training Materials Collected	Chad Christian	
Over the first permit year numerous educational materials have been collected from EPA, ADEM, and NEMO that will be utilized in the forthcoming employee training.		

**Goal Name:** Train Employees

**Goal** Utilizing the Employee Training Toolbox previously created, train staff on pollution prevention  
**Description:** and good housekeeping measures.

**Actions undertaken for this goal during this period**

Action Name	Owner	Date
There were no actions taken during this time period.		

**Goal Name:** Pollution Prevention/Housekeeping Effectiveness

**Goal** Generate reports that summarize the following: estimate of the quantity of floatables and other  
**Description:** pollutants intercepted, list of facilities and stormwater system components maintained, report of overall compliance and explanation of discrepancies.

**Actions undertaken for this goal during this period**

Action Name	Owner	Date
There were no actions taken during this time period.		





## APPENDIX





ALABAMA BAR INSTITUTE  
FOR  
CONTINUING LEGAL EDUCATION

**What Every Real Estate Lawyer  
Needs to Know**

HealthSouth Conference Center  
Birmingham, Alabama  
Friday, October 10, 2003

**A Lawsuit Runs Through It:  
The Clean Water Act  
Storm Water Phase II Regulations**

*Bennett L. Bearden  
City of Tuscaloosa, Legal Department  
Tuscaloosa, Alabama*



**A LAWSUIT RUNS THROUGH IT:  
THE CLEAN WATER ACT STORM WATER PHASE II REGULATIONS  
(File No. A03-0925)**

**By: Bennett L. Bearden, J.D.  
Associate City Attorney  
City of Tuscaloosa Legal Department**

**Presented at the ABICLE Seminar  
"What Every Real Estate Lawyer Needs to Know"  
HealthSouth Conference Center, Birmingham, Alabama  
October 10, 2003**

*We need more water, go and get it—and by the way, you cannot have any more money.*

Mandate from Nero to Sextius Frontinius,  
Rome's Water Commissioner,  
First Century A.D.

*All government is founded on compromise.*

Edmund Burke, 1775

*From the beginning of civilization, every nation's basic wealth and progress has stemmed in large measure from its natural resources. This nation has been, and is now, especially fortunate in the blessings we have inherited. Our entire society rests upon—and is dependent upon—our water, our land, our forests, and our minerals. How we use these resources influences our health, security, economy and well being.*

John Fitzgerald Kennedy  
Special Message to Congress  
on Natural Resources  
February 23, 1961

*Practically speaking, rain water will run downhill, and not even a law passed by Congress . . . can stop that.*

*Hughey v. JMS Development, Corp.,  
78 F.3d 1523, 1530 (11<sup>th</sup> Cir. 1996)*

*The federal Clean Water Act (CWA) could lay claim to being the most successful environmental program in America. Since its enactment in 1972, industrial discharges to the nation's waters are precipitously down, rates of wetlands loss have slowed and in some regions even reversed, and municipal loadings . . . have dropped by nearly 50 percent while their populations served have doubled. . . .*

*Yet, we do not have clean water . . . . What has gone wrong, of course, is that unregulated sources have blossomed like algae to consume the gains . . . . Individually small, it is their cumulative impacts that are the problem. . . . Most importantly, they are by nature diffuse, not outfalls from pipes, and therefore long considered to be beyond those regulatory requirements of the Clean Water Act that have led to its success.*

*Which would end the story, but for the remarkable resurrection of a long-dormant provision of the Clean Water Act, Sec. 303(d), now taking the field and forcing a showdown on the last water quality frontier, nonpoint source pollution.*

Oliver A. Houck  
TMDLS IV: *The Final Frontier*,  
29 Env'tl.L.Rep. 10469 (August 1999)

*I believe water is the biggest environmental issue we face in the 21<sup>st</sup> Century in terms of both quality and quantity.*

Christine Todd Whitman, A Message from  
the Administrator, U. S. EPA, National  
Quality Inventory: 2000 Report  
(August 2002)

**Disclaimer.** The resolutions, forms and draft model ordinance attached hereto and referred to herein are utilized for the purpose of examples only and are not intended nor should they be used by anyone as a substitute for proper procedure or legal services. Any use of the resolutions, forms or draft model ordinance is without the permission of the City of Tuscaloosa or its Legal Department and is at the sole risk of the user. The City of Tuscaloosa disclaims any responsibility or liability which may arise or result from the use of the resolutions, forms or draft model ordinance or any portion thereof.

## **I. OVERVIEW**

Whether you are attempting to purchase a piece of commercial real estate or develop vacant land, in today's statutory and regulatory world, federal and state environmental laws and regulations and municipal ordinances must be considered in the process. If appropriate steps are not taken at the outset, commercial property you acquire may bring more headaches than returns on your investment. If you fail to consider the myriad of federal, state and local environmental laws, regulations, and ordinances before you begin your development project, your activities may be brought to an unexpected halt. Furthermore, you may face civil and criminal fines and penalties or citizen lawsuits.



In 1987, Congress established a tiered approach for addressing certain municipal, industrial and other storm water discharges in its amendments to the Clean Water Act (CWA) which regulates the discharge of pollutants into the nation's waterways. Section 402 (p)(3)(B) mandated that NPDES<sup>1</sup> permits for municipal separate storm sewer system (MS4) discharges (1) may be issued on a system or jurisdictionwide basis, (2) must include a requirement to effectively prohibit non-storm water discharges into storm sewers, and (3) must require controls to reduce pollutant discharges to the "maximum extent practicable." On December 8, 1999, the Environmental Protection Agency (EPA) published Final Rules (see 64 *Federal Register*, pp. 68721-68851) mandating pollution control activities for MS4s in cities with populations of 100,000 or less. This program is known as the "Phase II Municipal Storm Water Program" (Phase II). Phase I regulations—promulgated in November 1990—were applied to cities with populations over 100,000 (as of the 1990 census) beginning in 1992. Cities with populations of 100,000 or more beginning with the 2000 census did not become subject to the Phase I program but remain in the Phase II program. In addition to small MS4s, Phase II affects other urbanized areas as defined by the U. S. Census Bureau and military bases, universities, prison complexes, large hospital complexes, highways, and other thoroughfares.

Phase I was implemented to reduce polluted runoff from major industrial facilities, large and medium city storm sewers, construction sites that disturb five (5) acres or more of land and discharge from other activities. Phase II picks up where Phase I left off, expanding the scope of EPA regulation of storm water discharges to include small MS4s and construction activities that affect or disturb between one (1) and five (5) acres of land. Phase II has significantly increased the number of local governments required to comply with EPA's NPDES permit conditions. EPA estimates that approximately 5,000 municipalities nationwide may be subject to Phase II. U.S. GAO, *Water Quality, Better Data and Evaluation of Urban Runoff Programs Needed to Assess Effectiveness* 8 (June 2001).

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<sup>1</sup> A National Pollution Discharge Elimination System (NPDES) permit is the mechanism used in the implementation of the Clean Water Act to authorize discharges to waters of the United States.

Many local governments, construction companies, real estate developers and land managers now find themselves in the “death throes” of compliance with the latest unfunded federal mandate contained in Phase II. The issuance of Phase II started a clock that has local governments and contractors racing to understand and evaluate its implications. A wave of uncertainty surrounded many cities' experiences with Phase I, which was characterized as expensive and burdensome. Consequently, the City of Tuscaloosa decided to start as early as possible with Phase II compliance. On January 18, 2001, the City Council of Tuscaloosa authorized the appointment of the Storm Water Phase II Regulations Committee (Exhibit "A") to provide oversight and recommendations on matters related to implementation of Phase II, which went into effect March 10, 2003.

Storm water discharge is generated by runoff from land and impervious areas (Figure 1) such as paved streets, parking lots and building roof tops during rainfall events, and often contains pollutants in quantities that could adversely affect water quality. The goal of Phase II is to reduce the amount of pollutants entering streams, lakes and rivers as a result of runoff in residential, commercial and industrial areas. Pollutant is broadly defined in the CWA to include sand and silt. See *Driscoll v. Adams*, 181 F.3d 1285, 1291 (11<sup>th</sup> Cir. 1999).



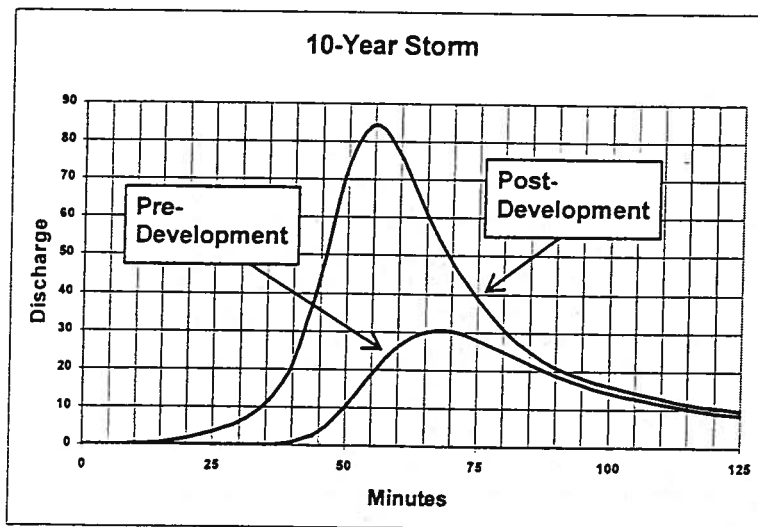
**Figure 1. Impervious cover increases storm water runoff and pollutants.**  
(Source: *Georgia Storm Water Management Manual*)

Development and urbanization can drastically change land and runoff. (Figure 2).



**Figure 2. Typical changes in land surface for a commercial real estate site development.**  
(City of Alpharetta, Georgia – 1958 and 1999; Source: *Georgia Storm Water Management Manual*)

When land is developed, the hydrology, or natural cycle of water, is disrupted and altered. Rainfall that formerly seeped into the ground now runs off the surface. These changes not only increase the volume of runoff but also accelerate the rate at which runoff flows across land. Urban development alters the hydrology of watersheds and streams by disrupting the natural water cycle which results in increased runoff volumes, increased peak runoff discharges and greater runoff velocities. (Figure 3).



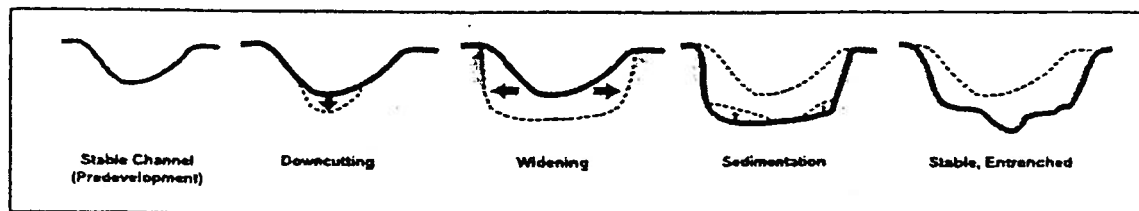
**Figure 3. Hydrograph under pre- and post development conditions.**  
(Source: *Georgia Storm Water Management Manual*)

Changes in the rates and amounts of runoff from developed watersheds directly affect the morphology, or physical shape, and character of Alabama's streams and rivers.

Poor management of storm water can lead to impaired water bodies, fish kills (Figure 4), polluted drinking water, increased flooding and hydrologic changes such as stream widening and bank erosion, stream down cutting, loss of riparian tree canopy, increased erosion, and sedimentation in streams, lakes, wetlands and rivers. (Figures 5 and 6).



**Figure 4. Impacts to aquatic habitat can eliminate sensitive fish species and other aquatic organisms.**  
(Source: Georgia Storm Water Management Manual)



**Figure 5. Changes to a stream's physical character due to storm water runoff and watershed development.** (Source: Georgia Storm Water Management Manual )



**Figure 6. Example of stream channel bank erosion.**  
(Source: Georgia Storm Water Management Manual)

The CWA has been the springboard for numerous regulatory agency and citizen lawsuits. There has been considerable activity in citizen lawsuits under the CWA in Alabama, principally involving violations of NPDES permits by municipal sewage treatment plants and systems. Counsel for local governments and real estate developers are no strangers to the CWA's sixty (60) day notice provision under section 505(b). From overflowing sanitary sewers (Exhibit "B") to improperly maintained construction activities, the public and private sectors are target rich environments for potential lawsuits emanating from environmental groups and regulators alike. At the critical juncture when it seemed that local government, industry and environmentalists might be entering a new phase in environmentalism (see Gary S. Guzy, *Reconciling Environmentalist and Industry Differences: The New Corporate Citizenship "Race to the Top"*, 17 J. Land Use & Envtl. L. 409 ), Phase II paves the way for increased strain on relations between these groups by creating additional apprehension about a new round of clean water lawsuits.

## II. WHAT IS REQUIRED?

Operators of regulated small MS4s are required to design a storm water management program (SWMP) (Exhibit "C") to reduce the discharge of pollutants to the "maximum extent practicable," protect water quality and satisfy the appropriate water quality requirements of the CWA. Implementation of the "maximum extent practicable" standard will require the development and implementation of Best Management Practices (BMPs) and attainment of measurable goals to satisfy six (6) minimum control measures. The technical standard of the "maximum extent practicable" is satisfied by the successful implementation of BMPs. Phase II considers "narrative" effluent limitations (as opposed to "numeric" effluent limitations associated with Total Maximum Daily Loads or TMDLs) that require implementation of BMPs and the achievement of measurable goals as the most appropriate form of effluent limitations to protect water quality.

Phase II defines an MS4 SWMP as a program comprised of six (6) minimum control measures that, when implemented collectively, are expected to result in

significant reductions of pollutants discharged into receiving water bodies. The six (6) minimum control measures are as follows:

- (1) **Public Education and Outreach**  
Providing educational materials to individuals and households and performing outreach to inform citizens about the impact polluted storm water runoff can have on water quality. Education and outreach requirements can take the form of brochures, presentations at meetings, public service announcements, activities targeted at school children, drain stenciling, etc.
- (2) **Public Involvement**  
Providing opportunities for citizens to participate in program development and implementation, including effectively publicizing public hearings and/or encouraging citizen representatives to serve on a storm water management panel.
- (3) **Illicit Discharge Detection and Elimination**  
Developing and implementing a plan to detect and eliminate illicit discharges to the MS4 (includes developing an outfall map indicating all outfalls and the waters into which they discharge and informing the community about hazards associated with illegal discharges and improper disposal of waste).
- (4) **Pollution Prevention and Good Housekeeping in Municipal Operations**  
Developing and implementing a program with the goal of preventing or reducing pollutant runoff from municipal operations. The program must include municipal staff training on pollution prevention measures and techniques (e.g., regular street sweeping, reduction in the use of pesticides or street salt, or frequent catch-basin cleaning).
- (5) **Construction Site Runoff Control**  
Developing, implementing, and enforcing an erosion and sediment control program for construction activities that disturb one or more acres of land (controls could include silt fences and temporary storm water detention ponds).
- (6) **Post-Construction Storm Water Management in New Development or Redevelopment**  
Developing, implementing, and enforcing a program to address discharges of post-construction storm water runoff from new development and redevelopment areas. Applicable controls could include preventative actions such as protecting sensitive areas (e.g., wetlands) or the use of structural BMPs such as grassed swales or porous pavement.

EPA envisions that a BMP-based SWMP that implements the six (6) minimum control measures will be the extent of the NPDES permit requirements for a large majority of regulated MS4s for the foreseeable future: that is, for the next ten (10) to fifteen (15) years (the first two or three permit terms<sup>2</sup>). If storm water discharges from these small systems are determined to cause or contribute to non-attainment of water quality standards, the operator will have to expand or better tailor BMPs within the scope of the six (6) minimum control measures.

Implementation of the "maximum extent practicable" standard by municipalities requires development and implementation of BMPs and the achievement of measurable goals to satisfy each of the six (6) minimum control measures outlined above. Detailed information on each of these required control measures is contained in EPA's Fact Sheets (*See Storm Water Phase II Final Rule Fact Sheet Series* at <http://cfpub.epa.gov/npdes/stormwater/swfinal.cfm>) addressing Phase II. Reporting requirements under Phase II dictate that during the first term—that is, from March 2003 through March 2008—cities will be required to file annual reports with the Alabama Department of Environmental Management (ADEM). In subsequent permit terms, reports will be due every other year unless ADEM determines to require more frequent reports. These reports must include: (a) the status of compliance with permit conditions, an assessment of the appropriateness of identified BMPs and progress toward achieving the measurable goals for each minimum control measure; (b) results of information collected and analyzed, including monitoring data, if any, during the reporting period; (c) a summary of what storm water activities the permittee plans to undertake during the next reporting cycle; and (d) any changes in an identified measurable goal(s) that apply to the program elements.

A copy of the City of Tuscaloosa's draft proposed Phase II Ordinance is attached hereto as Exhibit "D". This draft Ordinance is proposed to be enacted to preserve, protect and promote the health, safety and welfare of the citizens of Tuscaloosa through the reduction, control and prevention of the discharge of pollutants to the City of

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<sup>2</sup> A "permit term" is ordinarily five (5) years.

Tuscaloosa MS4. The express intent of this proposed legislation is to provide for and promote compliance by the City of Tuscaloosa with federal and state laws governing the discharge of pollutants from the MS4 and to provide for and promote compliance with NPDES permit requirements.

There is often confusion about the NPDES storm water program for construction or other land disturbance activities and the regulations imposed on regulated MS4s. Suffice it to say, these are wholly different programs. Beginning January 24, 2003, ADEM began enforcement of the Phase II rules targeting construction activities (Exhibit "E"). According to ADEM, the new statewide rules are meant to restrict storm water from becoming a significant source of pollutants to waters of the state and to protect the state's watersheds.

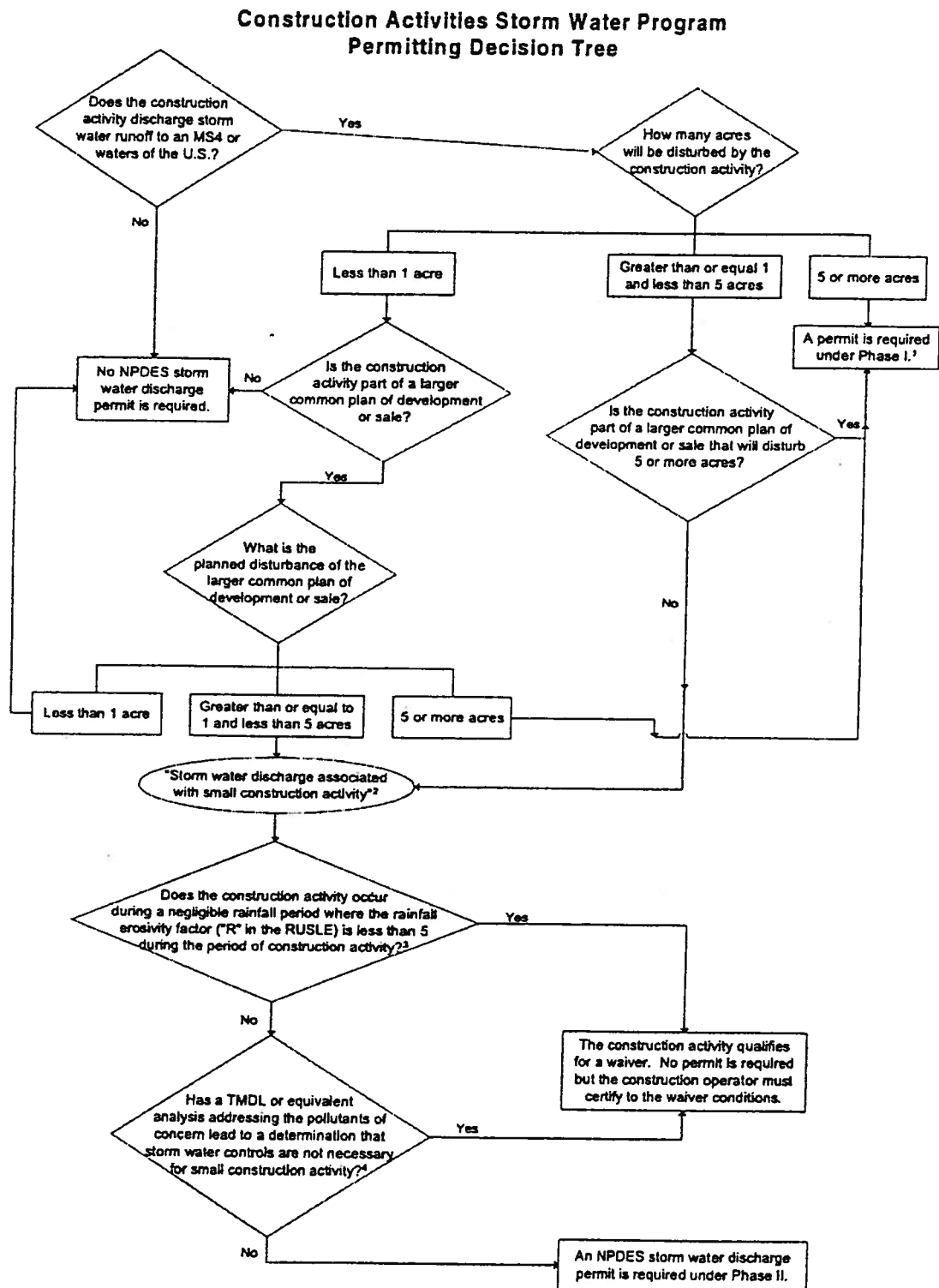
Phase II requires permits for construction activity on property between one (1) and five (5) acres. Phase II also covers an area less than one (1) acre if it is part of a larger common plan of development with a planned disturbance of greater than one (1) acre. Phase I covers construction activity on property greater than five (5) acres.

Under NPDES, the operator of the construction site is charged with the duty to obtain the permit and comply with its requirements. Construction is generally defined by EPA and ADEM to include road building, construction of residential houses, office buildings, industrial sites or demolition.

An operator is defined as a person (or entity) who either has "operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications" or one who has "day-to-day operational control of those activities at a project which are necessary to ensure compliance with a storm water pollution prevention plan" (SWPPP). The operator is authorized to direct workers at a site to carry out activities required by the SWPPP and comply with other permit conditions. U.S. EPA Office of Water, *Storm Water Phase II Compliance Assistance Guide*, section 5.1.3, March 2000, at <http://www.epa.gov/npdes/pubs/comguide.pdf>.



EPA's quick reference guide for determining whether an NPDES permit is required for a particular project is depicted in Figure 7.



1. Construction activity disturbing, or part of a planned disturbance of, five or more acres is a "storm water discharge associated with industrial activity" under category (x). See 40 CFR 122.26(b)(14)(x).
2. See new 122.26(b)(15) for the definition of "storm water discharge associated with small construction activity."
3. See new 122.26(b)(15)(i)(A) for more details.
4. See new 122.26(b)(15)(i)(B) for more details.

Figure 7. Construction activities storm water program permitting decision tree.  
(Source: EPA Storm Water Phase II Compliance Assistance Guide)

To ensure that a construction site operator has complied with NPDES Phase II requirements, EPA suggests that you follow the steps listed in the U.S. EPA Office of Water *Storm Water Phase II Compliance Assistance Guide*, section 5.6, March 2000, available at <http://www.epa.gov/npdes/pubs/comguide.pdf>. Briefly, these steps are as follows:

- Step 1:** Determine if your construction site will discharge storm water runoff into an MS4 or to waters of the United States, which includes interstate lakes, rivers, streams, (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes or natural ponds. If so, proceed to Step 2. If not, stop here.
- Step 2:** Determine if your construction site's storm water discharge will meet the definition of a "storm water discharge associated with small construction activity." If so, proceed to Step 3. If not, stop here.
- Step 3:** If your site meets the definition of small construction activity, determine if it qualifies for a waiver (see U.S. EPA Office of Water *Storm Water Phase II Compliance Assistance Guide*, section 5.2, March 2000, at <http://www.epa.gov/npdes/pubs/wmguide.pdf>).
- Step 4:** Obtain and read the applicable storm water discharge permit for small construction activity.
- Step 5:** Determine which parties are considered "operators" and, therefore, are responsible for complying with the requirements described in the storm water permit for small construction activity.
- Step 6:** Develop an SWPPP.
- Step 7:** Complete and submit a Notice of Intent (NOI).
- Step 8:** Implement the SWPPP. (Includes generation of inspection reports that are to be kept on-site).
- Step 9:** Complete and submit a Notice of Termination (NOT) to the NPDES permitting authority within thirty (30) days after one or more of the appropriate conditions have been met (after construction project is finished or another operator assumes control).

