

United States Environmental Protection Agency  
Region 10  
1200 Sixth Avenue  
Seattle, Washington 98101

**Authorization To Discharge Under The  
National Pollutant Discharge Elimination System (NPDES)**

In compliance with the provisions of the Clean Water Act, 33U.S.C. §1251 et seq., as amended by the Water Quality Act of 1987, Public Law 100-4 (hereafter CWA),

**City of Lewiston and Lewis Clark State College  
(hereinafter, "Permittees")**

are authorized to discharge from all municipal separate storm sewer system (MS4) outfalls in the Permit Area described in Part 1.1 to the Snake River, Lower Granite Dam Pool, Lindsay Creek, Tammany Creek, the Lewiston Levee Ponds, and other associated waters of the United States, in accordance with the conditions and requirements set forth herein.

A copy of this Permit must be kept as part of the Permittees' Stormwater Management Program (SWMP) documentation.

This Permit becomes effective **October 1, 2020**.

This Permit and the authorization to discharge expires at midnight, **September 30, 2025**.

The Permittees must reapply for authorization to discharge on or before **April 3, 2025**, (180 days before expiration of this Permit), pursuant to Part 8.2 (*Duty to Reapply*), if the Permittees intend to continue operation and discharges from the MS4 beyond the term of this Permit.

Signed this      day of

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Daniel D. Opalski, Director  
Water Division

## SCHEDULE

### 1. Stormwater Management Program Document

*Post SWMP Document(s) on at least one publicly accessible website - See Part 2.5.5 and Part 3.1.8*

**December 1, 2021**

*Update the SWMP Document to describe implementation of relevant requirements for discharges to impaired waters - See Part 4.*

**December 1, 2022**

### 2. Stormwater Management Program Control Measures

*Begin Education & Outreach Activities - See Part 3.1*

**October 1, 2021**

*Implement all SWMP Control Measures in Part 3.*

**April 3, 2025**

### 3. Alternative Control Measure Requests

*See Part 2.6 and Part 4.*

**October 1, 2022**

### 4. Monitoring/Assessment Plan

*Submit a Monitoring/Assessment Plan*

**October 1, 2022**

*See Part 2.6, and Part 4.*

*Conduct Monitoring/Assessment Activity*

**April 3, 2025**

### 5. Pollutant Reduction Activities for Discharges to Impaired Waters

*Submit description of selected Pollutant Reduction Activities; See Part 2.6, and Part 4.*

**October 1, 2022**

*Implement least two (2) pollutant reduction activities.*

**April 3, 2025**

### 6. Annual Report

*See Part 6.4, and Table 6.4.1*

**December 1 of each year, beginning  
Calendar Year 2021**

### 7. Twenty-Four Hour Notice of Noncompliance.

*Permittees must report certain noncompliance by phone.  
See Part 7.9.*

**Within 24 hours from when Permittee  
becomes aware of circumstances**

### 8. NPDES Permit Renewal Application

*See Part 8.2.*

**April 3, 2025**

## Table of Contents

<b>SCHEDULE .....</b>	<b>2</b>
<b>ACRONYMS .....</b>	<b>6</b>
<b>1 APPLICABILITY.....</b>	<b>7</b>
1.1 Permit Area .....	7
1.2 Discharges Authorized Under this Permit.....	7
<b>2 LIMITATIONS AND CONDITIONS .....</b>	<b>7</b>
2.1 Compliance with Water Quality Standards.....	7
2.2 Snow Disposal to Receiving Waters .....	7
2.3 Stormwater Discharges Associated with Industrial or Construction Activity .....	7
2.4 Non-Stormwater Discharges.....	8
2.5 Permittee Responsibilities.....	9
2.6 Alternative Control Measure Requests .....	13
<b>3 STORMWATER MANAGEMENT PROGRAM (SWMP) CONTROL MEASURES .....</b>	<b>15</b>
3.1 Public Education and Outreach on Stormwater Impacts .....	15
3.2 Illicit Discharge Detection and Elimination .....	19
3.3 Construction Site Runoff Control .....	25
3.4 Post-Construction Stormwater Management for New Development and Redevelopment..	29
3.5 Pollution Prevention/Good Housekeeping for MS4 Operations .....	33
<b>4 SPECIAL CONDITIONS FOR DISCHARGES TO IMPAIRED WATERS .....</b>	<b>37</b>
4.1 General Requirements .....	37
4.2 Monitoring/Assessment Activities .....	37
4.3 Pollutant Reduction Activities .....	38
<b>5 REQUIRED RESPONSE TO EXCURSIONS ABOVE IDAHO WATER QUALITY STANDARDS ....</b>	<b>39</b>
5.1 Notification .....	39
5.2 Adaptive Management Report .....	39
5.3 Review and Approval of Adaptive Management Report .....	40
5.4 Implementation.....	40
5.5 Reporting .....	40
5.6 Permit Revision.....	40
<b>6 MONITORING, RECORDKEEPING, AND REPORTING REQUIREMENTS.....</b>	<b>41</b>

6.1	Compliance Evaluation.....	41
6.2	General Requirements for Monitoring/Assessment Activities.....	41
6.3	Recordkeeping.....	45
6.4	Reporting Requirements .....	45
6.5	Addresses .....	47
<b>7</b>	<b>COMPLIANCE RESPONSIBILITIES .....</b>	<b>48</b>
7.1	Duty to Comply .....	48
7.2	Penalties for Violations of Permit Conditions .....	48
7.3	Need to Halt or Reduce Activity Not a Defense .....	49
7.4	Duty to Mitigate .....	50
7.5	Proper Operation and Maintenance .....	50
7.6	Toxic Pollutants .....	50
7.7	Planned Changes.....	50
7.8	Anticipated Noncompliance .....	50
7.9	Twenty-Four Hour Notice of Noncompliance Reporting.....	50
7.10	Bypass of Treatment Facilities .....	51
7.11	Upset Conditions .....	52
7.12	Other Noncompliance .....	52
7.13	Removed Substances .....	52
<b>8</b>	<b>GENERAL REQUIREMENTS .....</b>	<b>53</b>
8.1	Permit Actions. ....	53
8.2	Duty to Reapply .....	53
8.3	Duty to Provide Information.....	54
8.4	Other Information.....	54
8.5	Signatory Requirements.....	54
8.6	Availability of Reports .....	55
8.7	Inspection and Entry .....	55
8.8	Property Rights .....	55
8.9	Transfers .....	56
8.10	State/Tribal Laws .....	56
8.11	Oil and Hazardous Substance Liability.....	56
8.12	Severability.....	56

8.13	Re-opener Clause.....	56
9	<b>DEFINITIONS .....</b>	<b>57</b>
	APPENDIX A - ADDRESSES & CONTACT INFORMATION .....	65
	APPENDIX B –SWMP DOCUMENT & ANNUAL REPORT TEMPLATES.....	67

## ACRONYMS

ACM	Alternative Control Measure
BMP	Best Management Practice
CFR	Code of Federal Regulations
CGP	Construction General Permit, i.e., the most current version of the <i>NPDES General Permit for Stormwater Discharges from Construction Activities in Idaho</i>
CWA	Clean Water Act
ERP	Enforcement Response Policy
EPA	United States Environmental Protection Agency, Region 10
FR	Federal Register
GIS	Geographic Information System
IDA	Idaho Department of Agriculture
IDAPA	Idaho Administrative Procedures Act
IDEQ	Idaho Department of Environmental Quality
LCSC	Lewis-Clark State College
LA	Load Allocation
µg/L	Micrograms per Liter
mg/L	Milligrams per Liter
MEP	Maximum Extent Practicable
ML	Minimum Levels
MS4	Municipal Separate Storm Sewer System
MSGP	Multi-Sector General Permit, i.e., the most current version of the <i>NPDES Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activities in Idaho</i>
NPDES	National Pollutant Discharge Elimination System
O&M	Operation and Maintenance
OWW	EPA Office of Water and Watersheds
pg/L	Picograms per Liter
PCBs	Polychlorinated Biphenyls (PCBs)
PDF	Portable Document Format
POTW	Publicly Owned Treatment Works
QAPP	Quality Assurance Project Plan
QA/QC	Quality Assurance/Quality Control
SWMP	Stormwater Management Program
SWPPP	Stormwater Pollution Prevention Plan
TEQ	Toxic Equivalency
TMDL	Total Maximum Daily Load
TSS	Total Suspended Solids
US	United States
USC	United States Code
WA	Washington
WDOE	Washington Department of Ecology
WLA	Wasteload Allocation

## **1 APPLICABILITY**

### **1.1 Permit Area**

This Permit covers all areas within the Lewiston Urbanized Area (see Part 9, *Definitions*) served by the municipal separate storm sewer system (MS4) owned and/or operated by the City of Lewiston and the Lewis-Clark State College (collectively referred to as the Permittees).

### **1.2 Discharges Authorized Under this Permit.**

During the effective dates of this Permit, the Permittees are authorized to discharge stormwater to waters of the United States from all portions of the MS4 identified in Part 1.1, subject to the conditions set forth herein.

Pursuant to Part 2.4. below, this Permit also conditionally authorizes the discharges from the Permittees' MS4s that are categorized as allowable non-stormwater discharges.

## **2 LIMITATIONS AND CONDITIONS**

### **2.1 Compliance with Water Quality Standards**

If the Permittees comply with all the terms and conditions of this Permit, it is presumed that the Permittees are not causing or contributing to an excursion above the applicable Idaho Water Quality Standards.

If monitoring or other information shows that a pollutant in one or more Permittee's MS4 discharge is causing or contributing to an excursion above the applicable Idaho Water Quality Standard, the Permittee(s) must comply with the notification and other requirements outlined in Part 5 (*Required Response to Excursions of Idaho Water Quality Standards*), except where a pollutant of concern in the MS4 discharge is subject to the requirements of Part 4 (*Special Conditions for Discharges to Impaired Waters*) or is the result of an illicit discharge and subject to the Permittee(s) response as outlined in Part 3.2.6 (*Follow-up*).

### **2.2 Snow Disposal to Receiving Waters**

The Permittees are not authorized to dispose of snow plowed in the geographic area of permit coverage directly into waters of the United States, or directly into the MS4(s). Discharges from the Permittee's snow disposal and snow management practices are authorized under this Permit only when such practices and disposal sites are conducted, operated, designed, and maintained to reduce pollutants in the discharges pursuant to Part 3.5 (*Pollution Prevention/Good Housekeeping for MS4 Operations*) so as to avoid excursions above the Idaho Water Quality Standards.

### **2.3 Stormwater Discharges Associated with Industrial or Construction Activity**

The Permittees are not authorized to discharge stormwater associated with industrial activity (as defined in 40 CFR §122.26(b)(14)), and/or stormwater associated with construction activity (as defined in 40 CFR §122.26(b)(14)(x) and (b)(15)), unless the discharges are otherwise authorized under the *NPDES General Permit for Stormwater Associated with Construction Activities in Idaho* (Idaho CGP), the *NPDES Multi-Sector General Permit for Stormwater Associated with Industrial Activities in Idaho* (MSGP), or another appropriate NPDES permit.

## **2.4 Non-Stormwater Discharges**

The Permittees are not authorized to discharge non-stormwater from the MS4, except where such discharges satisfy one of the following conditions:

- 2.4.1 The non-stormwater discharge is in compliance with a separate NPDES permit; or
- 2.4.2 The discharge originates from emergency firefighting activities; or
- 2.4.3 The non-stormwater discharge results from a spill, and/or is the result of an unusual and severe weather event where reasonable and prudent measures have been taken to prevent and minimize the impact of such discharge; or
- 2.4.4 The non-stormwater discharge consists of emergency discharges required to prevent imminent threat to human health or severe property damage, provided that reasonable and prudent measures have been taken to prevent and minimize the impact of such discharges; or
- 2.4.5 The non-stormwater discharge falls under one of the allowable categories listed in Part 2.4.5.1 2.4.5.1below, and the discharge is not a source of pollution to waters of the United States as defined in Part 2.4.5.2.

### **2.4.5.1 Categories of Allowable Non-Stormwater Discharges** include:

- 2.4.5.1.1 Uncontaminated water line flushing;
- 2.4.5.1.2 Landscape irrigation (provided all pesticides, herbicides and fertilizer have been applied in accordance with manufacturer's instructions);
- 2.4.5.1.3 Diverted stream flows;
- 2.4.5.1.4 Uncontaminated ground water infiltration (as defined at 40 CFR § 35.2005(20)) to separate storm sewers;
- 2.4.5.1.5 Rising ground waters;
- 2.4.5.1.6 Uncontaminated pumped ground water;
- 2.4.5.1.7 Discharges from potable water sources;
- 2.4.5.1.8 Foundation drains and footing drains (where flows are not contaminated with process materials such as solvents);
- 2.4.5.1.9 Uncontaminated air conditioning or compressor condensate;
- 2.4.5.1.10 Irrigation water;
- 2.4.5.1.11 Springs;
- 2.4.5.1.12 Water from crawlspace pumps;
- 2.4.5.1.13 Lawn watering;
- 2.4.5.1.14 Individual residential car washing;
- 2.4.5.1.15 Flows from riparian habitats and wetlands;
- 2.4.5.1.16 Dechlorinated swimming pool discharges;
- 2.4.5.1.17 Routine external building washdown which does not use detergents;
- 2.4.5.1.18 Street and pavement washwaters where no detergents are used and no spills or leaks of toxic or hazardous materials have occurred (unless all spilled material has been removed); and
- 2.4.5.1.19 Fire hydrant flushing.



#### **2.4.5.2 Sources of Pollution to Waters of the United States**

A discharge is considered a source of pollution to waters of the United States if it contains:

- 2.4.5.2.1 Hazardous materials in concentrations found to be of public health significance or to impair beneficial uses in receiving waters. (*"Hazardous materials"* is defined in IDAPA 58.01.02.010.47 and Part 9 of this Permit); and/or
- 2.4.5.2.2 Toxic substances in concentrations that impair designated beneficial uses in receiving waters. (*"Toxic substances"* is defined at IDAPA 58.01.02.010.102 and Part 9 of this Permit); and/or
- 2.4.5.2.3 Deleterious materials in concentrations that impair designated beneficial uses in receiving waters. (*"Deleterious materials"* is defined at IDAPA 58.01.02.010.21 and Part 9 of this Permit); and/or
- 2.4.5.2.4 Radioactive materials or radioactivity at levels exceeding the values listed in 10 CFR § 20 in receiving waters; and/or
- 2.4.5.2.5 Floating, suspended, or submerged matter of any kind in concentrations causing nuisance or objectionable conditions or in concentrations that may impair designated beneficial uses in receiving waters; and/or
- 2.4.5.2.6 Excessive nutrients that can cause visible slime growths or other nuisance aquatic growths that impair designated beneficial uses in receiving waters; and/or
- 2.4.5.2.7 Oxygen-demanding materials in concentrations that would result in anaerobic water conditions in receiving waters; and/or
- 2.4.5.2.8 Sediment above quantities specified in IDAPA 58.01.02.250.02.e or in the absence of specific sediment criteria, above quantities that impair beneficial uses in receiving waters; and/or
- 2.4.5.2.9 Material in concentrations that exceed applicable natural background conditions in receiving waters (IDAPA 58.01.02.200.09). Temperature levels may be increased above natural background conditions when allowed under IDAPA 58.01.02.401.

## **2.5 Permittee Responsibilities**

### **2.5.1 Individual Responsibility**

Each Permittee is individually responsible for Permit compliance related only to portions of the MS4 operated solely by that Permittee, or where this Permit requires the specific Permittee to take an action.

