

Wisconsin Pollutant Discharge Elimination System Permit for Municipal Separate Storm Sewer System, Permit No. WI-S065404-3: Fact Sheet – August 2026

Purpose

There are currently 11 municipally owned or operated municipal separate storm sewer systems (MS4s) in Wisconsin covered under Wisconsin Pollutant Discharge Elimination System (WPDES) Permit No. WI-S065404-2. This permit is also referred to as the Menomonee River Watershed Permit. The WPDES permit expired on March 31, 2025. The Wisconsin Department of Natural Resources (Department) is proposing to reissue WPDES Permit No. WI-S065404-3 to continue the coverage of storm water discharges from these 11 MS4s. The proposed permit requires each MS4 Permittee (also referred to as the Permittee(s)) to develop, implement, and maintain storm water management programs to reduce the discharge of pollutants from the MS4 to waters of the state. The 11 Menomonee Watershed Permittees affected by this proposed permit are listed below.

City of Brookfield
Village of Butler
Village of Elm Grove
Village of Germantown
City of Greenfield
Village of Menomonee Falls

City of Milwaukee
Milwaukee County
City of West Allis
Village of West Milwaukee
City of Wauwatosa

This fact sheet summarizes the Department's process and rationale for developing and issuing the Menomonee River Watershed MS4 permit.

The Department's Authority to Issue WPDES Permits

This permit is issued under the statutory authority granted to the Department pursuant s. 283.33, Wis. Stats. (Storm water discharge permits) and implements applicable federal and state law relating to MS4s. The specific federal requirements for MS4 permits are found in 33 U.S.C. § 1342 (p)(3)(b) and 40 CFR § 122.26. The specific state requirements for MS4 permits are found in subch. I of ch. NR 216, Wis. Adm. Code.

The Department's Regulation of Storm Water from the MS4

In Wisconsin, WPDES permits are issued by the Department with federal oversight from the United States Environmental Protection Agency (USEPA). The Department is responsible for the issuance, reissuance, modification, and enforcement of all WPDES permits issued for discharges into the waters of the state, except discharges occurring in Indian Country which are regulated directly by the USEPA. No person may legally discharge to waters of the state without a WPDES permit issued under this authority.

In 1987, Congress amended the Clean Water Act (CWA), authorizing a national program of comprehensive storm water pollution control for MS4s, certain industries, and construction sites. In 1993, ch. 147, Wis. Stats., (now ch. 283, Wis. Stats.) was amended to include storm water as a "point source" discharge and to require that the Department promulgate administrative rules for permitting the discharge of storm water. As a result, the Department created ch. NR 216, Wis. Adm. Code, for permitting storm water discharges from certain municipalities that own or operate MS4s, storm water

discharges associated with industrial activity, and storm water discharges associated with land disturbing construction activity.

General Approach to Permit Development

In November 2016, the USEPA promulgated the MS4 General Permit Remand Rule (40 CFR Part 122). The USEPA amended its regulations governing how small MS4s obtain coverage under NPDES general permits. In addition to establishing two alternative approaches to obtaining permit coverage, the rule clarifies that the permitting authority must establish the necessary “clear, specific, and measurable goals” for the MS4 to “reduce the discharge of pollutants from the MS4 to the maximum extent practicable, to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act.” Referred to as the “MS4 permit standard,” both approaches ensure that the public participation requirements of the CWA are met. The Department is applying the Comprehensive approach to issue this group permit. Under the Comprehensive Approach, all requirements are contained within the permit. For more information on the MS4 General Permit Remand Rule, use a standard Internet search engine and type in “EPA remand rule.”

Permit conditions were developed to meet the MS4 permit standard: reduce pollutants to the maximum extent practicable (MEP), protect local water quality, and meet CWA Standards. This permit requires continued implementation of the six minimum control measure programs, establishing, working towards, and evaluating measurable goals for each of the six minimum control measure programs, and, for applicable Permittees, development a storm water management plan to make progress towards the reduction goals outlined in Department and USEPA approved TMDLs. Permittees satisfy the MS4 permit standard through successful implementation of the storm water management programs and compliance with the WPDES permit.