The Alabama Branch of the Associated General Contractors of America has published a reference entitled *Inspection Checklist Handbook for Construction Best*

*Management Practices Structures and Erosion Control Measures (2003)* to assist contractors with BMPs.

### **III. DEADLINES FOR COMPLIANCE**

The deadlines for compliance with Phase II are as follows:

- (1) ADEM issued Public Notice-605 on December 18, 2002, wherein ADEM proposed to reissue the general NPDES permit for discharges associated with small MS4s to waters of the State of Alabama. The Public Notice allowed thirty (30) days following the publication date to comment in writing and/or petition ADEM for a public hearing.
- (2) Beginning January 24, 2003, ADEM began enforcement of Phase II requirements for construction or other land disturbance activities equal to or greater than one (1) acre in size. Ala. Admin. Code section 335-6-12. Applicants are required to submit a Notice of Registration, and to develop a BMP plan to control runoff. Ala. Admin. Code section 335-6-12-.10.
- (3) Operators of automatically designated regulated small MS4s in urbanized areas or those designated by ADEM in the general permit were required to submit an NOI and a description of an SWMP (Exhibit "C") or apply for an individual permit by March 10, 2003 (Exhibit "F").
- (4) Operators designated by ADEM after the date of permit issuance must submit an NOI and a description of an SWMP to ADEM within 180 days of notice.
- (5) Submitting a late NOI: Local governments are not prohibited from submitting an NOI after the dates provided in Part II (A) of NPDES Permit No. ALR040021. (Exhibit "C"). If a late NOI is submitted, the authorization is only for discharges that occur after permit coverage is granted. ADEM reserves the right to take appropriate enforcement actions for any unpermitted discharges.
- (6) Regulated small MS4s' SWMPs are fully developed and implemented by the end of the first permit term, typically a five (5) year period.

#### IV. VIOLATIONS AND ENFORCEMENT

Many municipalities and local governments are currently ill-prepared to respond to the Phase II mandate. Most do not have suitable storm water management ordinances in place which would give them the ability to enforce storm water quality standards. Many others have loose controls on construction activities and development which affect storm water quality. With the March 10, 2003 deadline passed-and no major federal funds allocated to help cities comply-many municipalities are searching for answers.

Operators of small MS4s and commercial developers should note that the penalties for noncompliance with Phase II are formidable. NPDES permits are federally enforceable as well as enforceable under state law and potentially subject the permit holder to enforcement action and penalties by EPA and/or ADEM for violation of the permit requirements. EPA can impose fines and even halt development in urban areas not in compliance with NPDES Phase II regulations. EPA employs a variety of techniques to determine whether there is compliance by regulated entities, including inspection, review of records and permits and responses to citizen complaints. If a violation is discovered, EPA can seek an enforcement penalty up to \$27,500.00 per violation, per day. See U.S. EPA Office of Water, *Storm Water Phase II Compliance Assistance Guide*, section 7.4, March 2000, available at <http://www.epa.gov/npdes/pubs/comguide.pdf>. The severity of the penalty is determined on a case-by-case basis with the analysis focusing on factors such as the number, length and severity of the violations, the economic benefit obtained by the violator, and the violator's ability to pay. *Id.*

ADEM can issue an administrative order with penalties of \$100.00 per day per violation up to \$25,000.00 per day per violation with a maximum penalty of \$250,000.00. Any person who violates any provision of a local or municipal storm water ordinance or any provision of a BMP plan approval issued under an ordinance in Alabama can be

found guilty of a violation, and upon conviction, shall be punished as provided by law, including those penalties set forth in Ala. Code §11-45-9 (1975) which include a fine of up to \$500.00 and six (6) months in jail.

Pursuant to Section 505 of the CWA, any citizen may bring a lawsuit in district court alleging a violation of an NPDES permit. Local governments and developers should anticipate an increased number of citizen lawsuits as ADEM, due to continued funding problems and a multiplicity of runoff complaints, selectively responds and allows citizens to conduct private actions against violators of Phase II. If settlement of these lawsuits is considered, developers and local governments must bear in mind that the federal courts have, in *Stoddard v. Western Carolina Regional Sewer Authority*, 784 F.2d 1200, 1208 (4<sup>th</sup> Cir. 1986), upheld that "a penalty in some form is mandated" in the event of any violation of an NPDES permit. The penalty amount is discretionary with the court, but the case law indicates that some penalty is required. Also, keep in mind that a citizen lawsuit under the CWA provides for possible recovery of attorney fees.

To address the problem of overlapping jurisdictions between state and local laws and regulations, it is anticipated that most local and municipal governments will set up programs that avoid duplication or conflict with ADEM Phase II regulations and provide that compliance with an NPDES permit is deemed compliance with the local or municipal ordinance. Furthermore, it is envisioned that local governments will not take enforcement action for the same violation already addressed by an ADEM enforcement action.

## **V. IMPACTS ON LOCAL GOVERNMENTS<sup>3</sup>**

(1) Implementation of the Phase II program will consume limited local revenues. EPA concedes this fact but maintains that development of a program based

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<sup>3</sup> Many of the following comments were submitted to EPA by the Texas Association of Counties on April 8, 1998, on behalf of its 254 members and are contained in the presentation entitled *Phase II of the EPA's Storm Water Regulations: An Analysis of the Impact on Local Governments in Texas*, by Bill Dugat, III, of Bickerstaff, Heath, Smiley, Pollan, Kever & McDaniel, LLP, presented April 8, 1999, at the Local Government Seminar. These comments are included in this paper to highlight the major Phase II issues local governments in Alabama should consider. Appreciation is expressed to Bill Dugat, III.

upon the minimum control measures and implementation of that program should not excessively interfere with funding of municipal government, especially given the practicability threshold under CWA Sec. 402(p)(3)(b)(iii). By way of example, the City of Tuscaloosa has already budgeted \$50,000.00 of local revenues in special projects for "Storm Water Compliance" in the General Fund Budget for FY 2003.

(2) When the draft version of Phase II was first submitted for public comment, several commenters alleged that it violated the Tenth Amendment to the U.S. Constitution, specifically the principles of federalism. The original version of the Phase II regulations impermissibly required local governments owning or operating MS4s to further EPA's regulatory scheme by passing local ordinances. As such, according to counsel for local governments, Phase II violates the Tenth Amendment. See *Printz v. United States*, 521 U.S. 898 (1997); *New York v. United States*, 505 U.S. 144 (1992). Critics argue that Phase II is not a series of conditions made mandatory in return for receiving a federal grant, but is rather an unfunded federal mandate that improperly commandeers the legislative processes of states and local governments, treating them, in effect, as regional offices or administrative agencies of EPA. "The federal government may not compel the states to enact or administer a federal regulatory program." *Printz*, 521 U.S. at 933. From the vantage point of local governments, the perception is that Phase II does what *Printz* forbids—without any funding, it requires cities and counties to enact ordinances and implement programs to effectuate EPA's storm water regulatory scheme.

Although EPA disagrees that requiring a city or county owner/operator of an MS4 to implement the minimum control measures would violate the Constitution, Phase II provides small MS4s with the option of developing more individualized measures to reduce pollutants and pollution associated with urban storm water. The final version of Phase II provides as an alternative to the six (6) minimum control measures the option of applying for an individual permit. EPA disagrees with the position that the rule is inconsistent with federalism principles. It maintains that unlike the circumstances encountered in the *New York* and *Printz* cases, the Final Rule applies a generally applicable requirement. With these clashing commitments of ideology between federal

and local governments, Phase II as proposed remains problematic concerning Tenth Amendment issues.

(3) United States census data uses a hierarchy of enumeration areas. The data is amalgamated for each enumeration area (totals, averages, etc.). Hence, the information is not site specific. Phase II erroneously relies on arbitrary population based criteria for automatic designation of small MS4s. Unsupported by accurate studies to determine actual water quality impacts, Phase II uses population as a proxy to determine which MS4s should be subjected to automatic permitting requirements. Rather than investigating and identifying those local governments that adversely impact water quality, Phase II arbitrarily encompasses all local governments located within an urbanized area—a determination based on census figures, not legitimate water quality concerns. This in effect undermines the goals of the CWA by over-regulating and squandering the resources of local governments in urbanized areas that pose no threat to water quality while at the same time overlooking adverse sources outside urbanized areas. It remains questionable whether EPA has the authority to regulate local governments based on census data. The CWA empowers EPA to regulate discharges to protect water quality, but not specifically discharges from urban populations.

(4) Some local governments lack jurisdiction and authority to implement Phase II. Many have extremely limited jurisdiction. Unlike home rule cities, counties have no power or duties except those which are clearly set forth and defined by state constitutions and state statutes. The practical reality is that counties often lack the authority to enact the ordinances and implement all the regulatory requirements of Phase II. Additionally, enforcement is problematic.

(5) The one (1) acre threshold for automatic permitting of construction activities is arbitrary and unsupported by any data which demonstrates that a particular size of land disturbance is necessarily a reliable indicator of an adverse impact on water quality. The one (1) acre standard is an example of over-regulation being improperly substituted for factual and scientific information.

(6) The one (1) acre threshold for automatic permitting of construction activity imposes undue burdens on routine, essential local government functions. The construction activities provisions of Phase II were unjustifiably overbroad as originally proposed and subjected local governments involved in linear construction projects in several jurisdictions to multiple sets of permit requirements. Furthermore, the one (1) acre standard requires local governments to obtain permits for a multitude of core activities such as routine road maintenance, drainage ditch clearance and road repair. The Phase II Final Rule provides language which excludes routine road maintenance from being classified as a construction activity if the routine maintenance is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

(7) Under Phase II, local government construction activities will be subjected, at best, to redundant regulation, and at worst, to twice the responsibilities of private construction sites.

(8) The definition of illicit discharge ("any discharge to an MS4 that is not composed entirely of storm water . . .") is too vague to direct local governments on how to maintain compliance with minimum control measures.

(9) Although Phase II (narrative effluent limitations) and the TMDL rule (numeric effluent limitations) are separate initiatives, attorneys cannot analyze these programs without pondering whether there will be a future intersection of the two rules. One particular area for future observation is the conflict caused between municipal compliance with the rules and economic development. Another interesting area of potential conflict is the clash between the Phase II mandate of storm water runoff control and reduction and municipal zoning rules that require additional parking spaces associated with new commercial developments that generate additional runoff.

In *Pronsolino v. Marcus*, 91 F. Supp. 2d 1337 (N.D. Calif. 2000), *aff'd sub nom. Pronsolino v. Nastri*, 291 F. 3d 1123 (9<sup>th</sup> Cir. 2002), the issue of whether Section 303 (d) of the CWA authorized EPA to determine TMDLs for rivers and waters polluted only by



logging and agricultural runoff and/or nonpoint sources rather than by any municipal sewer and/or industrial point sources was decided. The District Court, as a matter of first impression, granted summary judgment for EPA and held that the CWA authorized EPA to determine TMDLs after the state failed to do so. District Judge William Alsup noted that “nonpoint source pollution has become the dominant water quality problem in the United States, dwarfing all other sources of volume...” and found that Congress intended to include nonpoint source pollution in the CWA’s water quality standards program. *Id.* at 1338, (quoting Oliver A. Houck, *TMDLs, Are We There Yet?: The Long Road Toward Water-Quality Based Regulation Under the Clean Water Act*, 27 *Env’tl. L. Rep.* 10391, 10399 (August 1997)).

EPA’s vaunted 2000 TMDL rule, with which it hoped to cure many pollution problems, met its fate on March 13, 2003, when it was withdrawn by the agency. The 2000 TMDL rule was determined to be unworkable based on reasons described by more than 34,000 comments and was challenged in court by some two dozen parties. Congress stopped the rule’s implementation, and the National Academy of Sciences’ National Research Council found numerous drawbacks with the July 2000 rule. The rule was withdrawn as of April 18, 2003. See 68 *Federal Register*, p. 13608-13614. At this juncture, the TMDL rule is being revisited and revamped by EPA.

(10) Phase II raises serious questions about the creation of storm water authorities. It is often difficult to analyze a storm water problem and determine which municipality has the responsibility to solve the problem. Questions of accountability and attendant finger-pointing should be considered. Additionally, the politics of watershed versus political boundaries must be evaluated. In order to measure and manage the impact of land use on the water quality of a stream, the watershed must be viewed as an essential unit of planning. Most land use planning and the authority for planning and zoning is based on political boundaries of cities. In order to have effective SWMPs, it is necessary to recognize the disparity between watershed and political boundaries and to establish an SWMP that reflects the coordination needed between the two.

(11) Many commenters argue that not only is it inappropriate for EPA to require local governments to enact programs that will consume local revenues, but it is also inappropriate to require local governments to bear the political responsibility for implementing Phase II.

## VI. CWA CASE LAW

In 1990, EPA issued regulations for the discharges identified in section 402(p)(2) of the CWA referred to as Phase I regulations. Phase I regulations were challenged, and for the most part, upheld by the Ninth Circuit in *American Mining Cong. v. EPA*, 965 F.2d 759 (9<sup>th</sup> Cir. 1992) and *NRDC v. EPA*, 966 F.2d 1292 (9<sup>th</sup> Cir. 1992). In 1999, EPA issued Phase II, and once again, the regulations were upheld by the Ninth Circuit against challenges.

Phase II was challenged on twenty-two constitutional, statutory and procedural grounds in the Fifth, Ninth and D.C. Circuits in three separate actions ultimately consolidated in the Ninth Circuit. In *Environmental Defense Center, Inc. v. U.S. Environmental Protection Agency*, 319 F. 3d 398 (9<sup>th</sup> Cir. 2003), attorneys for local governments and EPA squared off in court on December 3, 2001. Attorneys representing the Texas Counties Storm Water Coalition and the Texas Cities Coalition on Storm Water (TCSWC and TCCSW) argued that Phase II violates the First and Tenth Amendments and that the one (1) to five (5) acre construction activity threshold is arbitrary and capricious. EPA countered that there is no violation of the Tenth Amendment because Phase II in its final form provides the alternative of an individual program rather than compliance with the six (6) minimum control measures under a general permit. In their opinion filed on January 14, 2003, the majority concurred with EPA; however, Judge Richard Tallman, dissenting in part, noted that Phase II infringes upon state sovereignty by compelling the states to enact and administer a federal regulatory program. Judge Tallman stated that "[w]hile EPA may directly regulate issues surrounding stormwater discharge, it may not compel the states to enact and enforce such regulations." *Id.* at 451. On February 28, 2003, the TCSWC and TCCSW petitioned the Court for panel rehearing and rehearing en banc.

EPA's Office of Wastewater Management issued a memorandum (Exhibit "G") indicating that states should issue their general permits for Phase II, which took effect March 10, 2003, even though states cannot be certain how they will be affected by the *Environmental Defense Center, Inc.* ruling. EPA's Water Permits Division advised state officials not to let the appeals court situation affect how they implement Phase II because the case was far from being resolved. Another unresolved question is whether EPA will interpret the Ninth Circuit's ruling to apply only in those states within that court's jurisdiction or nationwide (Susan Bruninga, "Environment: States Should Issue Stormwater Permits Despite Uncertainty with Appeals Court Case" *Daily Report for Executives*, Regulation and Law, Tuesday, March 11, 2003).

On September 15<sup>th</sup>, 2003, in *Environmental Defense Center, Inc. v. U.S. Environmental Protection Agency*, 344 F. 3d 832 (9<sup>th</sup> Cir. 2003), the Ninth Circuit ruled on the petitions for rehearing of the court's January 14<sup>th</sup>, 2003 opinion. The court vacated the prior majority and dissenting opinions, issued new majority and dissenting opinions and denied all petitions for rehearing and rehearing en banc. In short, the outcome of the case was the same except the strong dissent in support of the Tenth Amendment argument disappeared.

In the Fifth Circuit, the cities of Abilene and Irving, Texas petitioned the court for review of conditions placed on storm water discharge permits issued by EPA. The Court held that EPA has statutory authority to condition permits on the cities' implementation of pollution control programs and that the storm water program requirements do not violate the cities' First or Tenth Amendment rights, nor were the requirements arbitrary or capricious. *City of Abilene v. U. S. Environmental Protection Agency*, 325 F.3d 657 (5<sup>th</sup> Cir. 2003).

Closer to home, a recent case which caused alarm for most cities and developers alike is *McAbee v. Fort Payne*, 318 F.3d 1248 (11<sup>th</sup> Cir. 2003) in which the Eleventh Circuit held that Alabama's Water Pollution Control Act and the Alabama Environmental Management Act are not comparable to the Federal CWA. Citizen

lawsuits are barred under the CWA where a state has commenced and is diligently prosecuting under comparable state law. In *McAbee*, the court concluded that Alabama citizens would be permitted to bring individual lawsuits under the CWA in addition to any litigation commenced by ADEM. In other words, private citizens could file suit under the CWA even though ADEM had already acted. This was a significant departure from existing law. A panel of attorneys representing various business and industry groups drafted legislation to correct the problem raised by this decision and to bring Alabama's statutes in line with the Federal CWA. House Bill 434, which passed on June 11, 2003, conformed the state administrative enforcement process to the Federal CWA. A common defense against this type of lawsuit, lack of standing, and the affirmative defense of upset were addressed in the recent Mississippi case of *Sierra Club of Mississippi, Inc. v. City of Jackson*, 136 F.Supp.2d 620 (S.D.Miss.2001). This opinion is one of those often overlooked cases in which a municipality actually obtained a favorable result on summary judgment. In granting the defendant's motion for summary judgment, the Court held that: (1) the individuals did not establish standing to bring suit; (2) sewage spills did not violate NPDES permits; and (3) the City established the affirmative defense of upset. An upset is an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. Upset is used as a defense against claims of violations of NPDES permits. Another defense, mootness, was addressed in the recent Supreme Court case of *Friends of the Earth, Inc. v. Laidlaw Environmental Services (TOC), Inc.*, 528 U.S. 167 (2000).

*Densmore v. Jefferson County*, 813 So.2d 844 (Ala. 2001) is an interesting case regarding the implementation and the constitutionality of a storm water act in Alabama. In *Densmore*, landowners brought an action against the County Commission, the County Storm Water Management Authority, the Tax Assessor and municipalities to challenge the constitutionality of the storm water act and the storm water fee imposed by a county ordinance. The Circuit Court of Jefferson County entered summary judgment in favor of the Defendants, and the landowners appealed. The Alabama Supreme Court held that: (1) the Act was a general law rather than a local law within the meaning of a constitutional requirement to publish notice of the intention to apply

local law; (2) codification of the Act cured any infirmities in the adoption of it; and (3) the County's fee to fund the storm water management program was not a tax designed to raise revenue. This case should be required reading for all municipal and local officials who are inclined to form a water management authority in order to comply with the mandates of Phase II.

Another case of interest to local governments and commercial developers is *Hughey v. JMS Development, Corp.*, 78 F.3d 1523 (11<sup>th</sup> Cir. 1996), *cert . denied*, 65 U.S.L.W. 3366 (U.S. Nov. 18, 1996) (No. 96-420), wherein a landowner in Georgia filed a citizen suit under the CWA seeking to enjoin a developer from discharging storm water runoff. In *Hughey*, the Eleventh Circuit held that the CWA does not require a zero discharge standard where the absence of an NPDES permit made compliance factually impossible. This decision reversed the United States District Court for the Northern District of Georgia which held that CWA compliance is not discretionary despite administrative delay or the lack of specified effluent standards. The District Court issued a permanent injunction, imposed a fine and awarded the landowner attorney fees and costs whereupon appeal was taken. The Court of Appeals, sitting by designation, held that: (1) the CWA's zero discharge standard for storm water runoff from construction activities in the absence of an NPDES permit did not apply to a developer when compliance was factually impossible; and (2) an injunction prohibiting a developer from discharging any storm water runoff was an unenforceable "obey the law" injunction in the absence of an operative command capable of enforcement. The orders were vacated, and the injunction was dissolved.

In *Hughey*, the State of Georgia had NPDES permitting authority but had not yet developed a permit for storm water discharges. *Id.* at 1527 and n.7-8. Accordingly, the state was unable to provide the defendant with a permit. *Id.* EPA had transferred its authority to issue permits to Georgia. As it was impossible for the defendant to control storm water and impossible for the defendant to obtain a permit from any governmental agency, the court found that it was impossible for the defendant to comply with the CWA. *Id.* at 1527, 1530. *Hughey* stands for the proposition that Congress did not intend for the zero discharge standard to apply when: (1) no NPDES permit covering

discharge exists; (2) the discharger was in good-faith compliance with local pollution control requirements that substantially mirror the proposed NPDES discharge standards; (3) discharges are minimal; and (4) compliance is factually impossible. *Id.* at 1530. The court in *Hughey* concluded that the law does not compel performance of the impossible. *Id.*

The Eleventh Circuit's interpretation of the CWA and its formulation of an unprecedented narrow exception to congressionally mandated compliance with national pollution standards has been hailed as a major victory for developers who have heretofore had unfavorable results in discharge cases. This decision has the potential to weaken the CWA in far-reaching ways.

## VII. CONCLUSIONS

Phase II is now final and required compliance by local governments effective March 10, 2003. ADEM began enforcement of Phase II storm water discharge requirements for construction activities or other land disturbances equal to or greater than one (1) acre in size on January 24, 2003. Phase II significantly increased the number of local governments required to obtain coverage under NPDES permits. It expanded the scope of EPA's regulation of storm water discharges to include small MS4s and construction activities or other land disturbance that affect between one (1) and five (5) acres of land. Operators of regulated MS4s are required to design and implement an SWMP with six (6) minimum control measures:

- (1) Public Education and Outreach
- (2) Public Involvement
- (3) Illicit Discharge Detection and Elimination
- (4) Pollution Prevention and Good Housekeeping in Municipal Operations
- (5) Construction Site Runoff Control
- (6) Post-Construction Storm Water Management in New Development or Redevelopment

Construction site operators disturbing one (1) acre of real property or greater must obtain NPDES permits. These permits require them to implement practices to control polluted storm water runoff from their sites through an SWPPP.

Phase II regulations impose significant administrative and regulatory burdens on local governments without any federal funding or regard to actual water quality impacts. Additionally, the penalties for violation of Phase II NPDES permits are severe and potentially subject the permit holder to fines, jail sentences and citizen lawsuits. Local governments and developers subject to Phase II should anticipate significant private litigation for alleged violations of NPDES permits.

For local governments, contractors, real estate developers, and land management personnel, understanding Phase II is the first step. The next step for municipalities is consulting with engineers and beginning development of an SWMP with the six (6) minimum control measures and an ordinance to insure compliance. Operators of construction sites should ensure compliance by carrying out activities required by an SWPPP and adhering to NPDES permit conditions. Only with a thorough understanding of Phase II requirements can attorneys meet the challenges that its implementation poses.

AMERICAN

*Mr*

City Clerk

Exhibit "A"

Legal Dept

*BB*

Prepared By

Request On

Presentation On

Suspension Of Rules

*1-18-01*

## RESOLUTION

### RESOLUTION APPOINTING STORM WATER PHASE II REGULATIONS COMMITTEE (A00-0264)

BE IT RESOLVED BY THE CITY COUNCIL OF TUSCALOOSA as follows:

That the following individuals are hereby appointed as a committee to provide general oversight and recommendations to the City Council in regard to matters relating to Storm Water Phase II Regulations which will go into effect in March 2003 as follows:

One member each from the (1) Tuscaloosa Department of Transportation, designated by the City Engineer/Director of TDOT; (2) the Legal Department designated by the City Attorney; and (3) the Water and Sewer Department designated by the Director.

Additional members may be added to this committee as deemed necessary by the City Council and/or the member departments.

r-appt.storm.water.ph.2.reg.com.