### **2.5.2 Joint Responsibility and Joint Agreements**

Permittees may elect to work together in joint agreement under this Permit; as such, each Permittee is jointly responsible for compliance with this Permit:

- 2.5.2.1 Related to portions of the MS4 where operational or stormwater management control measure implementation authority has been transferred from one

Permittee to another, in accordance with the written and enforceable agreement between the co-Permittees as described in this Part;

- 2.5.2.2 Related to portions of the MS4 where co-Permittees jointly own or operate a portion of the MS4;
- 2.5.2.3 Related to the submission of reports or other documents required by Parts 4, 5 and 6 of this Permit; and
- 2.5.2.4 Where this Permit requires action, and a specific Permittee is not named.

The Permittees must maintain a written and enforceable agreement between the parties. The written agreement must describe each organization's respective roles and responsibilities related to this Permit, and identify all aspects of stormwater management where the entities will share implementation responsibility, including the areas served by the MS4(s) where the co-Permittees agree to share such responsibility.

Any previously signed agreement may be updated, as necessary, to comply with this requirement. Any such agreement must be described in the Permittees' SWMP Document (Part 2.5.5, *SWMP Document*), and a copy of the agreement between Permittees related to this Permit must be available to the EPA and/or IDEQ upon request.

The Permittees remain responsible for compliance with the permit obligations if the other entity fails to implement the stormwater management control measure (or component thereof).

### **2.5.3 Shared Implementation with Outside Entities.**

The Permittee(s) may share or delegate implementation of one or more of the stormwater management control measures to an entity other than one covered by this Permit. One or more Permittees may rely on another entity if:

- 2.5.3.1 The other entity, in fact, implements the stormwater management control measure, or component thereof;
- 2.5.3.2 The particular stormwater management control measure, or component thereof, is at least as stringent as the corresponding Permit requirement; and
- 2.5.3.3 The other entity agrees to implement the stormwater management control measure, or component thereof, on the Permittee's behalf.

The Permittee(s) and the outside entity must maintain a written and binding agreement between the parties. The written agreement must describe each organization's respective roles and responsibilities related to this Permit, and identify all aspects of stormwater management where the entities will share or delegate implementation responsibility. Any previously signed agreement may be updated, as necessary, to comply with this requirement. Any such agreement must be described in the Permittees' SWMP Document (Part 2.5.5., *SWMP Document*), and a copy of the agreement between parties must be available to the EPA and/or IDEQ upon request. The Permittees remain responsible for compliance with the permit obligations if the other entity fails to implement the stormwater management control measure (or component thereof).

#### 2.5.4 Maintain Adequate Legal Authority

The Permittees must maintain relevant ordinances or other regulatory mechanisms to control pollutant discharges into and from its MS4 and comply with this Permit.

In the SWMP Document required by Part 2.5.5, the Permittees must summarize all of their legal authorities that address the six criteria listed below.

If existing ordinances or regulatory mechanisms are insufficient to meet the criteria, the Permittees must adopt new ordinances or mechanisms. If the Permittee does not have the authority to adopt ordinances, the Permittee must utilize all relevant regulatory mechanisms available to it as allowed pursuant to applicable Idaho law. In such cases, the Permittees must report on its progress towards adopting its ordinances, or utilizing available regulatory mechanisms, in each Annual Report required by Part 6.4.2.

No later than **April 3, 2025**, and to the extent allowable pursuant to authority granted the Permittees under applicable Idaho law, the Permittees must develop and/or update (as needed) relevant ordinance or other regulatory mechanisms to:

- 2.5.4.1 Prohibit and eliminate, through statute, ordinance, policy, permit, contract, court or administrative order, or other similar means, illicit discharges to the MS4;
- 2.5.4.2 Control, through statute, ordinance, policy, permit, contract, court or administrative order, or other similar means, the discharge to the MS4 of spills, dumping or disposal of materials other than stormwater, pursuant to Part 3.2.3 (*Illicit Discharge Detection and Elimination – ordinance*);
- 2.5.4.3 Control the discharge of stormwater and pollutants from land disturbance and development, both during the construction phase and after site stabilization has been achieved, consistent with Parts 3.3 (*Construction Site Runoff Control Program*) and 3.4 (*Stormwater Management for Areas of New Development and Redevelopment*);
- 2.5.4.4 Control through interagency agreements among Permittees as necessary or appropriate, the contribution of pollutants from one MS4 to another interconnected MS4;
- 2.5.4.5 Require compliance with conditions in ordinances, permits, contracts, or orders; and
- 2.5.4.6 Carry out all inspection, surveillance, and monitoring procedures necessary to determine compliance and noncompliance with these Permit conditions, including the prohibition of illicit discharges to the MS4.

#### 2.5.5 SWMP Document.

The Permittees must maintain at least one a written SWMP document, or individual documents, to describe in detail how the Permittees will comply with the required stormwater management (or SWMP) control measures in this Permit. As necessary the SWMP Document must be updated and must describe the Permittees' interim schedule(s) for implementation of any SWMP control measure components to be developed during the term of this Permit. The SWMP Document(s) may be organized according to the outline provided in Appendix B.

No later than **December 1, 2021**, the Permittees' SWMP Document must be completed and

made available through the website(s) required in Part 3.1.8 (*Publicly Accessible Website*).

No later than **December 1, 2022**, the Permittees must update their SWMP Document to describe their intended implementation of relevant requirements specified in Part 4 including any associated interim implementation date(s). See Part 4 (*Special Conditions for Discharges to Impaired Waters*).

The Permittees must submit to the EPA and IDEQ an updated SWMP Document with the Permit Renewal Application. See Part 8.2.1.

#### **2.5.6 SWMP Information and Statistics**

The Permittees must maintain a method of gathering, tracking, and using SWMP information to set priorities, and assess Permit compliance. The Permittees must track activities and document program outcomes to illustrate progress on the respective SWMP control measure (e.g., the number of inspections, official enforcement actions, and/or types of public education actions, etc.), and cite relevant information and statistics, reflecting the specific reporting period, in each Annual Report.

#### **2.5.7 SWMP Resources**

The Permittees must provide adequate finances, staff, equipment and other support capabilities to implement the control measures and other requirements outlined in this Permit.

#### **2.5.8 Transfer of Ownership, Operational Authority, or Responsibility for SWMP Implementation.**

The Permittees must implement the required SWMP control measures of this Permit in all new areas added or transferred to the Permittees' MS4s (or for which one or more Permittees become responsible for implementation of SWMP control measures) as expeditiously as practicable, but not later than one (1) year from addition of the new areas. The Permittees must notify the EPA and IDEQ in the next Annual Report of any additions or changes, and schedules for implementation in new areas, and must update their SWMP Document accordingly.

#### **2.5.9 Best Management Practice (BMP) Selection<sup>1</sup>**

Best management practices must be designed, implemented, monitored, and maintained by the Permittee to fully protect and maintain the beneficial uses of waters of the United States and to improve water quality at least to the maximum extent practicable. When selecting best management practices the Permittee must consider and, if practicable, utilize practices identified in the Idaho Department of Environmental Quality Catalog of Storm water Best Management Practices for Idaho Cities and Counties, (<http://www.deq.idaho.gov/water-quality/wastewater/stormwater/>)..

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<sup>1</sup> Part 2.5.9 is a condition of the IDEQ's *Final §401 Water Quality Certification for the City of Lewiston and Lewis-Clark State College Municipal Separate Storm Sewer Systems (MS4)*, NPDES Permit# IDS028061, dated January 15, 2020.

## **2.6 Alternative Control Measure Requests**

### **2.6.1 General Requirement.**

The Permittees may request that the EPA and IDEQ consider any alternative documents, plans, or programs that the Permittees believe to be equivalent to a required SWMP control measure, or control measure component, specified in Part 3 or Part 4 of this Permit.

Alternative documents, plans, or programs must be submitted pursuant to Part 2.6.3 (*Content of ACM Request*) for the EPA and IDEQ review and consideration no later than **October 1, 2022**.

### **2.6.2 Actions to Address Discharges to Impaired Waters**

For the purposes of this Permit, an Alternative Control Measure (ACM) also includes the Permittees' individual or collective actions to address discharges to impaired waters as specified in Part 4 (*Special Conditions for Discharges to Impaired Waters*).

As specified in Part 4.2, the Permittees must submit at least one Monitoring/Assessment Plan to assess pollutant discharges, and a written description of at least two (2) Pollutant Reduction Activities to address expectations in the Total Maximum Daily Load analyses for Tammany Creek and Lindsay Creek. These documents must be submitted pursuant to Part 2.6.3 for the EPA review and consideration no later than **October 1, 2022**.

### **2.6.3 Content of Alternative Control Measure Request**

In support of its ACM Request, the Permittees must submit a complete copy of the relevant alternative document, plan, or program, and include:

- 2.6.3.1 A detailed written discussion identifying the original required minimum SWMP control measure or control measure component, that is addressed by the Permittees' submittal, and the reasons, rationale, citations, and/or references sufficient to demonstrate that the alternative document, plan, or program meets or exceeds the requirements of the SWMP control measure or control measure component it is meant to replace;
- 2.6.3.2 A detailed schedule the Permittees intend to follow to enact the ACM in its jurisdiction prior to the expiration date of this Permit; and
- 2.6.3.3 A description of any local public notice or public engagement process, including relevant results of such public engagement, that the Permittees conducted regarding the ACM prior to submittal.

### **2.6.4 Recognition of Alternative Control Measures**

Upon receipt of a Permittees' ACM Request and in consultation with IDEQ, the EPA will assess if the document, plan, or program meets the requirements of this Permit to be deemed equivalent to the SWMP control measure or control measure component.

If the EPA determines that the document, plan, or program meets the requirements of this Permit, the EPA will modify this Permit to reference the ACM. When new, specific permit terms or conditions are warranted, the EPA will notify the Permittees and the public of its intent to add such terms or conditions to this Permit. The EPA will accept public comment

for a minimum of 30 days on additional permit terms or conditions pursuant to 40 CFR §§ 122.62 and 124.

As specified in Part 8.1 (*Permit Actions*), a Permittees' ACM Request does not stay any permit condition, and does not replace the required minimum control measure or control measure component until the EPA completes a permit revision procedure as outlined above. Upon completion of a permit revision procedure outlined above, the EPA will notify the Permittees, in writing, of its final decision to authorize the Permittees' ACM.

### **3 STORMWATER MANAGEMENT PROGRAM (SWMP) CONTROL MEASURES**

#### **3.1 Public Education and Outreach on Stormwater Impacts**

The Permittees must conduct, or contract with other entities to conduct, an ongoing education, outreach, and public involvement program based on stormwater issues of significance in the Permittees' jurisdictions. When applicable, the Permittees must comply with State and local public notice requirements when conducting public involvement activities.

##### **3.1.1 Compliance Dates**

No later than **October 1, 2021**, the Permittees must begin implementation of the required components described in Parts 3.1.2 through 3.1.8 below.

No later than **April 3, 2025**, the Permittees must fully implement all required components described in Parts 3.1.2 through 3.1.8 below.

- 3.1.1.1 If one or more of the Permittees seek to comply with any SWMP control measure component, or combination of components, in this Part using one or more ACMS, the Permittee(s) must submit a request in accordance with Part 2.6 (*Alternative Control Measure Requests*) no later than **October 1, 2022**.

##### **3.1.2 Conduct an Education, Outreach and Public Involvement Program**

The Permittees' education and outreach program must include coordination and educational efforts targeting at least one of the four audiences listed in Part 3.1.4 below. The goal of the education and outreach program is to reduce the behaviors and practices that cause or contribute to adverse stormwater impacts on receiving waters by increasing audience understanding of actions they can take to prevent pollutants in stormwater runoff entering the MS4 and into local receiving waters.

The public involvement program must inform and engage interested stakeholders in the Permittees' development and implementation of the SWMP control measures, to the extent allowable pursuant to authority granted the individual Permittee under Idaho law.

To be considered adequate, the Permittees' implementation of the education, outreach and public involvement program must include the activities in Parts 3.1.3 through 3.1.8 below.

##### **3.1.3 Stormwater Education Activities**

The Permittees must distribute and/or offer at least eight (8) educational messages or activities over the permit term to the selected audience(s) identified in Part 3.1.4 below.

Educational messages or activities may include printed materials such as brochures or newsletters; electronic materials such as websites; mass media such as newspaper articles or public service announcements; targeted workshops, or other educational events; or other viable format. The Permittees may use existing materials if the materials convey the message the Permittees choose to deliver. The Permittees may develop its own educational materials and means of delivering its message(s). Based on the target audience's demographic, the Permittees must consider delivering its selected messages

and/or activities in an appropriate manner in language(s) other than English.

### 3.1.4 Target Audience(s) and Topics

The Permittees must, at a minimum, select at least one audience and focus its efforts on conveying relevant messages using one or more of the topics listed below for the selected target audience. Topics listed are not exclusive, and the Permittees may focus their efforts on one or more audience(s) and topics most relevant to the community.

For any Permittee without legal authority over private property (i.e., a college, university, highway district, state department of transportation, school district, drainage district, and/or other public entity), the term “target audience” is clarified to mean any employees, consultants, students, clients, or members of the public for whom the Permittee provides its services.

#### 3.1.4.1 General Public (including homeowners, homeowner’s associations, landscapers, and property managers)

- General impacts of stormwater flows into surface water, and appropriate actions to prevent adverse impacts;
- Impacts from impervious surfaces and appropriate techniques to avoid adverse impacts;
- Yard care techniques protective of water quality, such as composting;
- Best management practices (BMPs) for proper use, application and storage of pesticides, herbicides, and fertilizers;
- Litter and trash control and recycling programs;
- BMPs for power washing, carpet cleaning and auto repair and maintenance;
- Low Impact Development/green infrastructure techniques, including site design, pervious paving, retention of mature trees/vegetation, landscaping and vegetative buffers;
- Appropriate maintenance of landscape features providing water quality benefits;
- Source control BMPs and environmental stewardship;
- Impacts of illicit discharges and how to report them;
- Actions and opportunities for pet waste control/disposal,
- Water wise landscaping, water conservation, water efficiency.

#### 3.1.4.2 Business/Industrial/Commercial/Institutions (including home based and mobile businesses)

- General impacts of stormwater flows into surface water, and appropriate actions to prevent adverse impacts;
- Impacts from impervious surfaces and appropriate techniques to avoid adverse impacts;
- BMPs for use and storage of automotive chemicals, hazardous cleaning supplies, vehicle wash soaps and other hazardous materials;
- BMPs for power washing, carpet cleaning and auto repair and maintenance;
- BMPs for proper use, application and storage of pesticides, herbicides, and fertilizers;



- Low Impact Development/green infrastructure techniques, including site design, pervious paving, retention of mature trees/vegetation, landscaping and vegetative buffers;
- Appropriate maintenance of landscape features providing water quality benefits;
- Impacts of illicit discharges and how to report them;
- Litter and trash control and recycling programs
- Water wise landscaping, water conservation, water efficiency.

3.1.4.3 Construction/Development (e.g., Engineers, Contractors, Developers, Landscape Architects, Site Design Professionals)

- General impacts of stormwater flows into surface water, and appropriate actions to prevent adverse impacts;
- Impacts from impervious surfaces and appropriate techniques to avoid adverse impacts;
- Stormwater treatment and volume control practices;
- Technical standards for stormwater site plans; including appropriate selection, installation, and use of required construction site control measures
- Low Impact Development/green infrastructure techniques, including site design, pervious paving, retention of mature trees/vegetation, landscaping and vegetative buffers;
- Appropriate maintenance of landscape features providing water quality benefits;
- Water wise landscaping, water conservation, water efficiency.

3.1.4.4 Elected Officials, Land Use Policy and Planning Staff

- General impacts of stormwater flows into surface water, and appropriate actions to prevent adverse impacts;
- Impacts from impervious surfaces and appropriate techniques to avoid adverse impacts;
- Low Impact Development/green infrastructure techniques, including site design, pervious paving, retention of mature trees/vegetation, landscaping and vegetative buffers.