This permit incorporates USEPA’s clarification on permit requirements, specifically to address 40 CFR § 122.34 (a), that “[t]erms and conditions . . . must be expressed in clear, specific, and measurable terms.” To accomplish this, permit provisions that included caveat terms such as “if feasible” or “as necessary” are revised to provide more clarity on when a specific action is required.

Additionally, in December 2015, the USEPA promulgated the NPDES Electronic Reporting Rule (40 CFR Parts 9, 122, 123, 124, 127, 403, 501, and 503). This regulation requires the electronic reporting and sharing of NPDES program information. The USEPA identifies specific NPDES information, or data elements, that NPDES permitting authorities, such as the Department, are to electronically collect, manage, and share to the USEPA. The Department’s electronic reporting system was built to collect these data elements. Permittees can locate the eReporting system here:
<https://dnr.wi.gov/topic/stormwater/municipal/eReporting.html>.

The Department considered annual reports, storm water management plan documents, submitted reapplication for permit coverage materials, and additional information provided by the Permittees when developing the permit conditions. A meeting was held with each of the Permittees to discuss permit conditions. Additional correspondences with the Permittees subsequently occurred to further discuss requirements. The following document provides an explanation for major permit requirements and summarizes changes from the previous permit.

Applicability

This permit applies to the 11 MS4s listed on the cover page of the permit. No new MS4s are covered by the reissued permit.

Overview and Significant Changes from the Previous Version of the Permit

The proposed permit includes the conditions required by s. NR 216.07, Wis. Adm. Code, which consists of the following six programs, or minimum control measures:

- Public Education and Outreach
- Public Involvement and Participation
- Illicit Discharge Detection and Elimination
- Construction Site Pollutant Control
- Post-Construction Storm Water Management
- Pollution Prevention

This proposed permit follows federal and state requirements and provides flexibility for the Permittees to develop, implement, maintain, and evaluate its MS4 programs to help determine appropriate methods for meeting permit requirements. This proposed permit allows a Permittee to comply with the permit requirements either individually or in collective arrangement with other Permittees. Each Permittee is responsible for meeting all the applicable requirements for its own MS4. However, Permittees may find that collectively pooling resources will be more efficient and cost-effective to comply with certain requirements.

This proposed permit requires the Permittees to maintain their programs developed and implemented under the previous version of the Menomonee River Watershed Permit, update implementation where needed to comply with permit conditions, summarize efforts toward meeting the permit requirements in an annual report, and submit materials for the follow permit reissuance. In addition, this proposed permit continues to require compliance with the developed urban area performance standard of s. NR 151.13, Wis. Adm. Code. A summary of the most significant changes from the previous version of the Menomonee River Watershed Permit and additional clarity is provided below.

Permit Structure

The permit is broken down into eight sections. Section I outlines the applicability. Sections II and III include the storm water program requirements and Total Maximum Daily Load (TMDL) requirements. Section IV contains a schedule of when specific permit requirements must be completed. Section V and VI are general conditions and definitions, respectively. Section VII contains the reduction goals for Total Suspended Solids (TSS), Total Phosphorus (TP), and Fecal Coliform from the Milwaukee River TMDL. Lastly, Section VII contains the water quality trading requirements.

II. Permit Conditions

This permit continues to require written storm water management program (SWMP) documents describing how each Permittee will comply with the permit's requirements for each of the six minimum control measures, consistent with s. NR 216.07, Wis. Adm. Code. Each Permittee is expected to update its written documents, where needed, to comply with updated permit conditions and/or to reflect changes in implementation. Updated SWMP documents describing the Permittee's approach to each minimum control measure must be submitted to the Department by August 1, 2028.

This permit also contains measurable goal requirements. Measurable goal requirements are not new requirements, but conditions surrounding measurable goals have changed.