### COUNCIL ACTION

Ord. \_\_\_\_\_

Intro. \_\_\_\_\_

2nd Reading \_\_\_\_\_

Unanimous \_\_\_\_\_

Failed \_\_\_\_\_

Tabled \_\_\_\_\_

Com. \_\_\_\_\_

Amended \_\_\_\_\_

Res. ☒ \_\_\_\_\_

Passed *1/18/01* \_\_\_\_\_

Failed \_\_\_\_\_

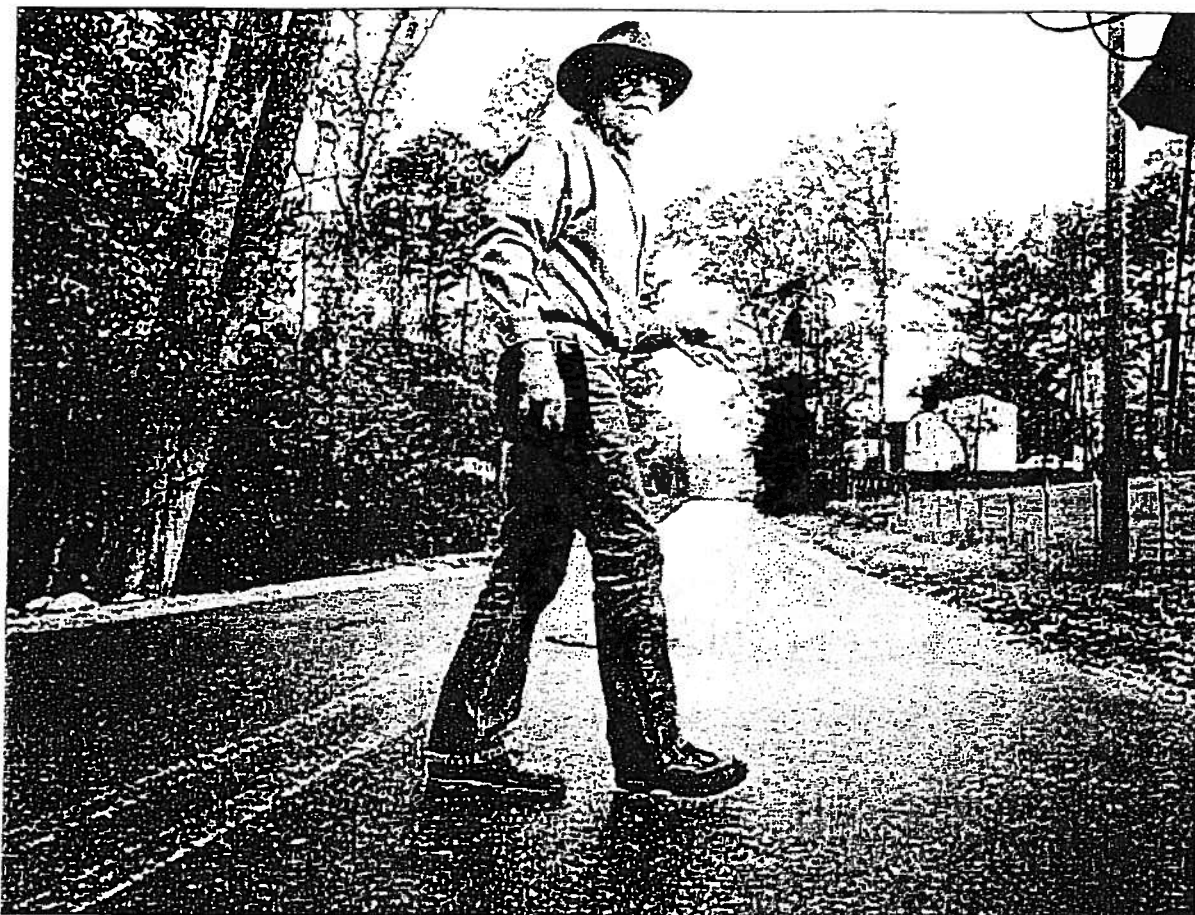
Tabled \_\_\_\_\_

Com. \_\_\_\_\_

Amended \_\_\_\_\_

Comments: \_\_\_\_\_





STAFF PHOTO | MICHAEL E. PALMER

John Wathen, director of Friends of Hurricane Creek, walks near where he says a sewage overflow occurred in Holt on a tributary of Hurricane Creek.

# Tuscaloosa told to fix sewer or face lawsuit

By Stephanie Hoops  
Staff Writer

**TUSCALOOSA** | The city of Tuscaloosa has been given 60 days' notice to fix an overflowing sewer problem before it gets hit with a lawsuit that could result in penalties of up to \$27,500 for each day that the problem remains.

Lawyers for the environmental organization Friends of Hurricane Creek notified Mayor Al DuPont, Water Works and Sewer Department Manager Maurice Sledge and Wastewater Treatment Plant Manager Jimmy Junkin this week that they intend to sue.

The group claims that at least two times in recent weeks untreated sewage has overflowed from a manhole on Holt-Peterson Road, around 100 yards east of the intersection of Reichhold Road, in violation of federal law.

"Suit may be avoided if these violations have been permanently abated before the expiration of 60 days following

Raw sewage has overflowed onto Holt streets twice recently, group says

receipt of this notice," lawyer David Luder wrote in his notice of legal action.

Sledge issued a statement noting that the city was training its staff to start testing the site next week.

"Plans are to make local notifications to residents in that area on Monday and to commence actual testing on Thursday of next week," Sledge said.

Hurricane Creek group director John Wathen said the community shouldn't have to wait for the city to train staffers to respond to the problem area.

"We need to get contractors out here," he said. "This is an extreme health haz-

ard."

Raw sewage — including toilet paper, human hair and feces — spilled onto the street in Holt twice in the past few weeks, on Oct. 28 and Nov. 10, Wathen said.

"There's no excuse in the year 2002 for the concept that when it rains it's OK to have sewage running down the streets," Wathen said. "Fix it."

The city's position is that the system, which is fairly new, hasn't experienced this problem before, so "it is apparent that the integrity of this system has been compromised by persons or events beyond the city's control introducing a significant new source of rainwater into the system," Sledge said.

"If it's not permanently fixed, if they don't make it go away, we'll have no alternative but to file a lawsuit," Wathen said.

Reach Stephanie Hoops at [stephanie.hoops@tuscaloosaneews.com](mailto:stephanie.hoops@tuscaloosaneews.com), or 345-0505, Ext. 364.

**ADEM**

## ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

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GOVERNOR

MAY 14 2003

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General Counsel: 394-4332

Air: 279-3044

Land: 279-3050

Water: 279-3051

Groundwater: 270-5631

Field Operations: 272-8131

Laboratory: 277-6718

Mining: 394-4325

Education/Outreach: 394-4383

HONORABLE ALVIN P DUPONT  
MAYOR, CITY OF TUSCALOOSA  
PO BOX 2089  
TUSCALOOSA, ALABAMA 35403

RE: Small Municipal Separate Storm Sewer System General NPDES Permit

Dear Mayor DuPont:

Based on your request, as evidenced by the submittal of a Notice of Intent, and on the information contained in the Notice of Intent coverage under General NPDES Permit Number ALR040021 is granted. The effective date of issuance coverage is May 14, 2003.

Coverage under this permit does not authorize the discharge of any pollutant or non-stormwater that is not specifically identified in the permit and by the Notice of Intent which resulted in the granting of coverage.

You are responsible for compliance with all provisions of the permit including but not limited to, the submittal of any reports, and the preparation and implementation of any plans required by the permit.

A copy of the General NPDES Permit under which coverage of your stormwater discharges has been granted is enclosed. If you have any questions concerning this permit, please contact Vernetta Palmer at (334) 274-4151.

Sincerely,

A handwritten signature in cursive script that reads "James E. McIndoe".

James E. McIndoe, Chief  
Water Division

JEM/VJP

Enclosure: Permit

cc: Mike McCary, Permits and Services

# ADEM

ALABAMA  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

## NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT GENERAL PERMIT

DISCHARGE AUTHORIZED: STORMWATER DISCHARGES FROM REGULATED SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS

AREA OF COVERAGE: THE STATE OF ALABAMA

PERMIT NUMBER: ALR040021

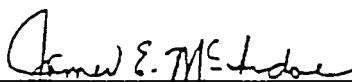
RECEIVING WATERS: ALL WATERS OF THE STATE

*In accordance with and subject to the provisions of the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§1251-1378 (the "FWPCA"), the Alabama Water Pollution Control Act, as amended, Code of Alabama 1975, §§ 22-22-1 to 22-22-14 (the "AWPCA"), the Alabama Environmental Management Act, as amended, Code of Alabama 1975, §§22-22A-1 to 22-22A-15, and rules and regulations adopted thereunder, and subject further to the terms and conditions set forth in this permit, the Permittee is hereby authorized to discharge into the above-named receiving waters.*

ISSUANCE DATE: March 10, 2003

EFFECTIVE DATE: March 10, 2003

EXPIRATION DATE: March 9, 2008



Alabama Department of Environmental Management

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## PART I Coverage Under this Permit

### A. Permit Area

This Permit covers the State of Alabama.

### B. Eligibility

1. This permit authorizes discharges of stormwater from small municipal separate storm sewer systems (MS4s), as defined in 40 CFR Part 122.26(b)(16). You are authorized to discharge under the terms and conditions of this general permit if you:
  - a. Operate a small MS4 within the permit area described in Section A.
  - b. Are not a "large" or "medium" MS4 as defined in 40 CFR Part 122.26(b)(4) or (7), and
  - c. Submit a Notice of Intent (NOI) in accordance with Part II of this permit, and
  - d. Either:
    - (1) Are located fully or partially within an urbanized area as determined by the latest Decennial Census by the Bureau of Census, or
    - (2) Are designated for permit authorization by EPA and the Department pursuant to 40 CFR Part 122.32.
2. The following are types of authorized discharges:
  - a. Stormwater discharges. This permit authorizes stormwater discharges to waters of the state from eligible, small MS4s identified in Part I.B.1, except as excluded in Part I.C
  - b. Non-stormwater discharges. You are authorized to discharge the following non-stormwater sources provided that the Department has not determined these sources to be significant contributors of pollutants to your MS4:
    - (1) Water line flushing
    - (2) Landscape irrigation
    - (3) Diverted stream flows
    - (4) Rising ground waters
    - (5) Uncontaminated ground water infiltration (Infiltration is defined as water other than wastewater that enters a sewer system, including sewer service connections and foundation drains, from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow.)
    - (6) Uncontaminated pumped ground water
    - (7) Discharges from potable water sources
    - (8) Foundation drains
    - (9) Air conditioning condensate
    - (10) Irrigation water
    - (11) Springs
    - (12) Water from crawl space pumps
    - (13) Footings drains
    - (14) Lawn watering
    - (15) Individual residential car washing
    - (16) Flow from riparian habitats and wetlands
    - (17) Dechlorinated Swimming pool discharges
    - (18) Street wash water
    - (19) Discharges or flows from fire fighting activities

**C. Limitations on Coverage**

The following discharges are not authorized by this permit:

1. Discharges that are mixed with sources of non-stormwater unless such non-stormwater discharges are:
  - a. In compliance with a separate NPDES permit, or
  - b. Determined by the Department not to be a significant contributor of pollutants to waters of the state.
2. Stormwater discharges associated with industrial activity as defined in 40 CFR Part 122.26(b)(14)(i)-(ix) and (xi).
3. Stormwater discharges associated with construction activity as defined in 40CFR Part 122.26(b)(14)(x) or 40 CFR 122.26(b)(15) and subject to ADEM Administration Code Chapter 335-6-12.
4. Stormwater discharges currently covered under another permit.
5. Discharges to territorial seas, the contiguous zone, and the oceans unless such discharges are in compliance with the ocean discharge criteria of 40 CFR Part 125, Subpart M.
6. Discharges that would cause or contribute to instream exceedances of water quality standards. Your stormwater management program (SWMP) must include a description of the BMPs that you will be using to ensure that this will not occur. The Department may require corrective action or an application for an individual permit or alternative general permit if an MS4 is determined to cause an instream exceedance of water quality standards.
7. Discharges of any pollutant into any water for which a total maximum daily load (TMDL) has been approved by EPA unless your discharge is consistent with that TMDL. This eligibility condition applies at the time you submit a Notice for coverage. If conditions change after you have permit coverage, you may remain covered by the permit provided you comply with the applicable requirements of Part III. You must incorporate any limitations, conditions and requirements applicable to your discharges, including monitoring frequency and reporting required, into your SWMP in order to be eligible for permit coverage. For discharges not eligible for coverage under this permit, you must apply for and receive an individual or other applicable general NPDES permit prior to discharging.

**D. Obtaining Authorization**

1. To be authorized to discharge stormwater from small MS4s, you must submit a notice of intent (NOI) and a description of your SWMP in accordance with the deadlines presented in Part II of this permit.
2. You must submit the information required in Part II on the latest version of the NOI form (or photocopy thereof). Your NOI must be signed and dated in accordance with Part VI of this permit.
3. Unless notified by the Department to the contrary, dischargers who submit an NOI in accordance with the requirements of this permit are authorized to discharge stormwater and non-stormwater from small MS4s under the terms and conditions of this permit sixty (60) days after the date that the NOI is postmarked. The Agency may deny coverage under this permit and require submittal of an application for an individual NPDES permit based on a review of the NOI.
4. Where the operator changes, or where a new operator is added after submittal of an NOI under Part II a new NOI must be submitted in accordance with Part II within (30) days of the change or addition.

## PART II Notice of Intent Requirements

### A. Deadlines for Notification

1. If you are automatically designated under 40 CFR Part 122.32(a)(1) or designated by the Department, then you are required to submit an NOI and a description of your SWMP or apply for an individual permit by March 10, 2003.
2. Additional designations after the date of permit issuance. If you are designated by the Department after the date of permit issuance, then you are required to submit an NOI and a description of your SWMP to the Department within 180 days of receipt of notice.
3. Submitting a Late NOI. You are not prohibited from submitting an NOI after the dates provided in Part II.A. If a late NOI is submitted, your authorization is only for discharges that occur after permit coverage is granted. The Department reserves the right to take appropriate enforcement actions for any unpermitted discharges.

### B. Contents of the Notice of Intent

The Notice(s) of Intent must be signed in accordance with Part VI of this permit and must include the following information:

1. Information on the permittee:
  - a. The name of your municipal entity/state agency/federal agency, mailing address, and telephone number; and
  - b. An indication of whether you are a Federal, State, or other public entity.
2. Information on the municipal separate storm sewer system:
  - a. The Urbanized Area or Core Municipality (if you are not located in an Urbanized Area) where your system is located; the name of your organization, or county(ies) where your MS4 is located, and the latitude and longitude of an approximate center of your MS4; and
  - b. The name of the major receiving water(s) and an indication of whether any of your receiving waters are included on the latest 303(d) list or designated by the Department as impaired. If you have discharges to 303(d) waters, a certification that your SWMP complies with the requirements of Part III A; and
  - c. If you are relying on another governmental entity regulated under the stormwater regulations (40 CFR Part 122.26 & 122.32) to satisfy one or more of your permit obligations (see Part IV), the identity of that entity(ies) and the element(s) they will be implementing.
3. Information on your chosen best management practices (BMPs) and the measurable goals for each of the stormwater minimum control measures in Part IV of this permit, your time frame for implementing each of the BMPs, and the person or persons responsible for implementing or coordinating your SWMP.

### C. Where to Submit

You are to submit your NOI, signed in accordance with the signatory requirements of Section VI of this permit, to the Department at the following address:

Alabama Department of Environmental Management  
Municipal Branch, Water Division  
Post Office Box 301463  
Montgomery, Alabama 36130-1463

Certified and Registered Mail shall be addressed to:

Alabama Department of Environmental Management  
Municipal Branch, Water Division  
1400 Coliseum Boulevard  
Montgomery, Alabama 36110-2059

### D. Co-Permittees Under a Single NOI

You may partner with other MS4s to develop and implement your SWMP. You may also jointly submit an NOI with one or more MS4s. The description of your SWMP must clearly describe which permittees are responsible for implementing each of the control measures.

### PART III Special Conditions

#### A. Discharges to Water Quality Impaired Waters

1. Applicability: You must:
  - a. Determine whether the discharge from any part of the MS4 contributes directly or indirectly to a waterbody that is included on the latest "303(d)" list or designated by the Department as impaired. If you have discharges meeting this criterion, you must comply with Part III, if you do not, Part III does not apply to you.
  - b. If your MS4 discharges to a waterbody described above, you must also determine whether a total maximum daily load (TMDL) has been approved by EPA for the listed waterbody. If there is an approved TMDL, you must comply with Part III, if no TMDL has been approved, Part III does not apply until a TMDL has been approved.
2. Water Quality Controls for Discharges to Impaired Waterbodies. Your SWMP must include a section describing how your program will control the discharge of the pollutants of concern and ensure your discharges will not cause or contribute to instream exceedances of the water quality standards. This discussion must specifically identify measures and BMPs that will collectively control the discharge of the pollutants of concern.
3. Consistency with TMDL Allocations. If a TMDL has been approved for any waterbody into which you discharge, you must:
  - a. Determine whether the approved TMDL is for a pollutant likely to be found in stormwater discharges from your MS4.
  - b. Determine whether the TMDL includes a pollutant allocation or other performance requirements specifically for stormwater discharge from your MS4.
  - c. Determine whether the TMDL addresses a flow regime likely to occur during periods of stormwater discharge.
  - d. After the determinations above have been made and if it is found that your MS4 must implement specific allocations provisions of the TMDL, assess whether the allocations are being met through implementation of existing stormwater control measures or if additional control measures are necessary.
  - e. Notify public in accordance with Part IV. B. 3. of decision that existing stormwater control measures are meeting the allocations or the additional control measures that you determine are necessary.
  - f. Document all control measures currently being implemented or planned to be implemented. Also include a schedule of implementation for all planned controls. Document the calculations or other evidence that shows that the allocations will be met.
  - g. If deemed necessary by the Department, submit and implement a monitoring plan in accordance with Part V.A.2. to determine whether the stormwater controls are adequate to meet the TMDL allocations.
  - h. If the evaluation shows that additional or modified controls are necessary, describe the type and schedule for the control additions/revisions. Continue Paragraphs III.A.3.d.-h. until two continuous monitoring cycles, as defined in the approved monitoring plan in accordance with Part V.A.2., show that the TMDL allocations are being met or that water quality (WQ) standards are being met.



## PART IV Stormwater Management Programs

### A. Requirements

1. You must develop, implement, and enforce a SWMP designed to reduce the discharge of pollutants from your small MS4 to the maximum extent practicable (MEP), to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act. The SWMP should include management practices; control techniques and system, design, and engineering methods; and such other provisions as the Department may determine appropriate for the control of such pollutants. Your SWMP must include the following information for each of the six minimum control measures described in Section IV.B of this permit:
  - a. The BMPs that you or another entity will implement for each of the stormwater minimum control measures (Any technical information developed for the SWMP associated with system, design, and engineering methods must be prepared by a professional engineer, presently registered to practice in the State as required by ADEM Administrative Code 335-6-3.);
  - b. The measurable goals for each of the BMPs including, as appropriate, the months and years in which you will undertake required actions, including interim milestones and the frequency of the action, and
  - c. The person or persons responsible for implementing or coordinating the BMPs for your SWMP.
  - d. You must develop and fully implement your program by five years from permit issuance.

### B. Minimum Control Measures

1. The six minimum control measures that must be included in your SWMP are:
2. Public Education and Outreach on Stormwater Impacts
  - a. Permit requirement. You must implement a public education program to distribute educational materials to the community or conduct equivalent outreach activities about the impacts of discharges on water bodies and the steps that the public can take to reduce pollutants in stormwater runoff.
  - b. Documentation. You must document your methodology for the development of a stormwater public education and outreach program. Your rationale statement must address your overall public education program and the individual BMPs, measurable goals and responsible persons for your program.
3. Public Involvement/participation
  - a. Permit requirement. You must at a minimum, comply with State and local public notice requirements when implementing a public involvement/participation program.
  - b. Documentation. You must document your methodology for the development of a stormwater public involvement/participation program. Your rationale statement must address your overall public involvement/participation program and the individual BMPs, measurable goals, and responsible persons for your program.
4. Illicit Discharge Detection and Elimination
  - a. Permit requirement. You must:
    - (1) Develop, implement and enforce a program to detect and eliminate illicit discharges (as defined in 40 CFR Part 122.26(b)(2)) into your small MS4;
    - (2) 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;
    - (3) To the extent allowable under State, local law, effectively prohibit, through ordinance, or other regulatory mechanism, non-stormwater discharges into your storm sewer system that is not listed in Part I.C and implement appropriate enforcement procedures and actions;
    - (4) Develop and implement a plan to detect and address non-stormwater discharges, including illegal dumping, to your system;
    - (5) Inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste; and
    - (6) Address the following categories of non-storm discharges or flows (i.e., illicit discharges) only if the Department identifies them as significant contributors of pollutants to your small MS4; water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (as defined at 40 CFR Part 35.2005(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.

- (7) You may also develop a list of other similar occasional incidental non-stormwater discharges (e.g. non-commercial or charity car washes, etc.) that will not be addressed as illicit discharges. These non-stormwater discharges must not be reasonably expected (based on information available to the permittees) to be significant sources of pollutants to the municipal separate storm sewer system, because of either the nature of the discharges or conditions you have established for allowing these discharges to your MS4 (e.g., a charity car wash with appropriate controls on frequency, proximity to impaired waterbodies, BMPs on the wash water, etc.). You must document in you SWMP any local controls or conditions placed on the discharges. You must include a provision prohibiting any individual non-stormwater discharge that is determined to be contributing significant amounts of pollutants to your MS4.

- b. Documentation. You must document your methodology for the development of a stormwater illicit discharge detection and elimination program. Your rationale statement must address your overall illicit discharge detection and elimination program and the individual BMPs, measurable goals, and responsible persons for your program.

5. Construction Site Stormwater Runoff Control

ADEM Admin. Code Ch. 335-6-12 implements a State-wide construction stormwater regulatory program consistent with NPDES requirements for construction activities. As provided by 40 CFR Part 122.35(b), this General Permit does not require an MS4 to implement a local construction stormwater control program.

6. Post-Construction Stormwater management in new Development and Redevelopment

ADEM Admin. Code Ch. 335-6-12 implements a State-wide construction stormwater regulatory program consistent with NPDES requirements for construction activities and includes requirements for post-construction stormwater runoff. As provided by 40 CFR Part 122.35(b), this General Permit does not require an MS4 to implement a local post-construction stormwater management program for stormwater runoff.

7. Pollution Prevention/Good Housekeeping for Municipal Operations

- a. Permit requirement. You must:

- (1) Develop and implement an operation and maintenance program that includes a training component and has the ultimate goal of preventing or reducing pollutant runoff from municipal operations; and
- (2) Using training materials that are available from EPA, your State or other organizations, your program must include employee training to prevent and reduce stormwater pollution from activities such as park and open space maintenance, fleet and building maintenance, new construction and land disturbances, and stormwater system maintenance.

- b. Documentation. You must document your methodology for the development of a pollution prevention/good housekeeping program for municipal operations. Your rationale statement must address both your overall pollution prevention/good housekeeping program; the individual BMPs measurable goals, and responsible persons for your program.

C. Sharing Responsibility

1. Implementation of one or more of the minimum measures may be shared with another entity, or the entity may fully take over the measure. You may rely on another entity only if:

- a. The other entity, in fact, implements the control measure;
- b. The particular control measure, or component of that measure, is at least as stringent as the corresponding permit requirement.
- c. The other entity agrees to implement the control measure on your behalf. Written acceptance of this obligation is expected. This obligation must be maintained as part of the description of your SWMP. If the other entity is not the Department and the entity fails to implement the control measure on your behalf then you remain liable for any discharge due to that failure to implement. However, you are not liable for failing to implement the control measure if you indicate in your NOI that you are relying on a program implemented by the Department.

D. Reviewing and Updating Stormwater Management Programs

1. SWMP Review: You must do an annual review of your SWMP in conjunction with preparation of the annual report required under Part V.
2. SWMP Update: You may change your SWMP during the life of the permit in accordance with the following procedures:
  - a. Changes adding (but not subtracting or replacing) components, controls, or requirements to the SWMP may be made at any time upon written notification to the Department.