**3.1.5 Assessment**

The Permittees must begin to assess, or participate in one or more efforts to assess, the understanding of the relevant messages and adoption of appropriate behaviors by their target audience(s). The resulting assessments must be used to direct future stormwater education and outreach resources most effectively. Information summarizing the Permittees' incremental assessment of any specific education, outreach and/or public involvement activities conducted over the relevant reporting period must be included in each Annual Report.

**3.1.6 Tracking**

The Permittees must track and maintain records of their education, outreach and public involvement activities and include descriptive summary of their activities in the corresponding Annual Report.

### 3.1.7 Education on SWMP Control Measures

For each SWMP control measure listed below, the Permittees must provide educational opportunities and materials for appropriate audiences in their jurisdiction.

3.1.7.1 **Outreach/Training on Construction Site Control Measures:** At least twice during the Permit term, the Permittees must provide educational materials for construction operators working in their jurisdiction pertaining to the Permittees' requirements for appropriate selection, design, installation, use and maintenance of required construction site controls imposed by the Permittees as described in Part 3.3.3.

3.1.7.2 **Outreach/Training on Permanent Stormwater Controls:** At least twice during the Permit term, the Permittees must provide opportunity and/or conduct training sufficient to educate and ensure that engineers, site designers, and/or other locally appropriate audiences working in their jurisdiction are aware and informed of appropriate selection, design, installation, use, and maintenance of permanent stormwater controls imposed by the Permittees as described in Part 3.4.3.

### 3.1.8 Publicly Accessible Website

The Permittees must maintain and promote at least one publicly-accessible website with information on the Permittees' collective SWMP implementation, points of contact, and educational materials for audience(s) listed in Part 3.1.4. The website must be updated at least annually prior to the submittal of Annual Reports to the EPA, and/or as new material is available. The Permittees' joint website must incorporate the following minimum features:

- 3.1.8.1 **Phone numbers, and/or other direction** to assist the public to report illicit discharges, illicit connections, and illegal dumping activity;
- 3.1.8.2 **Reports, plans, strategies, or documents** generated by the Permittees in compliance with this Permit, in draft form when the Permittee is soliciting input from the public, and in final form when the document is completed;
- 3.1.8.3 **Information regarding ordinances, policies and/or guidance** documents related to each Permittee's requirements for construction and permanent stormwater management control, including education opportunities, training, licensing, and/or permitting process for the individual Permittee's jurisdiction; and
- 3.1.8.4 **Permittee contact information**, including phone numbers for relevant staff, mailing addresses, and electronic mail addresses.

### 3.2 Illicit Discharge Detection and Elimination

The Permittees must implement and enforce a program to detect and eliminate illicit discharges into the MS4, to the extent allowable pursuant to authority granted the individual Permittee under Idaho law.

An illicit discharge is any discharge to an MS4 that is not composed entirely of stormwater. Any exceptions are conditional as identified in Part 2.4 (*Non-stormwater Discharges*).

#### 3.2.1 Compliance Dates

No later than **April 3, 2025**, the Permittees must revise and update their existing illicit discharge management program as necessary to include the required components described in Parts 3.2.2 through 3.2.9 below.

- 3.2.1.1 If one or more of the Permittees seek to comply with any SWMP control measure component, or combination of components in this Part using one or more ACMs, the Permittee(s) must submit a request in accordance with Part 2.6 (*Alternative Control Measure Requests*) no later than **October 1, 2022**.

#### 3.2.2 MS4 Map and Outfall Inventory

The Permittees must update, or develop if not already completed, their individual or collective map of their MS4(s) and all associated outfall locations under its operational control in the Permit Area.

The Permittees must maintain at least one outfall and interconnection inventory to accompany the MS4 map(s). The purpose of the inventory is to identify each outfall and interconnection discharging from the individual Permittee's MS4; record its location (by latitude and longitude) and overall physical condition; and provide a framework for the Permittees to track its outfall inspections, dry weather discharge screenings, maintenance, and other activities required by this Permit.

The Permittees may integrate these efforts into any existing asset management program, provided the Permittee(s) explain their management approach in the SWMP Document required by Part 2.5.5.

No later than **April 3, 2025**, an electronic GIS version of the MS4 map, and the accompanying Outfall Inventory, must be submitted to the EPA and IDEQ as part of the Permit Renewal Application required by Part 8.2. Prior to this date, all available GIS data layers must be shared with the EPA and/or IDEQ upon request.

To be considered adequate, the MS4 Map and Outfall Inventory must depict and/or contain the following information:

- 3.2.2.1 Location of all inlets, catch basins, and outfalls owned/operated by the Permittee, including a unique identifier for each outfall, spatial location (latitude

and longitude, with a minimum accuracy of +/-30 feet), and general information regarding dimensions, shape, material (concrete, PVC, etc.);

- 3.2.2.2 Location of all MS4 collection system pipes, open channel conveyances, (laterals, mains, etc.) owned/operated by the Permittee, including locations where the MS4 is physically interconnected to the MS4 of another operator;
- 3.2.2.3 Location of structural flood control devices, if different from the characteristics listed above;
- 3.2.2.4 Names and locations of waters of the U.S. that receive discharges from the inventoried MS4 outfalls, including an indication of all use impairments as identified by IDEQ in the most recent Integrated Report;
- 3.2.2.5 Location of all existing permanent stormwater controls which are part of the MS4 owned and/or operated by the Permittee, including structural or treatment controls (e.g., detention and retention basins, infiltration systems, bioretention areas, swales, oil/water separators and/or other proprietary systems);
- 3.2.2.6 Location and characteristics of any MS4 outfalls with ongoing dry weather flows identified by the Permittee as being caused by irrigation return flows and/or groundwater seepage; and
- 3.2.2.7 Location of Permittee-owned vehicle maintenance facilities, material storage facilities, heavy equipment storage areas, maintenance yards, and snow disposal sites; Permittee-owned or operated parking lots and roads in areas served by the MS4.

### 3.2.3 Ordinance and/or other regulatory mechanisms

The Permittees must prohibit non-stormwater discharges into the MS4 (except those conditionally allowed by Part 2.4) through enforcement of an ordinance or other regulatory mechanism to the extent allowable under Idaho state law. The Permittees must implement appropriate enforcement procedures and actions, including a written policy of enforcement escalation procedures for recalcitrant or repeat offenders, to ensure compliance.

To be considered adequate, the ordinance or regulatory mechanism must:

- 3.2.3.1 Authorize the Permittee to control and respond to the discharge of spills into the MS4 to the extent allowable pursuant to authority granted the individual Permittee under Idaho law;
- 3.2.3.2 Authorize the Permittee to prohibit illicit connections, and the dumping or disposal of materials other than stormwater, into the MS4; and
- 3.2.3.3 Authorize the Permittee to prohibit, and eliminate, at a minimum, the following discharges to the MS4 to the extent allowable pursuant to authority granted the individual Permittee under Idaho law:
  - Sewage;
  - Discharges of wash water resulting from the hosing or cleaning of gas

- stations, auto repair garages, or other types of automotive services facilities;
- Discharges resulting from the cleaning, repair, or maintenance of any type of equipment, machinery, or facility, including motor vehicles, cement-related equipment, and port-a-potty servicing, etc.;
- Discharges of wash water from mobile operations, such as mobile automobile or truck washing, steam cleaning, power washing, and carpet cleaning, etc.;
- Discharges of wash water from the cleaning or hosing of impervious surfaces in municipal, industrial, commercial, and residential areas - including parking lots, streets, sidewalks, driveways, patios, plazas, work yards and outdoor eating or drinking areas, etc., where detergents are used and spills or leaks of toxic or hazardous materials have occurred (unless all spilled material has been removed);
- Discharges of runoff from material storage areas containing chemicals, fuels, grease, oil, or other hazardous materials;
- Discharges of pool or fountain water containing chlorine, biocides, or other chemicals; discharges of pool or fountain filter backwash water;
- Discharges of sediment, pet waste, vegetation clippings, or other landscape or construction-related wastes; and
- Discharges of food-related wastes (grease, fish processing, and restaurant kitchen mat and trash bin wash water, etc.).

#### 3.2.4 Illicit Discharge Complaint Report and Response Program

At a minimum, the Permittees must respond in the following manner to reports of illicit discharges from the public:

- 3.2.4.1 **Receipt of Complaints or Reports from the Public:** The Permittees must maintain a dedicated telephone number, email address, and/or other publicly available and accessible means (in addition to the website required in Part 3.1.8) for the public to report illicit discharges. This complaint/reporting function must be answered by trained staff during normal business hours. During non-business hours, a system must be in place to record incoming calls or reports, and to guarantee timely response by the Permittee(s). The Permittees' means of receiving complaints/reports from the public must be printed and/or advertised through the appropriate education, training, and public participation materials produced under Part 3.1 (*Education, Outreach and Public Involvement*).
- 3.2.4.2 **Response to Complaints or Reports from the Public:** The Permittees must respond to and investigate all complaints or reports of illicit discharges as soon as possible, but no later than within two (2) working days.
- 3.2.4.3 **Tracking of Complaints or Reports and Actions Taken:** The Permittees must maintain a log or other means of documenting all complaints or reports of illicit discharges into the MS4, and the response or action taken by the Permittee(s) to address the complaint or report. Such program information must be summarized for the relevant reporting period and included in each Annual Report.

### 3.2.5 Dry Weather Outfall Screening Program

The Permittees must conduct a dry weather analytical and field screening monitoring program to identify non-stormwater flows from MS4 outfalls during dry weather. This program must emphasize screening activities to detect and identify illicit discharges and illegal connections, and to reinvestigate potentially problematic MS4 outfalls throughout the Permit Area defined in Part 1.1. At a minimum, this program must include the following SWMP control measure components:

- 3.2.5.1 **Outfall Identification and Screening Protocols:** The Permittees must use reconnaissance activities, information recorded through the complaint reporting program, and (if available) existing watershed assessment or Total Maximum Daily Load (TMDL) analyses, to prioritize and target outfalls for screening throughout their Permit Area defined in Part 1.1.

The Permittees must develop a written plan that outlines how chemical and microbiological field screening analysis will be conducted on the dry weather flows identified during the reconnaissance and screening efforts, including field screening methodologies and associated trigger thresholds used by the Permittee for determining follow-up action(s).

- 3.2.5.2 **Number of Outfalls to be Screened:** The Permittees must conduct visual dry weather screening of their MS4 outfalls, emphasizing those outfalls or portions of the MS4 that have not yet been inventoried or screened during the previous permit term.

Photos may be used to document and record the physical conditions associated with selected MS4 outfalls. If the individual MS4 outfall is dry (no flows or ponded runoff), the Permittees must also document and record such observations.

If the total number of MS4 outfalls in the Permit Area defined in Part 1.1 is less than 50, the Permittees must screen all outfalls at least annually.

If the total number of MS4 outfalls in the Permit Area defined in Part 1.1 is more than 50, the Permittees must screen a minimum of 50 outfalls annually.

- 3.2.5.3 **Monitoring of Illicit Discharges:** Where dry weather flows from the MS4 are identified by the Permittees, the Permittees must identify the source of such flows, and take appropriate action to eliminate the flows to the extent allowable pursuant to authority granted the individual Permittee under Idaho law. At a minimum, the Permittees must conduct sampling of dry weather flows via grab samples of the discharge for in-field analysis and identification, and may elect to use the following as indicator constituents: pH; total chlorine; detergents as surfactants; total phenols; *E. coli*; total phosphorus; turbidity; temperature; and suspended solids concentrations. Results of any field sampling must be compared to established trigger threshold levels and/or existing state water quality standards to direct appropriate follow-up actions by the Permittees in accordance with existing protocols and the ordinance/regulatory mechanism established by the Permittees.

- 3.2.5.4 **Maintain Records of Dry Weather Outfall Screening Program:** In each Annual Report, the Permittees must include a general summary of the results

of dry weather screening program activities conducted over the preceding reporting period.

The Permittees must keep detailed records of its dry weather screening program activities conducted throughout the permit term, including the following information for each location:

- Time since last rain event; estimated quantity of last rain event;
- Site description (e.g., conveyance type, adjacent land uses); flow estimation (e.g., width of water surface, approximate depth of water, approximate flow velocity, flow rate);
- Visual observations (e.g., odor, color, clarity, floatables, deposits/stains, vegetation condition, structural condition, and biology);
- Results and documentation of any in-field sampling; recommendations for follow-up actions to address identified problems to the extent allowable pursuant to authority granted the individual Permittee under Idaho law; and/or completed follow-up actions taken by the Permittee.

### 3.2.6 Follow-up

Within thirty (30) days of its detection, the Permittees must investigate recurring illicit discharges identified as a result of complaints, or identified as a result of the dry weather screening investigations and sampling, to determine the source of such discharge.

The Permittees must take appropriate action to address and eliminate the source of an ongoing illicit discharge within sixty (60) days of its detection, to the extent allowable to the Permittee(s) under Idaho law.

3.2.6.1 For each MS4 outfall where the ongoing dry weather discharge is identified by the Permittees as being associated with irrigation return flows and/or groundwater seepage, “*appropriate action*” means, at a minimum, the Permittees must include documentation in the next Annual Report of the MS4 outfall location, and the facts supporting the Permittees’s determination that the source is from either irrigation return flows or groundwater seepage. See also Permit Part 3.2.2.6.

3.2.6.2 As part of the Permit Renewal Application required by Part 8.2, the Permittees must include the complete list of all Permittee-identified MS4 outfall locations with ongoing dry weather flows associated with irrigation return flows and/or groundwater seepage.

### 3.2.7 Prevention and Response to Spills to the MS4

The Permittees must maintain written spill response procedures, and must coordinate their own spill prevention, containment, and response activities with the appropriate departments, programs, and agencies in the Permit Area to prevent spill related discharges from the MS4 to waters of the U.S. The Permittees must respond to, contain, and clean up any spill of sewage and other material that may discharge into the MS4 from any source (including private laterals and/or failing septic systems) in the Permit Area to the extent allowable pursuant to authority granted the individual Permittee under Idaho law.

3.2.7.1 The Permittees must immediately report all spills of hazardous material, deleterious material, or petroleum products which may impact waters (ground

and surface) of the State, as directed in Part 7.9 (*Twenty-four Hour Notice of Noncompliance Reporting*) and Appendix A.2 (*Reporting of Discharges Containing Hazardous Materials or Deleterious Material*).<sup>2</sup>

### **3.2.8 Proper Disposal of Used Oil and Toxic Materials**

The Permittees must coordinate with appropriate local entities to educate the Permittees' employees and members of the public of the proper management, disposal, or recycling of used oil, vehicle fluids, toxic materials, and other household hazardous wastes in the Permittee's jurisdiction.

### **3.2.9 Illicit Discharge Detection and Elimination Training for Staff**

The Permittees must ensure that all persons responsible for investigating, identifying and eliminating illicit discharges and illicit connections into the MS4 are appropriately trained to conduct such activities. At a minimum, the Permittees' construction inspectors, maintenance field staff, and code compliance officers must be sufficiently trained to conduct dry weather screening activities and to respond to reports of illicit discharges and spills into the MS4.

The Permittees must provide orientation and training for new staff working on illicit discharge detection and elimination issues in the first six (6) months of employment.

If the Permittees utilize outside parties to perform illicit discharge detection and elimination actions, outside staff must be appropriately trained to conduct such activities.

This training may be coordinated/combined with other Permittee staff education and training requirements in Parts 3.3.7 (*Construction Runoff Control Training for Staff*), 3.4.7 (*Permanent Stormwater Control Training for Staff*); and 3.5.10 (*Stormwater Pollution Prevention/Good Housekeeping Training for Staff*).

