

## GCSA Fact Sheet

### ODEQ Proposed Changes to Draft OKR04 – November 2013

**INCOG NOTE:** In late October, INCOG received an internal review copy of the proposed revisions to OKR04 that ODEQ sent to EPA Region 6 to start the 90 day EPA review process. This latest draft of OKR04 reflects changes made by ODEQ’s staff to the last ODEQ Work Group version dated June 2009. The following summary of changes to OKR04 represent what ODEQ would like to have in the final OKR04; EPA will likely request additional changes. Once ODEQ and EPA work out a version that they both accept, then ODEQ will hold a 30 day Public Comment period. ODEQ will then address any comments received, modify OKR04 as needed from the comments, and finalize the OKR04 for another 5 years. This Fact Sheet is divided into two sections: 1) a page-by-page listing of the major changes, and 2) summaries of certain important topics, such as what is to be included in SWMPs, Annual Reports and the NOI filing process. For more information about the changes summarized in this GCSA Fact Sheet, please contact Richard Smith at INCOG, [rsmith@incog.org](mailto:rsmith@incog.org), (918) 579-9450.

Items below “in red quotations” are direct citations of new changes in the OKR04 text.

☆ = Important changes.

#### 1. Page-By-Page Description of Major Changes to OKR04

SECTION	CHANGE	INCOG COMMENTS
Overall	“storm water” to “stormwater”	Consistent with EPA policy.
I.C.5 ☆	SWMP must describe “all necessary” BMPs and other measures that address discharges “or future discharges” that will not cause “or have the reasonable potential to cause” or contribute to exceedance...	Clarifies circumstances to which SWMP applies. Adds new level of applicability: “reasonable potential”.
I.D	Replace State Antiquities Act with “Oklahoma State Register of Historic Places Act” and change statute citations.	Updates historic preservation compliance to current state statutes.
I.E.1.a	Several minor changes to protected species references.	Clarifies references to Endangered Species Act.
I.F.4	Changes methods for processing annual permit fee and updates citations of ODEQ rules that list fee amounts.	Also adds additional information for new permittees.
II.A.1.a ☆	Deletes “as an operator of a regulated Small MS4” leaving “you”. Adds: “a summary status of current [SWMP] within the previous permit term” and “an updated” description of your “current [SWMP]”. Also adds: “Authorization under the 2005 Permit will be administratively extended for a period not to exceed 90 days from the effective date of” this permit. See NOI Item #4 below for more details under Part	The June 2009 draft required a “Final Annual Report”. This “summary status” apparently replaces this earlier draft requirement. Part II.A.1.a and b describe details of what should be submitted with NOI.