- b. Changes replacing an ineffective or unfeasible BMP specifically identified in the SWMP with an alternate BMP may be requested at any time. Unless denied by the Department, changes proposed in accordance with the criteria below shall be deemed approved and may be implemented 60 days from submittal of the request. If request is denied, the Department will send you a written response giving a reason for the decision. Your modification requests must include the following:
  - (1) An analysis of why the BMP is ineffective or infeasible (including cost prohibitive),
  - (2) Expectations on the effectiveness of the replacement BMP, and
  - (3) An analysis of why the replacement BMP is expected to achieve the goals of the BMP to be replaced.
- c. Change requests or notifications must be made in writing and signed in accordance with Part VI.
- 3. SWMP Updates Required by the Department: The Department may require changes to the SWMP as needed to:
  - a. Address impacts on receiving water quality caused, or contributed to, by discharges from the municipal separate storm sewer system;
  - b. Include more stringent requirements necessary to comply with new Federal statutory or regulatory requirements; or
  - c. Include such other conditions deemed necessary by the Department to comply with the goals and requirements of the Clean Water Act.
  - d. Changes requested by the Department must be made in writing, set forth the time schedule for you to develop the changes, and offer you the opportunity to propose alternative program changes to meet the objective of the requested modification. All changes required by the Department will be made in accordance with 40 CFR Part 124.5, 40 CFR Part 122.62, or as appropriate 40 CFR Part 122.63.
- 4. Transfer of Ownership, Operational Authority, or Responsibility for SWMP Implementation: You must implement the SWMP on all new areas added to your portion of the municipal separate storm sewer system (or for which you become responsible for implementation of stormwater quality controls) as expeditiously as practicable, but not later than one year from addition of the new areas. Implementation may be accomplished in a phased manner to allow additional time for controls that cannot be implemented immediately.
  - a. Within 90 days of a transfer of ownership, operational authority, or responsibility for SWMP implementation, you must have a plan for implementing your SWMP in all affected areas. The plan may include schedules for implementation. Information on all new annexed areas and any resulting updates required to the SWMP must be included in the annual report.
  - b. Only those portions of the SWMPs specifically required as permit conditions shall be subject to the modification requirements of 40 CFR Part 124.5. Addition of components, controls, or requirements by the permittee(s) and replacement of an ineffective or infeasible BMP implementing a required component of the SWMP with an alternate BMP expected to achieve the goals of the original BMP shall be considered minor changes to the SWMP and not modifications to the permit.

## PART V Monitoring, Recordkeeping, and Reporting

### A. Monitoring

1. You must evaluate program compliance, the appropriateness of identified BMPs, and progress toward achieving identified measurable goals. If you discharge to a water for which a TMDL has been approved, you may have monitoring requirements under Part III.
2. When you conduct monitoring at your permitted small MS4, you are required to comply with the following:
  - a. Submit the monitoring plan. The proposed monitoring plan must be submitted to the Department for approval.
  - b. Representative monitoring. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
  - c. Test Procedures. Analysis must be conducted according to test procedures approved by EPA under 40 CFR Part 136. When an EPA approved test procedure for analysis of a pollutant does not exist, the Director or his designee shall approve the procedure to be used.
3. Records of monitoring information shall include:
  - a. The date, exact place, and time of sampling or measurements;
  - b. The name(s) of the individual(s) who performed the sampling or measurements;
  - c. The date(s) analyses were performed;
  - d. The names of the individuals who performed the analyses;
  - e. The analytical techniques or methods used; and
  - f. The results of such analyses.
4. Discharge Monitoring Report. Monitoring results must be reported on a Discharge Monitoring Report (DMR) in accordance with monitoring plan approved in Part V.A.2.a.

### B. Record keeping

1. You must retain required records of all monitoring information, including, all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, copies of Discharge Monitoring Reports (DMRs), a copy of the NPDES permit, and records of all data used to complete the application (NOI) for this permit, for a period of at least three years from the date of the sample, measurement, report or application, or for the term of this permit, whichever is longer. This period may be extended by request of the Department at any time.
2. You must submit your records to the Department only when specifically asked to do so. You must retain a description of the SWMP required by this permit (including a copy of the permit language) at a location accessible to the Department. You must make your records, including the notice of intent (NOI) and the description of the SWMP, available to the public if requested to do so in writing.

### C. Reporting

1. You must submit annual reports to the Department by March 10<sup>th</sup> of each year of the permit term. The report must include:
2. The status of your compliance with permit conditions, an assessment of the appropriateness of the identified BMPs, progress towards achieving the statutory goal of reducing the discharge of pollutants to the MEP, and the measurable goals for each of the minimum control measures;
3. Results of information collected and analyzed, if any, during the reporting period, including any monitoring data used to assess the success of the program at reducing the discharge of pollutants to the MEP;
4. A summary of the stormwater activities you plan to undertake during the next reporting cycle (including an implementation schedule);
5. Proposed changes to your SWMP, including changes to any BMPs or any identified measurable goals that apply to the program elements; and
6. Notice that you are relying on another government entity to satisfy some of your permit obligations (if applicable).

## PART VI Standard Permit Conditions

### A. Duty to Comply

You must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of CWA and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

### B. Continuation of the Expired General Permit

If this permit is not reissued or replaced prior to the expiration date, it will be administratively continued in accordance with the ADEM Administrative Code Chapter 335-6-6 and remain in force and effect. Any permittee who was granted permit coverage prior to the expiration date will automatically remain covered by the continued permit until the earlier of:

1. Reissuance or replacement of this permit, at which time you must comply with the Notice of Intent conditions of the new permit to maintain authorization to discharge; or
2. Issuance of an individual permit for your discharges; or
3. A formal permit decision by the Department not to reissue this general permit, at which time you must seek coverage under an alternative general permit or an individual permit.

### C. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for you in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

### D. Duty to Mitigate

You must take all reasonable steps to minimize or prevent any discharge in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

### E. Duty to Provide Information

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

### F. Other Information

If you become aware that you have failed to submit any relevant facts in your Notice of Intent or submitted incorrect information in the Notice of Intent or in any other report to the Department, you must promptly submit such facts or information.

### G. Signatory Requirements

All Notices of Intent, reports, certifications, or information submitted to the Department, or that this permit requires be maintained by you shall be signed and certified as follows:

1. Notice of Intent. All Notices of Intent shall be signed by either a principal executive officer or ranking elected official.
2. Reports and other information. All reports required by the permit and other information requested by the Department or authorized representative of the Department shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
  - a. Signed authorization. The authorization is made in writing by a person described above and submitted to the Department.
  - b. Authorization with specified responsibility. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of manager, operator, superintendent, or position of equivalent responsibility for environmental matter for the regulated entity.

3. Changes to authorization. If an authorization is no longer accurate because a different operator has the responsibility for the overall operation of the MS4, a new authorization satisfying the requirement of Part VI.G.2.b. above must be submitted to the Department prior to or together with any reports, information, or notices of intent to be signed by an authorized representative.
4. Certification. Any person signing documents under Part VI.G.2.a. and b. above shall make the following certification:

"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 on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

#### H. Property Rights

The issuance of this permit does not convey any property rights of any sort, or any exclusive privilege, nor it does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations

#### I. Proper Operation and Maintenance

You must at all time properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by you to achieve compliance with the conditions of this permit and with the conditions of your SWMP. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by you only when the operation is necessary to achieve compliance with the conditions of the permit.

#### J. Inspection and Entry

1. You must allow the Department or an authorized representative (including an authorized contractor acting as a representative of the Administrator) upon the presentation of credentials and other documents as may be required by law, to do any of the following:
  - a. Enter your premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit;
  - b. Have access to and copy at reasonable times, any records that must be kept under the conditions of this permit;
  - c. Inspect at reasonable times any facilities or equipment (including monitoring and control equipment) practices, or operations regulated or required under this permit; and
  - d. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the CWA, any substances or parameters at any location.

#### K. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. Your filing of a request for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

#### L. Permit Transfers

This permit is not transferable to any person except after notice to the Department. The Department may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Act.

#### M. Anticipated Noncompliance

You must give advance notice to the Department of any planned changes in the permitted small MS4 or activity which may result in noncompliance with this permit.

N. Compliance with Statutes and Rules

1. The permit is issued under ADEM Administrative Code, Chapter 335-6-6. All provisions of this chapter that are applicable to this permit are hereby made a part of this permit.
2. This permit does not authorize the noncompliance with or violation of any laws of the State of Alabama or the United States of America or any regulations or rules implementing such laws.

O. Severability

The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall be affected thereby.

P. Procedures for Modification or Revocation

Permit modification or revocation will be conducted according to ADEM Administrative Code 335-6-6-.17.

Q. Definitions

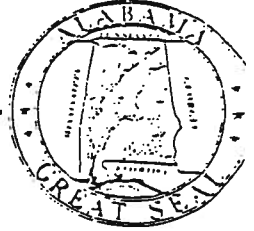
All definitions contained in Part I shall apply to this permit and are incorporated herein by reference. For convenience, simplified explanations of some regulatory/statutory definitions have been provided, but in the event of a conflict, the definition found in the Statute or Regulation takes precedence.

1. Best Management Practices (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
2. Control Measure as used in this permit, refers to any Best Management practice or other method used to prevent or reduce the discharge of pollutants to waters of the United States.
3. CWA or The Act means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub.L. 92-500, as amended Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483 and Pub. L. 97-117, 33 U.S.C. 1251 et seq.
4. Discharge, when used without a qualifier, refers to "discharge to a pollutant" as defined as ADEM Administrative Code 335-6-6-.02(m).
5. Illicit Connection means any man-made conveyance connecting an illicit discharge directly to municipal separate storm sewer.
6. Illicit Discharge is defined at 40 CFR Part 122.26(b)(2) and refers to any discharge to a municipal separate storm sewer that is not entirely composed of stormwater, except discharges authorized under an NPDES permit (other than the NPDES permit for discharges from the MS4) and discharges resulting from fire fighting activities.
7. Indian Country, as defined in 18 USC 1151, means (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same. This definition includes all land held in trust for an Indian tribe.
8. MEP is an acronym for "Maximum Extent Practicable," the technology-based discharge standard for municipal separate storm sewer systems to reduce pollutants in stormwater discharges that was established by CWA Section 402(p). A discussion of MEP as it applies to small MS4s is found at 40 CFR Part 122.34.
9. MS4 is an acronym for "Municipal Separate Storm Sewer System" and is used to refer to either a large, medium, or small municipal separate storm sewer system. The term is used to refer to either the system operated by a single entity or a group of systems within an area that are operated by multiple entities.
10. Municipal Separate Storm System is defined at 40 CFR Part 122.26(b)(8) and means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States; (ii) Designed or used for collecting or conveying stormwater; (iii) Which is not a combined sewer; and (iv) Which is not part of a Publicly Owned Treatment Works (POTW) as defined in ADEM Administrative Code 335-6-6-.02(n).

11. NOI is an acronym for "Notice of Intent" to be covered by this permit and is the mechanism used to "register" for coverage under a general permit.
12. Department means the Alabama Department of Environmental Management or an authorized representative.
13. Small municipal separate storm sewer system is defined at 40 CFR Part 122.26(b)(16) and refers to all separate storm sewers that are owned or operated by the United States, a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to water of the United States, but is not defined as "large" or "medium" municipal separate storm sewer system. This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.
14. Stormwater is defined at 40 CFR Part 122.26(b)(13) and means stormwater runoff, snow melt runoff, and surface runoff and drainage.
15. Stormwater Management Program (SWMP) refers to a comprehensive program to manage the quality of stormwater discharged from the municipal separate storm sewer system.
16. SWMP is an acronym for "Stormwater Management Program."
17. "You" and "Your" as used in this permit is intended to refer to the permittee, the operator, or the discharger as the context indicates and that party's responsibilities (e.g., the city, the country, the flood control district, the U.S. Air Force, etc.).



# ADEM



## ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

POST OFFICE BOX 301463 36130-1463 • 1400 COLISEUM BLVD. 36110-2059

MONTGOMERY, ALABAMA

WWW.ADEM.STATE.AL.US

(334) 271-7700

JAMES W. WARR  
DIRECTOR

APR - 1 2002

BOB RILEY  
GOVERNOR

Facsimiles: (334)

Administration: 271-7950  
General Counsel: 394-4332  
Air: 279-3044  
Land: 279-3050  
Water: 279-3051  
Groundwater: 270-5631  
Field Operations: 272-8131  
Laboratory: 277-6718  
Mining: 394-4326  
Education/Outreach: 394-4383

JOSEPH A. ROBINSON  
DIRECTOR OF TRANSPORTATION  
CITY ENGINEER  
P.O. BOX 2089  
TUSCALOOSA, ALABAMA 35403

RE: Receipt of the City of Tuscaloosa's Phase II Notice of Intent (NOI):

This letter is being sent to inform you that the Department has received and is now in the process of reviewing your Notice of Intent (NOI) for the General Permit under the Phase II MS4 Program.

If there is any additional information needed for the NOI; the Department will notify you of this matter.

If you have any questions regarding this matter, please feel free to call George Cox at (334) 271-7801 or me at (334) 274-4151.

Sincerely,

A handwritten signature in cursive script that reads "Vernetta J. Palmer".

Vernetta J. Palmer  
Permits and Compliance Section  
Municipal Branch  
Water Division



APPROVED

                      
City Attorney

RESOLUTION

Legal Dept.

Prepared By                       
Request By                       
Presentation On                       
Suspension of Rules                     

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE NOTICE  
OF INTENT FOR STORM WATER PHASE II PERMIT  
(A03-0204)

BE IT RESOLVED BY THE CITY COUNCIL OF TUSCALOOSA that the Mayor  
be, and he is hereby, authorized to execute the Notice of Intent for the Storm Water  
Phase II Permit with the Alabama Department of Environmental Management and the  
City Clerk is authorized to attest the same.

COUNCIL ACTION

Resolution                       
Ordinance                       
Introduced                       
Passed                       
2nd Reading                       
Unanimous                       
Failed                       
Tabled                       
Amended                       
Comments:

STATE OF ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

ALABAMA NOTICE OF INTENT (ALNOI)

General Permit for Phase II Small Municipal Separate Storm Sewer Systems (MS4)

I. General Information:

A. Ownership Status (Please check one):

- |  |   |
|--|---|
| <input checked="checked" type="checkbox"/> | Small Municipal Separate Storm Sewer System |
| <input type="checkbox"/>                   | Federal Facility                            |
| <input type="checkbox"/>                   | State Facility                              |

B. Name of Small MS4:

City of Tuscaloosa

C. Name of Responsible Official:

Title:

Alvin P. DuPont

Mayor

Mailing Address:

P.O. Box 2089

City, State, Zip:

Tuscaloosa, AL 35403

Telephone Number:

205-349-0200

D. Designated storm water management program contact:

Name:

Joseph A. Robinson, P.E.

Title:

Director of Transportation/City Engineer

Mailing Address:

P.O. Box 2089

City, State, Zip:

Tuscaloosa, AL 35403

Telephone Number:

205-349-0240

Email Address:

jrobinson@ci.tuscaloosa.al.us

II. Location Boundaries:

A. Location:

1. Name of Urbanized Area or municipality where your MS4 is located:

Tuscaloosa, AL

2. Name of your Organization:

Tuscaloosa Department of Transportation

3. The Latitude and Longitude of the approximate center of your MS4:

Latitude:

33° 12' 10"

Longitude:

87° 34' 17"

4. All entities except counties must include a location map showing city, town or district boundaries, and urbanized area (UA) boundaries if part(s) of the MS4 is within an UA.

5. Counties must include a map showing county boundaries, unincorporated area boundaries within the county, and urbanized (UA) boundaries.

III. Known or Suspected Water Quality Problems:

A. The name(s) of the receiving waters to which your MS4 discharges (attach a separate list if necessary):

Black Warrior River, smaller streams and tributaries to be added with development of MS4 system map

B. Indicate any receiving water stream segments to which your MS4 discharges, which are included on the 303 (d) list:

To be determined with development of MS4 system map and EPA consideration of ADEM's Draft 2002 303(d) list. Possible segments: Big Yellow Creek, Black Warrior River, North River, Hurricane Creek

C. Describe any known or suspected water quality concerns within your jurisdictional area (e.g. stream siltation, 303 (d) listed streams, habitat degradation, elevated levels of pollutants, etc.), including location (attach additional page(s) if necessary:

Suspected siltation from construction activities. We are unaware of other specific problems but will identify any that may be present through system mapping and dry screening of outfalls.

IV. Sharing Responsibility

A. Has another entity agreed to implement a control measure on your behalf?

Yes

No

(if no, skip to part V)

Control Measure #1:

1. Name of entity:

2. Control measure or component of control measure to be implemented by entity on your behalf:

Control Measure #2:

1. Name of entity:

2. Control measure of component of control measure to be implemented by entity on your behalf:

- B. Attach an additional page if necessary to list additional shared responsibilities. It is mandatory that you submit a copy of a written agreement between your MS4 and the other entity demonstrating written acceptance of responsibility.

V. Minimum Control Measures:

- A. Public Education and Outreach – (complete Appendix A)
- B. Public Involvement/Participation – (complete Appendix B)
- C. Illicit Discharge Detection and Elimination – (complete Appendix C)
- D. Construction Site Storm Water Runoff Control – (refer to Appendix D)
- E. Post-construction Storm Water Management in New Development and Redevelopment – (complete appendix E)
- F. Pollution Prevention/Good Housekeeping – (complete Appendix F)

**VI. Certification Statement**

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 responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Printed Name: Alvin P. DuPont Date: March 3, 2023  
Signature: Al P. DuPont Title: Mayor

## Appendix A

### Public Education and Outreach on Storm Water Impacts

40 CFR Part 122.34(b)(1) Requirement: You must implement a public education program to distribute educational materials to the community or conduct equivalent outreach activities about the impacts of storm water discharges on water bodies and the steps that the public can take to reduce pollutants in storm water runoff.

#### A. Best Management Practice (BMP) #A.1: Develop Educational Resources

1. Known or suspected problems/existing pollutant source to be addressed by BMP: A collection of different educational materials is required to educate diverse citizen groups and meet several program goals.

2. Target audience: All citizens of the City of Tuscaloosa

3. Description of BMP:

Develop or collect existing brochures, fact sheets, print advertisements, radio and television media, and other educational materials to build a stormwater toolbox. Identify volunteer educators to be used for public education programs.

4. Measurable Goal (s): Substantial completion of a diverse educational toolbox.

5. Schedule: Complete by the end of Permit Year 1

- a. Interim Milestone Dates (if applicable):

- b. Implementation Date (if applicable):

- c. Frequency of actions (if applicable):

- d. Month/year of each action (if applicable): March 2003 – March 2004

6. Person (position) responsible for overall management and implementation of the BMP: Chad Christian

7. Rationale for selecting this BMP: There are many excellent educational materials programs already developed by other groups that can be utilized to save work and expense. Some specific materials tailored to Tuscaloosa will be needed to focus on challenges to water quality.

B. Best Management Practice (BMP) #A.2: Advertise Stormwater Hotline

1. Known or suspected problems/existing pollutant source to be addressed by BMP: Solicit citizen reporting of suspected illicit connections or construction permit violations.

2. Target audience: All citizens of Tuscaloosa
3. Description of BMP:

Advertise the Stormwater Hotline once established. This will promote citizen interest and participation in the stormwater management plan and establish a direct link from the community and stakeholders to the program.

4. Measurable Goal (s): Successfully advertise the hotline in local print and radio.
5. Schedule: Complete by the end of Permit Year 1
  - a. Interim Milestone Dates (if applicable):
  - b. Implementation Date (if applicable):
  - c. Frequency of actions (if applicable):
  - d. Month/year of each action (if applicable): March 2003 – March 2004
6. Person (position) responsible for overall management and implementation of the BMP: Chad Christian
7. Rationale for selecting this BMP: Raises citizen awareness of potential pollution problems and gives an easy and anonymous conduit for reporting observed violations.



C. Best Management Practice (BMP) #A.3: Storm Drain Stenciling

1. Known or suspected problems/existing pollutant source to be addressed by BMP: Lack of public awareness that urban storm drains do not go to a treatment plant.

2. Target audience: All citizens of Tuscaloosa

3. Description of BMP:

Stencil storm drain tops with messages like "Do Not Dump - Drains to River".  
Utilize volunteer groups to help accomplish this task.

4. Measurable Goal (s): Substantial completion by the end of Permit Year 4

5. Schedule: Program commencement by the end of Permit Year 2

- a. Interim Milestone Dates (if applicable): March 2005 stenciling has begun

- b. Implementation Date (if applicable):

- c. Frequency of actions (if applicable):

- d. Month/year of each action (if applicable): March 2004-March 2007

6. Person (position) responsible for overall management and implementation of the BMP: Chad Christian

7. Rationale for selecting this BMP: Establishes a mental connection between local water bodies and street drains. Low cost measure that can be accomplished by volunteer groups.

D. Best Management Practice (BMP) #A.4: Expand Educational Resources

1. Known or suspected problems/existing pollutant source to be addressed by BMP: Need to educate school children and utilize technology for cost-effective outreach.
2. Target audience: A diverse cross-section of Tuscaloosa citizens.
3. Description of BMP:

Develop a school curricula to educate students about stormwater issues. Create an informational website describing the City of Tuscaloosa Stormwater Management Plan.

4. Measurable Goal (s): Successful completion of curricula and website.
5. Schedule: Completion by the end of Permit Year 3
  - a. Interim Milestone Dates (if applicable):
  - b. Implementation Date (if applicable):
  - c. Frequency of actions (if applicable):
  - d. Month/year of each action (if applicable): March 2005-March 2006
6. Person (position) responsible for overall management and implementation of the BMP: Chad Christian
7. Rationale for selecting this BMP: Utilize local classrooms to reach young audience. Take advantage of internet technology to disseminate program information widely at a nominal cost.

## Appendix B

### Public Involvement/Participation

40CFR Part 122.34(b)(2) Requirement: You must, at a minimum, comply with State, Tribal, and local public notice requirements when implementing a public involvement/participation program.

#### A. Best Management Practice (BMP) #B.1: Public Meetings – Print Media

1. Known or suspected problems/existing pollutant source to be addressed by BMP:  
Raise public awareness of and enhance public participation in the Stormwater Management Program.
2. Target audience: All citizens of the City of Tuscaloosa
3. Description of BMP:

Notify citizens of public meetings in several different print media.
--

4. Measurable Goal (s): Successful advertisement of notices in local print media.
5. Schedule: Complete by the end of Permit Year 1
  - a. Interim Milestone Dates (if applicable):
  - b. Implementation Date (if applicable):
  - c. Frequency of actions (if applicable):
  - d. Month/year of each action (if applicable): March 2003 – March 2004
6. Person (position) responsible for overall management and implementation of the BMP: Chad Christian
7. Rationale for selecting this BMP: Legal requirement for public notice of all public meetings. Cost-effective and widely accepted means of communicating to citizens.

B. Best Management Practice (BMP) #B.2: Establish Citizen Volunteer Organization

1. Known or suspected problems/existing pollutant source to be addressed by BMP: Lack of public participation and input concerning local water quality protection and improvement.
2. Target audience: A diverse cross-section of stakeholder organizations, including neighborhood associations, large industries, contractors, homebuilders, low-income and minority groups, and other public entities.
3. Description of BMP:

Create a citizen group to provide input from various viewpoints concerning storm water management policies and BMPs. Use the group to assist with water quality monitoring and location of outfalls, identifying illicit discharges, and stenciling storm drains.
4. Measurable Goal (s): The successful formation of a Tuscaloosa Water Quality Citizens Panel
5. Schedule: Complete by the end of Permit Year 1
  - a. Interim Milestone Dates (if applicable):
  - b. Implementation Date (if applicable):
  - c. Frequency of actions (if applicable):
  - d. Month/year of each action (if applicable): March 2003 – March 2004
6. Person (position) responsible for overall management and implementation of the BMP: Chad Christian
7. Rationale for selecting this BMP: Give citizens first-hand knowledge of the quality of local water bodies and provide inexpensive water quality data collection.

C. Best Management Practice (BMP) #B.3: Finalize Citizen Panel Recommendations

1. Known or suspected problems/existing pollutant source to be addressed by BMP: Lack of public interest or "buy-in" on the stormwater management plan.