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<sup>2</sup> Part 3.2.7.1 is a condition of the IDEQ's *Final §401 Water Quality Certification for the City of Lewiston and Lewis-Clark State College Municipal Separate Storm Sewer Systems (MS4)*, NPDES Permit# IDS028061, dated January 15, 2020.



### **3.3 Construction Site Runoff Control**

#### **3.3.1 Compliance Dates**

No later than **April 3, 2025**, the Permittees must update its existing construction site runoff control requirements to enact control measure components in Parts 3.3.2 through 3.3.7 below.

- 3.3.1.1 If one or more of the Permittees seek to comply with any SWMP control measure component, or combination of components, in this Part using one or more ACMS, the Permittee(s) must submit a request in accordance with Part 2.6 (*Alternative Control Measure Requests*) no later than **October 1, 2022**.

#### **3.3.2 Ordinance and/or other regulatory mechanism.**

Through ordinance or other regulatory mechanism to the extent allowable under Idaho state law, the Permittees must require erosion controls, sediment controls, and waste materials management controls to be used and maintained at construction projects from initial clearing through final stabilization.

To be considered adequate, the Permittee's ordinance or other regulatory mechanism must require construction site operators to maintain effective controls to reduce pollutants in stormwater discharges to the MS4 from sites in the Permittee's jurisdiction, as described in Part 3.3.3. The Permittees must require construction site operators to submit construction site plans for projects disturbing one or more acres for Permittee review, as described in Part 3.3.4. The Permittees must use inspections and enforcement actions (for example, written warnings, stop work orders and/or fines) to ensure compliance, as described in Part 3.3.5 below, and must maintain a written enforcement response policy, as described in Part 3.3.6.

- 3.3.2.1 **Compliance with Other NPDES Permit Requirements:** For construction projects in the Permittees' jurisdictions that disturb one or more acres (including projects that disturb less than one acre but are part of a common plan of development or sale that disturb one or more acres), the Permittees must refer project site operators to obtain NPDES permit coverage under the current version of the Idaho CGP. See also Part 2.3 (*Stormwater Discharges Associated with Industrial or Construction Activity*).

#### **3.3.3 Construction Site Runoff Control Specifications**

The Permittees must require construction site operators to use erosion, sediment, and waste material management controls at construction project sites that result in land disturbance of greater than or equal to one (1) acre, including construction project sites less than one acre that are part of a larger common plan of development or sale that would disturb one acre or more. The Permittees may define appropriate controls for different types and/or sizes of construction activity occurring in their jurisdiction.

The Permittees must maintain written specifications that address the proper installation and maintenance of such controls during all phases of construction activity occurring in their jurisdiction. The Permittees may adopt specifications created by another entity which complies with this Part. Construction site runoff control specifications must consist of:

- 3.3.3.1 Requirements for use of erosion control, sediment control, and waste materials management/pollution prevention practices that complement, and do not conflict with, the current version of the Idaho CGP;
- 3.3.3.2 Sizing criteria, performance criteria, illustrations, and design examples, as well as recommended operation and maintenance of each practice and guidance on selection and location of construction site runoff control practices; and
- 3.3.3.3 Specifications for long term operation and maintenance of such construction site runoff control practices to ensure that the control practices continue to perform as designed, including appropriate inspection interval and self-inspection checklists for use by the responsible party/construction site operator.

#### **3.3.4 Preconstruction Site Plan Review**

At a minimum, the Permittees must review preconstruction site plans from construction project site activity that will result in land disturbance of one (1) or more acres, including construction project site activity less than one acre that is part of a larger common plan of development or sale that would disturb one acre or more, using a checklist or similar process to determine compliance with the ordinance or other regulatory mechanism required by Part 3.3.2.

The Permittees must use individuals knowledgeable in the technical understanding of erosion, sediment, and waste material management controls to conduct such preconstruction site plan reviews.

Site plan review procedures must include consideration of the site's potential water quality impacts, and must demonstrate compliance with the ordinance or other regulatory mechanism required by Part 3.3.2.

The Permittees must ensure that any preconstruction site plan contains site-specific measures that meet the Permittee's runoff control specifications as outlined in Part 3.3.3 above, and includes any permanent stormwater management controls as outlined in Part 3.4.3 (*Permanent Stormwater Control Specifications*).

#### **3.3.5 Construction Site Inspection and Enforcement**

At a minimum, the Permittees must inspect construction sites in their jurisdiction that disturb one (1) or more acres, including construction project site activity less than one (1) acre that is part of a larger common plan of development or sale that disturbs one (1) acre or more, to ensure compliance with the Permittee's applicable requirements required by this Part.

The Permittees must establish an inspection prioritization system to identify the minimum frequency and type of inspections, using such factors as project type, total area of disturbance, location, and potential threat to water quality. The Permittees must describe its construction site inspection prioritization system in the SWMP Document required by Part 2.5.5. In each Annual Report, the Permittees must summarize the nature and number of site inspections, follow-up actions, and any subsequent enforcement actions conducted during the relevant reporting period.

The Permittee must implement procedures for receipt and consideration of information

submitted by the public.

Based on the findings of individual site inspections, the Permittees must take follow-up actions (i.e., re-inspection, enforcement) to ensure compliance with its applicable requirements.

Construction site inspections conducted by the Permittees, or their designated representative, must include, but not be limited to:

- 3.3.5.1 A review of the site plan to determine if the intended control measures were installed, implemented, and maintained;
- 3.3.5.2 An assessment of the site's compliance with the Permittee's ordinances/requirements, including the implementation and maintenance of required control measures;
- 3.3.5.3 Visual observation of any existing or potential non-stormwater discharges, illicit connections, and/or discharge of pollutants from the site, and recommendations to the site operator for follow-up if needed;
- 3.3.5.4 Education or instruction to the construction site operator related to additional stormwater pollution prevention practices, if needed; and
- 3.3.5.5 A written or electronic inspection report.

### **3.3.6 Enforcement Response Policy for Construction Site Runoff Control**

The Permittees must develop, implement and maintain a written escalating enforcement response policy (ERP) or plan appropriate to its organization. The Permittees must submit the ERP for construction site runoff control to the EPA and IDEQ with the Permit Renewal Application no later than **April 3, 2025**.

- 3.3.6.1 The ERP for City of Lewiston must address enforcement of construction site runoff controls for all construction projects in their jurisdiction, to the extent allowable under Idaho State law.
- 3.3.6.2 The ERP for Lewis Clark State College must address the enforcement of construction site runoff controls for all construction projects in their jurisdiction, through the use of contracts, to the extent allowable under Idaho State law.
- 3.3.6.3 Each ERP must describe the Permittee's potential response to violations with appropriate educational or enforcement responses. The ERP must address repeat violations through progressively stricter responses, as needed, to achieve compliance. The ERP must describe how the Permittee will use their available techniques to ensure compliance, such as: verbal warnings; written notices; escalated enforcement measures such as stop work orders, monetary penalties; and/or other escalating measures to the extent allowable under Idaho State law.

### **3.3.7 Construction Runoff Control Training for Staff**

The Permittees must ensure that all persons responsible for preconstruction site plan review, site inspections, and enforcement of the Permittee's requirements are trained or otherwise qualified to conduct such activities.

The Permittees must provide training for new staff working on construction runoff control issues in the first six (6) months of employment.

If the Permittees utilize outside parties to review plans and/or conduct inspections, outside staff must be trained or otherwise qualified to conduct such activities.

This training may be coordinated/combined with other Permittee staff education and training requirements in Parts 3.2.9 (*Illicit Discharge Detection and Elimination Training for Staff*); 3.4.7 (*Permanent Stormwater Control Training for Staff*); and 3.5.10 (*Stormwater Pollution Prevention/Good Housekeeping Training for Staff*).

### **3.4 Post-Construction Stormwater Management for New Development and Redevelopment**

#### **3.4.1 Compliance Dates**

No later than **April 3, 2025**, the Permittees must update their existing controls to impose the required SWMP control measure components in Parts 3.4.2 through 3.4.7 below.

- 3.4.1.1 If one or more of the Permittees seek to comply with any SWMP control measure component, or combination of components, in this Part using one or more ACMs, the Permittee(s) must submit a request in accordance with Part 2.6 (*Alternative Control Measure Requests*) no later than **October 1, 2022**.

#### **3.4.2 Ordinance and/or other regulatory mechanism**

Through ordinance or other regulatory mechanism to the extent allowable under Idaho state law, the Permittees must require the installation and long-term maintenance of permanent stormwater controls at new development and redevelopment project sites that result in land disturbance of greater than or equal to one (1) acre (including construction project sites less than one acre that are part of a larger common plan of development or sale that would disturb one acre or more) and that discharge into the MS4.

Required permanent stormwater controls must be sufficient to retain onsite the runoff volume produced from a 24-hour, 95th percentile storm event; or sufficient to provide the level of pollutant removal greater than pollutant removal expected by using onsite retention of runoff volume produced from a 24-hour, 95th percentile storm event.

- 3.4.2.1 **Treatment equivalent to the onsite stormwater design standard:** Using a continuous simulation hydrologic model or other comparable evaluation tool, the Permittee may establish stormwater treatment requirements which attain an equal or greater level of water quality benefits as onsite retention of stormwater discharges from new development and redevelopment sites. Such equivalent expressions of the onsite retention of the 95<sup>th</sup> percentile storm volume must be submitted to the EPA as an ACM Request pursuant to Part 2.6.
- 3.4.2.2 **Alternatives for Local Compliance.** The Permittees' ordinance and/or regulatory mechanism may allow alternatives for project operators to comply with the Permittees' onsite retention requirement at a particular site based on factors of technical infeasibility, and/or site constraints. Such feasibility or constraint factors may include, but are not limited to: shallow bedrock; high groundwater; groundwater contamination; soil instability as documented by a thorough geotechnical analysis; site/engineering-based conditions such as soils that do not allow for infiltration of the required volume of storm water runoff; and/or a land use that is inconsistent with capture, reuse and/or infiltration of stormwater.
- 3.4.2.3 **Plan Review and Approval:** The ordinance and/or other regulatory mechanism must include procedures for the Permittees' review and approval of permanent stormwater control plans for new development and redevelopment

projects, consistent with Parts 3.3.4 (*Preconstruction Site Plan Review and Approval*) and 3.4.4 (*Permanent Controls Plan Review and Approval*).

### **3.4.3 Permanent Stormwater Controls Specifications**

The Permittees must specify permanent stormwater controls for project sites in their jurisdiction to install for sites that result in land disturbance of greater than or equal to one (1) acre (including construction project sites less than one acre that are part of a larger common plan of development or sale that would disturb one acre or more) and that discharge into the MS4. The Permittees may define appropriate controls for different types and/or sizes of site development activity occurring in their jurisdiction.

The Permittees must develop, or update as necessary, any written specifications to address proper design, installation, and maintenance of required permanent stormwater controls. A Permittee may adopt specifications created by another entity that complies with this Part.

The written specifications must include:

- 3.4.3.1 **Specifications** for the use of site-based practices suitable to local soils and hydrologic conditions;
- 3.4.3.2 **Acceptable control practices**, including sizing criteria, performance criteria, illustrations, design examples, and guidance on selection and location of practices; and
- 3.4.3.3 **Specifications for proper long term operation and maintenance**, including appropriate inspection interval and self-inspection checklists for responsible parties.

### **3.4.4 Permanent Stormwater Controls Plan Review and Approval**

At a minimum, the Permittees must review and approve preconstruction plans for permanent stormwater controls at new development and redevelopment sites that result in land disturbance of greater than or equal to one (1) acre (including construction project sites less than one acre that are part of a larger common plan of development or sale that would disturb one acre or more) and that discharge into the MS4. The Permittees must review plans for consistency with the ordinance/regulatory mechanism and specifications required by this Part. The Permittees must not approve or recommend for approval any plans for permanent controls that do not meet minimum requirements specified in their written specifications.

The Permittees must use individuals knowledgeable in the technical understanding of permanent stormwater controls to conduct such plan reviews.

### **3.4.5 Permanent Stormwater Controls Inspection and Enforcement**

The Permittees must inspect high priority permanent stormwater controls at new development and redevelopment sites that result in land disturbance of greater than or equal to one (1) acre (including construction project sites less than one acre that are part of a larger common plan of development or sale that would disturb one acre or more) and that discharge into the MS4. The purpose of such inspections is to ensure proper installation,

and long-term operation and maintenance, of such controls.

The Permittees must establish an inspection prioritization system to identify sites for inspections of permanent control installation and operation. Factors to consider when establishing priority regarding where, and when, inspections occur must include, but are not limited to: size of new development or redevelopment drainage area; potential to discharge to portions of the MS4 discharging to impaired waters; sensitivity, and/or impairment status of receiving water(s); and history of non-compliance at the site during the construction phase.

- 3.4.5.1 Inspect High Priority Locations:** At a minimum, the Permittees must identify permanent stormwater controls at new development and redevelopment sites that result from land disturbance of at least one (1) or more acres as “high priority”, and schedule associated inspections to occur at least once annually. The inspections must determine whether permanent stormwater management or treatment practices have been properly installed (i.e., an “as built” verification). At appropriate intervals determined by the Permittees and established in compliance with Part 3.4.6 below, scheduled inspections must evaluate the ongoing operation and maintenance of such practices, identify deficiencies, and identify potential solutions to reduce negative water quality impacts to receiving waters. The Permittees must use inspection checklists, and maintain records of actions taken in response to inspections of permanent stormwater controls at high priority new development and redevelopment sites.
- 3.4.5.2 Enforce Requirements:** The Permittees must develop and implement an enforcement response policy similar to that required in Part 3.3.6 (*Enforcement Response Policy for Construction Site Runoff Control*) sufficient to ensure and maintain the functional integrity of permanent stormwater controls in their jurisdiction. The Permittees must submit the ERP for permanent stormwater controls to the EPA and IDEQ with the Permit Renewal Application no later than **April 3, 2025**.

### **3.4.6 Operation and Maintenance (O&M) of Permanent Stormwater Controls**

The Permittees must maintain a database inventory to track and manage the operational condition of permanent stormwater controls in its jurisdiction. All available data on existing permanent controls known to the Permittees must be included in the database inventory. At a minimum, the Permittees must begin tracking at the time the Permittee(s) takes ownership, using a database that incorporates geographic information system (GIS) information and/or developed in conjunction with the MS4 Map required in Part 3.2.2 (*MS4 Map and Outfall Inventory*). The tracking system must also include reference to the type and number of permanent stormwater controls; O&M requirements; activity and schedule; responsible party; and any applicable self-inspection schedule.

- 3.4.6.1 O&M Agreements:** Where parties other than the Permittees are responsible for the O&M of permanent stormwater controls, the Permittees should require a legally enforceable and transferable O&M agreement with the responsible party, or other mechanism, that assigns permanent responsibility for maintenance of such permanent stormwater control practices.

#### **3.4.7 Permanent Stormwater Controls Training For Staff**

The Permittees must ensure that all persons responsible for reviewing site plans for permanent stormwater controls, and/or for inspecting the installation and operation of permanent stormwater controls, are trained or otherwise qualified to conduct such activities.

The Permittees must provide training for new staff working on permanent stormwater control issues in the first six (6) months of employment.

If the Permittees utilize outside parties to review plans and/or conduct inspections, outside staff must be trained or otherwise qualified to conduct such activities.

This training may be coordinated/combined with other Permittee staff education and training requirements in Parts 3.2.9 (*Illicit Discharge Detection and Elimination Training for Staff*); 3.3.7 (*Construction Runoff Control Training for Staff*); and 3.5.10 (*Stormwater Pollution Prevention/Good Housekeeping Training for Staff*).