SECTION	CHANGE	INCOG COMMENTS
	II.A.1.a-b.	
II.B.2.a	Indicate on the NOI the latitude and longitude of your “City Hall or the” approximate center of your MS4.	ODEQ added an option to locate the city hall in lieu of the MS4 center.
II.B.2.b ☆	Added: “For those MS4 cities not located entirely within an UA, your jurisdiction shall <u>cover the entire area</u> within the corporate boundaries of the municipality.”	ODEQ told INCOG that they made this city-wide provision (not just within the city’s UA) to aid in future TMDL implementation. Counties are still UA only, this applies only to cities.
II.B.2.d	Additional documentation to be submitted with the NOI: “Supporting documentation addressing the special conditions of the permit required by Part III.B and C, if applicable.” Where III.B concerns Established TMDLs, and III.C concerns discharges to Outstanding Resource Waters (ORW).	In the first round of Phase II permits in 2005, this type of documentation was met by creating “Certificates” that identified the concerned areas and listed special BMPs, Measurable Goals and other actions the permittee was going to take to address the areas.
II.B.2.e ☆	Changes SWP3 requirement if you elect the 7 <sup>th</sup> MCM. “If you choose to develop this optional measure, <u>provide a description</u> of the optional permit requirements or an <u>outline of your MS4’s [SWP3].</u> ”	Under the existing OKR04, ODEQ required preparation and submittal of a generic “ <u>SWP3 Template</u> ” that was to be modified with site-specific data whenever the city prepared the SWP3 for a city-owned construction project under the 7 <sup>th</sup> MCM.
II.C ☆	Addressee to mail NOI and attachment is changed to: DEQ/WQD. Address is the same.	Previously, ODEQ accepted email attachments, they may continue to accept them, but ask first.
III.A ☆	The “Special Conditions” for water quality standards and 303(d) has added many new requirements (see detailed list below). Most of the new requirements involve documenting in your SWMP how you will deal with 303(d). And there is inserted the extra trigger: “ <u>have the reasonable potential to cause</u> ” instream problems. Establishing “ <u>priority areas</u> ” in 303(d) watersheds now seems mandatory; it was a recommendation in the old OKR04. A significant new requirement is: “ <u>You must ensure that new flood management projects assess the impacts on water quality and examine existing projects to determine if incorporating additional water quality protection devices and practices are necessary.</u> ”	Important <u>new requirements</u> are for including in your SWMP: a) direct outreach programs to target audiences; b) identify significant polluting discharges; c) locate and inspect illicit discharges based upon the priority areas within your 303(d) watersheds; d) include structural and nonstructural O&M procedures to reduce pollutants discharging to impaired waters, and to ensure new flood management projects assess water quality impacts, and examine existing projects for possible modifications to protect water quality; e) choose BMPs that manage the identified pollutants in your discharges. Does “existing projects” refer only to those owned by MS4?
III.B ☆	Several changes to the TMDL section: Inserted “ <u>or watershed plan in lieu of a TMDL</u> ”; “your discharges must meet <u>any limitations, conditions, or other requirements of the wasteload allocation (WLA), load allocation and/or TMDL’s associated implementation plan...</u> ” The most significant new requirement is: “ <u>You must adopt any WLAs assigned to your discharges specified in the TMDL as measurable goals within the permit.</u> ”	Adding a “watershed plan” refers to some 303(d) impaired watersheds that have a watershed plan instead of a TMDL, so OKR04 is expanding its coverage to watershed plan watersheds as well as TMDL watersheds. The second change regarding WLAs focuses in on the stormwater permittee part of a TMDL in which all permittee discharges are calculated as WLAs. The Measurable Goal addition expands the penetration of a TMDL’s calculations into the OKR04 compliance by making TMDL calculations for individual MS4s (if any) become MG which in effect become numerical limits. INCOG is seeking clarification from ODEQ on this, and asking if it is possible at this point to delete this requirement. It is also uncertain how the concept of Maximum Extent Practicable (MEP) will come into play regarding making the TMDL WLA a numerical