2. Target audience: All citizens of Tuscaloosa

3. Description of BMP:

Compile the final recommendations of the Citizen Panel and publish the results. Make copies of the report freely available to the citizens.

4. Measurable Goal (s):

5. Schedule: Completion by the end of Permit Year 2

- a. Interim Milestone Dates (if applicable):

- b. Implementation Date (if applicable):

- c. Frequency of actions (if applicable):

- d. Month/year of each action (if applicable): March 2004-March 2005

6. Person (position) responsible for overall management and implementation of the BMP: Chad Christian

7. Rationale for selecting this BMP: Inform the public that their input is needed and useful. Increase "buy-in" for the stormwater program and instill a sense of community pride in the protection and improvement of local water quality.

D. Best Management Practice (BMP) #B.4: Public Awareness – Radio Media/Television

1. Known or suspected problems/existing pollutant source to be addressed by BMP: Lack of public awareness of the potential water quality impacts from everyday activities and a low awareness of the stormwater program and construction permit process.
2. Target audience: A diverse cross-section of Tuscaloosa citizens.
3. Description of BMP:

Radio and television spots promoting personal responsibility for compliance with the stormwater program and/or informing the public about the construction permit process.
4. Measurable Goal (s): Establish a regular rotation of radio and television advertisements to meet this goal.
5. Schedule: Begin advertisements by the end of Permit Year 2
  - a. Interim Milestone Dates (if applicable):
  - b. Implementation Date (if applicable):
  - c. Frequency of actions (if applicable):
  - d. Month/year of each action (if applicable): March 2004-March 2005
6. Person (position) responsible for overall management and implementation of the BMP: Chad Christian
7. Rationale for selecting this BMP: Mainstream alternative to print advertising, more likely to reach younger audiences. Opportunity to utilize high quality ADEM television media.

E. Best Management Practice (BMP) #B.5: Community Clean-Ups

1. Known or suspected problems/existing pollutant source to be addressed by BMP: Lack of public awareness of local water quality.

2. Target audience: A diverse cross-section of Tuscaloosa citizens.

3. Description of BMP:

Plan and schedule community clean-ups for ordinary citizens to gain hands-on experience while cleaning stream segments of trash and debris. Coordinate through the Citizen Panel.

4. Measurable Goal (s): Establish a rotating schedule of watershed clean-ups.

5. Schedule: Begin clean-ups by the end of Permit Year 3

a. Interim Milestone Dates (if applicable):

b. Implementation Date (if applicable):

c. Frequency of actions (if applicable):

d. Month/year of each action (if applicable): March 2005-March 2006

6. Person (position) responsible for overall management and implementation of the BMP: Chad Christian

7. Rationale for selecting this BMP: Provides the public firsthand experience with some of the pollutant loadings on urban watersheds and raises citizen awareness of their impact water quality.

F. Best Management Practice (BMP) #B.6: Establish Citizen Watch Groups

1. Known or suspected problems/existing pollutant source to be addressed by BMP:  
Increase public input and awareness of illicit discharges or other storm water issues.

2. Target audience: All Tuscaloosa citizens.

3. Description of BMP:

Establish citizen watch groups and/or work with existing groups to monitor watersheds for potential and existing impacts to water quality.

4. Measurable Goal (s): Successful establishment of new watch group or the development of a close working relationship with existing groups.

5. Schedule: Watch group established by the end of Permit Year 4

- a. Interim Milestone Dates (if applicable):

- b. Implementation Date (if applicable):

- c. Frequency of actions (if applicable):

- d. Month/year of each action (if applicable): March 2006-March 2007

6. Person (position) responsible for overall management and implementation of the BMP: Chad Christian

7. Rationale for selecting this BMP: Provides additional opportunity for ongoing public participation for persons who wish to become more involved.



## Appendix C

### Illicit Discharge Detection and Elimination

40CFR Part 122.34(b)(3) Requirement: You must develop, implement and enforce a program to detect and eliminate illicit discharges into your small MS4. You must:

- A. 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;
- B. Effectively prohibit, through ordinance, or other regulatory mechanism, non- storm water discharges into your storm sewer system and implement appropriate enforcement procedures and actions;
- C. Develop and implement a plan to detect and address non-storm water discharges, including illegal dumping, to your system; and
- D. Inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste.

#### A. Storm Sewer Map

1. Does the MS4 have a completed storm sewer map showing the location of all outfalls and the names and location of all waters of the State that receive discharges from those outfalls?

Yes

☒ No

If yes, submit the storm sewer system map as an addendum to this form.

2. If the storm sewer system map must be developed, provide a schedule for completion. (e.g. 30% of system to be mapped each year):

<u>Task</u>	<u>Interim Date</u>
20% of system mapped	March 2004
50% of system mapped	March 2005
80% of system mapped	March 2006
100% of system mapped	November 2006

Final completion date / date for submittal to ADEM (No later than December 9, 2006):

**B. Ordinance/Regulatory Mechanism Evaluation:**

1. Does the MS4 have an ordinance or regulatory mechanism that effectively prohibits illicit discharges?

Yes

☒ No

If yes, submit a copy as an addendum to this form.

2. If an evaluation of the ordinance/regulatory mechanism must be completed, or the MS4 is aware that the ordinance/regulatory mechanism will require revising, then a schedule of development of the document should be provided:

Task	Interim Date
Evaluate existing ordinances/regulations	March 2004
Prepare draft of revised ordinances/regulations	
Gather stakeholder comments and other input	March 2005
Revise and enact new ordinances and regulations	March 2006

Final completion date / date for submittal to ADEM (No later than December 9, 2006): March 2006

A. Best Management Practice (BMP) #C.1: Implement Illicit Discharge Tracking System

1. Known or suspected problems/existing pollutant source to be addressed by BMP:  
Develop a basic awareness of the discharge points from the storm sewer system and use this knowledge to identify dry weather flows and potential illicit connections.

2. Target audience: N/A

3. Description of BMP:

Implement an information management system to gather and document all information concerning illicit discharge detention and elimination. Summarize results including outfalls screened, number of illicit discharges discovered through screening or complaints, and illicit discharges resolved.

4. Measurable Goal (s): Successfully install and use system as described.

5. Schedule: Have system in place and in use by the end of Permit Year 1

- a. Interim Milestone Dates (if applicable):

- b. Implementation Date (if applicable):

- c. Frequency of actions (if applicable):

- d. Month/year of each action (if applicable): March 2004

6. Person (position) responsible for overall management and implementation of the BMP: Chad Christian

7. Rationale for selecting this BMP: Utilize technology to minimize waste and effort needed to manage stormwater program. Allows illicit discharge reporting and efficient information storage and retrieval.

B. Best Management Practice (BMP) #C.2: Illicit Discharge Employee Training

1. Known or suspected problems/existing pollutant source to be addressed by BMP:  
Maximize effectiveness of illicit discharge program by training employees in recognition of potential illicit connections.
2. Target audience: Municipal employees
3. Description of BMP:

Design and administer a training program for employees to teach them to recognize and document potential illicit discharges.

4. Measurable Goal (s): Successful development of training program as described.
5. Schedule: Plan completed by end of Permit Year 2
  - a. Interim Milestone Dates (if applicable):
  - b. Implementation Date (if applicable):
  - c. Frequency of actions (if applicable):
  - d. Month/year of each action (if applicable): March 2005
6. Person (position) responsible for overall management and implementation of the BMP: Chad Christian
7. Rationale for selecting this BMP: Training all municipal employees to recognize and report illicit connections adds cost-effective inspection ability to the Phase II program.

C. Best Management Practice (BMP) #C.3: Recycling Program

1. Known or suspected problems/existing pollutant source to be addressed by BMP:  
Reduce potential pollutant loadings by encouraging the recycling of household wastes.
2. Target audience: all citizens of Tuscaloosa
3. Description of BMP:

Initiate or publicize an existing recycling program to collect commonly dumped wastes such as antifreeze, motor oil, paint, and pesticides.
---

4. Measurable Goal (s): Successful creation of an employee training toolbox
5. Schedule: Program in place and operating by the end of permit year 2
  - a. Interim Milestone Dates (if applicable):
  - b. Implementation Date (if applicable):
  - c. Frequency of actions (if applicable):
  - d. Month/year of each action (if applicable): March 2005
6. Person (position) responsible for overall management and implementation of the BMP: Chad Christian
7. Rationale for selecting this BMP: Commonly dumped household wastes pose a significant threat to water quality, and a well-promoted recycling program will directly address this problem.

D. Best Management Practice (BMP) #C.4: Illicit Discharge Detection and Elimination

1. Known or suspected problems/existing pollutant source to be addressed by BMP:  
Sanitary sewer cross-connections and other illicit storm sewer connections result in illicit discharges from the MS4.

2. Target audience: N/A

3. Description of BMP:

Utilizing the System Map and Illicit Discharge Information Management System, begin systematic inspection of outfall lines to identify potential problems. After identifying actual illicit connections, take steps to eliminate them and report the action taken and results.
--

4. Measurable Goal (s): Progressive elimination of all illicit discharges from the MS4.
5. Schedule: Begin in year 2 and continue through first permit cycle.
  - a. Interim Milestone Dates (if applicable): March 2004-March 2007
  - b. Implementation Date (if applicable): March 2004 Initiate Inspections
  - c. Frequency of actions (if applicable):
  - d. Month/year of each action (if applicable):
6. Person (position) responsible for overall management and implementation of the BMP: Chad Christian
7. Rationale for selecting this BMP: Identification and elimination of existing illicit discharges will result in water quality improvement.

**Appendix D**  
**Construction Site Storm Water Runoff Control**  
(not applicable in this NOI)





## Appendix E

### Post-construction Storm Water Management in New Development and Redevelopment

40 CFR Part 122.34(b)(5) Requirement: You must develop, implement, and enforce a program to address storm water runoff from new development and redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale, that discharge into your small MS4. You must:

- A. Develop and implement strategies which include a combination of structural and/or non-structural BMPs appropriate for your community;
- B. Use an ordinance or other regulatory mechanism to address post-construction runoff from new development or redevelopment projects; and
- C. Ensure adequate long-term operation and maintenance of BMPs.

#### A. Ordinance Evaluation:

1. Does the MS4 have an ordinance that effectively controls runoff from new development or redevelopment construction sites?

Yes

☒ No

2. If an evaluation of the ordinance must be completed, or the MS4 is aware that the ordinance will require revision, then a schedule for development of the document should be provided:

Task	Interim Date
Evaluate existing ordinances/regulations	March 2004
Prepare draft of revised ordinances/regulations	
Gather stakeholder comments and other input	March 2005
Revise and enact new ordinances and regulations	March 2006

Final completion date / date for submittal to ADEM (No later than December 9, 2006):  
March 2006

A. Best Management Practice (BMP) #E.1: Identification of BMPs

1. Known or suspected problems/existing pollutant source to be addressed by BMP:  
Evaluate and select BMPs most effective for Tuscaloosa area.
2. Target audience: Developers and redevelopers of property.
3. Description of BMP:

Identify and catalog a mix of effective BMPs tailored to the geography and rainfall patterns of Tuscaloosa. Utilize existing manuals or guidance available from regulatory bodies when possible.
4. Measurable Goal (s): Create or adopt a catalog of suitable and acceptable BMPs for Tuscaloosa.
5. Schedule: Task completed by the end of Permit Year 1
  - a. Interim Milestone Dates (if applicable):
  - b. Implementation Date (if applicable):
  - c. Frequency of actions (if applicable):
  - d. Month/year of each action (if applicable): March 2004
6. Person (position) responsible for overall management and implementation of the BMP: Chad Christian
7. Rationale for selecting this BMP: Creating an acceptable menu of tested BMPs will help ensure construction site permit compliance and improve post-construction runoff control.

B. Best Management Practice (BMP) #E.2: Publication of BMPs

1. Known or suspected problems/existing pollutant source to be addressed by BMP:  
Ready and easy access to information on BMP's

2. Target audience: Developers, citizens, and municipal staff

3. Description of BMP:

Distribute the previously developed BMP Manual to developers, municipal staff and interested citizens.

4. Measurable Goal (s): BMP Manual available for distribution by end of Permit Year 2.

5. Schedule:

a. Interim Milestone Dates (if applicable):

b. Implementation Date (if applicable):

c. Frequency of actions (if applicable):

d. Month/year of each action (if applicable): March 2005

6. Person (position) responsible for overall management and implementation of the BMP: Chad Christian

7. Rationale for selecting this BMP: A unified BMP resource will help ensure proper BMP selection and implementation of runoff control by developers. Permit compliance will be improved and post-construction runoff control will be more effective.

Note: The MS4 is not limited to implementing only 2 BMPs for each minimum control measure. If additional BMPs are chosen, then you should attach additional sheets as needed.

## Appendix F

### Pollution Prevention/Good Housekeeping for Municipal Operations

40 CFR Part 122.34(b)(6) Requirement: You must develop and implement an operation and maintenance program that includes a training component and has the ultimate goal of preventing or reducing pollutant runoff from municipal operations.

#### A. Best Management Practice (BMP) #F.1: Implement Information Management System

1. Known or suspected problems/existing pollutant source to be addressed by BMP: Use technology to minimize paperwork and save time in the implementation of the stormwater management plan.
2. Target audience: N/A
3. Description of BMP:

Implement an information management system to track the inventory of stormwater facilities and outfalls. Use system to schedule and perform inspections and document and report any actions taken.

4. Measurable Goal (s): Successfully install and use system as described.
5. Schedule: Have system in place and in use by the end of Permit Year 1
  - a. Interim Milestone Dates (if applicable):
  - b. Implementation Date (if applicable):
  - c. Frequency of actions (if applicable):
  - d. Month/year of each action (if applicable): March 2004
6. Person (position) responsible for overall management and implementation of the BMP: Chad Christian
7. Rationale for selecting this BMP: Utilize technology to minimize waste and effort needed to manage stormwater program. Allows instant program summarization and measurable goal updates.

**B. Best Management Practice (BMP) #F.2: Develop Pollution Prevention Plan**

1. Known or suspected problems/existing pollutant source to be addressed by BMP: Maximize effectiveness of pollution prevention/good housekeeping program by scheduling maintenance activities and identifying problem areas.
2. Target audience: Municipal employees
3. Description of BMP:

Develop a comprehensive Pollution Prevention Plan that identifies the following: BMP's, Management Practices and Maintenance Schedules, Recycling Efforts, Waste Disposal Guidelines, and Areas of Concern.
---

4. Measurable Goal (s): Successful development of plan as described.
5. Schedule: Plan completed by end of Permit Year 2
  - a. Interim Milestone Dates (if applicable):
  - b. Implementation Date (if applicable):
  - c. Frequency of actions (if applicable):
  - d. Month/year of each action (if applicable): March 2005
6. Person (position) responsible for overall management and implementation of the BMP: Chad Christian
7. Rationale for selecting this BMP: Regular maintenance activities will result in measurable pollution reduction and prevent flooding from system blockage.

C. Best Management Practice (BMP) #F.3: Employee Training Materials

1. Known or suspected problems/existing pollutant source to be addressed by BMP:  
Toolbox of educational materials will be needed to effectively train staff.

2. Target audience: Municipal employees

3. Description of BMP:

Develop and collect training materials to educate staff about pollution prevention and good housekeeping. Some items will need to be specifically tailored to Tuscaloosa while others are available from EPA and other external sources.

4. Measurable Goal (s): Successful creation of an employee training toolbox
5. Schedule: Training materials collected by end of Permit Year 1
  - a. Interim Milestone Dates (if applicable):
  - b. Implementation Date (if applicable):
  - c. Frequency of actions (if applicable):
  - d. Month/year of each action (if applicable): March 2004
6. Person (position) responsible for overall management and implementation of the BMP: Chad Christian
7. Rationale for selecting this BMP: Municipal staff have high potential for creating measurable water quality improvement by learning about pollutant interception and recycling and/or proper disposal.

D. Best Management Practice (BMP) #F.4: Train Employees

1. Known or suspected problems/existing pollutant source to be addressed by BMP: Lack of employee awareness concerning urban runoff and water quality impacts.

2. Target audience: Municipal staff

3. Description of BMP:

Utilizing the Employee Training Toolbox previously created, train staff on pollution prevention and good housekeeping measures.

4. Measurable Goal (s): Successful training course given to all staff members.

5. Schedule: Completion by the end of Permit Year 2

a. Interim Milestone Dates (if applicable):

b. Implementation Date (if applicable):

c. Frequency of actions (if applicable):

d. Month/year of each action (if applicable): March 2005

6. Person (position) responsible for overall management and implementation of the BMP: Chad Christian

7. Rationale for selecting this BMP: Municipal staff will create measurable water quality improvement by the interception of pollutants and recycling and/or proper disposal of same.

E. Best Management Practice(BMP) #F.5:Pollution Prevention/Housekeeping Effectiveness

1. Known or suspected problems/existing pollutant source to be addressed by BMP:  
Program evaluation needed to identify successful elements and replace poor items with more effective activities.
2. Target audience: Municipal staff and regulatory agency
3. Description of BMP:

Generate reports that summarize the following: estimate of the quantity of floatables and other pollutants intercepted, list of facilities and stormwater system components maintained, report of overall compliance and explanation of discrepancies.

4. Measurable Goal (s): Report card generated on PP/GH Program effectiveness.
5. Schedule: Completion by the end of Permit Year 4
  - a. Interim Milestone Dates (if applicable):
  - b. Implementation Date (if applicable):
  - c. Frequency of actions (if applicable):
  - d. Month/year of each action (if applicable): March 2007
6. Person (position) responsible for overall management and implementation of the BMP: Chad Christian
7. Rationale for selecting this BMP: Review and modification of the Pollution Prevention Plan will help ensure the effectiveness of the stormwater program and create further pollutant removal.



# EXHIBIT "D"

## DRAFT PROPOSED ORDINANCE

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE PROVIDING RULES AND REGULATIONS FOR THE CONTROL OF  
POLLUTANT DISCHARGES TO THE TUSCALOOSA MUNICIPAL  
SEPARATE STORM SEWER SYSTEM.  
(A02-0266)

BE IT ORDAINED by the City Council of Tuscaloosa, Alabama, as follows:

### SECTION ONE:

#### PREAMBLE, FINDINGS OF FACT AND INTENT:

(A) The City of Tuscaloosa has for a number of years had a storm drainage and erosion control ordinance intended to provide a measure for the City of Tuscaloosa to minimize erosion and sedimentation onto City streets and rights-of-way. The existing subdivision regulations and erosion control ordinance and the associated SDP regulations shall remain in effect and are enhanced but not superceded by this ordinance.

(B) However, as required by Phase II of the National Pollutant Discharge Elimination System (NPDES) storm water program, as published in the Federal Register on December 8, 1999 and promulgated by the Environmental Protection Agency (EPA) under the Clean Water Act (CWA), a regulated small municipal separate storm sewer system (MS4) operator must develop, implement, and enforce a storm water management program designed to reduce the discharge of pollutants from their MS4 to the "maximum extent practicable," to protect water quality and to satisfy the appropriate water quality requirements of the CWA. The rule provides for the use of narrative, rather than numeric, effluent limitations that require implementation of Best Management Practices (BMPs).

(C) Under the Storm Water Phase II Final Rule, the small MS4 storm water management program must include the following six minimum control measures, except where a statewide NPDES program exists to address that control measure:

(1) Public education and outreach - distributing educational materials and performing outreach to inform citizens about the impacts polluted storm water runoff discharges can have on water quality;

(2) Public participation / involvement - providing opportunities for citizens to participate in program development and implementation, including effectively publicizing public hearings and/or encouraging citizen representatives on a storm water management panel;



(3) Illicit discharge detection and elimination - developing and implementing a plan to detect and eliminate illicit discharges to the storm sewer system;

(4) Construction site runoff control – developing, implementing, and enforcing an erosion and sediment control program for construction activities that disturb 1 or more acres of land or less, if part of a larger common plan or development. **ADEM Administrative Code Ch. 335-6-12 implements a State-wide construction storm water regulatory program consistent with NPDES requirements for construction activities.**

(5) Post-construction runoff control - developing, implementing, and enforcing a program to address discharges of post-construction storm water runoff from new development and redevelopment areas. **ADEM Administrative Code Ch. 335-6-12 implements a State-wide construction storm water regulatory program consistent with NPDES requirements for post-construction activities.**

(6) Pollution prevention/good housekeeping - developing and implementing a program with the goal of preventing or reducing pollutant runoff from municipal operations. The program must include municipal staff training on pollution prevention measures and techniques.

(D) As required by Phase II of the NPDES storm water program, a regulated small MS4 operator must identify its selection of BMPs and measurable goals for each minimum measure in the permit application. The evaluation and assessment of those chosen BMPs and measurable goals must be included in periodic reports to the NPDES permitting authority. The City of Tuscaloosa has prepared and submitted to ADEM a Storm Water Management Plan that addresses these elements.

(E) This ordinance is enacted to preserve, protect and promote the health, safety and welfare of the citizens of Tuscaloosa, Alabama, through the reduction, control and prevention of the discharge of pollutants to the City storm water system. It is the expressed intent of the City Council in enacting this ordinance to provide for and promote compliance by the City with federal and state laws governing the discharge of pollutants from the MS4 and to provide for and promote compliance with the NPDES storm water program and the terms of the City's municipal Phase II Storm Water permit. This ordinance shall be known as the "Tuscaloosa NPDES Storm Water Compliance Ordinance."

(F) Nothing herein shall be construed to require the City or its officials, employees, agents or attorneys to restore or cause the restoration of property damaged by erosion or sedimentation in violation of this article or to otherwise seek or assist others in seeking compensation to private property owners for any such damage caused by a violation of this article. The City and its officials, employees, agents and attorneys shall not be liable for any condition or damages that result from any failure to observe or recognize a hazardous condition, any failure of an approved plan to prevent erosion or sedimentation, or any failure of the City to cause owners and builders to adhere to the



terms of this article. Nothing herein shall be construed to expand the liability of the City or its officials, employees, agents or attorneys nor shall it create any additional, further, different or expanded claim or cause of action.

#### DEFINITIONS:

For purposes of this ordinance, the following terms are defined as hereinafter set forth:

"ADEM" shall mean the Alabama Department of Environmental Management.

"AWPCA" shall mean the Alabama Water Pollution Control Act, Ala. Code §§22-22-1 through §§22-22-14 (1975) and the Alabama Environmental Management Act, Ala. Code §§22-22A-1 through §§22-22A-16 (1975), both as amended, and regulations promulgated thereunder.

"BMPs" or "Best Management Practices" shall mean schedules of activities, prohibitions of practices, maintenance procedures and other structural and non-structural management devices implemented to prevent or reduce the discharge of pollutants to the MS4. Non-structural BMP's are strategies implemented to control Storm Water runoff that focus on pollution prevention such as alternative site design, zoning and ordinances, education, and good housekeeping measures. Structural BMP's are engineered devices to control, treat, or prevent Storm Water runoff pollution. BMPs also include treatment requirements, operating procedures, and practices to control facility site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

"City" shall mean the City of Tuscaloosa, Alabama, a municipal corporation organized under the laws of the State of Alabama.

"City Engineer" shall mean the Director of Transportation/City Engineer or employee(s) of the City of Tuscaloosa Department of Transportation.

"Clean Water Act" or "CWA" shall mean the Federal Clean Water Act, 33 U.S.C. § 1251 *et seq.*, and regulations promulgated thereunder.

"Construction Site" shall mean land-disturbing activity associated with a development, including but not limited to, land preparation such as clearing, grading and filling; installation of streets and walkways; excavation for basements, footings, piers or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

"Discharge" or "Discharge of a pollutant" shall mean any addition of any "pollutant" to the "MS4."

"EPA" shall mean the Federal Environmental Protection Agency.



"Illicit Discharge" shall mean any discharge to the MS4 that is not composed entirely of storm water except discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the MS4) and discharges from fire fighting and emergency management activities and those discharges specifically excluded in Section Two Part A(2) of this ordinance.

"MS4 (Municipal Separate Storm Sewer System)" in accordance with 40 CFR 122.26(b)(8), shall mean a conveyance or system of conveyances (including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) meeting all of the following criteria:

- (1) Owned or operated by the City that discharges into waters of the United States.
- (2) Designed or used for collecting or conveying storm water; and
- (3) Which is neither a publicly owned treatment works (POTW) nor a combined sewer.