### **3.5 Pollution Prevention/Good Housekeeping for MS4 Operations**

The Permittees must properly operate and maintain the MS4 and its facilities, using prudent pollution prevention and good housekeeping as required by this Part, to reduce the discharge of pollutants through the MS4.

#### **3.5.1 Compliance Dates**

No later than **April 3, 2025**, the Permittees must ensure that their stormwater infrastructure and management program includes the required SWMP control measure components described in Parts 3.5.2 through 3.5.10 below.

- 3.5.1.1 If one or more of the Permittees seek to comply with any SWMP control measure component, or combination of components, in this Part using one or more ACMs, the Permittee(s) must submit a request in accordance with Part 2.6 (*Alternative Control Measure Requests*) no later than **October 1, 2022**.

#### **3.5.2 Inspection and Cleaning of Catch Basins and Inlets**

The Permittees must inspect all Permittee-owned or operated catch basins and inlets in the MS4 at least once every five years, and take all appropriate maintenance or cleaning action based on those inspections to ensure the catch basins and inlets continue to function as designed.

The Permittees may establish a catch basin inspection prioritization system, and establish alternate inspection frequency, provided the Permittees describes all relevant factors used to target such inspections to specific areas of the MS4 in the SWMP Document required by Part 2.5.5. Material removed from MS4 catch basins and inlets must be managed in accordance with Part 7.13 (*Removed Substances*). Records reflecting catch basin and inlet inspection, and material removal/cleaning, must be maintained by the Permittees, and the actions taken during the latest reporting period must be summarized in each Annual Report.

#### **3.5.3 Operation and Maintenance Procedures for Streets, Roads, Highways and Parking Lots**

Where the Permittees are responsible for the O&M of streets, roads, highways, and/or parking lots, the Permittee must ensure those procedures are conducted in a manner to protect water quality and reduce the discharge of pollutants through the MS4.

- 3.5.3.1 At a minimum, O&M procedures must include: practices to reduce road and parking lot debris/other pollutants from entering the MS4; practices related to road deicing, anti-icing, and snow removal; operation of snow disposal areas; storage areas for street/road traction material (e.g. salt, sand, or other chemicals); and the long term O&M of permanent stormwater control measures associated with the Permittee's streets, roads, highways, and parking lots.
- 3.5.3.2 For each type of maintenance activity, practice, or facility, the Permittees must establish specific schedules for inspection and maintenance, and appropriate pollution prevention/good housekeeping actions.
- 3.5.3.3 Where site conditions allow, the Permittees must consider and utilize water conservation measures for all landscaped areas as part of these updated O&M

procedures to prevent landscape irrigation water from discharging through the MS4.

#### **3.5.4 Inventory and Management of Street/Road Maintenance Materials**

Where the Permittees are responsible for the O&M of streets, roads, highways, and/or parking lots, the Permittees must reduce pollutants in discharges to the MS4 and waters of the U.S. from street/road maintenance material storage stockpiles (such as sand, salt, and/or sand with salt stockpiles).

The Permittees must maintain an inventory of street /road maintenance materials stored at locations within the Permit Area that drain to the MS4. The Permittees must assess the physical adequacy of each Material Storage Location to prevent potential adverse water quality impacts, and must make any structural or nonstructural improvements as necessary to eliminate any such impacts.

No later than **April 3, 2025**, the Permittees must include in the SWMP Document a complete description of all Material Storage Locations in the Permit Area that drain to the MS4. The description of each Material Storage Location must, at a minimum, include a narrative of the individual location, an estimated average annual quantity of materials stored at the location; a short description of how/where the Permittees typically uses the material(s) in its jurisdiction; and a summary description of any structural or non-structural controls used by the Permittee to prevent pollutants at material storage locations from discharging to the MS4 and to waters of the U.S.

#### **3.5.5 Street, Road, Highway, and Parking Lot Sweeping**

Where the Permittees are responsible for the O&M of streets, roads, highways, and/or parking lots, the Permittee must sweep those areas that discharge to the MS4 at least once annually.

No later than **April 3, 2025**, the Permittees must include in the SWMP Document(s) a written description of their sweeping management plan(s). The sweeping management plan must include:

- 3.5.5.1 An inventory and/or map of all streets, roads, highways and public parking lots owned, operated, or maintained by the Permittee in the Permit Area that discharge to the MS4 or directly to waters of the U.S., and identify their selected sweeping frequency;
- 3.5.5.2 A discussion of any areas where sweeping is technically infeasible; for such areas, the Permittee must document the reasons why sweeping in the particular area of their jurisdiction served by the MS4 is infeasible, and describe any alternative means the Permittee uses to minimize pollutant discharges from these areas into the MS4 and into any adjacent waters of the U.S.;
- 3.5.5.3 An overall description of their street sweeping activities to minimize pollutant discharges into the MS4 and receiving water; including the types of sweepers used, number of swept curb and/or lane miles; general schedule or dates of sweeping by location and frequency category; volume or weight of materials

removed; and any public outreach efforts or other means to address areas that are infeasible to sweep.

### **3.5.6 O&M Procedures for Other Municipal Areas and Activities**

The Permittees must conduct its municipal O&M activities in a manner that reduces the discharge of pollutants through the MS4 to protect water quality. The Permittees must review, and update as necessary, existing procedures for inspection and maintenance schedules to ensure pollution prevention and good housekeeping practices are conducted for the following activities:

- grounds/park and open space maintenance;
- fleet maintenance and vehicle washing operations;
- building maintenance;
- snow management and snow disposal site O&M;
- solid waste transfer activities;
- municipal golf course maintenance;
- materials storage;
- heavy equipment storage areas;
- hazardous materials storage;
- used oil recycling; and
- spill control and prevention measures for municipal refueling facilities.

### **3.5.7 Requirements for Pesticide, Herbicide, and Fertilizer Applications**

The Permittees must implement practices to reduce the discharge of pollutants to the MS4 associated with the Permittees' application and storage of pesticides, herbicides and fertilizers in the Permit Area. At a minimum, such areas include the individual Permittee's public right-of-ways, parks, recreational facilities, golf courses, and landscaped areas. All employees or contractors of the individual Permittee applying pesticides must follow all label requirements, including those regarding application methods, rates, number of applications allowed, and disposal of the pesticide/herbicide/fertilizer and rinsate.

### **3.5.8 Stormwater Pollution Prevention Plans (SWPPPs) for Permittee Facilities**

The Permittees must develop and implement site-specific SWPPPs to manage stormwater discharges from all Permittee-owned material storage facilities, heavy equipment storage areas, and maintenance yards identified in the inventory required by Part 3.2.2 (*MS4 Map and Outfall Inventory*). Permittee-owned facilities discharging stormwater associated with industrial activity, as defined in 40 CFR §122.26(b)(14), must obtain separate NPDES permit coverage pursuant to Part 2.3 (*Stormwater Discharges Associated with Industrial or Construction Activity*).

### **3.5.9 Litter Control**

Throughout the Permit term, the Permittees must implement methods to reduce litter in their jurisdictions. The Permittees must work cooperatively among themselves and with others to control litter on a regular basis, and after major public events, in order to reduce the discharge of pollutants to the MS4.

### **3.5.10 Stormwater Pollution Prevention/Good Housekeeping Training for Staff**

The Permittees must ensure that all persons responsible for the stormwater infrastructure management and O&M activities as required by this Part are trained or otherwise qualified

to conduct such activities.

The Permittees must provide training for new staff working on infrastructure management and O&M activities as required by this Part in the first six (6) months of employment.

If the Permittees utilize outside parties to perform infrastructure management and O&M activities as required by this Part, outside staff must be trained or otherwise qualified to conduct such activities.

This training may be coordinated/combined with other Permittee staff education and training requirements in Parts 3.2.9 (*Illicit Discharge Detection and Elimination Training for Staff*); 3.3.7 (*Construction Runoff Control Training for Staff*); and 3.4.7 (*Permanent Stormwater Control Training for Staff*).

## 4 SPECIAL CONDITIONS FOR DISCHARGES TO IMPAIRED WATERS

### 4.1 General Requirements

The Permittees must conduct quantitative monitoring/assessment and pollutant reduction activities to assess and control pollutants of concern in their MS4 discharges to Lindsay Creek and Tammany Creek.

#### 4.1.1 Submit Documents

No later than **October 1, 2022**, and pursuant to Part 2.6 (*Alternative Control Measure Requests*) the Permittees must submit the Monitoring/Assessment Plan and the description of Pollutant Reduction Activities as described in Parts 4.2 and 4.3 below

The EPA will review the materials submitted and, as necessary, propose to revise this Permit to incorporate by reference the specific monitoring/assessment and pollutant reduction activities. See Part 2.6.4 (*Recognition of ACMs*).

#### 4.1.2 SWMP Document

No later than **December 1, 2022**, the Permittees must update their SWMP Document required in Part 2.5.5 to describe their intended means of accomplishing these requirements, including any associated implementation date(s).

#### 4.1.3 Reporting Requirements

Upon the EPA's written notification pursuant to Part 2.6.4 (*Recognition of ACMs*) the Permittees must thereafter document in each Annual Report their individual or collective progress on conducting the specified monitoring/assessment and pollutant reduction activities. See also Part 6.4 (*Reporting Requirements*).

No later than **April 3, 2025**, the Permittees must submit final reports summarizing the Monitoring/Assessment information and Pollutant Reduction Activities conducted to date. Such final reports must be submitted with the Permit Renewal Application required by Part 8.2 (*Duty to Reapply*).

### 4.2 Monitoring/Assessment Activities

The Permittees must submit a Monitoring/Assessment Plan that is designed to quantify, at a minimum, pollutant loadings from the MS4 into Lindsay Creek, Tammany Creek and the Snake River for the parameter(s) listed in Table 4.2 below.

The Permittees must monitor temperature in stormwater discharges from the MS4 to the Snake River to quantify stormwater impacts to the waterbody.<sup>3</sup>

The Monitoring/Assessment Plan must address all required plan elements outlined in Part 6.2 (*General Requirements for Monitoring/Assessment Activities*).

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<sup>3</sup> This provision of Part 4.2 is a condition of the IDEQ's *Final §401 Water Quality Certification for the City of Lewiston and Lewis-Clark State College Municipal Separate Storm Sewer Systems (MS4)*, NPDES Permit# IDS028061, dated January 15, 2020.

**Table 4.2: Minimum Monitoring/Assessment Expectations**

Location(s)	Pollutant Parameters
City of Lewiston MS4 Discharges into Lindsay Creek	Sediment, <i>E.coli</i> , Nitrite plus Nitrate as nitrogen; Total Phosphorus
City of Lewiston MS4 Discharges into Tammany Creek	
City of Lewiston MS4 Discharges to Snake River	Temperature

### 4.3 Pollutant Reduction Activities

The Permittees must define and implement at least one (1) pollutant reduction activity designed to reduce *E. coli*, nitrogen, phosphorus, and sediment loadings from the MS4 into Tammany Creek. See Table 4.3. <sup>4</sup>

The Permittees must define and implement at least one (1) pollutant reduction activity designed to reduce *E. coli*, nutrients, and sediment loadings from the MS4 into Lindsay Creek. See Table 4.3. <sup>5</sup>

The Permittees must prioritize the implementation of its selected activities in the MS4 areas/locations that discharge into Tammany Creek, and Lindsay Creek, based on consideration of relevant and available information, such as: previously collected monitoring data; cleanup activities at sites with the target pollutants identified as a contaminant; and/or relevant City inspections and other compliance records.

In the final report required by Part 4.1.3 above, the Permittees must quantify the estimated pollutant reduction accomplished resulting from such pollutant reduction activities.

**Table 4.3**

Waterbody/Assessment Unit/Description	Impairment Pollutants
Tammany Creek ID17060103SL014_02 - Tammany Crk WBID 015 to unnamed tributary ID17060103SL014_03 - Tammany Crk Unnamed Tributary to mouth ID17060103SL016_02 - Tammany Crk Source to Unnamed Tributary (T34N, R04W, Sec19)	<i>E. coli</i> ; Nitrogen, Nitrate; Total Phosphorus; Sedimentation/Siltation
Lindsay Creek ID17060306CL003_02 Lindsay Creek Source to mouth ID17060306CL003_03 Lindsay Creek Source to mouth	<i>E. coli</i> ; Nutrients; Sedimentation/Siltation

<sup>4</sup> This provision of Part 4.3 is a condition of the IDEQ's *Final §401 Water Quality Certification for the City of Lewiston and Lewis-Clark State College Municipal Separate Storm Sewer Systems (MS4)*, NPDES Permit# IDS028061, dated January 15, 2020.

<sup>5</sup> This provision of Part 4.2 is a condition of the IDEQ's *Final §401 Water Quality Certification for the City of Lewiston and Lewis-Clark State College Municipal Separate Storm Sewer Systems (MS4)*, NPDES Permit# IDS028061, dated January 15, 2020.

## **5 REQUIRED RESPONSE TO EXCURSIONS ABOVE IDAHO WATER QUALITY STANDARDS**

A Permittee will be presumed to be in compliance with applicable Idaho Water Quality Standards if the Permittee is in compliance with the terms and conditions of this Permit. If the Permittee, the EPA, and/or IDEQ determines that the discharge from the MS4 causes or contributes to an excursion above the Idaho Water Quality Standards, then the Permittee remains in compliance with this Permit as long as the Permittee implements all applicable SWMP control measures required by this Permit and undertakes the following actions:

### **5.1 Notification**

The Permittee must notify the EPA and IDEQ in writing at the addresses listed in Appendix A.1 within 30 days of becoming aware that, based on credible site-specific information, a discharge from the Permittee's MS4 is causing or contributing to a known or likely excursion above the Idaho Water Quality Standards.

Written notification under this Part must, at a minimum, identify the source of the site-specific information; describe the location, nature, and extent of the known or likely water quality standard excursion in the receiving water; and explain the reasons why the MS4 discharge is believed to be causing or contributing to the problem. For on-going or continuing excursions, a single written notification provided to both the EPA and IDEQ will fulfill this requirement.

Nothing in this Part precludes any notification required by Part 7.9 (*24-hour Notice of Non-Compliance Reporting*), the institution of any legal action, or relieves the Permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state/Tribal law or regulation under authority preserved by Section 510 of the CWA. No condition of the Permit releases the Permittee from any responsibility or requirements under other environmental statutes or regulations.

#### **5.1.1 EPA Response**

Based on a notification provided under this Part or through any other means, the EPA may notify the Permittee, in writing, that an adaptive management response is required if the EPA and IDEQ determine that a discharge from the Permittee's MS4 is causing or contributing to an excursion above the Idaho Water Quality Standards in a receiving water.

- 5.1.1.1 The EPA and IDEQ may elect not to require an adaptive management response from the Permittee if the EPA and IDEQ determine that the excursion of Idaho Water Quality Standards is already being addressed by a TMDL implementation plan or other enforceable water quality cleanup plan; or if the EPA and IDEQ conclude the Permittee's contribution to the excursion will be eliminated through implementation of other permit requirements, regulatory requirements, or Permittee actions.

### **5.2 Adaptive Management Report**

Within 60 days of receiving a response from the EPA and IDEQ under Part 5.1.1, or by an alternative date established by the EPA, the Permittee must review its Stormwater Management Program and submit a report to the EPA & IDEQ. The Adaptive Management Report must

include:

**5.2.1 Existing BMPs**

A description of the operational and/or structural BMPs that are currently being implemented at the location to prevent or reduce any pollutants that are causing or contributing to the violation of water quality standards, including a qualitative assessment of the effectiveness of each BMP.