SECTION	CHANGE	INCOG COMMENTS
		MG in OKR04.
IV.A ★	Major rewrite of intro (IV.A), mostly a <u>reorganization</u> to create sub-paragraphs for existing permittees (Part IV.A.1), new at time of issuance (Part IV.A.2), and new after issuance (Part IV.3) permittees. Added a Part IV.A.4 section on Measurable Goals (MGs), with the Part IV.A.4 MG section applying to all permittees (A.1, A.2 or A.3).	Other than parsing Part IV.A introduction into 3 separate types of permittees, the introduction requirements apparently are the same as the 2005 OKR04, just reorganized.
IV.B.1 ★	“Address <u>adverse</u> impacts on receiving water quality <u>that discharges from your MS4 contributed to</u> , caused, or had the <u>reasonable potential to cause</u> ”	Phrasing was: “To address impacts on receiving water quality caused, or contributed to, by discharges from the [MS4];” Added “adverse” and the “reasonable potential” phrase. It is not known how the new “reasonable potential” requirement will be used by ODEQ. Part IV.B begins with: “DEQ may notify you that changes to your SWMP are necessary to:”
IV.B.3	In the “any other conditions deemed necessary by the director”, added “ <u>including TMDL requirements</u> ”	While the 2005 OKR04 wording already embraced TMDLs, adding specific text about TMDLs brings home the point that meeting TMDL requirements has increased in importance.
IV.C ★	Added: “Part VIII. Each minimum control measure must comply with the items included in the “Permit Requirements” section. You are encouraged to consider the information included in “Recommendations” and incorporate them as appropriate, but “ <u>Recommendations are not permit requirements</u> . You must continue to implement your SWMP and revise your programs according to Part IV - D. If you are a newly regulated small MS4 or MS4 newly designated after the date of this Permit issuance, you are required to develop and implement and enforce the programs that specifically address each of six (6) minimum control measures during five (5) year permit term, or utilize the schedule that DEQ provides to you.”	Part IV.C continues to be the meat of the permit. It specifies all technical requirements for all 6 MCMs. The introduction added a <u>new paragraph</u> basically for new permittees to <u>explain the MCM process</u> . The passage: “ <u>Recommendations are not permit requirements</u> ” is very important. Part of ODEQ’s reworking of OKR04 was to delete all of the sub-headings called “Rationale” and turned much of those passages into Recommendations. Other “Rationale” passages were made mandatory.
IV.C.1.a	Added: “The public education or equivalent outreach activities shall be tailored, using a mix of locally appropriate strategies, to target specific audiences and communities.” ODEQ also added: “...to promote behavior change by the public” and deleted “...about the impacts of storm water discharges on water bodies and the steps that the public can take...”	These changes apply to both new and existing permittees. ODEQ appears to have <u>taken out many of the topic-specific education requirements</u> .
IV.C.1.b	The 2005 OKR04 “Rationale” was made into “Recommendations”, and ODEQ removed more topic-specific requirements. They also deleted the 2005 requirements for describing “how you plan to inform”. ODEQ also inserted a recommendation to “ <u>Contact the Blue Thumb Program for assistance with your program, including assistance with newsletters and brochures, planning civic events, and borrowing</u>	These aren’t major changes, nor problematic, they are more on the line of <u>clarifications</u> , updates and offering more suggestions.

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	<b>Blue Thumb education tools for local events.”</b> They included contact information for Blue Thumb.	
IV.C.1.b.3	Deleted the previous requirement to identify target audiences that are likely to have significant impact and explain why they were selected, and substituted a new recommendation to <b>“distribute stormwater messages to the public by using locally available methods, such as...”</b> [list of several suggestions in b.3]	These aren’t major changes, nor problematic, they are more on the line of <u>clarifications</u> , updates and offering more suggestions.
IV.C.1.b.4	Deleted “The target pollutant sources your public education program is designed to address” and inserted more examples of subjects to educate homeowners.	More <u>clarifications</u> and suggestions.
IV.C.1.b.5	Increased the recommendation on evaluating MGs by adding: <b>“One method of evaluation of the program may be an evaluation of audience knowledge prior to commencement of the educational message followed by an evaluation after delivery of the message, such as a survey.”</b> Item b.5 also refers to promoting LID.	This recommendation to conduct a <u>survey</u> is not a permit requirement, only a suggestion. The LID reference reflects the emphasis on LID found in several places in the draft OKR04.
IV.C.2	The Public Participation (PP) section has been almost entirely reorganized and rewritten. There are new sentences on why PP is important, and the many 2005 OKR04 passages on specific actions that were scattered under Rationale and Recommendations are now consolidated and reorganized.	This seems to be mostly adding clarification and reorganizing concepts and suggestions. There doesn’t seem to be major new requirements other than a greater emphasis for trying to develop public participation in more areas of your permit. But those suggestions were in the 2005 OKR04 already, they were just not succinctly organized.
IV.C.3 ★	The Illicit Discharge Detection and Elimination (IDDE) section has been extensively reorganized. Some of the 2005 OKR04 “Rationale” passages have become requirements, whereas other passages are now under “Recommendations”. The new requirement clarification on Dry Weather Field Screening (DWFS) now requires identifying procedures <b>“for <u>locating priority areas</u>”</b> or conducting <b>“<u>ambient sampling to locate impacted reaches</u>.”</b>	Both the priority area text and the ambient sampling alternative <u>were in the 2005 as Rationale</u> . Likewise for several other “Rationale” passages that are now permit requirements.
IV.C.3.a.9 ★	Expanded the IDDE passage on MG evaluation: <b>“Evaluate the appropriateness of your identified BMPs for this minimum control measure. Your evaluation shall <u>verify compliance with permit requirements</u> and more importantly, <u>document that tangible efforts have been made</u> towards achieving your identified measurable goals and reducing the impacts of stormwater runoff from the small MS4. Document the evaluation of your illicit discharge detection elimination program annually as required by Part V.C of this Permit.”</b>	The 2005 OKR04 MG evaluation was simply: “How you will evaluate the success of this minimum measure, including how you selected the measurable goals and target dates for each of the BMPs.” It is not known what ODEQ means to “...verify compliance with permit requirements...” or to “...document that tangible efforts have been made towards... reducing the impacts of stormwater runoff...” No examples were given on how to accomplish these.
IV.C.3.b.1	Under “Recommendations” added: <b>“Develop and implement a written <u>spill response and prevention plan</u> to ensure the appropriate actions will take place when a spill occurs within your small MS4.”</b>	This recommendation is not a requirement, but it reflects the growing focus of ODEQ and EPA on having more formal action plans to address spills and other types of illicit discharges.
IV.C.3.b.2	Expands recommendations to also have plans to	The passage also cites the website link to get EPA’s