To provide additional clarity, an explanation of measurable goals, measurable goal requirements for this permit term, and example measurable goals are provided below. Permittees should reference this section for assistance or contact their local stormwater specialist. Additional information and resources, including example written program procedures, can also be found on the Department's MS4 Best Management Practices Menu: [MS4 Best Management Practices Menu](#) | [Wisconsin DNR](#).

Measurable Goals

MS4 permits require specific conditions that every MS4 Permittee must implement to better the quality of its stormwater discharge. Implementation of these specific conditions are best management practices known to reduce and/or eliminate stormwater pollutants, regardless of the municipality. For example, to reduce the discharge of sediment and construction materials from construction sites, MS4 permits require Permittees to inspect construction sites and take action to address noncompliance.

However, as each MS4 Permittee is unique (i.e., municipalities face different stormwater challenges, have different resources and needs, and implement stormwater activities differently), the MS4 permit also requires each Permittee implement actions to reduce its discharge of stormwater pollutants to the maximum extent practicable (or "MEP" – part of the MS4 permit standard). This effort is accomplished in part by establishing and working towards measurable goals for the storm water management programs.

Required by the previous permit, each Permittee proposed measurable goals with its permit reapplication. The Department reviewed the proposed measurable goals from each Permittee to assist in drafting measurable goal conditions for this proposed permit.¹ After this initial review, the Department held additional meetings with each Permittee to further refine proposed measurable goals. Once the Department drafted measurable goal conditions, a meeting was held with all Permittees to create the final measurable goal conditions. Further explanation of the specific measurable goal conditions required by this permit is provided within their respective sections within this document. However, a summary of measurable goal requirements for each Permittee is provided below:

- Satisfy the specific measurable goal conditions identified in permit sections II.D.3* and II.D.4*; and II.E.3 and II.E.4.
** Waukesha County is excluded from this measurable goal condition (permit section II.D.3 and II.D.4).*
- Submit with its reapplication for permit coverage materials (permit section II.K.3), proposed measurable goals for each of its six storm water management programs. As each Permittee has six programs, each Permittee should propose at least six measurable goals – one for each of its six programs.

Example of Measurable Goals, Methods to Identify, Actions to Take, and Metrics to Measure Success

Seen in the examples provided below, measurable goals may be simple or complex, based on a known or perceived need or want, or expand upon required permit conditions. It is important for the goal to be measurable so the Permittee can determine if its actions taken to reach its goal was successful. If the goal was reached, the Permittee may determine its actions were successful and continue to implement similar actions in the future. However, if the goal was not reached, the Permittee may determine

¹ Consistent with ss. NR 216.01 and 216.07, Wis. Adm. Code.

alternative actions are necessary. To make a goal measurable, MS4 Permittees may set a quantitative goal (i.e., number based) or qualitative goal (i.e., narrative based). The examples below provide both quantitative and qualitative measurable goals for reference.

Example 1: If a Permittee identifies that noncompliance issues at construction sites are not resolved in a timely manner, it may identify this as an area for improvement and set a measurable goal that 50% or more noncompliance sites return to compliance within 24 hours. To achieve this goal, the Permittee may choose to implement a variety of actions such as providing education to construction applicants during plan review, utilizing more enforcement, conducting more inspections, etc. To measure the success of this *quantitative* measurable goal, the Permittee should count the number of noncompliance sites that returned to compliance within 24 hours after implementing its chosen actions. If 50% or more noncompliant sites returned to compliance within 24 hours, the Permittee may determine its actions were suitable. If less than 50% of noncompliant sites returned to compliance within 24 hours, the Permittee may determine alternative actions are necessary to achieve its goal.