**5.2.2 Potential BMPs**

A description of potential additional operational and/or structural BMPs that will or may be implemented in order to prevent or reduce any pollutants that are causing or contributing to the violation of water quality standards.

**5.2.3 Monitoring/Assessment**

A description of the potential monitoring or other assessment and evaluation efforts that will or may be implemented to monitor, assess, or evaluate the effectiveness of the additional BMPs.

**5.2.4 Schedule**

A schedule for implementing the additional BMPs including, as appropriate: funding, training, purchasing, construction, monitoring, and other assessment and evaluation components of implementation.

**5.3 Review and Approval of Adaptive Management Report**

The EPA and IDEQ will, in writing, acknowledge receipt of the Adaptive Management Response Report within a reasonable time and will notify the Permittee when it expects to complete its review of the report. The EPA, in consultation with IDEQ, will either approve the additional BMPs and implementation schedule, or require the Permittee to modify the report as needed. If modifications to the Adaptive Management Report are required, the EPA and IDEQ will specify a time frame in which the Permittee must submit the revised Report for the EPA and IDEQ review.

**5.4 Implementation**

The Permittee must begin implementation of any additional BMPs pursuant to the schedule approved by the EPA and IDEQ immediately upon receipt of the EPA's written notification of approval.

**5.5 Reporting**

The Permittee must include with each subsequent Annual Report a summary of the status of implementation and the results of any monitoring, assessment, or evaluation efforts conducted during the reporting period to assess progress towards addressing the the original water quality excursion. A final summary of such adaptive management efforts must be included with the Permit Renewal Application required by Part 8.2.

**5.6 Permit Revision**

The EPA will determine, based on the Adaptive Management Report, whether additional permit terms and conditions specific to the Permittee must be added to this Permit. If new or specific permit conditions are warranted, the EPA will notify the Permittee and the public of its intent to propose additional requirements affecting the Permittee and will accept public comment for a minimum of 30 days on any proposed revisions, pursuant to 40 CFR §§ 122.62 and 124.



## **6 MONITORING, RECORDKEEPING, AND REPORTING REQUIREMENTS**

### **6.1 Compliance Evaluation**

At least once per year, the Permittees must evaluate their compliance with the requirements of this Permit. This self-evaluation includes assessment of progress toward implementing the SWMP control measures in Part 3, and implementation of individual or collective actions to comply with any additional requirements identified pursuant to Part 4 (*Special Conditions For Discharges To Impaired Waters*). The Permittees may document this self-evaluation using the optional Annual Report format provided in Appendix B.

### **6.2 General Requirements for Monitoring/Assessment Activities**

The Permittees must conduct any monitoring and/or assessment actions identified in Part 4 consistent with this Part.

#### **6.2.1 Optional Cooperative Monitoring/Assessment**

The Permittees may cooperate to conduct, or contract with others to conduct, any of the required monitoring/assessment activities specified herein.

Permittees who participate in cooperative monitoring/assessment efforts with outside entities must notify the EPA and IDEQ of their intended arrangement by submitting a joint Monitoring/Assessment Plan as specified in Part 6.2.2 below.

#### **6.2.2 Monitoring/Assessment Plan and Objectives**

No later than **October 1, 2022**, the Permittees must develop and submit a Monitoring/Assessment Plan to address the monitoring/assessment activity specified in Part 4 and quality assurance (QA) objectives defined in Part 6.2.6 below. Any existing Monitoring Plan(s) may be modified to comply with this Part. The Permittees must submit the complete Monitoring/Assessment Plan as an ACM Request. See Part 2.6.2 (*Actions to Address Discharges to Impaired Waters*).

- 6.2.2.1 The EPA will review the Permittees' ACM Request and, as necessary, propose to revise this Permit to incorporate by reference the Permittees' specific monitoring/assessment and pollutant reduction activities.

The Permittees must begin implementation their identified monitoring/assessment activities no later than 30 days following the EPA's written notice that the Permit has been revised to incorporate their activities, pursuant to Part 2.6.4 (*Recognition of Alternative Control Measures*).

#### **6.2.3 Representative Sampling**

Samples, measurements and/or assessments conducted in compliance with this Permit must be representative of the nature of the monitored discharge or activity.

#### **6.2.4 Additional Monitoring**

If the Permittees quantitatively monitor or assess pollutants in their MS4 discharges more frequently, or in more locations, than specified in the Monitoring/Assessment Plan named in

this Permit, the results of any additional monitoring must be included with other data submitted to the EPA and IDEQ as required in Part 6.4.3 (*Monitoring/Assessment Report*).

#### 6.2.5 **Wet Weather Discharge Monitoring**

If the Permittees monitor wet weather discharges from MS4 outfalls:

- 6.2.5.1 **Location** - the locations of such monitoring must be identified in the Monitoring/Assessment Plan required by Part 4 (*Special Conditions for Discharges to Impaired Waters*).
- 6.2.5.2 **Sample Type**. The sample collection must be identified in the Monitoring/Assessment Plan required by Part 4 (*Special Conditions for Discharges to Impaired Waters*).
- 6.2.5.3 **Parameters**. The pollutants to be sampled must be identified in the Monitoring/Assessment Plan required by Part 4 (*Special Conditions for Discharges to Impaired Waters*).
- 6.2.5.4 **Frequency**. The samples must be collected at a frequency identified in the Monitoring/Assessment Plan required by Part 4 (*Special Conditions for Discharges to Impaired Waters*).
- 6.2.5.5 **QA Requirements**. The Permittees must develop a Quality Assurance Project Plan (QAPP), or revise an existing QAPP, as required by Part 6.2.6 (*Quality Assurance Requirements*) to clearly identify all methods and protocols to be used in the wet weather sampling effort.
- 6.2.5.6 **Reporting**. The Permittees must submit all data collected to the EPA as required in Part 6.4.2 (*Annual Report*).

#### 6.2.6 **Quality Assurance Requirements**

The Permittees must develop a Quality Assurance Project Plan (QAPP) for any monitoring or quantitative assessment activities conducted in compliance with this Permit. Any existing QAPP may be modified to meet the requirements of this Part.

- 6.2.6.1 **QAPP Content**: The QAPP must be designed to assist the Permittees in planning for the collection and analysis of any stormwater discharge, receiving water quality, catch basin sediments, and/or other types of information collected in compliance with this Permit, and in explaining data anomalies when they occur.  
At a minimum, the QAPP must reflect the content specified in the EPA documents listed in Part 6.2.6.1.6 below, including:
  - 6.2.6.1.1 Details on the number of samples, identified sampling locations, type of sample containers, preservation of samples, holding times, analytical detection and quantitation limits for each target compound, analytical methods, type and number of quality assurance field samples, precision and accuracy requirements,

- sample preparation requirements, sample shipping methods, and laboratory data delivery requirements;
- 6.2.6.1.2 A map with GPS coordinates indicating the location of each monitoring point;
- 6.2.6.1.3 Qualifications and training of all personnel involved with water quality and discharge sampling;
- 6.2.6.1.4 Specifications for the collection and analysis of quality assurance samples for each sampling event, including matrix spiked and duplicate samples and analysis of field transfer blanks (sample blanks); and,
- 6.2.6.1.5 Name(s), address(es), and telephone number(s) of the laboratories used by, or proposed to be used by, the Permittee(s).
- 6.2.6.1.6 **QAPP Procedures:** Throughout all sample collection and analysis activities, the Permittees must use the EPA-approved and chain-of-custody procedures described in *Requirements for Quality Assurance Project Plans* (EPA/QA/R-5) and *Guidance for Quality Assurance Project Plans* (EPA/QA/G-5). Copies of these documents can be found at <http://www.epa.gov/quality/qs-docs/q5-final.pdf>

#### 6.2.6.2 QAPP Updates and Availability

- 6.2.6.2.1 The Permittees must amend and update the QAPP whenever there is a modification in sample collection, sample analysis, or other procedure addressed by the QAPP.
- 6.2.6.2.2 Copies of the QAPP must be maintained by the Permittees as part the Monitoring/Assessment Plan, updated as necessary, and made available to EPA and/or IDEQ upon request.

#### 6.2.7 Analytical Methods

Sample collection, preservation, and analysis must be conducted according to sufficiently sensitive methods/test procedures approved under 40 CFR §136, unless otherwise approved by the EPA, unless another method is required under 40 CFR subchapters N or O, or other test procedures have been specified in this Permit and/or approved by the EPA as an alternative test procedure under 40 CFR §136.5. Where an approved 40 CFR § 136 method does not exist, and other test procedures have not been specified, any available method may be used after approval from the EPA.

Permittees must use sufficiently sensitive analytical methods as follows:

- 6.2.7.1 Permittees must use a method that detects and quantifies the level of the pollutant, or
- 6.2.7.2 Permittees must use a method that can achieve a maximum Minimum Level (ML) less than or equal to those specified in Table 6.2.8 below;
- 6.2.7.3 Permittees may request different MLs. The request must be in writing and must be approved by the EPA.

**Table 6.2.8: Minimum Levels**

Pollutant & CAS No. (if available)	Minimum Level in µg/L, unless otherwise specified
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Total Ammonia (as N)	50
Cadmium, Total (7440-43-9)	0.1
Copper, Total (7440-50-8)	2.0
Dissolved oxygen	0.2 mg/L
Total Hardness	200 as CaCO <sub>3</sub>
Lead, Total (7439-92-1)	0.16
Nitrate + Nitrite Nitrogen (as N)	100
Oil and Grease (HEM) (Hexane Extractable Material)	5,000
Soluble Reactive Phosphorus (as P)	10
Phosphorus, Total (as P)	10
Temperature	0.2° C
Total Suspended Solids	5 mg/L
Zinc, Total (7440-66-6)	2.5

### 6.3 Recordkeeping

#### 6.3.1 Retention of Records.

The Permittees must retain records and information documenting implementation of all control measures required by this Permit (including a copy of this Permit and all Annual Reports) for a period of at least five years from the date of the report, sample, or measurement, or for the term of this Permit, whichever is longer. This period may be extended at the request of the EPA or IDEQ at any time.

Information and records includes, but is not limited to, records of all data or information used to develop and implement the SWMP control measures and/or used to complete the application for this Permit; such material may include inspection and maintenance records; all monitoring, calibration, and monitoring equipment maintenance records; all original strip chart recordings for any continuous monitoring instrumentation; copies of reports required by this Permit; etc.

#### 6.3.2 Availability of Records.

At a minimum, the Permittees must retain all records associated with this Permit in a location and format that are accessible to the EPA and IDEQ. The Permittees must make all records described above available to the public if requested to do so in writing. The public must be able to view the records during normal business hours. The Permittees may charge the public a reasonable fee for copying requests.

The Permittees must submit the records referred to in Part 6.3.1 above to the EPA and IDEQ when such information is requested.

### 6.4 Reporting Requirements

At a minimum, the Permittees must submit reports and/or documents required by this Permit to the EPA and IDEQ in an electronic portable document format (PDF) that is saved and stored on a compact disc or other portable electronic storage device.

All submittals must be sent to the Addresses in Appendix A.

#### 6.4.1 Electronic Copy Submissions using NetDMR

Prior to the Permit expiration date, the EPA may provide the Permittees with instructions for submitting required Annual Reports and/or other documents electronically using NetDMR. The Permittees may then use NetDMR for this Permit only after requesting and receiving permission from the EPA Region 10. After the Permittees begin using NetDMR, the Permittees are no longer required to submit such materials to the EPA and IDEQ via U.S. Postal Mail.

#### 6.4.2 Annual Report.

No later than **December 1** of each year beginning in **Calendar Year 2021** the Permittees must submit an Annual Report to the EPA and IDEQ. The EPA recommends the Permittees use the Annual Report Format provided in Appendix B.

- 6.4.2.1 The reporting period for the Year 1 Annual Report will be from **October 1, 2020 – September 30, 2021**.. Reporting periods for subsequent Annual Reports are specified in Table 6.4.2 below.

Table 6.4.2 Annual Report Deadlines*		
	Reporting Period	Due Date
Year 1 Annual Report	October 1, 2020 – September 30, 2021	December 1, 2021
Year 2 Annual Report	October 1, 2021 – September 30, 2022	December 1, 2022
Year 3 Annual Report	October 1, 2022 – September 30, 2023	December 1, 2023
Year 4 Annual Report	October 1, 2023 – September 30, 2024	December 1, 2024
Year 5 Annual Report	October 1, 2024 – September 30, 2025	September 30, 2025

6.4.2.2 The EPA recommends the Permittees use the Annual Report Format provided in Appendix B. The Annual Report must reflect the status of the Permittees' collective or individual implementation of the Permit requirements during the relevant reporting period, and must include:

- 6.4.2.2.1 Any summaries, descriptions, and/or other information the Permittees use to demonstrate compliance with the Permit during the relevant reporting period.
- 6.4.2.2.2 A current website address where the Permittees' SWMP Document is available as an electronic portable data format (PDF) document;
- 6.4.2.2.3 If applicable, notification to the EPA and IDEQ that one or more Permittees are relying on another Permittee or outside entity to satisfy any obligations under this Permit;
- 6.4.2.2.4 Notification of any annexations, incorporations, or jurisdictional boundary changes resulting in an increase or decrease in the individual Permittee's area of responsibility during the reporting period; and
- 6.4.2.2.5 Point(s) of contact responsible SWMP implementation for each Permittee, and for authorization, certification, and signature pursuant to Part 8.5 (*Signatory Requirements*).

6.4.2.3 The Permittees must make a copy of each Annual Report (including any required attachments) available to the public through the Permittee-maintained website required by Part 3.1.8 (*SWMP Publicly Accessible Website*).

#### 6.4.3 Monitoring/Assessment Report

The Permittees must submit a final report summarizing any/all discharge monitoring/assessment data collected during the permit term as an attachment to the Permit Renewal Application required by Part 8.2 no later than **April 3, 2025**. All Final Discharge Monitoring/Assessment Reports must summarize and evaluate the information collected, and include reference to:

- 6.4.3.1 the date, exact place, and time of sampling or measurements;
- 6.4.3.2 the name(s) of the individual(s) who performed the sampling or measurements;
- 6.4.3.3 the date(s) analyses were performed;
- 6.4.3.4 the names of the individual(s) who performed the analyses; the analytical techniques or methods used; and
- 6.4.3.5 the results of such analyses, including both visual and narrative summary interpretation of the data collected, a discussion of any quality assurance issues, and a narrative discussion comparing data collected to any previously collected or historical information, as appropriate. Raw monitoring data must be submitted in a spreadsheet or text-format electronic file.

#### **6.4.4 Pollutant Reduction Activity Report**

The Permittees must submit a Pollutant Reduction Activity Report summarizing actions taken conducted during the permit term to reduce pollutant loadings from the Permittees' MS4. The Pollutant Reduction Activity Report must be submitted as an attachment to the Permit Renewal Application required by Part 8.2 no later than **April 3, 2025**. The final Pollutant Reduction Activity Report must summarize the actions identified in Part 4 and must quantify any load reductions accomplished to date.

#### **6.5 Addresses**

Any reports or submittals required by this Permit must be sent to the Addresses listed in Appendix A.

## **7 COMPLIANCE RESPONSIBILITIES**

### **7.1 Duty to Comply**

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

### **7.2 Penalties for Violations of Permit Conditions**

#### **7.2.1 Civil and Administrative Penalties.**

Pursuant to 40 CFR §19 and the CWA, any person who violates sections 301, 302, 306, 307, 308, 318 or 405 of the CWA, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the CWA, is subject to a civil penalty not to exceed the maximum amounts authorized in the United States Code (USC) by section 309(d) of the CWA and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently \$55,800 per day for each violation).