"NPDES" or "National Pollutant Discharge Elimination System" shall mean the State permitting program implemented under the Clean Water Act and the AWPCA.

"Person" shall mean any individual, partnership, syndicate, joint venture, group, firm, company, association, trust, public or private corporation, business, estate, commission, board, utility, cooperative, county, city or other political subdivision, or any entity recognized by law, or any combination of the foregoing.

"Pollutant" means, but is not limited to, dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended), heat, wrecked or discarded equipment, rock, sand, silt, topsoil, cellar dirt, dirt, and industrial, domestic, and agricultural waste discharged into water.

"SDP" or "Site Development Permit" shall mean a drawing approved and stamped by the City Engineer showing all the important physical features, both existing and proposed, of a given parcel of land and abutting the right-of-way as described in Section 21-100 Code of Tuscaloosa, Alabama.

"Storm Water" shall mean storm water runoff, snow melt runoff, and surface runoff and drainage.

"Storm Water System" means the system of roadside drainage, roadside curbs and gutters, curb inlets, swales, catch basins, manholes, gutters, ditches, pipes, lakes, ponds, sinkholes, channels, creeks, streams, storm drains, and similar conveyances and facilities, both natural and manmade, located within the city which are designated or used for





collecting, storing, or conveying Storm Water, or through which Storm Water is collected, stored or conveyed, whether owned or operated by the municipality or other person.

## SECTION TWO. ILLICIT DISCHARGES.

Recognizing the adverse effects that illicit discharges can have on receiving waters as well as the health, safety, and welfare of local citizens, this ordinance implements and enforces an **illicit discharge detection and elimination program**.

### A. ILLICIT DISCHARGE PROHIBITIONS.

(1) The illicit discharge of pollutants to the MS4 by any person is prohibited. The spilling, dumping, or disposal of materials other than storm water in such a manner as to cause the illicit discharge of pollutants to the MS4 is also prohibited.

(2) The following discharges are specifically excluded from the prohibitions of this ordinance:

Water Line Flushing (Including Fire Hydrant Testing)

Landscape Irrigation

Diverted Stream Flows

Rising Ground Waters

Uncontaminated Ground Water Infiltration

Uncontaminated Pumped Ground Water

Discharges From Potable Water Sources

Foundation Drains

Air Conditioning Condensate

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

Street Wash Water

Discharges of Flows from Fire Fighting Activities

### B. PERMITS.

(1) A separate Storm Water permit from the City of Tuscaloosa is not required under this ordinance due to the existing ADEM NPDES Storm Water Permit Program. However, the City of Tuscaloosa expressly reserves the right to protect the MS4, ensure the health, safety, and welfare of local citizens, and to promote compliance with the terms of the City's Storm Water Phase II permit by detecting and eliminating illicit discharges.



Any such illicit discharge shall be eliminated by the application and enforcement of the code as necessary, regardless of ADEM permit status.

(2) ADEM NOTICE OF REGISTRATION.

1. Each SDP or set of subdivision plans submitted to the City Engineer for approval shall include a copy of the proposed ADEM Notice of Registration specific to the site in question.

(3) DESIGN REQUIREMENTS.

Facilities submitted for approval in the subdivision or SDP process shall be designed to reduce the discharge of pollutants to the MS4 to the "maximum extent practicable", to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act, the AWPCA and the ADEM NPDES Storm Water Permit Program. Grading, erosion control, sediment control, waterway crossings and any other necessary Best Management Practices shall meet the design criteria set forth in the most recent edition of the Alabama Handbook for Erosion Control, Sediment Control, and Storm Water Management on Construction Sites and Urban Areas.

(4) INSPECTION.

Inspections by the City Engineer or his representative for the purpose of identifying potential illicit discharges shall be made as part of the subdivision, site development, or building inspection process, or as the response to a citizen complaint or City Council request. Inspections to identify pollutant sources from upland areas may also be generated by the discovery and subsequent investigation and tracing of downstream pollutants in the MS4.

(5) ENFORCEMENT.

Every effort shall be made to achieve the resolution of isolated violations of this ordinance via the established subdivision, site development permit, and building inspection procedures. Repeated or gross violations of this ordinance or those violations where the aforementioned measures cannot be successfully applied shall be treated as a violation of the Code of Tuscaloosa punishable by a maximum fine of \$500 and a jail term of up to six months for individuals.

(6) PROVIDING FALSE INFORMATION AND TAMPERING PROHIBITED.

It shall be unlawful for any person to provide false information to the City Engineer or anyone working under the City Engineer's supervision when such person knows or has reason to know that the information provided is false, whether such information is required by this ordinance or any approval granted under this ordinance.



(7) EXISTING AUTHORITIES.

Nothing in this ordinance shall be construed to limit the existing authority of the City to enforce rules and regulations regarding: (a) charges, limits and restrictions on the discharge of waste into the sanitary sewerage system of the City (b) health or sanitation ordinances of the City enforced by the Tuscaloosa County Health Department, or (c) ordinances governing the sanitation of premises where animals are kept. This ordinance shall be cumulative to and in furtherance of any statutory, common law, or other legal right, duty, power, or authority possessed by the City. Compliance with this ordinance shall not excuse any person from compliance with any other federal, state or local law, ordinance, regulation, rule or order.

(8) SEVERABILITY.

The provisions of this ordinance are declared to be severable, and if any provision of this ordinance is declared unconstitutional or held invalid by a court of competent jurisdiction, this determination shall not affect, impair, or invalidate the remainder of this ordinance, but shall be confined in its operation to the section, paragraph, subparagraph, clause or phrase of this ordinance in which such determination shall have been made.

(9) EFFECTIVE DATE.

The provisions of this ordinance shall take effect on \_\_\_\_\_.

ADOPTED this the \_\_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
President of the City Council of the City of  
Tuscaloosa, Alabama

APPROVED this the \_\_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
Mayor of the City of Tuscaloosa, Alabama



NEW STATEWIDE STORMWATER  
REGULATIONS TAKE EFFECT

Beginning January 24, 2003, the Alabama Department of Environmental Management (ADEM) began enforcement of new rules implementing the U.S. Environmental Protection Agency's (EPA) Phase II stormwater discharge requirements for construction or other land disturbance activities equal to or greater than one acre in size. After considering comments received, to include public hearings held on December 6<sup>th</sup> and 9<sup>th</sup>, 2002, The Alabama Environmental Management Commission (EMC) adopted the rules establishing a comprehensive statewide program for stormwater management at its meeting on December 17, 2002.

The Phase II stormwater rules apply to any manufacturing or building site that encompasses construction or any associated activity that disturbs one acre or more. The rules also apply to those sites that are less than an acre in size but are part of a larger common construction site whose development would disturb one acre or greater. The new rules are meant to restrict stormwater, process water and other wastewater generated directly or indirectly from construction activity from becoming a significant contributor of pollutants to waters of the state or that would otherwise compromise water quality standards.

"We are confident that the new Phase II rules will demonstrate the Department's continuing commitment to protect the state's watersheds," said ADEM Director, Jim Warr. "The rules provide an effective and comprehensive strategy both permitting and compliance efforts."

Relative to permitting and compliance, the rule requires development and implementation of extensive construction Best Management Practices (BMPs), technical standards/guidelines and operational requirements for the transport, treatment and discharge of stormwater and other wastewater. Regular comprehensive inspections of the site and affected receiving waters will be required to assure that effective BMPs are implemented and maintained. ADEM personnel will perform regular routine inspections and follow-up inspections as necessary to ensure compliance.

Anyone with questions regarding the Phase II stormwater regulations or who may require additional information or guidance is encouraged to contact ADEM's Field Operations Division, Mining and Nonpoint Source Section, at 34/394-4311.

###

SMALL MUNICIPAL STORMWATER SYSTEMS  
AFFECTED BY NEW REGULATIONS

MARCH 11, 2003

Beginning March 10, 2003, stormwater discharges to waters of the state associated with regulated small municipal separate storm sewer systems (MS4s) must be permitted by the Alabama Department of Environmental Management. At its meeting on December 17, 2002, the Alabama Environmental Management Commission adopted the Phase II regulations, as mandated by the U.S. EPA, establishing a comprehensive statewide program for stormwater management which the Department has begun to enforce.

The Phase II stormwater program affects small MS4s serving a population less than 100,000 and other urbanized areas as defined by the U.S. Census Bureau. In addition to urban systems included in this definition are military bases, universities, prison complexes, large hospital complexes, highways and other thoroughfares. Such systems are required to have permit coverage 180 days after being designated by the Department.

The Phase II program will complement the Phase I stormwater program, which addressed stormwater management in medium and large municipalities and urbanized areas, beginning in 1990. The Phase II program resulted in the issuance of a National Pollutant Discharge Elimination System (NPDES) state general permit, with approximately 80 small MS4s having



MEMORANDUM

SUBJECT: Interim Guidance on Implementation of NPDES Regulations for Storm Water Phase II for Small Municipal Separate Storm Sewer Systems in Response to Recent Ninth Circuit Decision in Environmental Defense Center, et al. v. EPA, No. 00-70014 & consolidated cases (9<sup>th</sup> Cir.)

FROM: James Hanlon  
Director, Office of Wastewater Management

TO: Regional Water Management Division Directors  
Regions I-X

As you may be aware, on January 14, 2003, the U.S. Court of Appeals for the Ninth Circuit affirmed most aspects of the National Pollutant Discharge Elimination System ("NPDES") regulations for storm water "Phase II" against a variety of constitutional, statutory, and procedural challenges. Petitioners representing environmental, industrial, and municipal interests challenged the regulations on twenty-two different grounds. The Court did, however, remand the regulations on three grounds related to use of NPDES general permits to authorize discharges from small municipal separate storm sewer systems ("MS4s").

On February 28, 2003, the United States filed a petition for rehearing with the Ninth Circuit on the MS4 general permit issues. The petition is attached. The effect of EPA's petition for rehearing stays the effectiveness of the Ninth Circuit's decision, and leaves intact those Phase II MS4 regulatory provisions which were the subject of the Court's remand, until the Court issues a decision in response to the petition.

This memorandum provides the following guidance for NPDES permitting authorities for the interim period until the Ninth Circuit decides the petition for rehearing:

- NPDES permitting authorities should proceed with the prompt issuance of final Phase II MS4 general permits so that Phase II MS4s may file NOIs to be authorized under those general permits.
- The deadline for Phase II MS4 operators to submit NOIs or individual permit applications is unchanged. The March 10, 2003 permit application deadline remains in place. The ruling does not remove any obligation on the Phase II MS4 operator's part to submit NOIs or individual permit applications, nor does it impose additional requirements on what should be included in the NOI or individual permit application. The ruling would, if it becomes effective as currently written, only affect the actions of NPDES permitting authorities for reviewing and processing NOIs.

**SMALL MUNICIPAL STORMWATER SYSTEMS  
AFFECTED BY NEW REGULATIONS**

**MARCH 11, 2003  
PAGE TWO**

been automatically designated for coverage under the permit. The general NPDES permit addresses stormwater and non-stormwater discharges including, but not limited to, landscape and other irrigation water, rising groundwater, contaminated groundwater (either pumped or discharged by infiltration), springs and diverted stream flows and swimming pool and fire fighting discharges.

Those MS4s designated under the state general permit are required to submit a notice of intent to comply with the applicable rules and regulations of the general permit and a description of their comprehensive stormwater management plan (SWMP). If a determination is made that discharges from any part of the MS4 contributes, either directly or indirectly, to an impaired water body, Best Management Practices (BMPs) may be required to reduce pollutants in order to improve the water quality of the impaired waters.

The SWMP must also describe the minimum control measures the MS4 will employ to ensure that discharges will not cause or contribute to exceedances of water quality standards. Minimum control measures include public education and outreach, public involvement/participation, illicit discharge detection and elimination, construction site stormwater runoff control, post-construction stormwater management in new development and redevelopment and pollution prevention. Each minimum control measure must also specify the BMPs to be implemented to achieve the measurable goals.

Designated MS4s must have their programs fully developed and implemented within five years of permit issuance and are required to submit annual reports illustrating the measurable achievements of their SWMPs.

For additional information, contact the Municipal Branch of ADEM's Water Division, (334) 271-7810.

###

- In NPDES jurisdictions without a final general permit for Phase II MS4s, the only option available to a Phase II MS4 operator is to file an individual permit application to ensure compliance with 40 CFR 122.33(c). We note that the individual permit application requirements for Phase II MS4s are not substantially different from what Phase II MS4 NOIs should require. The individual permit application requirements for Phase II MS4s were derived from, but require less than, the individual permit application requirements for Phase I MS4s. To accommodate the Phase II MS4 operators who prefer to seek coverage under a general permit, but for which none is available, subsequently-issued Phase II MS4 general permits could allow for incorporation by reference (in an NOI) of a previously submitted individual application to the extent the information required by the NOI would already have been reported in the earlier individual permit application.
- NPDES permitting agencies do have options in how to authorize discharges under Phase II MS4 general permits. Because EPA's petition for rehearing stayed the effectiveness of the Ninth Circuit decision (until the Ninth Circuit rules on the petition), permitting authorities may issue Phase II MS4 permits in the same manner they would have prior to the decision. Permitting authorities also have discretion, however, to structure Phase II MS4 general permits in a way that would accommodate the Ninth Circuit decision. Specifically, the permitting authority could rely on either of two (of four) authorization options available in the general permit regulation. In addition to authorization upon receipt of the NOI or upon a date certain, that regulation provides for authorization either after a waiting period specified in the general permit or upon notification. Either of these last two options provides a permitting authority with additional time to review NOIs and to conduct the public participation envisioned by the Ninth Circuit if the agency chooses to do so in its own discretion.
- As envisioned in the Phase II regulations, the final MS4 general permit should provide greater clarity and specification for the selection, development and implementation of best management practices ("BMPs") that are appropriate for local conditions and necessary to achieve the "maximum extent practicable" ("MEP") standard for dischargers.

I encourage you to promptly communicate the guidance provided above to NPDES authorized States within your Region. If you have questions or concerns, please contact Linda Boornazian at (202) 564-0221 or Benita Best-Wong at (202) 564-0612.

cc: NPDES Branch Chiefs, EPA Regions I - X  
Enforcement Division Directors, EPA Regions I - X  
Walker Smith, OECA  
Mark Pollins, OECA

Attachment:

Respondent EPA's Petition for Rehearing



Initial Issuance		Reissuance or Modification		Modification		Fee
E APPLICATION		(effluent limit change) (injection zone change) or compatibility study)	(No effluent limit change) (No injection zone change) or no compatibility study)	(No effluent limit change) (No injection zone change) or no compatibility study)	(No effluent limit change) (No injection zone change) or no compatibility study)	
						Totals
or Industrial Discharger	\$6175			\$1350		\$
or Industrial Discharger	\$1925			\$1075		\$
mercial/Industrial General	\$475			\$275		\$
or Municipal and Private	\$2425			\$1125		\$
or Municipal and Private	\$1475			\$775		\$
icipal Storm water	\$2425			\$1125		\$
icipal and Private	\$925			\$625		\$
dge Only						
or NPDES Modification	----			\$275		\$
irect Discharge (SID)	\$1325			\$725		\$
with EPA Established	\$1500			\$900		\$
egorical Effluent Guidelines						
e Change/ Transfer	\$275			----		\$
eral/Resource Extraction Mining, Storage						
nsloading, Dry Processing	\$2000			\$1175		\$
Preparation,						
cessing, Beneficiation	\$2350			\$1350		\$
lbed Methane	\$2350			\$1350		\$
struction Storm Water Compliance and NPDES Registration/Authorization						
	Base Annual	Major Mod	Impacted Water Shed			
struction Materials	\$275	\$175	\$125			\$
struction <5 Acres	\$175	\$175	\$125			\$
struction 5 to 10 Acres	\$275	\$175	\$125			\$
struction 10 to 25 Acres	\$425	\$175	\$125			\$
struction 25 to 50 Acres	\$575	\$175	\$125			\$
struction 50 to 75 Acres	\$725	\$175	\$125			\$
struction 75 to 100 Acres	\$875	\$175	\$125			\$
struction >100 Acres	\$1025	\$175	\$125			\$

Master ID No.: \_\_\_\_\_

Applicant: \_\_\_\_\_

Contact: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

County: \_\_\_\_\_

Location: \_\_\_\_\_

Facility/Permit No.: \_\_\_\_\_

Application Receive Date: \_\_\_\_\_

ADDITIVE FEES

Modeling With Data Collection (10 Stations) \$31100

Modeling With Data Collection (5 Stations) \$25400

Desktop \$2500

Review Model Done By \_\_\_\_\_

Others \$500

Seasonal Limits (per additional season) \$2500

Biomonitoring and Toxicity Limits \$350

Public Hearing \$2900

Green Field Fee \$550

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Entered to Permit Tracking: \_\_\_\_\_ By: \_\_\_\_\_

Total Fee Due: \$ \_\_\_\_\_

Amount Submitted with Appl: \$ \_\_\_\_\_

Amount to be Billed: \$ \_\_\_\_\_

Date and Amount Received: \_\_\_\_\_ / \_\_\_\_\_ \$ \_\_\_\_\_

Amount to be Refunded \$ \_\_\_\_\_

Prepared By: \_\_\_\_\_

Reviewed By: \_\_\_\_\_

## FACT SHEET

### APPLICATION FOR NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT TO DISCHARGE TO WATERS OF THE STATE OF ALABAMA GENERAL PERMIT

Date: December 4, 2002

Prepared By: George Cox

NPDES Permit No. ALR040000

#### 1. Description of Category:

This permit is intended to cover storm water discharges from small municipal separate storm sewer systems (MS4) in the state of Alabama. Small MS4's are defined as municipalities with a population less than 100,000 and located in urbanized areas as defined by the latest census by the Bureau of Census. Also included in this definition are systems similar to separate storm sewer systems in municipalities such as systems at military bases, large hospitals or prison complexes, and highways and other thoroughfares. These definitions are contained in 40CFR Part 122.26(b). Attached is a list of urbanized areas according to the 2000 census. In addition, MS4's with a population density of 1,000 people per square mile and a population of at least 10,000 which are located outside an urbanized area may be included in accordance with 40 CFR Part 123.35.

#### 2. Geographic area covered:

State of Alabama

#### 3. Receiving waters:

All Waters of the State

#### 4. Types of discharge:

Discharges covered by this general permit include:

- a. Storm water discharges.
- b. The following non-storm water discharges:
  - (1) Water line flushing
  - (2) Landscape irrigation
  - (3) Diverted stream flows
  - (4) Rising ground waters
  - (5) Uncontaminated ground water infiltration (infiltration is defined as water other than wastewater that enters a sewer system, including sewer service connections and foundation drains, from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow.)
  - (6) Uncontaminated pumped ground water
  - (7) Discharges from potable water sources
  - (8) Foundation drains
  - (9) Air conditioning condensate
  - (10) Irrigation water

- (11) Springs
- (12) Water from crawl space pumps
- (13) Footings drains
- (14) Lawn watering
- (15) Individual residential car washing
- (16) Flow from riparian habitats and wetlands
- (17) Swimming pool discharges
- (18) Street wash water
- (19) Discharges or flows from fire fighting activities

**5. Permit Conditions:**

The permit conditions are based on 40CFR Parts 122.30 – 37.

**6. Procedures for the formulation of final determinations**

**a. Comment Period**

The Alabama Department of Environmental Management proposed to issue an NPDES permit to this applicant subject to the effluent limitations and special conditions outlined above. These determinations are tentative.

Interested persons are invited to submit written comments on the permit application or on proposed determinations to the following address:

Alabama Department of Environmental Management  
Post Office Box 301463  
Montgomery, Alabama 36130-1463  
(334) 271-7700

All comments received prior to the closure of the public notice period (see attached public notice) will be considered in the formulation of final determinations with regard to this application.

**b. Public Hearing**

The Director will hold a public hearing if there is a significant degree of public interest in a proposed permit or group of permits. The Director may hold a public hearing if he determines that useful information and data may be obtained thereby. Public notice of such a hearing will be published at least 30 days prior to the hearing in a newspaper having general circulation in the geographical area of the discharge and will be mailed to those on the ADEM mailing list at least thirty days prior to the hearing.

**c. Issuance of the Permit**

Upon the expiration of the comment period and, if applicable, completion of the public hearing process a response to all significant comments will be prepared. After consideration of all comments received during the notice period or as the result of a public hearing, the response to comments, and of the requirements of the Alabama Water Pollution Control Act and appropriate regulations, the Director will make a final decision regarding permit issuance. The permit record, including the response to comments, will be available to the public and an appointment to review the record may be made by writing the Industrial Section Chief.

Unless a request for a stay of a permit or permit provision is granted, the proposed permit contained in the Director's determination shall be issued and effective and will be the final action of the Alabama Department of Environmental Management.

d. Appeal Procedures

Any person adversely affected by the Director's final decision may submit an appeal or a request for a stay of the permit or one or more provisions of the permit. Such requests should be received by the Alabama Department of Environmental Management within 15 days of notice to the aggrieved person or if no notice is given or required by the Alabama Environmental Management Act, within thirty days of issuance of the permit. Requests should be submitted to the Chairperson, Alabama Environmental Management Commission, 1400 Coliseum Boulevard, Montgomery, AL 36110-2059. All requests must:

- (1) State the name and address of the person making such request;
- (2) Identify the interest of the appellant which is affected by the proposed issuance, denial or modification of the permit contained in the determination of the Director, and explain how and to what extent that interest would be directly and adversely affected by such determination;
- (3) Identify any persons whom the request represents;
- (4) State with particularity the issues proposed to be considered at the hearing; and
- (5) Include any terms and conditions with which the appellant proposes to revise or replace the determinations of the Director.

The Commission may rule on the appeal or may hold an appeals hearing prior to making a ruling.



## Population for Storm Water Entities as Defined by the 2000 Census

### Alabama

This document contains calculations for populations within Urbanized Areas (UA) as designated by the US Census Bureau for the state of Alabama. Population is calculated for each portion of either an incorporated place or a county within an UA and is based on the population values provided by the 2000 US Census. The table below provides a guide for the table headings.