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	address “illegal dumping..., sanitary sewer overflows, on-site sewage disposal, used oil recycling..., trash and debris management.”	IDDE Manual. These specific listed items expand what was in the 2005 text: “...from illegal dumping and spills.”
IV.C.3.b.3	Expands the 2005 text to locate priority areas by providing a number of specific conditions to consider when assigning high priority.	This section (IV.C.3.b.3) is a “Recommendation”, however section IV.C.3.a.2.a refers to locating priority areas as a permit requirement.
☆ IV.C.3.b.5	Adds under recommendations: “ <u>Educate employees that have been working in the field, such as maintenance workers, building inspectors, etc. to identify and report stormwater illicit discharges.</u> ”	This is actually a new area of INCOG’s GCSA employee training outreach, realizing that training needs to be extended beyond just the stormwater managers. This will likely require more on-site, localized training classes, and the development of self-teaching tools.
IV.C.4.a	Construction requirements are similar to 2005 OKR04, with some text rearrangements and clarifications. Section IV.C.4.a.6 adds: “ <u>Document inspection findings and take all necessary followup actions</u> (i.e., re-inspection, enforcement) to ensure site compliance.”	These actions are already (or should by now) being done as part of local construction site inspection and enforcement activities.
☆ IV.C.3.a.8	Evaluating the construction program has the same expanded requirements to “ <u>verify compliance</u> ” as in IV.C.3.a.9 except the sentence for documentation of your program annually is missing.	It is not known what ODEQ means to “...verify compliance with permit requirements...” or to “...document that tangible efforts have been made towards... reducing the impacts of stormwater runoff...” No examples were given on how to accomplish these.
☆ IV.C.4.b	Most of the 2005 “Rationale” section has been deleted except for the text on using “sanctions and enforcement mechanisms”. New “Recommendations” include “ <u>implement an outreach program for the local development community</u> ” (b.2), “ <u>conduct a staff training to address requirements for inspection and enforcement</u> ” (b.3), “ <u>offer incentives for green developers</u> ” (b.4), and “ <u>expand your procedures for site plan review, site inspection and enforcement to smaller sites.</u> ” (b.5)	These “recommendations” are not mandatory, but reflect the increasing interest by ODEQ and EPA on local efforts to control construction site pollution. The last passage (b.5) referring to “ <u>smaller sites</u> ” is not further defined in OKR04. Does this refer to sites <1 acre in size? Since this is under “recommendations”, it seems to be ODEQ’s way of suggesting possibly expanding your OKR04 permit coverage to <1 acre sites (not mandating it).
☆ IV.C.5.a.3	Adds a new requirement: “ <u>Review local ordinances and regulations, and identify any legal / regulatory barriers to Low Impact Development (LID). Develop a schedule to remove those barriers that prohibit LID practices selected by the MWS4, or provide a justification for each barrier not removed.</u> ”	This requirement has been in previous drafts of OKR04 for over 4 years, and there has been much discussion about this. ODEQ stated in an OKR04 Work Group meeting 4 years ago that if a local city wanted to retain wider streets, curb and gutters and/or sidewalks for, say public safety or economic reasons, that would be fine, just prepare a written justification for rejecting the LID practice.
☆ IV.C.5.a.4	Modifies existing requirement under 2005’s a.4: “ <u>Implement procedures to ensure adequate long-term operation and maintenance of BMPs that are put in place after the completion of a construction project, including inspections of each BMP.</u> ”	This change beefs up local requirements concerning post-construction BMPs including ongoing inspections. Presumably most of these BMPs would be LID.
☆ IV.C.5.a.5	Added this new requirement: “ <u>Participate in an education program for developers and the public about project designs that minimize water quality impacts, including LID strategies. This would</u>	This requirement has also been in previous drafts of OKR04 for over 4 years, and there has been much discussion about this as well. GCSA members can meet most / all of this requirement by virtue of