**7.2.1.1 Administrative Penalties:** Any person may be assessed an administrative penalty by the Administrator for violating section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Pursuant to 40 CFR §19 and the Act, administrative penalties for Class I violations are not to exceed the maximum amounts authorized by section 309(g)(2)(A) of the CWA and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) [currently \$22,320 per day for each violation, with the maximum amount of any Class I penalty assessed not to exceed \$55,800]. Pursuant to 40 CFR §19 and the Act, penalties for Class II violations are not to exceed the maximum amounts authorized by section 309(g)(2)(B) of the CWA and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) [currently \$22,320 per day for each violation, with the maximum amount of any Class II penalty not to exceed \$278,995].

#### **7.2.1.2 Criminal Penalties:**

##### **7.2.1.2.1 Negligent Violations.**

The CWA provides that any person who negligently violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of \$2,500 to \$25,000 per day of violation, or imprisonment of not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than \$50,000 per day of violation, or by imprisonment of not more than 2 years, or both.



**7.2.1.2.2 Knowing Violations.**

Any person who knowingly violates such sections, or such conditions or limitations is subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment of not more than 6 years, or both.

**7.2.1.2.3 Knowing Endangerment.**

Any person who knowingly violates section 301, 302, 303, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment of not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than \$500,000 or by imprisonment of not more than 30 years, or both. An organization, as defined in section 309(c)(3)(B)(iii) of the Act, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions.

**7.2.1.2.4 False Statements.**

The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this Permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than two years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than four years, or both. The CWA further provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this Permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than six months per violation, or by both.

**7.3 Need to Halt or Reduce Activity Not a Defense**

It shall not be a defense for the Permittees 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.

#### **7.4 Duty to Mitigate**

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

#### **7.5 Proper Operation and Maintenance**

The Permittees must at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the Permittees to achieve compliance with the conditions of this Permit. Proper operation and maintenance also includes BMPs, adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when the operation is necessary to achieve compliance with the conditions of this Permit.

#### **7.6 Toxic Pollutants**

The Permittees must comply with effluent standards or prohibitions established under section 307(a) of the CWA for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

#### **7.7 Planned Changes.**

The Permittees must give notice to the Director and the responsible IDEQ office as soon as possible of any planned physical alterations or additions to the permitted facility whenever:

- The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source as determined in 40 CFR §122.29(b); or
- The alteration or addition could significantly change the nature or increase the quantity of the pollutants discharged. This notification applies to pollutants that are not subject to effluent limitations in the permit.

#### **7.8 Anticipated Noncompliance**

The Permittees must give advance notice to the Director and IDEQ, using the addresses provided in Appendix A, of any planned changes in the permitted facility or activity which may result in noncompliance with this Permit.

#### **7.9 Twenty-Four Hour Notice of Noncompliance Reporting**

The Permittees must report to the EPA the following occurrences of noncompliance by telephone at (206) 553-1846, within 24 hours from the time the Permittee becomes aware of the following circumstances; see also Appendix A.2:

- Any discharge to or from the MS4 which could result in noncompliance that may endanger human health or the environment;
- Any unanticipated bypass that results in or contributes to an exceedance of any effluent limitation in this Permit. See Part 7.107.10 (*Bypass of Treatment Facilities*);
- Any upset that results in or contributes to an exceedance of any effluent limitation in this Permit. See Part 7.11 (*Upset Conditions*).

##### **7.9.1 Written Report**

The Permittees must also provide a written submission within five (5) business days of the

time that the Permittee becomes aware of any event required to be reported under subpart 1 above. The written submission must contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times; the estimated time noncompliance is expected to continue if it has not been corrected; and all steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. The Permittees must submit the written report to the EPA and IDEQ as specified in Appendix A.

#### **7.9.2 Written Report Waiver**

The EPA may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the NPDES Compliance Hotline in Seattle, Washington, by telephone, (206) 553-1846.

### **7.10 Bypass of Treatment Facilities**

#### **7.10.1 Bypass not exceeding limitations.**

The Permittees may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs 7.10.2 and 7.10.3 of this Part.

#### **7.10.2 Notice**

7.10.2.1 Anticipated bypass: If the Permittees knows in advance of the need for a bypass, it must submit prior notice, to the Director, if possible at least 10 days before the date of the bypass.

7.10.2.2 Unanticipated bypass: The Permittees must submit notice of an unanticipated bypass as required under Part 7.9 (*Twenty-four Hour Notice of Noncompliance Reporting*).

#### **7.10.3 Prohibition of bypass.**

Bypass is prohibited, and the Director may take enforcement action against the Permittees for a bypass, unless:

- The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and
- The Permittees submitted notices as required under Part 7.10.2 above.

#### **7.10.4 Optional Approval.**

The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in Part 7.10.3.

## **7.11 Upset Conditions**

### **7.11.1 Effect of an Upset.**

An upset constitutes an affirmative defense to an action brought for noncompliance with a technology-based permit effluent limitation if the Permittees meet the requirements of Part 7.11.2 of this section. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

### **7.11.2 Conditions Necessary for a Demonstration of Upset.**

To establish the affirmative defense of upset, the Permittees must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- An upset occurred and that the Permittees can identify the cause(s) of the upset;
- The permitted facility was at the time being properly operated;
- The Permittees submitted notice of the upset as required under Part 7.9 (*Twenty-four Hour Notice of Noncompliance Reporting*) and,
- The Permittees complied with any remedial measures required under Part 7.4 (*Duty to Mitigate*).

### **7.11.3 Burden of proof.**

In any enforcement proceeding, the Permittees seeking to establish the occurrence of an upset has the burden of proof.

## **7.12 Other Noncompliance**

The Permittees must report all instances of noncompliance, not required to be reported within 24 hours, as part of each Annual Report. Such noncompliance reports must contain all the information listed above in Part 7.9.1.

## **7.13 Removed Substances**

All collected screenings, grit, solids, sludges, filter backwash water, decant water, and/or other pollutants removed in the course of maintenance, and/or treatment or control of stormwater and other wastewaters must be managed and disposed of in a manner such as to prevent such pollutants from entering the waters of the U.S.

## **8 GENERAL REQUIREMENTS**

### **8.1 Permit Actions.**

This Permit or coverage under this Permit may be modified, revoked and reissued, or terminated for cause by the EPA as specified in 40 CFR §§122.62, 122.64, or 124.5. The filing of a request by the Permittees for a permit modification, revocation and reissuance, termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

Permit coverage may be terminated, in accordance with the provisions of 40 CFR §§122.64 and 124.5, for a single Permittee or co-Permittee without terminating coverage for other Permittees or co-Permittees subject to this Permit.

### **8.2 Duty to Reapply**

If the Permittees intend to continue its operational control and management of discharges from the MS4 as regulated by this Permit after the Permit expiration date, the Permittees must apply for and obtain a new permit. In accordance with 40 CFR §122.21(d), and unless permission for the application to be submitted at a later date has been granted by the Director, the Permittees must submit an application at least 180 days before the Permit expiration date, or no later than **April 3, 2025**.

#### **8.2.1 Contents of a Permit Renewal Application**

The Permit Renewal Application must contain the information required by 40 CFR 122.21(f) which includes: name and mailing addresses of the Permittee(s) that operate the MS4(s), and the names and titles of the primary administrative and technical contacts for the Permittee(s). In addition, the Permittees must identify the identification number of the existing NPDES MS4 permit; and any previously unidentified water bodies that receive discharges from the MS4. The following attachments must be submitted as part of a complete Permit Renewal Application:

- 8.2.1.1 Updated SWMP Document, as required by Part 2.5.5 and described in Appendix B;
- 8.2.1.2 MS4 Map, and the accompanying Outfall Inventory, as required by Part 3.2.2;
- 8.2.1.3 List of MS4 outfall locations with dry weather flows identified by the Permittee as being associated with irrigation return flows and/or groundwater seepage, including latitude/longitude and physical description/characteristics, as required by Part 3.2.6.2;
- 8.2.1.4 Enforcement Response Policy for Construction Site Runoff Control, as required by Part 3.3.6;
- 8.2.1.5 Enforcement Response Policy for Permanent SW Management Controls, as required by Part 3.4.5.2;
- 8.2.1.6 If applicable, a written summary of the Permittee's adaptive management actions to date, as required by Part 5.5;
- 8.2.1.7 If applicable, a Final Report summarizing any required Monitoring/Assessment activities; see Part 4 and Part 6.4.3; and
- 8.2.1.8 If applicable, a Final Report summarizing implementation and effectiveness of Pollutant Reduction Activities to date; see Part 4 and Part 6.4.4.

### **8.3 Duty to Provide Information**

The Permittees must furnish to the EPA and IDEQ, within the time specified in the request, any information that the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Permit, or to determine compliance with this Permit. The Permittees must also furnish to the EPA or IDEQ, upon request, copies of the records required to be kept by this Permit.

### **8.4 Other Information**

When the Permittees becomes aware that it failed to submit any relevant facts in a permit application, or that it submitted incorrect information in a permit application, or any report or document to the EPA or IDEQ, it must promptly submit the omitted facts or corrected information in writing.

### **8.5 Signatory Requirements**

All permit applications, reports, or information submitted to the EPA and IDEQ must be signed and certified as follows:

#### **8.5.1 All applications must be signed and certified:**

- For a corporation: by a principal corporate officer.
- For a partnership or sole proprietorship: by a general partner or the proprietor, respectively.
- For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official.

#### **8.5.2 Duly Authorized Representative.**

All Annual Reports required by this Permit and other information requested by the EPA or IDEQ must be signed by a person described in Part 8.5.1 above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

8.5.2.1 The authorization is made in writing by a person described above and submitted to the Director;

8.5.2.2 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 plant manager, owner or operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.); and

8.5.2.3 Written authorization is submitted to the Director and IDEQ.

#### **8.5.3 Changes to Authorization.**

If an authorization under Part 8.5.2 above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part 8.5.2 must be submitted to the EPA and IDEQ prior to or together with any reports, information, or applications to be signed by an authorized representative.

#### **8.5.4 Certification.**

Any person signing a document under this Part must 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 gather and evaluate 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, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I have no personal knowledge that the information submitted is other than 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."*

#### **8.6 Availability of Reports**

In accordance with 40 CFR §2, information submitted to the EPA pursuant to this Permit may be claimed as confidential by the Permittees. In accordance with the CWA, permit applications, permits, and effluent data are not considered confidential. Any confidential claim must be asserted at the time of submission by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, the EPA may make the information available to the public without further notice to the Permittees. If a claim is asserted, the information will be treated in accordance with the procedures in 40 CFR §2, Subpart B (Public Information) and 41 Federal Register 36924 (September 1, 1976), as amended.

#### **8.7 Inspection and Entry**

The Permittees must allow the Director; IDEQ; or an authorized representative (including an authorized contractor acting as a representative of the Director), upon the presentation of credentials and other documents as may be required by law, to:

##### **8.7.1 Enter**

Upon the Permittees' premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this Permit;

##### **8.7.2 Access**

Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Permit;

##### **8.7.3 Inspect**

Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Permit; and

##### **8.7.4 Sample, monitor, evaluate or audit**

At reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the CWA, any discharges, substances or parameters at any location.

#### **8.8 Property Rights**

The issuance of this Permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations.

### **8.9 Transfers**

Coverage under this Permit is not transferable to any person except after written notice to the Director of the EPA Office of Water and Watersheds. The Director 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 CWA.

### **8.10 State/Tribal Laws**

Nothing in this Permit shall be construed to preclude the institution of any legal action or relieve the individual Permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state/Tribal law or regulation under authority preserved by Section 510 of the CWA. No condition of the Permit releases the Permittee from any responsibility or requirements under other environmental statutes or regulations.

### **8.11 Oil and Hazardous Substance Liability**

Nothing in this Permit shall be construed to preclude the institution of any legal action or relieve the individual Permittee from any responsibilities, liabilities, or penalties to which the Permittee is or may be subject under Section 311 of the Clean Water Act or Section 106 of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA).

### **8.12 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 not be affected thereby.

### **8.13 Re-opener Clause**

This Permit is subject to modification, revocation and reissuance, or termination at the request of any interested person (including one or more Permittees) or upon EPA initiative. However, permits may only be modified, revoked or reissued, or terminated for the reasons specified in 40 CFR §§122.62 or 122.64, and 40 CFR §124.5. This includes new information which was not available at the time of permit issuance and would have justified the application of different permit conditions at the time of issuance, including but not limited to obligations required as a result of Endangered Species Act consultation, and/or future monitoring results. All requests for Permit modification must be addressed to the EPA in writing and shall contain facts or reasons supporting the request.



## 9 DEFINITIONS

*Administrator*, as used in this Permit without qualifier, means the Administrator of the United States Environmental Protection Agency, or an authorized representative [40 CFR §122.2].

*Appropriate* means reasonable in intensity, duration, and magnitude.

*Appropriate Action*, as used in Part 3.2.6 of this Permit, means documentation in the Permittee's Annual Reports and SWMP Document of the MS4 outfall location(s) where the Permittee determines that the source of the ongoing dry weather flow is from either irrigation or groundwater seepage.

*Best Management Practice*, or *BMP*, means schedules of activities, prohibition of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also mean treatment requirements operating procedures, and practices to control runoff, spillage, or leaks, sludge, or waste disposal, or drainage from raw material storages. See 40 CFR 122.2 and 122.44(k). For the purposes of this Permit, *BMP* broadly refers to any type of structural or non-structural practice or activity undertaken by the Permittee in the course of implementing its SWMP.

*Bioretention* means the water quality and water quantity stormwater management practice using the chemical, biological and physical properties of plants, microbes and soils for the removal of pollution from stormwater runoff.

*Bypass* means the intentional diversion of waste streams from any portion of a treatment facility.

*CFR* means the Code of Federal Regulations, which is the official annual compilation of all regulations and rules promulgated during the previous year by the agencies of the United States government, combined with all the previously issued regulations and rules of those agencies that are still in effect.

*CGP* and/or *Construction General Permit* means the current available version of the EPA's NPDES *General Permit for Stormwater Discharges for Construction Activities in Idaho*, Permit No. IDR12- 0000. The EPA's CGP is posted on EPA's website at [www.epa.gov/npdes/stormwater/cgp](http://www.epa.gov/npdes/stormwater/cgp).

*Common Plan of Development* means a contiguous construction project or projects where multiple separate and distinct construction activities may be taking place at different times on different schedules but under one plan. The "plan" is broadly defined as any announcement or piece of documentation or physical demarcation indicating construction activities may occur on a specific plot; included in this definition are most subdivisions and industrial parks

*Construction activity* includes, but is not limited to, clearing, grading, excavation, and other site preparation work related to the construction of residential buildings and non-residential buildings, and heavy construction (e.g., highways, streets, bridges, tunnels, pipelines, transmission lines and industrial non-building structures).

*Control Measure*, as used in this Permit, refers to any action, activity, Best Management Practice or other method used to control the discharge of pollutants in MS4 discharges.

*CWA* means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law 97-117, 33 U.S.C. § 1251 et seq. [40 CFR §122.2].

*Deleterious Materials* is defined at IDAPA 58.01.02.010.21, and means any nontoxic substance which may cause the tainting of edible species of fish, taste and odors in drinking water supplies, or the reduction of the usability of water without causing physical injury to water users or aquatic and terrestrial organisms

*Director* means the Regional Administrator of the EPA Region 10, or the Director of the EPA Region 10 Office of Water and Watersheds. After July 1, 2021, "Director" may also refer to an authorized representative of the Idaho Department of Environmental Quality.

*Discharge* when used without qualification means the "discharge of a pollutant."

*Discharge of a pollutant* means any addition of any "pollutant" or combination of pollutants to "waters of the United States" from any "point source," or any addition of any pollutant or combination of pollutants to the waters of the "contiguous zone" or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation. This definition includes additions of pollutants into waters of the United States from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by any "indirect discharger" [40 CFR §122.2].