<u>Heading</u>	<u>Meaning</u>
UA Name	Name of the UA
County	County in which the UA is located
FIPSSTCO	State and County FIPS Code
Place Name	Name of the Incorporated Place
Population 2000	Population of selected area based on the 2000 US Census

UA Name	County	FIPSSTCO	Place Name	Population 2000**
Anniston, AL	Calhoun	01015	Alexandria	2,347
Anniston, AL	Calhoun	01015	Anniston	23,565
Anniston, AL	Calhoun	01015	Blue Mountain	233
Anniston, AL	Calhoun	01015	Bynum	1,659
Anniston, AL	Calhoun	01015	Hobson City	587
Anniston, AL	Calhoun	01015	Jacksonville	7,974
Anniston, AL	Calhoun	01015	Oxford	11,457
Anniston, AL	Talladega	01121	Oxford	1,955
Anniston, AL	Calhoun	01015	Saks	10,347
Anniston, AL	Calhoun	01015	Weaver	2,534
Anniston, AL	Calhoun	01015	West End-Cobb Town	3,924
Anniston, AL	Calhoun	01015	*	8,717
Anniston, AL	Talladega	01121	*	541
Auburn, AL	Lee	01081	Auburn	38,879
Auburn, AL	Lee	01081	Opelika	20,424
Auburn, AL	Lee	01081	*	834
Birmingham, AL	Jefferson	01073	Adamsville	4,604
Birmingham, AL	Shelby	01117	Alabaster	21,214
Birmingham, AL	Jefferson	01073	Bessemer	27,528
Birmingham, AL	Jefferson	01073	Birmingham	240,783
Birmingham, AL	Shelby	01117	Birmingham	477
Birmingham, AL	Jefferson	01073	Brighton	3,640
Birmingham, AL	Jefferson	01073	Brookside	1,265
Birmingham, AL	Jefferson	01073	Cahaba Heights	5,203
Birmingham, AL	Jefferson	01073	Cardiff	34
Birmingham, AL	Jefferson	01073	Center Point	22,784
Birmingham, AL	Jefferson	01073	Chalkville	3,829
Birmingham, AL	Jefferson	01073	Clay	4,923
Birmingham, AL	Jefferson	01073	Concord	664
Birmingham, AL	Jefferson	01073	Edgewater	641
Birmingham, AL	Jefferson	01073	Fairfield	12,381
Birmingham, AL	Jefferson	01073	Forestdale	10,456
Birmingham, AL	Jefferson	01073	Fultondale	5,479

UA Name	County	FIPSSTCO	Place Name	Population 2000**
Birmingham, AL	Jefferson	01073	Gardendale	10,899
Birmingham, AL	Jefferson	01073	Grayson Valley	5,447
Birmingham, AL	Jefferson	01073	Graysville	2,072
Birmingham, AL	Shelby	01117	Helena	8,284
Birmingham, AL	Jefferson	01073	Homewood	25,043
Birmingham, AL	Jefferson	01073	Hoover	45,344
Birmingham, AL	Shelby	01117	Hoover	15,176
Birmingham, AL	Jefferson	01073	Hueytown	14,807
Birmingham, AL	Shelby	01117	Indian Springs Village	2,002
Birmingham, AL	Jefferson	01073	Irondale	9,711
Birmingham, AL	Shelby	01117	Lake Purdy	5,799
Birmingham, AL	Jefferson	01073	Leeds	504
Birmingham, AL	Jefferson	01073	Lipscomb	2,458
Birmingham, AL	Jefferson	01073	McDonald Chapel	991
Birmingham, AL	Shelby	01117	Meadowbrook	4,697
Birmingham, AL	Jefferson	01073	Midfield	5,626
Birmingham, AL	Jefferson	01073	Minor	1,111
Birmingham, AL	Jefferson	01073	Mount Olive	2,505
Birmingham, AL	Jefferson	01073	Mountain Brook	20,604
Birmingham, AL	Jefferson	01073	Mulga	904
Birmingham, AL	Shelby	01117	Pelham	12,017
Birmingham, AL	Jefferson	01073	Pinson	4,503
Birmingham, AL	Jefferson	01073	Pleasant Grove	9,668
Birmingham, AL	Jefferson	01073	Tarrant	6,957
Birmingham, AL	Jefferson	01073	Trussville	10,626
Birmingham, AL	Jefferson	01073	Vestavia Hills	22,983
Birmingham, AL	Shelby	01117	Vestavia Hills	21
Birmingham, AL	Jefferson	01073	*	31,200
Birmingham, AL	Shelby	01117	*	16,337
Columbus, GA-AL	Russell	01113	Ladonia	3,229
Columbus, GA-AL	Lee	01081	Phenix City	1,885
Columbus, GA-AL	Russell	01113	Phenix City	26,179
Columbus, GA-AL	Lee	01081	Smiths	15,016
Columbus, GA-AL	Lee	01081	*	159
Columbus, GA-AL	Russell	01113	*	2,487
Decatur, AL	Morgan	01103	Decatur	49,143
Decatur, AL	Morgan	01103	Trinity	1,177
Decatur, AL	Lawrence	01079	*	59
Decatur, AL	Morgan	01103	*	1,936
Dothan, AL	Dale	01045	Dothan	329
Dothan, AL	Houston	01069	Dothan	52,725
Dothan, AL	Dale	01045	Grimes	440
Dothan, AL	Houston	01069	Kinsey	1,018
Dothan, AL	Geneva	01061	Malvern	14
Dothan, AL	Dale	01045	Midland City	1,235
Dothan, AL	Dale	01045	Napier Field	404
Dothan, AL	Houston	01069	Rehobeth	294
Dothan, AL	Houston	01069	Taylor	1,148
Dothan, AL	Dale	01045	*	379
Dothan, AL	Geneva	01061	*	157
Dothan, AL	Houston	01069	*	2,649

UA Name	County	FIPSSTCO	Place Name	Population 2000**
			Florence	35,887
Florence, AL	Lauderdale	01077	Killen	805
Florence, AL	Lauderdale	01077	Muscle Shoals	11,379
Florence, AL	Colbert	01033	Sheffield	9,237
Florence, AL	Colbert	01033	St. Florian	6
Florence, AL	Lauderdale	01077	Tuscumbia	7,610
Florence, AL	Colbert	01033	Underwood-Petersville	2,193
Florence, AL	Lauderdale	01077	*	597
Florence, AL	Colbert	01033	*	3,585
Florence, AL	Lauderdale	01077		6,395
Gadsden, AL	Etowah	01055	Attalla	38,446
Gadsden, AL	Etowah	01055	Gadsden	3,394
Gadsden, AL	Etowah	01055	Glencoe	2,844
Gadsden, AL	Etowah	01055	Hokes Bluff	5,694
Gadsden, AL	Etowah	01055	Rainbow City	446
Gadsden, AL	Etowah	01055	Reece City	2,602
Gadsden, AL	Etowah	01055	Southside	1,888
Gadsden, AL	Etowah	01055	*	152,313
Huntsville, AL	Madison	01089	Huntsville	0
Huntsville, AL	Limestone	01083	Madison	28,706
Huntsville, AL	Madison	01089	Madison	1,250
Huntsville, AL	Madison	01089	Meridianville	4,635
Huntsville, AL	Madison	01089	Moore's Mill	2,365
Huntsville, AL	Madison	01089	Redstone Arsenal	3,335
Huntsville, AL	Limestone	01083	*	20,649
Huntsville, AL	Madison	01089		1,916
Mobile, AL	Mobile	01097	Bayou La Batre	6,333
Mobile, AL	Mobile	01097	Chickasaw	359
Mobile, AL	Mobile	01097	Creola	198,885
Mobile, AL	Mobile	01097	Mobile	26,912
Mobile, AL	Mobile	01097	Prichard	11,398
Mobile, AL	Mobile	01097	Saraland	5,396
Mobile, AL	Mobile	01097	Satsuma	4,994
Mobile, AL	Mobile	01097	Theodore	15,640
Mobile, AL	Mobile	01097	Tillmans Corner	45,772
Mobile, AL	Mobile	01097	*	196,386
Montgomery, AL	Montgomery	01101	Montgomery	506
Montgomery, AL	Montgomery	01101	*	1,908
Pensacola, FL-AL	Baldwin	01003		547
Tuscaloosa, AL	Tuscaloosa	01125	Coker	3,921
Tuscaloosa, AL	Tuscaloosa	01125	Holt	18,902
Tuscaloosa, AL	Tuscaloosa	01125	Northport	76,312
Tuscaloosa, AL	Tuscaloosa	01125	Tuscaloosa	17,206
Tuscaloosa, AL	Tuscaloosa	01125	*	

\* The population calculation for this area provides the population within the UA that is not located within an incorporated place. An incorporated place is created to provide governmental functions for a concentration of people. For example, a city or municipality is an example of an incorporated place.

\*\* The population recorded here is for an incorporated place that is located within multiple counties. To calculate the total population within the incorporated place add all values associated with it together.

For example, the population of Dothan is  $52,725 + 329 = 53,084$ .

\*\*\* This area of Madison is less than 0.01 square miles.

#### Outside Urbanized Area Populations

As mentioned above, the places in the following table all have a population greater than 10,000 people and a population density of 1,000 people per square mile.

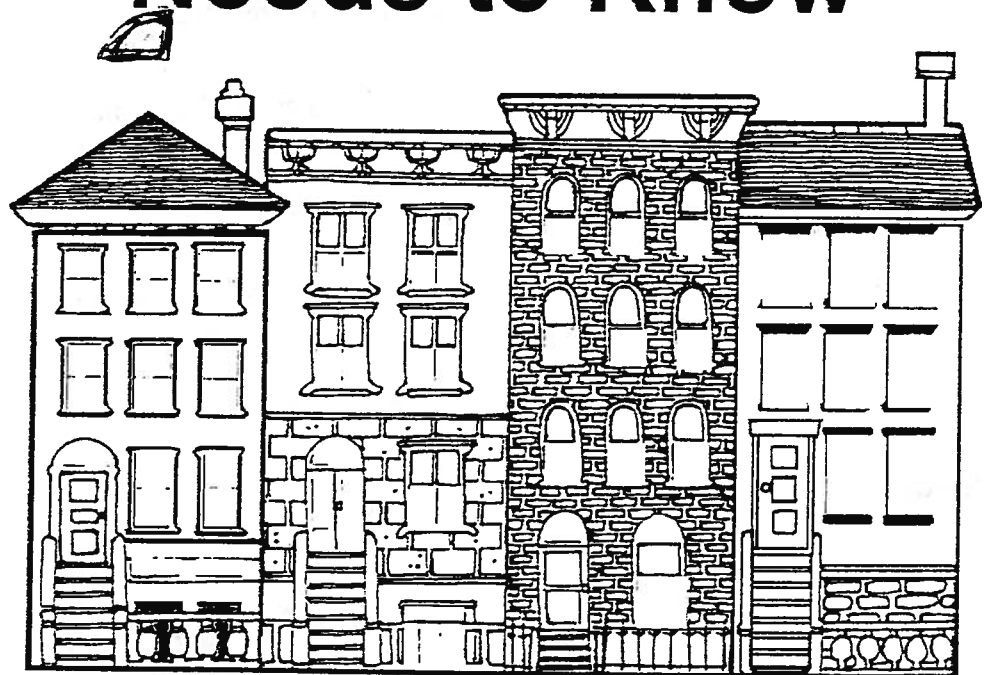
Place and County	Population 2000	Population Density (per sq. mile)
Daphne city, Baldwin County	16,581	1,230.50
Limestone County (part)	83	16.9
Fairhope city, Baldwin County	12,480	1,135.10
Millbrook city	10,386	1,091.30
Autauga County (part)	20	219.7
Elmore County (part)	10,366	1,099.70
Prattville city	24,303	1,049.00
Autauga County (part)	23,390	1,220.90
Elmore County (part)	913	227.7
Selma city, Dallas County	20,512	1,479.60

Population density and 2000 information was obtained from the U.S. Census website (<http://www.census.gov/main/www/cen2000.html>).



Alabama Bar Institute for Continuing Legal Education

# What Every Real Estate Lawyer Needs to Know



6 MCLE Credit Hours

Friday, October 10, 2003

HealthSouth Conference Center  
One HealthSouth Parkway, Highway 280  
Birmingham, Alabama

HealthSouth Conference Center  
One HealthSouth Parkway  
Highway 280  
Birmingham, Alabama

THE UNIVERSITY OF  
**ALABAMA**  
SCHOOL OF LAW

C L E

# Real Estate Topics to Know

September 10, 2003

Conference Center  
HealthSouth Parkway, Highway 280  
Birmingham, Alabama

Agenda

Continental Breakfast Buffet

ABICLE  
School of Law

5

Important Issues

Speakers

Woman & Rouse PC

Exchanges of Property

Rowley PC

Presiding

Harold H. Goings  
Spain & Gillon LLC  
Birmingham, Alabama

12:30 Equitable Issues in Real Estate

Judge William Ernest Hereford Jr.  
30th Judicial Circuit  
Pell City, Alabama

1:30 Practical Aspects of Mineral Severance

James J. Sledge  
Rosen Cook Sledge Davis Cade & Shattuck PA  
Tuscaloosa, Alabama

2:00 Refreshment Break

2:10 Storm Water Regulations

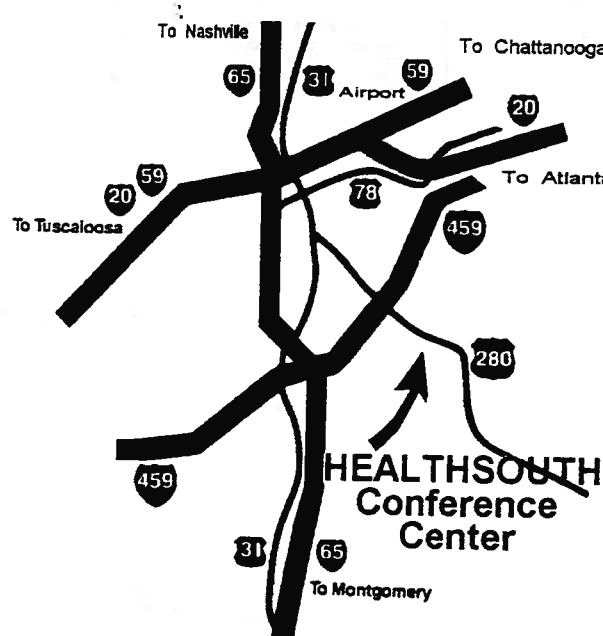
Bennett L. Bearden  
City of Tuscaloosa, Legal Department  
Tuscaloosa, Alabama

2:55 Mold

Julie Scharfenberg Elmer  
Bradley Arant Rose & White LLP  
Birmingham, Alabama

3:40 Adjourn

## HealthSouth Conference Center



**HealthSouth Conference Center** is located south of Birmingham on Highway 280. From I-459 take the exit to Highway 280 East. Continue on Highway 280 for approximately one-half mile. Turn right onto HealthSouth Parkway and follow the signs to the Conference Center.

**PARKING is free!**

Phone Number:  
205-967-7116

**QUESTIONS? Call ABICLE at 800-627-6514 or 205-348-623**  
**or e-mail us at [abicle@law.ua.edu](mailto:abicle@law.ua.edu)**

## **EMPLOYEE TRAINING FOR INSPECTING BEST MANAGEMENT PRACTICES (BMP)**

**This training is designed for the operator (contractor) that is required to conduct inspections to be supervised by a designer, QCP, engineer, geologist or someone that is IECA certified.**

**SPONSORED BY THE ALABAMA AGC**



**THIS CLASS IS FREE OF CHARGE!!**

**This four hour class will be held around the state to enable all of our members to attend.  
Each class will be held from 8:00 a.m. – 12:00 p.m.  
Afternoon classes will be added as needed.**

**The locations and dates are as follows:**

- Birmingham, July 16<sup>th</sup>, AGC Office, 822 University Boulevard
- Mobile, July 23<sup>rd</sup>, AGC Office, 754 Downtowner Loop West
- Florence, July 30<sup>th</sup>, AGC Office, 919-A Mitchell Boulevard
- Dothan, August 6<sup>th</sup>, Grate Things, 1481 Westgate Parkway, Suite 1
- Huntsville, August 13<sup>th</sup>, Huntsville Hilton, 401 Williams Avenue
- Montgomery, August 20<sup>th</sup>, Courtyard by Marriott, 5555 Carmichael Road
- Tuscaloosa, August 27<sup>th</sup>, Sheraton Four Points Hotel, 320 Paul W. Bryant Drive
- Gadsden, September 3<sup>rd</sup>, Gadsden Senior Activity Center, 623 Broad Street

**Please call Tammy King at the AGC office in Birmingham 1-800-632-2025 to reserve space for your employees.**





# AGENDA

## Tuesday, June 24th

8:30 a.m. - 12:00 p.m.

Watershed Dynamics

Hydrology

Watershed Mapping

1:00 p.m. - 3:00 p.m.

Introduction to Non-point  
Source Pollution

Limnology

Introduction to Wetlands

3:00 p.m. - 5:00 p.m.

Boat and Watershed Field Trip

## Wednesday, June 25th

9:00 a.m. - 12:00 p.m.

Nonpoint Source Education for  
Municipal Officials

Model Community Presentation

Tools for Outreach and Educational

Resources

1:00 a.m. - 3:00 p.m.

Complex Environmental Issues and  
Finding Solutions

3:00 a.m. - 5:00 p.m.

Boat and Watershed Field Trip

## Thursday, June 26th

9:00 a.m. - 12:00 p.m.

Non-point Source Pollution: a  
Homeowners Guide

The Economics of Watershed

Protection

Outreach: Workshops to Bring to Your  
Community

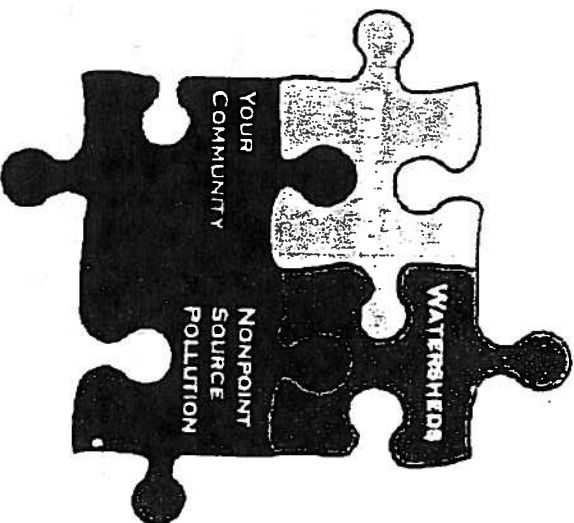
South Alabama Regional Planning Commission  
651 Church St.  
Mobile, Alabama 36633

South Alabama Regional Planning Commission  
651 Church St. Mobile, AL 36633 251-433-6541 fax 251-433-6009

Watersheds, Nonpoint Source  
Pollution and Stormwater: Putting  
together the pieces of your permit  
and outreach programs

2003

Watershed Management, Nonpoint  
Source Pollution and Stormwater  
Runoff Workshop



June 24 - 26th  
2003

Weeks Bay National Estuarine Research  
Reserve  
Fairhope, Alabama

## Registration Form

Name: \_\_\_\_\_

Organization: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

email: \_\_\_\_\_

### Fee:

Registration (prior to June 17, 2003) \$35

Late Registration (after June 17, 2003) \$50

The registration fee includes on-site lunches and snacks.

Completed registration forms and fees should be mailed to:

South Alabama Regional Planning  
Commission  
P.O. Box 1665  
Mobile, Alabama 36633

Please make checks payable to:

South Alabama Regional Planning  
Commission

No refunds after June 17, 2003

## Who Should Attend?

- Phase I & II MS4 Permittees
- Local government planners and elected officials
- Watershed Partnership facilitators or other individuals developing watershed or nonpoint source pollution prevention education efforts
- Citizens interested in learning more about water quality

Continuing Education Contact Hours are available through  
Faulkner State Community College

Questions should be directed to:

Michael Shelton (251) 928-9792 or  
watershed.weeks@noaa.gov

Workshop is jointly sponsored by:

Weeks Bay Watershed Project  
Weeks Bay National Estuarine Research Reserve  
Alabama Department Environmental Management  
Alabama Department of Conservation and Natural Resources - State Lands Division  
U.S. Environmental Protection Agency, Region IV

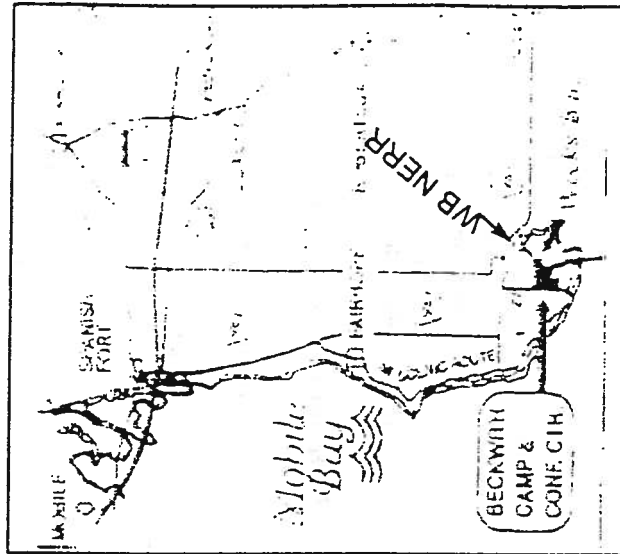


## Workshop Location

Weeks Bay National Research Reserve  
11300 U.S. Highway 98  
Fairhope, AL 36532  
251-928-9792 phone  
251-928-1792 fax

Lodging: Limited shared lodging is available at Camp Beckwith at no charge for those who live more than 50 miles away. Contact Michael Shelton (251) 928-9792 for additional information and reservations.

Dress: Attendees are encouraged to wear appropriate field attire.





BUSINESS COUNCIL  
OF ALABAMA

Post Office Box 76  
Montgomery, Alabama 36101-0076

*Permits and Services Division*

Chad P. Christian  
Tuscaloosa DOT  
1000 28th Avenue  
Tuscaloosa AL 35401 -

\$ 00.37

# WaterQuest

& Nonpoint Source Watershed Forum

## 2004



FEBRUARY 10 - 11, 2004

Managing TMDLs and Watersheds

*A joint venture of the Business Council of Alabama and  
the Alabama Department of Environmental Management*



ADEM



tuesday february 10, 2004  
february 11, 2004  
wednesday



9:00 - 9:15 a.m.  
**Conference Overview**

9:15 - 9:30 a.m.  
**Welcome and Program Introduction**

9:30 - 10:00 a.m.  
**How Do the Puzzle Pieces Fit?  
An Overview of Water Quality  
Standards, Permits and Voluntary  
Programs** *How permits, WQS and  
TMDLs fit together.*

Glenda Dean, *ADEM Water Division*

10:00 - 10:30 a.m.  
**National Perspectives on TMDLs  
and Permitting** *Where are the  
TMDLs going? How do they tie into  
policy and nonpoint source controls?  
Where is federal policy taking these?*

Robbie Savage, *Association of State  
and Interstate Water Pollution  
Control Administrators*

10:30 - 10:45 a.m.  
**Break**

10:45 - 11:15 a.m.  
**TMDLs and Lawsuits: Why are  
They in the Public Interest?**  
*Why do environmental activists sue,  
what are their long-term and short-term  
goals and how are they consistent  
with the public interest?*  
*Southern Environmental Law Center*

11:15 - 12:00 p.m.  
**The View from EPA Headquarters:  
What's Hot and What's Not?**  
*Update on TMDLs and other  
water quality initiatives from  
the national level.*

Speaker TBA

Noon - 1:30 p.m.  
**Luncheon** *Partnering with local  
television meteorologists to significantly  
increase water pollution awareness.*

Dave Jones, *Stormcaster  
Communications, Inc.*

1:30 - 2:00 p.m.  
**ADEM TMDL Update - Where are  
We, Where are We Going?** *Overview of  
ADEM's TMDL implementation plans under  
the court order and where we go from here.*

Chris Johnson, *ADEM*

2:00 - 2:30 p.m.  
**TMDL Allocations - Slicing up the  
Pie!** *Explanation of how TMDLs are  
implemented - who gets what piece of  
the pie - and how is this implemented  
through permits and other mechanisms?*

Ruth Swanek, *CH2M HILL*

2:30 - 3:00 p.m.  
**Under Development: An Urban  
Sediment TMDL** *Case study from  
Shades Creek sediment TMDL.*

Bill Melville, *EPA Region IV*

3:00 - 3:30 p.m.  
**Break**

3:30 - 4:00 p.m.  
**Nutrient TMDL Development  
in Alabama - Effects on Point  
Sources and Nonpoint Sources**  
*What water bodies are involved, how  
will they be developed and when?*

Steve Davie, *TetraTech*

4:00 - 5:00 p.m.  
**TMDLs Perspectives - A Panel  
Discussion** *Strengths and weaknesses  
of the current TMDL program.*

5:30 - 7:00 p.m.  
**Evening Reception**

8:00 - 8:30 a.m.  
**Update/Overview of Alabama's Nonpoint Source Program**  
Norm Blakey, *ADEM*

8:30 - 9:00 a.m.  
**Georgia Study -  
Effective Forestry Best Management Practices**  
Dr. C. Rhett Jackson, *University of Georgia*

9:00 - 9:30 a.m.  
**Erosion and Sediment Control Issues**  
Perry Oates, *Natural Resources Conservation Service's Stream Restoration*  
Eve Brantley, *Alabama Cooperative Extension System*

9:30 - 10:00 a.m.  
**Beyond Awareness**  
Mellisa DeSantis, *Tetra Tech*

10:00 - 10:30 a.m.  
**Break**

10:30 - 11:00 a.m.  
**Stormwater Phase II - Local Involvement**  
Chad Christian, *City of Tuscaloosa*

11:00 - 11:30 a.m.  
**Watershed Project Successes - Neuse River**  
Greg Jennings, *North Carolina Extension System*

11:30 a.m. - 1:00 p.m.  
**Luncheon**  
James I. Palmer Jr.,  
*U.S. EPA Region IV Administrator (Invited)*

Clean Water Partnership Basin Meetings



1:00-4:00 p.m.  
**Separate session for each of the 10 basins in the Clean Water  
Partnership - Alabama/Tombigbee, Black Warrior, Cahaba,  
Chattahoochee/Chipola, Choctawhatchee/Pea/Yellow,  
Conecuh/Sepulga, Coosa, Mobile/Escatawpa, Tallapoosa, Tennessee**

# **City of Tuscaloosa**

## **Department of Transportation**

**Alvin P. DuPont, P.E. Mayor**

---

**Joseph A. Robinson, P.E.**  
**Director of Transportation/City Engineer**

---

### **Council Members**

James Cunningham - District 1  
Harrison Taylor - District 2  
Jerry Plott - District 3  
Lee Garrison - District 4  
Kip Tyner - District 5  
Walter Maddox - District 6  
Joe Powell - District 7

---

1000 28th Avenue, Tuscaloosa, Al. 35401 (205)349-0240 Fax (205)349-0341 E-mail cchristi@ci.tuscaloosa.al.us

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### **M-E-M-O-R-A-N-D-U-M**

**from**

**Chad P. Christian, E.I.**

7/22/03

TO: Joe Robinson

RE: RFP for Storm Sewer Mapping

As required by the Stormwater Phase II regulations, the City of Tuscaloosa will identify and map all storm sewer outfalls within the City limits. The requirements to perform this task are as follows:

- 1) Field locate all discernable drainage ditches and pipes that drain into any stream within the City that is indicated by a blue or dashed blue line on the USGS 7.5 minute quad sheets. Utilize the established FEMA stream and tributary names whenever possible.
- 2) Gather the following data (utilizing City-provided field software if possible):
  - a) A logical and unique outfall ID
  - b) A description of the outfall location
  - c) The type of outfall (canal, ditch, circular, etc.)
  - d) The pipe material, if applicable
  - e) The drainage basin served by outfall (name or description)
  - f) The physical dimensions of the outfall (width, depth and/or diameter)
  - g) The side of road and offset distance, if applicable
  - h) The name of the receiving water body (FEMA nomenclature)
  - i) GPS-determined latitude and longitude coordinates
  - j) Driving directions to efficiently locate the outfall

The first phase of this mapping project will begin where Cribb's Mill Creek exits the City Limits to the southwest. Mapping will commence at that point and proceed upstream into the City along Cribb's Mill Creek toward its headwaters near 15<sup>th</sup> Street East at Claymont, as indicated on the USGS maps by the upstream termination of the dashed-blue line.