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	coordinate with your public education minimum control measure and your pollution prevention and good housekeeping minimum control measure programs.”	GCSA membership which takes advantage of all of the LID education and outreach activities INCOG does on behalf of its GCSA members.
IV.C.5.a.7 ☆	Evaluating the post-construction program has the same expanded requirements to “ <u>verify compliance</u> ” as in IV.C.3.a.8 for construction.	It is not known what ODEQ means to “...verify compliance with permit requirements...” or to “...document that tangible efforts have been made towards... reducing the impacts of stormwater runoff...” No examples were given on how to accomplish these.
IV.C.5.b ☆	Some <u>new recommendations</u> : These include <u>promoting BMPs appropriate for the local community</u> (b.1), <u>directing growth to protect sensitive areas</u> (b.2 and same text as 2005 OKR04), <u>consider adopting LID using local ordinances</u> (b.3), <u>creating an inventory of impervious areas</u> and other hydraulic features, and determine which areas can be retrofitted (b.4), <u>develop long-term O&amp;M of BMPs</u> including verification of as-builts and inspection and maintenance (b.7), and <u>use incentives to encourage interest in LID</u> (b.8)	These “recommendations” are approximately the same changes that were first proposed by ODEQ in the 2009 OKR04 draft. Most of these reflect ODEQ and EPA emphasis on LID.
IV.C.6.a	Good Housekeeping requirements have been <u>reorganized</u> , with some 2005 “Rationale” moved to requirements. Other passages have been taken from different places in 2005 OKR04 and reassembled into requirements.	It is difficult to assess changes because it appears to have been morphed extensively from passages from many parts of the 2005 OKR04. It is difficult to find truly new passages that have been inserted.
IV.C.6.a.5 ☆	“Implement procedures to ensure that <u>new flood management projects</u> are assessed for impacts on water quality.”	This requirement was under “Rationale” in 2005 OKR04, and the 2005 version also included “...and <u>existing projects</u> are assessed for incorporation of additional water quality protection devices or practices.” It is unknown why the provision about “existing projects” was deleted. It is also unclear if the Part III.A “Special Conditions” requirement only applies to MS4-owned facilities (that are addressed by the Good Housekeeping MCM) or to both public and private facilities.
IV.C.6.a.9 ☆	Evaluating the Good Housekeeping program has the same expanded requirements to “ <u>verify compliance</u> ” as for the construction and post-construction MCMs.	It is not known what ODEQ means to “...verify compliance with permit requirements...” or to “...document that tangible efforts have been made towards... reducing the impacts of stormwater runoff...” No examples were given on how to accomplish these.
IV.C.6.b.2 ☆	“Establish <u>procedures for proper use, storage, and disposal</u> of both petroleum and non-petroleum products at schools, town offices, police and fire stations, pools, parking garages and other permittee-owned or operated buildings or utilities. Develop or continue to implement a <u>Spill Response and Prevention Plan</u> to ensure that appropriate actions will take place when a spill occurs within your small MS4.”	These “Recommendations” are not permit requirements, but they reflect ODEQ’s view that permittees should be developing more sophisticated programs for Good Housekeeping.