*Erosion* means the process of carrying away soil particles by the action of water.

*Effluent limitation* means any restriction imposed by the Director on quantities, discharge rates, and concentrations of "pollutants" which are "discharged" from "point sources" into "waters of the United States," [40 CFR §122.2]. The terms and conditions of this Permit are a type of effluent limitations, and refers to actions designed to reduce pollutant discharges. See also 40 CFR §122.34 and 81 FR 89337 (Dec. 9, 2016).

*Existing Permanent Controls*, in the context of this Permit, means post- construction or permanent stormwater management controls designed to treat or control runoff on a permanent basis and that were installed prior to the effective date of this Permit.

*Facility* means any NPDES point source or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the NPDES program.

*Grab sample* means a single water sample or measurement of water quality taken at a specific time.

*Green infrastructure* means runoff management approaches and technologies that utilize, enhance and/or mimic the natural hydrologic cycle processes of infiltration, evapotranspiration and reuse.

*Hazardous materials* is defined at IDAPA 58.01.02.010.47 and means a material or combination of materials which, when discharged in any quantity into state waters, presents a substantial present or potential hazard to human health, the public health, or the environment. Unless otherwise specified, published guides such as Quality Criteria for Water (1976) by the EPA, Water Quality Criteria (Second Edition, 1963) by the state of California Water Quality Control Board, their subsequent revisions, and more recent research papers, regulations and guidelines will be used in identifying individual and specific materials and in evaluating the tolerances of the identified materials for the beneficial uses indicated.

*Impaired waters* means any water body that does not meet applicable water quality standards for one or more beneficial uses by one or more pollutants. For the purposes of this Permit, *impaired water* includes any water body that IDEQ includes in its 2016 Integrated Report, as a "Category 4a" water of the state for which a total maximum daily load has been completed and approved; as a "Category 4b" water of the state that have pollution control requirements in place other than a TMDL and are expected to meet standards; and/or as a "Category 5" water of the state where a TMDL is necessary. The term *impaired water* also includes any interstate surface water body that originates in Idaho and flows into Washington that the Washington Department of Ecology categorizes as Category 4a, 4b, or 5 in its latest Water Quality Assessment 305(b) Report and 303(d) List as approved by the EPA on July 22, 2016.

*Impairment pollutants*, for the purposes of this Permit, means any pollutant identified by IDEQ or WDOE as a cause of impairment of any water body that receives MS4 discharges authorized under this Permit. See also "impaired water."

*Indian Tribe* means any Indian Tribe, band, group, or community recognized by the Secretary of the Interior and exercising governmental authority over a Federal Indian Reservation [40 CFR §122.2].

*Infiltration* is the process by which stormwater penetrates into soil.

*Illicit connections* include, but are not limited to, pipes, drains, open channels, or other conveyances that have the potential to allow an illicit discharge to enter the MS4.

*Illicit discharge* means any discharge to a municipal storm sewer that is not composed entirely of stormwater except discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the municipal separate storm sewer) and discharges from firefighting activities. See 40 CFR 122.26(b)(2).

*Interconnection* means the point (excluding sheet flow over impervious surfaces) where the Permittee's MS4 discharges to another MS4 or other storm sewer system, through which the discharge is eventually conveyed to a water of the United States. Interconnections shall be treated similarly to outfalls throughout the Permit.

*Lewiston Urbanized Area or the Permit Area* is defined by the decennial census data from Year 2000 and Year 2010. An urbanized area is the densely settled core of census tracts and/or census blocks that have a population of at least 50,000, along with adjacent territory containing non-residential urban land uses as well as territory with low population density included to link outlying densely settled territory with the densely settled core. It is a calculation used by the

Bureau of the Census to determine the geographic boundaries of the most heavily developed and dense urban areas. Once a small MS4 is designated into the program based on the UA boundaries, it cannot be waived from the program if in subsequent UA calculation the small MS4 is no longer within the UA boundaries. The following websites are for the Census 2000 and Census 2010 UA maps, respectively:

<http://www2.census.gov/geo/maps/urbanarea/uaoutline/UA2000/ua49312/>

[http://www2.census.gov/geo/maps/dc10map/UAUC\\_RefMap/ua/ua49312\\_lewiston\\_id-wa/](http://www2.census.gov/geo/maps/dc10map/UAUC_RefMap/ua/ua49312_lewiston_id-wa/)

*Low Impact Development or LID* means stormwater management and land development techniques, controls and strategies applied at the parcel and subdivision scale that emphasize conservation and use of on-site natural features integrated with engineered, small scale hydrologic controls to more closely mimic pre-development hydrologic functions.

*Method Detection Limit (MDL)* means the minimum concentration of a substance (analyte) that can be measured and reported with 99 percent confidence that the analyte concentration is greater than zero and is determined from analysis of a sample in a given matrix containing the analyte.

*Minimum Level (ML)* means either the sample concentration equivalent to the lowest calibration point in a method or a multiple of the method detection limit (MDL). Minimum levels may be obtained in several ways: They may be published in a method; they may be sample concentrations equivalent to the lowest acceptable calibration point used by a laboratory; or they may be calculated by multiplying the MDL in a method, or the MDL determined by a lab, by a factor.

*MEP or maximum extent practicable*, means the technology-based discharge standard for municipal separate storm sewer systems to reduce pollutants in stormwater discharges that was established by Section 402(p) of the Clean Water Act, 33 U.S.C §1342(p).

*Minimize* means to reduce and/or eliminate to the extent achievable using control measures (including BMPs) that are technologically available, economically practicable, and achievable in light of best industry or municipal practices.

*MS4* means "municipal separate storm sewer system," and is used in this document to refer to 'Small Municipal Separate Storm Sewer System' as defined in 40 CFR 122.26(b)(16). The term, as used in the context of this Permit, refers to those portions of the municipal separate storm sewer systems owned and/or operated by the entities named herein. See also *Municipal Separate Storm Sewer*, and *Small MS4*.

*Municipality* means a city, town, borough, county, parish, district, association, or other public body created by or under State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under Section 208 of the CWA.

*Municipal Separate Storm Sewer* is defined in 40 CFR §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 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 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 at 40 CFR §122.2.

*National Pollutant Discharge Elimination System (NPDES)* means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of CWA [40 CFR §122.2].

*Nuisance* means anything which is injurious to the public health or an obstruction to the free use, in the customary manner, of any waters of the State [IDAPA 58.01.02.010.67].

*Outfall* is defined at 40 CFR §122.26(b)(9) means a point source (see definition below) at the point where a municipal separate storm sewer discharges to waters of the United States, and does not include open conveyances connecting two municipal separate storm sewers or pipes, tunnels, or other conveyances which connect segments of the same stream or other waters of the United States and are used to convey waters of the United States.

*Owner or operator* means the owner or operator of any “facility or activity” subject to regulation under the NPDES program.

*Permanent Stormwater Controls, or practices, permanent controls, and/or Post-construction stormwater management controls* means those structural and non-structural controls that are designed to treat or control pollutants in stormwater runoff on a permanent basis.

*Point Source* is defined at 40 CFR §122.2 and means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

*Pollutant* means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials [except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. § 2011 et seq.)], heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water [40 CFR §122.2].

*Post- construction stormwater management controls* or “permanent stormwater controls” means those controls designed to treat or control runoff on a permanent basis once construction is complete. See also “new permanent controls” and “existing permanent controls.”

*Redevelopment*, for the purposes of this Permit, means the alteration, renewal or restoration of any developed land or property that results in land disturbance of one acre or more, or less than one acre that is part of a common plan of development or sale that exceeds one acre, and that

has one of the following characteristics: land that currently has an existing structure, such as buildings or houses; or land that is currently covered with an impervious surface, such as a parking lot or roof; or land that is currently degraded and is covered with sand, gravel, stones, or other non-vegetative covering.

*Source control* means practices that control stormwater before pollutants have been introduced into stormwater.

*Stormwater* and *storm water runoff* as used in this Permit means stormwater runoff, snow melt runoff, and surface runoff and drainage, and is defined at 40 CFR §122.26(b)(13). “Stormwater” means that portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, channels, or pipes into a defined surface water channel or a constructed infiltration facility.

*Stormwater Control Measure* or *Stormwater Management Program Control Measure*, means the physical, structural, and/or managerial measures that, when used singly or in combination, reduce the downstream quality and quantity impacts of storm water runoff. Also, stormwater control measure means a permit term or condition used to prevent or control the discharge of pollutants. This may include a schedule of activities, prohibition of practices, maintenance procedures, or other management practices. Stormwater control measures may include, but are not limited to, treatment requirements; operating procedures; practices to control plant site runoff, spillage, leaks, sludge, or waste disposal; or drainage from raw material storage. See *best management practices* (BMPs). Minimum stormwater control measures are defined 40 CFR §122.34(b).

*Stormwater Management Practice* or *Stormwater Management Control* means practices that manage stormwater, including structural and vegetative components of a storm water system.

*Stormwater Management Program* (SWMP) refers to a comprehensive program to manage the quality of storm water discharged from the municipal separate storm sewer system. For the purposes of this Permit, the SWMP consists of the actions and activities conducted by the Permittees as required by this Permit and described in the Permittees’ SWMP Document. A “SWMP Document” is the written summary describing the unique and/or cooperative means by which an individual Permittee or entity implements the specific stormwater management control measures required by this Pe in their jurisdiction.

*Stormwater Pollution Prevention Plan* (SWPPP) means a site-specific plan designed to describe the control of soil, raw materials, or other substances to prevent pollutants in stormwater runoff; a SWPPP is generally developed for a construction site, or an industrial facility. For the purposes of this Permit, a SWPPP means a written document that identifies potential sources of pollution, describes practices to reduce pollutants in stormwater discharges from the site, and identifies procedures or controls that the site operator will implement to reduce impacts to water quality and comply with applicable Permit requirements.

*Small municipal separate storm sewer system, or Small MS4*, is defined at 40 CFR 122.26(b)(16) and (17), respectively, and means all separate storm sewers that are: (i) 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 waters of the United States; (ii) not defined as “large” or “medium” municipal separate storm sewer systems pursuant to 40 CFR 122.26(b)(4) and (b)(7), or designated under paragraph 40 CFR 122.26(a)(1)(v); and (iii) 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.

*Snow management* means the plowing, relocation, and collection of snow.

*Total Maximum Daily Load, or TMDL* means the sum of the individual wasteload allocations (WLAs) for point sources, load allocations (LAs) for non-point sources, and natural background. Such load shall be established at a level necessary to implement the applicable water quality standards with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality [IDAPA 58.012.02.010.100].

*Toxic Substance* is defined at IDAPA 58.01.02.010.102, and means any substance, material or disease-causing agent, or a combination thereof, which after discharge to waters of the State and upon exposure, ingestion, inhalation or assimilation into any organism (including humans), either directly from the environment or indirectly by ingestion through food chains, will cause death, disease, behavioral abnormalities, malignancy, genetic mutation, physiological abnormalities (including malfunctions in reproduction) or physical deformations in affected organisms or their offspring. Toxic substances include, but are not limited to, the one hundred twenty-six (126) priority pollutants identified by the EPA pursuant to Section 307(a) of the federal Clean Water Act.

*Treatment* means the reduction and removal of pollutants from stormwater.

*Uncontaminated*, for the purposes of this Permit, means that the MS4 discharge does not:

- result in the discharge of a reportable quantity for which notification is or was required pursuant to 40 CFR 117.21 or 40 CFR 302.6 at any time since November 16, 1987; or
- result in the discharge of a reportable quantity for which notification is or was required pursuant to 40 CFR 110.6 at any time since November 16, 1987; or
- Contribute to a violation or exceedance of an applicable Idaho Water Quality Standard.

*Upset* means 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. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation [40 CFR §122.41(n)].

*Waters of the United States or waters of the U.S.* means:

- (a) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
- (b) All interstate waters, including interstate “wetlands;”

(c) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:

- (1) Which are or could be used by interstate or foreign travelers for recreational or other purposes;
- (2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
- (3) Which are used or could be used for industrial purposes by industries in interstate commerce;
- (d) All impoundments of waters otherwise defined as waters of the United States under this definition;
- (e) Tributaries of waters identified in paragraphs (a) through (d) of this definition;
- (f) The territorial sea; and
- (g) "Wetlands" adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition [40 CFR §122.2].



## **APPENDIX A - ADDRESSES & CONTACT INFORMATION**

### **1. Alternative Control Measure Requests, Notifications, and Permit Renewal Applications:**

Such documents must be signed as required by Part 7.5, and submitted by U.S. Postal Mail to both the EPA and IDEQ addresses below:

*Director, Water Division*

*Attn: ID MS4 Permit Coordinator*

*U.S. EPA, Region 10*

*1200 6th Avenue, Suite 155*

*Mail Code 19-C04*

*Seattle, Washington 98101*

*Regional Administrator*

*Lewiston Regional Office*

*Idaho Department of Environmental Quality*

*1118 F Street*

*Lewiston, Idaho 83501*

### **2. Reporting of Discharges Containing Hazardous Materials or Deleterious Material:<sup>6</sup>**

All spills of hazardous material, deleterious material or petroleum products which may impact waters (ground and surface) of the state shall be immediately reported.

Call 911 if immediate assistance is required to control, contain or clean up the spill.

If no assistance is needed in cleaning up the spill, contact the Idaho Falls Region DEQ office during normal working hours at 208-528-2650 or Idaho State Communications Center after normal working hours.

If the spilled volume is above federal reportable quantities, contact the National Response Center.

For immediate assistance: Call 911

National Response Center: (800) 424-8802

Idaho State Communications Center: (800) 632-8000

See also Part 7.9 (*Twenty-Four Hour Notice of Noncompliance Reporting*).

### **3. Annual Reports, including any necessary attachments as required by this Permit:**

Such documents must be signed as required by Part 5, and submitted by U.S. Postal Mail to both the EPA and IDEQ addresses below:

*U.S. EPA, Region 10*

*Enforcement & Compliance Assurance  
Division*

*1200 6th Avenue, Suite 155*

*Mail Code 20-CO4*

*Seattle, Washington 98101*

*Regional Administrator*

*Lewiston Regional Office*

*Idaho Department of Environmental Quality*

*1118 F Street*

*Lewiston, Idaho 83501*

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<sup>6</sup> Appendix A.2 is a condition of the IDEQ's *Final §401 Water Quality Certification for the City of Lewiston and Lewis-Clark State College Municipal Separate Storm Sewer Systems (MS4)*, NPDES Permit# IDS028061, dated January 15, 2020.

**4. General Contact Information for the EPA and IDEQ**

<b><i>EPA Region 10</i></b>	<b><i>Toll Free Phone Number</i></b>	<b><i>Phone Number</i></b>
Water Division, 1200 6th Avenue, Suite 155 Mail Code 19-C04 Seattle, Washington 98101	(800) 424-4372, extension 6650.	(206) 553-6650
<b><i>IDEQ State Office</i></b>	<b><i>Toll Free Phone Number</i></b>	<b><i>Phone Number</i></b>
Surface Water Program 1410 North Hilton Street, Boise, ID. 83706		208-373-0502
<b><i>IDEQ Regional Office</i></b>	<b><i>Toll Free Phone Number</i></b>	<b><i>Phone Number</i></b>
Lewiston Regional Office 1118 F Street, Lewiston, Idaho 83501	877-541-3304	208-799-4370

## **APPENDIX B –SWMP DOCUMENT & ANNUAL REPORT TEMPLATES**

This Appendix outlines the content of the SWMP Document and Annual Reports, and provides an example template for each required document.

Appendix B.1 - SWMP Document Template

Appendix B.2 - Annual Report Form