---

David Griffin  
Traffic  
Engineer

Rex Buck  
Transp. Maint.  
Manager

Chad Christian  
Storm Drainage  
Engineer

Jimmy Sexton  
Fleet Maint.  
Manager

Charles Melson  
Assistant City  
Engineer



APPROVED

                      
City Attorney

Legal Dept.

Prepared By BR  
Request By TAT - Storm Drainage  
Presentation On August 5, 2003  
Suspension of Rules Yes

RESOLUTION

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT FOR  
ENGINEERING AND RELATED SERVICES TO THE CITY OF TUSCALOOSA  
FOR THE DEVELOPMENT OF A STORM WATER PHASE II OUTFALL MAP  
(A03-0759)

BE IT RESOLVED BY THE CITY COUNCIL OF TUSCALOOSA as follows:

That the Mayor be, and he is hereby, authorized to execute that certain contract now before the City Council between the City of Tuscaloosa and the professional engineering firm of McGuire and Associates, Inc., to provide engineering and related services for the development of a Storm Water Phase II Outfall Map, in an amount not to exceed \$36,500.00, by and as an act for and on behalf of the City of Tuscaloosa, and the City Clerk is authorized to attest the same.

**COUNCIL ACTION**

Resolution                                       
Ordinance                                       
Introduced                                       
Passed 8/5/03  
2nd Reading                                       
Unanimous                                       
Failed     
Tabled     
Amended     
Comments:





**ORDINANCE NO. 6572**

**AN ORDINANCE AMENDING THE CODE OF TUSCALOOSA  
TO ENSURE COMPLIANCE WITH THE FEDERAL  
STORM WATER PHASE II REGULATIONS  
(A02-0266)**

WHEREAS, the City of Tuscaloosa is required by Federal mandate to comply with the Storm Water Phase II Regulations; and

WHEREAS, in furtherance of complying with said Federal mandate, the City of Tuscaloosa is desirous of implementing an ordinance to provide for protection of its municipal separate storm sewer system or "MS4"

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF TUSCALOOSA as follows:

Section One. That the Code of Tuscaloosa is hereby amended by adding a new article to Chapter 21 of the Code of Tuscaloosa to be entitled "ARTICLE IX. STORM WATER PHASE II", with sections within said Article to read as follows:

**"ARTICLE IX. STORM WATER PHASE II**

Sec. 21-150. Preamble, Findings of Fact and Intent.

(a) The City of Tuscaloosa has for a number of years had a storm drainage and erosion control ordinance intended to provide a measure for the City of Tuscaloosa to minimize erosion and sedimentation onto City streets and rights-of-way. The existing subdivision regulations and erosion control ordinance and the associated Site Development Permit (SDP) regulations shall remain in effect and are enhanced but not superceded by this ordinance.

(b) However, as required by Phase II of the National Pollutant Discharge Elimination System (NPDES) storm water program, as published in the Federal Register on December 8, 1999 and promulgated by the Environmental Protection Agency (EPA) under the Clean Water Act (CWA), a regulated small municipal separate storm sewer system (MS4) operator must develop, implement, and enforce a storm water management program designed to reduce the discharge of pollutants from their MS4 to the "maximum extent practicable," to protect water quality and to satisfy the appropriate water quality requirements of the CWA. The rule provides for the use of narrative, rather than numeric, effluent limitations that require implementation of Best Management Practices (BMPs).

(c) Under the Storm Water Phase II Final Rule, the small MS4 storm water management program must include the following six minimum control measures, except where a statewide NPDES program exists to address that control measure:



(1) Public education and outreach - distributing educational materials and performing outreach to inform citizens about the impacts polluted storm water runoff discharges can have on water quality;

(2) Public participation / involvement - providing opportunities for citizens to participate in program development and implementation, including effectively publicizing public hearings and/or encouraging citizen representatives on a storm water management panel;

(3) Illicit discharge detection and elimination - developing and implementing a plan to detect and eliminate illicit discharges to the MS4.

(4) Construction site runoff control - developing, implementing, and enforcing an erosion and sediment control program for construction activities that disturb 1 or more acres of land or less, if part of a larger common plan or development. ADEM Administrative Code Ch. 335-6-12 implements a State-wide construction storm water regulatory program consistent with NPDES requirements for construction activities.

(5) Post-construction runoff control - developing, implementing, and enforcing a program to address discharges of post-construction storm water runoff from new development and redevelopment areas. ADEM Administrative Code Ch. 335-6-12 implements a State-wide construction storm water regulatory program consistent with NPDES requirements for post-construction activities.

(6) Pollution prevention/good housekeeping - developing and implementing a program with the goal of preventing or reducing pollutant runoff from municipal operations. The program must include municipal staff training on pollution prevention measures and techniques.

(d) As required by Phase II of the NPDES storm water program, a regulated small MS4 operator must identify its selection of BMPs and measurable goals for each minimum measure in the permit application. The evaluation and assessment of those chosen BMPs and measurable goals must be included in periodic reports to the NPDES permitting authority. The City of Tuscaloosa has prepared and submitted to ADEM a Storm Water Management Plan that addresses these elements.

(e) This ordinance is enacted to preserve, protect and promote the health, safety and welfare of the citizens of Tuscaloosa, Alabama, through the reduction, control and prevention of the discharge of pollutants to the MS4. It is the expressed intent of the City Council in enacting this ordinance to provide for and promote compliance by the City with federal and state laws governing the discharge of pollutants from the MS4 and to provide for and promote compliance with the NPDES storm water program and the terms of the City's municipal Phase II Storm Water permit. This ordinance shall be known as the "Tuscaloosa NPDES Storm Water Compliance Ordinance."



(f) Nothing herein shall be construed to require the City or its officials, employees, agents or attorneys to restore or cause the restoration of property damaged by erosion or sedimentation in violation of this article or to otherwise seek or assist others in seeking compensation to private property owners for any such damage caused by a violation of this article. The City and its officials, employees, agents and attorneys shall not be liable for any condition or damages that result from any failure to observe or recognize a hazardous condition, any failure of an approved plan to prevent erosion or sedimentation, or any failure of the City to cause owners and builders to adhere to the terms of this article. Nothing herein shall be construed to expand the liability of the City or its officials, employees, agents or attorneys nor shall it create any additional, further, different or expanded claim or cause of action.

#### Sec. 21-151. Definitions.

The following defined terms shall apply to this article:

*ADEM* shall mean the Alabama Department of Environmental Management.

*AWPCA* shall mean the Alabama Water Pollution Control Act, Ala. Code §§22-22-1 through §§22-22-14 (1975) and the Alabama Environmental Management Act, Ala. Code §§22-22A-1 through §§22-22A-16 (1975), both as amended, and regulations promulgated thereunder.

*BMPs* or *Best Management Practices* shall mean schedules of activities, prohibitions of practices, maintenance procedures and other structural and non-structural management devices implemented to prevent or reduce the discharge of pollutants to the MS4. Non-structural BMPs are strategies implemented to control storm water runoff that focus on pollution prevention such as alternative site design, zoning and ordinances, education, and good housekeeping measures. Structural BMPs are engineered devices to control, treat, or prevent storm water runoff pollution. BMPs also include treatment requirements, operating procedures, and practices to control facility site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

*City* shall mean the City of Tuscaloosa, Alabama, a municipal corporation organized under the laws of the State of Alabama.

*Clean Water Act* or *CWA* shall mean the Federal Clean Water Act, 33 U.S.C. § 1251 *et seq.*, and regulations promulgated thereunder.

*Construction Site* shall mean land-disturbing activity associated with a development, including but not limited to, land preparation such as clearing, grading and filling; installation of streets and walkways; excavation for basements, footings, piers or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

*Director of Transportation/City Engineer* shall mean the Director of Transportation/City Engineer or employee(s) of the City of Tuscaloosa Department of Transportation.



*Discharge or Discharge of a pollutant* shall mean any addition of any "pollutant" to the "MS4."

*EPA* shall mean the Federal Environmental Protection Agency.

*Illicit Discharge* shall mean any discharge to the MS4 that is not composed entirely of storm water except discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the MS4) and discharges from fire fighting and emergency management activities and those discharges specifically excluded in Section 21-152 Part (a)(2) of this ordinance.

*MS4 (Municipal Separate Storm Sewer System)* in accordance with 40 CFR 122.26(b)(8), shall mean a conveyance or system of conveyances (including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) meeting all of the following criteria:

- (1) Owned or operated by the City that discharges into waters of the United States.
- (2) Designed or used for collecting or conveying storm water; and
- (3) Which is neither a publicly owned treatment works (POTW) nor a combined sewer.

*NPDES or National Pollutant Discharge Elimination System* shall mean the State permitting program implemented under the Clean Water Act and the AWPCA.

*Person* shall mean any individual, partnership, syndicate, joint venture, group, firm, company, association, trust, public or private corporation, business, estate, commission, board, utility, cooperative, county, city or other political subdivision, or any entity recognized by law, or any combination of the foregoing.

*Pollutant* means, but is not limited to, dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended), heat, wrecked or discarded equipment, rock, sand, silt, topsoil, cellar dirt, dirt, and industrial, domestic, and agricultural waste discharged into water.

*SDP or Site Development Permit* shall mean a drawing approved and stamped by the Director of Transportation/City Engineer showing all the important physical features, both existing and proposed, of a given parcel of land and abutting the right-of-way as described in Section 21-100 Code of Tuscaloosa, Alabama.

*Storm Water* shall mean storm water runoff, snow melt runoff, and surface runoff and drainage.





## Sec. 21-152. Illicit Discharges.

Recognizing the adverse effects that illicit discharges can have on receiving waters as well as the health, safety, and welfare of local citizens, this ordinance implements and enforces an illicit discharge detection and elimination program.

### (a) Illicit Discharge Prohibitions.

(1) The illicit discharge of pollutants to the MS4 by any person is prohibited. The spilling, dumping, or disposal of materials other than storm water in such a manner as to cause the illicit discharge of pollutants to the MS4 is also prohibited.

(2) The following discharges are specifically excluded from the prohibitions of this ordinance:

- Water Line Flushing (Including Fire Hydrant Testing)
- Landscape Irrigation
- Diverted Stream Flows
- Rising Ground Waters
- Uncontaminated Ground Water Infiltration
- Uncontaminated Pumped Ground Water
- Discharges From Potable Water Sources
- Foundation Drains
- Air Conditioning Condensate
- 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
- Street Wash Water
- Discharges of Flows from Fire Fighting Activities

### (b) Permits.

A separate storm water permit from the City of Tuscaloosa is not required under this ordinance due to the existing ADEM NPDES Storm Water Permit Program. However, the City of Tuscaloosa expressly reserves the right to protect the MS4, ensure the health, safety, and welfare of local citizens, and to promote compliance with the terms of the City's Storm Water Phase II permit by detecting and eliminating illicit discharges. Any such illicit discharge shall be eliminated by the application and enforcement of the Code of Tuscaloosa as necessary, regardless of ADEM permit status.

### (c) ADEM Notice of Registration.



Each SDP or set of subdivision plans submitted to the Director of Transportation/City Engineer for approval shall include a copy of the proposed ADEM Notice of Registration specific to the site in question.

(d) Design Requirements.

Facilities submitted for approval in the subdivision or SDP process shall be designed to reduce the discharge of pollutants to the MS4 to the "maximum extent practicable", to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act, the AWPCA and the ADEM NPDES Storm Water Permit Program. Grading, erosion control, sediment control, waterway crossings and any other necessary Best Management Practices shall meet the design criteria set forth in the most recent edition of the Alabama Handbook for Erosion Control, Sediment Control, and Storm Water Management on Construction Sites and Urban Areas.

(e) Inspection.

Inspections by the Director of Transportation/City Engineer or his representative for the purpose of identifying potential illicit discharges shall be made as part of the subdivision, site development, or building inspection process, or as the response to a citizen complaint or City Council request. Inspections to identify pollutant sources from upland areas may also be generated by the discovery and subsequent investigation and tracing of downstream pollutants in the MS4.

(f) Enforcement.

Every effort shall be made to achieve the resolution of isolated violations of this ordinance via the established subdivision, site development permit, and building inspection procedures. Repeated or gross violations of this ordinance or those violations where the aforementioned measures cannot be successfully applied shall be treated as a violation of the Code of Tuscaloosa punishable in accordance with Ala. Code §11-45-9(1989).

(g) Providing False Information and Tampering Prohibited.

It shall be unlawful for any person to provide false information to the Director of Transportation/City Engineer or anyone working under the Director of Transportation/City Engineer's supervision when such person knows or has reason to know that the information provided is false, whether such information is required by this ordinance or any approval granted under this ordinance.

(h) Existing Authorities.

Nothing in this ordinance shall be construed to limit the existing authority of the City to enforce rules and regulations regarding: (a) charges, limits and restrictions on the discharge of waste into the sanitary sewerage system of the City (b) health or sanitation ordinances of the City enforced by the Tuscaloosa County



Health Department, or (c) ordinances governing the sanitation of premises where animals are kept. This ordinance shall be cumulative to and in furtherance of any statutory, common law, or other legal right, duty, power, or authority possessed by the City. Compliance with this ordinance shall not excuse any person from compliance with any other federal, state or local law, ordinance, regulation, rule or order.

Section Two. That the provisions of this ordinance are declared to be severable, and if any provision of this ordinance is declared unconstitutional or held invalid by a court of competent jurisdiction, this determination shall not affect, impair, or invalidate the remainder of this ordinance, but shall be confined in its operation to the section, paragraph, subparagraph, clause or phrase of this ordinance in which such determination shall have been made.

Section Three. That the provisions of this ordinance shall take effect, subject to Mayoral approval or veto.

**Adopted this the 3<sup>rd</sup> day of February 2004.  
TUSCALOOSA CITY COUNCIL**



# ASIST MCM

**NPDES  
Made  
Simple**

## Managing a stormwater program

Many cities think that writing their Stormwater Management Plan will take a lot of time and money. With the ASIST Minimum Controls Manager (MCM) it is as easy as filling in the blanks. We have taken a lot of the work out of writing your plan by developing templates that address each of the six minimum control measures, so you can focus on getting your program running. Once your plan is completed it is ready for printing. Then you can use it to keep track of what you do for each of the BMPs identified in your plan for the entire permit period. ASIST MCM will keep track of everything you do for each BMP identified in your plan and quickly generate annual reports for your program.

**Minimum Control Manager**

File Edit View Tools Help

**Goals**

Goal Name: 2.2.2 Develop public involvement and participation plan

Description: P101 Establish local SW panel. Publish quarterly notices of the panels public meetings in all local media.  
P102 Develop a plan to involve the public in implementation of the SW program.  
P103 Expand local SW panel to include at least one member of the public.  
P104 Coordinate with local civic organization to sponsor two watershed cleanup events each year.

Responsible Party: John May

Title: Public Works Director

Start Date: 02/10/2002

End Date: 02/10/2007

Permit Year 1: ☒ Permit Year 2: ☒ Permit Year 3: ☒  
Permit Year 4: ☒ Permit Year 5: ☐

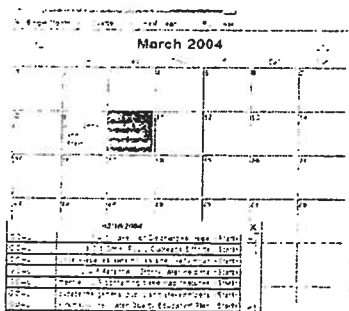
Goal Has Been Accomplished: ☐

Name of Third Party implementing this BMP: Not Applicable

BROWSE Connected to: C:\Trainings\Asist\MCMPro.mcm

No more hunting down information in a 3-ring binder. With ASIST you will can quickly review tasks, annotate BMPs and track every action undertaken to complete a BMP. Just browse to the BMP and review all work completed. At the end of each year ASIST can create reports that detail everything done for your program, an annual requirement. ASIST was designed for your program.

ASIST Minimum Controls Manager will manage every aspect of your plan and prepare all of your annual reports. With it you can schedule upcoming activities, review assignments, track BMPs, track public education activities and costs and track employee training. MCM is the complete solution for all of your management needs. ASIST offers other products designed to help Phase II cities manage their outfall and stormwater facility inspections. These tools integrate with MCM to give you a complete management tool for your program. ASIST MCM will save you tens of thousands of dollars every year! And priced at just \$795.00 ASIST MCM won't break your budget. It's the perfect pill for a Texas sized headache!



Will the management tool you select be able to show when tasks are scheduled? With ASIST the possibilities are endless!

## More information:

Contact: Keith Neal  
Email: kneal@asist.net  
Phone: 704-735-6004  
Fax: 704-732-3800







## Stormwater Management Made Simple

### How will you manage your outfall inspection program?

**AIM Outfall Browser**

File Edit View Modules Tools Help

**Outfalls**

- DW086C4
  - 09/28/2001
  - 09/27/2001
  - 02/28/2002
  - 06/18/2002
- + DW086D2
- + DX086A2
- + DX086C2
- + DX086C3
- + DZ086C2.D01
- + DZ086C2.D02
- + DZ086D2.D01
- + DZ086D2.D02
- + DZ086D2.D03
- + DZ087C2.D01
- + DZ087C2.D02
- + DZ087C2.D03
- + DZ087C2.D04
- + DZ086B2.D01

**Descriptive information**

Outfall ID: DW086C4

Description: Square (Default)

Material: Concrete

Drainage Basin: Indian Creek

Receiving Water Body: Unknown

Inspection Frequency: 60 Next Inspection Due: 06/18/2008

**Location/Physical information**

Size: 0 in Side of Road: East

Latitude: 0

Longitude: 0

**Location Description:**

LaCosta Ln. 150 N. of Bermuda Dunes

**Browse**

Connected to Database: C:\ASIS\Burns\ID on Burns\idatabases\AIM\_New.mdb

#### AIM features:

- o Inventory outfalls
- o Inventory stormwater facilities
- o Manage inspection schedules
- o Built in inspection reminders
- o Integrate with GIS
- o Export data to:
  - o MS Access
  - o MS Excel
  - o HTML
- o Create summary reports
- o Create annual reports

#### How will you document your illicit discharges?

The first thing you have to do is create an inventory of all of your outfalls. If you do this in a three-ring binder you will end up having a big challenge when it is time to report. If you build a custom database you will have a big expense before you even start your program.

AIM will manage your entire inventory of outfalls, track every inspection ever performed for them, and remind you when it is time to go out and do more inspections.

AIM is the easiest and most affordable solution for managing any outfall inspection program. If you have a small program and need a basic tool to manage and report on your illicit discharge inspection program then AIM is for you.





## Easy to use inspection tools!

**Inspection - 09/27/2001**

File Edit Modules Help

Outfall ID: D:\V086C4 Inspection Number: 38

Inspector Name: Odom, Kyle Inspection Date:

09/28/2001  
09/27/2001  
09/26/2001  
09/25/2001  
09/24/2001  
09/23/2001  
09/22/2001  
09/21/2001  
09/20/2001  
09/19/2001  
09/18/2001

**General Information**

Type: Return Overall: Good

Structural: Normal Flow: Open

Flow Observed: ☐

Water Color: Other Odor: None

Floatables: None Turbidity: Clear

Biological: None Sedimentation: None

Inspection Notes:

Steady flow.

**Pass**

Browse

### AIM delivers comprehensive inspection capabilities!

What are your inspection needs? You have to perform basic inspections to determine if there are any illicit discharges. If you find an illicit discharge you have to track it down and determine its source. AIM provides you with the tools you need for your program. When it is time to create reports AIM can create summaries of all of your inspections. AIM is the easiest tool you can use for your outfall inspection program. If your program grows and you need more flexibility then AIM can migrate to either the ASIST Facility Professional or Facility Professional Lite series of software. These packages offer even greater flexibility for your program. Capabilities like custom designed inspection forms, photo and CAD file linking, citizen group and volunteer organization tracking, marking and stenciling tracking, and much more. So if you have a small program start with AIM. As it grows you can be assured that all of your information can move into more powerful systems.

### There is only one good choice!

AIM will save time and money managing your program. This is the easiest decision you will ever make for your program.

**Cost:** \$695  
**Included:** Hands on training  
1 year technical support

### More information:

**Contact:** Keith Neal  
**Email:** kneal@asist.net  
**Phone:** 704-735-6004  
**Fax:** 704-732-3800



**City of Tuscaloosa Comprehensive Plan  
Natural Resources Subcommittee  
Stormwater/Watershed Task Force**

***Primary Objectives***

- I. To characterize, protect, and improve the quality of Tuscaloosa's water resources through implementation of a comprehensive watershed-based approach to planning and development**
- II. Restore the natural environment wherever possible and protect existing assets as development and growth move forward**

***Overall Goals (Major Issues)***

- 1. Revise existing stormwater ordinance and enact to ensure compliance with Stormwater Phase II regulations**
- 2. Define or quantify an impervious surface area limit to trigger water quality/quantity controls requirement for all developments, regardless of acreage**
- 3. Promote "green site design" principles**
- 4. Complete a GIS-based (remote sensing) impervious area/land use analysis and assessment of our watersheds**
- 5. Require effective buffer strips along all perennial and intermittent streams**
- 6. Conduct an assessment and characterization of Tuscaloosa's watersheds and develop an overall watershed protection plan for the water-related natural resources. Focus on the protection of Lake Tuscaloosa as the premier asset of Tuscaloosa**
- 7. Prioritize urban streams by current condition and implement an annual stream restoration/streamside Best Management Practices program for priority streams**
- 8. Adhere strictly to requirements of the National Flood Insurance Program and revise existing ordinance to further enhance floodplain protection**
- 9. Provide appropriate incentives to encourage the use of pervious surfaces/infiltration and other alternative design concepts in development**
- 10. Encourage the use of conservation easements in sensitive areas through tax incentives or other benefits**
- 11. Implement and sustain an ongoing water quality monitoring program to provide adequate data to assess water quality status and trends**
- 12. Acquire and maintain appropriate GIS datasets for entire watershed (aerial photos, satellite imagery, elevation data, derived datasets)**