Example 2: A Permittee collects residential leaves but only leaves. When other materials (e.g., other vegetation, potted plants, etc.) are observed in a residential leaf pile, leaf collection crews notify the homeowner that its leaves will not be collected until said materials are removed. Consequently, residential leaves are exposed to stormwater longer than anticipated. If this Permittee observes other materials are often placed within residential leaf piles, it may identify this as an area for improvement and set a measurable goal of reducing the amount other materials observed within residential leaf piles. To achieve this goal, the Permittee may choose to implement a variety of actions such as providing passive education to residents via its website/newsletter/social media/door hangers, providing active education via in-person education events, sending notice of violation letters to offending residents, etc. To measure the success of this *qualitative* measurable goal, the Permittee could ask leaf collection crews if they observe less potted plants/other vegetation, count the amount of potted plants/other vegetation pre- and post- actions, or evaluate street sweeping logs to determine if streets were swept as intended or if delays due to other materials present still occur at the same rate. If the Permittee assessment indicates its actions successfully met its goal, the Permittee may determine its actions were suitable. If the Permittee assessment indicates its actions did not successfully meet its goal, the Permittee may determine alternative actions are necessary to achieve its goal.

Example 3: A Permittee recently adopted a downtown redevelopment plan which has a large focus on aesthetics. To encourage downtown visitors to keep the area clean, the Permittee plans to install educational signage and/or install waste containers. As the Permittee already intends to implement these activities, the Permittee may choose to utilize these actions for a program measurable goal.

The Permittee may set a *quantitative* goal of installing a certain amount of signage or waste containers and, to measure its success, count the number of signs or waste containers installed. If the Permittee met its goal, they may choose to establish another measurable goal such as this in the future. If the Permittee did not achieve its goal, it should determine what additional steps are needed in the future to achieve the goal.

The Permittee may also set a *qualitative* goal of reducing the amount of litter observed in the downtown area. To achieve this goal, the Permittee may choose to install educational signage or waste containers. To measure its success, the Permittee could observe litter pre- and post-installation. If the Permittee assessment indicates its actions successfully met its goal, the Permittee may determine its actions were suitable. If the Permittee assessment indicates its

actions did not successfully meet its goal, the Permittee may determine alternative actions are necessary to achieve its goal.

Example 4: If a Permittee cannot identify a measurable goal based on a known or perceived need (Example 1 and 2) or want (Example 3), the Permittee may choose to set a measurable goal based upon existing permit conditions. For example, the permit requires implementation of specific conditions because they are known best management practices (e.g., screening outfalls is a known best management practice to identify potential illicit discharges). Using outfall screenings as an example, the Permittee may choose to increase its outfall screening frequency or screen additional outfalls so it may identify potential illicit discharges that may otherwise been missed.

II. A. Public Education and Outreach

This permit continues to require Permittees to increase awareness of how the combined actions of human behavior influence storm water pollution and its effects on the environment. As with the previous permit, this permit continues to require Permittees provide broad education (i.e., address all of the required topics listed in the permit) and conduct educational activities that are more unique to its community and/or watershed. Permittees may satisfy the Public Education and Outreach conditions individually or collectively and may continue to participate in Southeastern Wisconsin Watersheds Trust's Respect Our Waters campaign.

The previous permit required Permittees to complete targeted stormwater education within its community (previous permit section II.B). Permittees were required to evaluate the stormwater education needs of their own community, prioritize their education needs, take action to address their prioritized education need, and establish metrics to determine if the actions taken to address their prioritized education need were successful. As previously described, since each MS4 Permittee is unique (i.e., municipalities face different stormwater challenges), the intent of the targeted stormwater education requirement was for Permittees to reduce its discharge of stormwater pollutants to the maximum extent practicable (or "MEP" – part of the MS4 permit standard). Though located in a different section, this permit builds upon that previous requirement by requiring Permittees to complete measurable goal requirements (permit sections II.D.3, II.D.4, II.E.3 and II.E.4). Additional information about these measurable goal requirements is provided within their respective sections within this document.

- **Changes from previous permit:** This permit requires Permittees to use at least two Active/Interactive Mechanisms each year. This permit does not require the targeted stormwater education.

II. B. Public Involvement and Participation

The proposed permit is consistent with the previous permit.

- **Changes from previous permit:** No changes.