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IV.C.6.b.3 ☆	“Establish procedures for the proper storage of <u>permittee-owned vehicles and equipment</u> , including fueling areas. Ensure that vehicle wash waters are not discharged to the small MS4.”	This “Recommendation” is not a permit requirement, but it reflects ODEQ’s view that permittees should be developing more sophisticated programs for Good Housekeeping.
IV.C.6.b.4 ☆	“Establish procedures for catch basin <u>inspections, cleaning and repairs</u> , and sweeping streets, sidewalks, and permittee-owned parking lots within your small MS4.”	This “Recommendation” is not a permit requirement, but it reflects ODEQ’s view that permittees should be developing more sophisticated programs for Good Housekeeping.
V.C.1 ☆	Annual Reports will all be <b>due March 1<sup>st</sup></b> of every year, with an as yet unspecified starting year.	Presumably the final version of the revised OKR04 will have the first year inserted.
V.C.1.e ☆	“Description and schedule for implementation of any <u>additional BMPs or monitoring</u> that may be necessary to reduce/eliminate the discharges of the pollutant of concern into impaired waters on the 303(d) list.”	This is a new requirement to be included in Annual Reports; it addresses <u>303(d) impairments</u> .
VII ☆	Definitions have some changes: expands definition for “ <b>Construction Site Operator</b> ”; adds “ <b>Impaired Water</b> ”; adds “ <b>LID</b> ”; adds “ <b>Newly Regulated Small MS4</b> ”; adds “ <b>Outstanding Resource Waters</b> ”; adds “ <b>Small MS4 Newly Designated after the Date of Permit Issuance</b> ”; adds “ <b>Stabilization</b> ” (both temporary and final); and adds “ <b>TMDL</b> ”.	These definition expansions reflect the increasing emphasis on addressing TMDLs and 303(d) impairments, and also the dichotomy of having new and existing permittees.
VIII ☆	“Optional Permit Requirements for Municipal Construction Activities” have substantial new requirements, mostly to be consistent with EPA’s construction general permit and OKR10.	There are too many changes to Part VIII to address in this GCSA Fact Sheet table.

## 1. Summary of Filing NOIs and Supporting Documentation

### For Renewals of Existing Permit Coverage (from Part II.A.1.a):

1. Notice of Intent (NOI) Form (Exhibit 2);
2. Summary Status of current SWMP within previous permit term;
3. Updated description of your current SWMP;
4. Submittals due within 90 days from effective date of this permit;
5. Summary Status should include:
  - a. List of current Measurable Goals for all 6/7 Minimum Control Measures (MCMs);
  - b. Summary of all BMP activities actually accomplished;
  - c. Changes to any BMPs or Measurable Goals that apply to your current program.

### For Submittals by New Permittees (from Part II.A.1.b):

1. Notice of Intent (NOI) Form (Exhibit 2);
2. Description of your SWMP;
3. Submittals due within 180 days from effective date of this permit;
4. Include list of BMPs and Measurable Goals for all 6 MCMs;

5. Must implement the SWMP during the first 5 year permit term.

For Both New and Existing Permittee Submittals (from Part II.B.2):