II. C. Illicit Discharge Detection and Elimination (IDDE)

Menomonee River Watershed Permittees have been implementing Illicit Discharge Detection and Elimination (IDDE) programs since first obtaining MS4 permits. The reissued permit does not contain major changes; however, some minor changes were made. The following sections note where changes have and have not occurred.

Ordinance

Both the existing and reissued permits require each Permittee to have an ordinance or regulatory provision which prohibits non-storm water discharges into the MS4 system or waters of the state. The ordinance, coupled with inspection and enforcement authority, is necessary for each Permittee to prevent illicit discharges or improper disposal. As these are existing requirements, the Department expects each Permittee to already be enforcing an ordinance or regulatory mechanism.

- **Changes from previous permit:** No changes.

Dry Weather Outfall Screening

Dry weather field screening remains an effective way to identify illicit discharges or which storm water pipes may have illicit connections. Dry weather screenings should occur when flow should not be present. Typically, this is 48-72 hours after a rain event. However, based on the precipitation event and size of drainage area, the amount of time may change.

- **Changes from previous permit:** Changes identified in sub-sections below.

Dry Weather Outfall Screening: Visual Observations and Field Analysis

Outfall screening consists of visual observation, field analysis, documentation, and potentially lab analysis. Each Permittee should have an inspection form or similar document to record the results of visual observations and field analysis results. If flowing water is observed at the outfall, a field analysis should be conducted to determine the source of the flow and the appropriate parameter action levels followed. If general observations and screening indicate the presence of illicit discharge and the source cannot be readily identified, it may be necessary for the Permittee to collect a water sample for lab analysis. The water sample should then be analyzed for parameters to aid in determining the source of illicit discharge. Permittees may also require a certified lab sample to pursue escalated enforcement. Though it may not be necessary for the Permittee to utilize a laboratory for additional analysis, the Permittee shall include the name and location of a laboratory it intends to utilize, when necessary, in its written program procedure. While the Permittee is not required to use this laboratory, identifying a laboratory may mitigate potential delays in determining the source of the illicit discharge.

Documentation of field screening activities should be kept for at least 5 years and a summary of the results should be submitted with the annual report.

As with the previous permit, each Permittee must identify pollutant parameter action levels used during outfall screening. Based upon the sampling result for a specific pollutant, the Permittee may need to take additional action. For example, the concentration of phenols detected at the outfall may require the Permittee to collect a sample for lab analysis and complete a sewer shed investigation to find the source. Other times, only follow-up monitoring is needed. The Permittee has the flexibility to determine the action levels and corresponding response steps, provided the pollutants and specified parameter action levels are identified in the written IDDE field screening procedures. The Department has developed guidance² to assist with developing parameter action levels, and Permittees are encouraged to adapt its IDDE programs based upon the results of screening and characteristics of the sewer sheds. The IDDE field screening procedures shall also explain when a certified lab sample needs to be collected, as these are more accurate and hold greater weight during enforcement.

- **Changes from previous permit:** Include name and location of laboratory within the written program procedure.

Dry Weather Outfall Screening: Location and Frequency

² The Department's IDDE Guidance can be accessed here: <https://dnr.wisconsin.gov/topic/Stormwater/publications.html>

Prioritization of outfalls to screen is an effective practice to identify illicit discharges and eliminate the pollutant loads. As with the previous permit, this permit calls for screening MS4 outfalls. However, screening requirements have changed slightly. The table below compares the previous and proposed permit outfall screening requirements and additional clarification to these changes is described below the table.