- a. Identify the UA or “Core Municipality” where your system is located, the county(ies) where your system is located, and the lat-long of your City Hall or approximate center of your MS4.
- b. Description or map of the MS4 boundaries. “For those MS4 cities not located entirely within an UA, your jurisdiction shall cover the entire area within the corporate boundaries of the municipality.”
- c. The names of the major receiving waters and an indication if any are on the latest 303(d) list. If 303(d) listed, you must have a certification that your SWMP complies with the requirements of Part III.A.
- d. Additional documentation to be submitted with the NOI: “Supporting documentation addressing the special conditions of the permit required by Part III.B and C, if applicable.” (where III.B concerns Established TMDLs, and III.C concerns discharges to Outstanding Resource Waters (ORW).) In the first round of Phase II permits in 2005, this type of documentation was met by creating “Certificates” that identified the concerned areas and listed special BMPs, Measurable Goals and other actions the permittee was going to take to address the areas.
- e. If you selected the 7<sup>th</sup> MCM, “provide a description of the optional requirements or an outline of your MS4’s [SWP3].”
- f. Indicate “which criterion you are relying upon for your small MS4 to meet the endangered species eligibility requirements listed in Part I.E.2.”

(Part II.B.3) Indicate if you are relying upon another governmental entity already regulated to satisfy one or more of your permit obligations. Identify which element(s) of the SWMP they will be implementing on your behalf. (Presumably this does not apply to INCOG/GCSA because INCOG/GCSA are not regulated stormwater permittees)

(Part II.B.4) Best Management Practices Information:

- a. Description of BMPs that will be implemented for compliance with each MCM;
- b. Implementation schedule for each BMP including months and years that you will undertake required actions;
- c. Measurable Goals for each BMP including interim milestones and frequency of occurrence;
- d. The name of the person(s) responsible for implementing or coordinating your SWMP.

(Part II.D) If you co-permit with another permittee, each co-permittee must complete the NOI form. “The description of your SWMP must clearly describe which permittees are responsible for implementing each of the control measures.”



## 1. Special Conditions for Water Quality Standards and 303(d)

(Part III.A) If you have discharges to receiving waters included on the latest CWA §303(d) list of impaired waters, you must document in your SWMP how you will comply with the following requirements: (red text is proposed new requirements)

1. If you discharge to waters identified on the latest CWA § 303(d) list of impaired waters, you must include all necessary BMPs that will ensure that the impairment caused by identified pollutants (e.g., nitrogen or phosphorus, bacteria) in your receiving waters will, in future discharges, not cause, have the reasonable potential to cause, or contribute to an in-stream exceedance of water quality standards. You must consider the following in developing or revising your SWMP:
  - a. Your outreach programs must be directed toward targeted groups of commercial, industrial and institutional entities likely to have significant stormwater impacts on your impaired waters.
  - b. You must identify any non-stormwater discharges that contribute significant pollutants to your impaired waters.
  - c. You must locate those areas likely to have illicit discharges and conduct inspections based on the priority areas in the watershed of your 303(d) listed water bodies.
  - d. You must include any operation and maintenance procedures for structural and non-structural stormwater controls to reduce pollutants discharged into your impaired water. You must ensure that new flood management projects assess the impacts on water quality and examine existing projects to determine if incorporating additional water quality protection devices and practices are necessary.
  - e. You must choose BMPs from EPA's menu or select others that can be used for managing the identified pollutants (e.g., nitrogen or phosphorus, bacteria) in your discharges. The details of the BMPs can be viewed from EPA's website at:  
<http://cfpub.epa.gov/npdes/stormwater/menuofbmps/index.cfm>.
2. Where a discharge is already authorized under this general permit and is later determined to cause, **have the reasonable potential to cause**, or contribute to the in-stream exceedance of an applicable water quality standard, DEQ will notify you. You must take all necessary actions to ensure that future discharges do not cause, **have the reasonable potential to cause**, or contribute to in-stream exceedance of a water quality standard and must document these actions in the SWMP. If an exceedance remains or recurs, the coverage under this general permit may be terminated by DEQ, and DEQ may require an application for coverage under an alternative general permit or an individual permit.
3. Compliance with this requirement does not preclude any enforcement activity as provided by the Clean Water Act for the underlying violation.