Previous Permit (WI-S065404-2)	Proposed Permit (WI-S065404-3)
All major outfalls which showed no indication of illicit discharges during the previous permit term. Annually, at least 20 percent of such major outfalls shall be screened, on a rolling basis, such that at the end of the permit term all major outfalls which showed no indication of illicit discharges during the previous permit term have been screened.	Screen at least 20 percent of all major outfalls each year, so that at the end of the permit term all major outfalls have been screened.
All other outfalls regardless of size, which have been identified as a priority screening location based upon the Human Illicit Discharge Potential methodology. At least 20 percent of such priority outfalls shall be screened annually, on a rolling basis such that at the end of the permit term all major outfalls which showed no indication of illicit discharges during the previous permit term have been screened.	Screen at least 20 percent of all priority outfalls each year, so that at the end of the permit term all priority outfalls have been screened
All major outfalls which showed evidence of illicit discharges or exceeded a parameter action level during the last two samplings under the preceding permit term shall be evaluated at a minimum one time per year.	Any outfall that exhibited evidence of an illicit discharge or exceeded a parameter action level during the previous year shall be screened the following year

Re-Screening Outfall with Previous Signs of Illicit Discharge

The previous permit required re-screening major outfalls which showed evidence of illicit discharges during the last two samplings under the preceding permit term once per year. This permit also requires re-screening outfalls which previously showed evidence of illicit discharges, but re-screening requirements have changed.

Based on visual and/or field analysis results, any MS4 outfall, not solely major, which exhibits signs of an illicit discharge should be re-screened the following year, regardless of the initial year’s investigation results. In other words, even if the Permittee located and eliminated the illicit discharge source, the outfall should be re-screened the following year to confirm the illicit discharge was successfully eliminated and/or has not reoccurred. If the re-screening results no longer exhibit signs of an illicit discharge, the Permittee is not required to re-screen that outfall the following year. However, if the re-screening results exhibit signs of an illicit discharge, the Permittee is required to begin its investigation, and re-screen that outfall the following year.

- **Changes from previous permit:** See table above.

Priority Outfalls

Unlike major and minor outfalls, priority outfalls are not solely based on pipe size or drainage area and are determined by the Permittee. As described within the Department’s IDDE Guidance⁵, Permittees

may consider factors such as illicit discharge potential in the contributing drainage area or past illicit discharge complaints to identify an outfall as priority.

However, a previous Menomonee River Watershed Permit required Permittees to identify non-major outfalls as priority based upon the Human Illicit Discharge Potential methodology. In summary, this methodology identifies storm water outfalls with high likelihood of sanitary waste contamination in storm water systems by scoring factors like infrastructure age, complaint history, and dry-weather flow. As the intent of the dry-weather outfall screening is to identify illicit discharges and/or illicit connections, priority outfalls should be periodically updated based upon the results of field screening. In other words, if the priority outfall is not exhibiting, or is no longer exhibiting signs of an illicit discharge or connection, the Permittee should select a different outfall to screen.

Permittees may continue to identify priority outfalls based upon the Human Illicit Discharge Potential methodology, however, the proposed permit will not continue this requirement. Removing the Human Illicit Discharge Potential methodology requirement is based upon previous field screening results and other efforts which are working to identify and eliminate sanitary waste contamination in storm water systems (e.g., fecal bacteria outfall screening requirement of permit section III.D). While removing the Human Illicit Discharge Potential methodology requirement provides flexibility for Permittees, the expectation is that Permittees are identifying priority outfalls appropriately. As previously stated, the Department's IDDE Guidance provides a list of factors the Permittees may consider when identifying an outfall as priority, but Permittees may consider additional factors as well. For example, due to the type of land use within a drainage area (e.g., primarily residential) and size of the outfall (e.g., minor), a Permittee has not screened said minor outfall. However, within this residential drainage area is a small auto-mechanic shop that the Permittee suspects could be a source of illicit discharges. Consequently, the Permittee identified this outfall as priority.

- **Changes from previous permit:** Permittees are no longer required to use the Human Illicit Discharge Potential methodology to identify priority outfalls.

MS4 Outfall Map and Priority Rationale:

This permit requires each Permittee to include within its written program procedure an MS4 Outfall Map and a list of its priority outfalls with the rationale used to determine the priority status. As previously described, Permittees may continue to identify priority outfalls based upon the Human Illicit Discharge Potential methodology but may identify priority outfalls based upon other factors.

- **Changes from previous permit:** Providing a map and list of priority outfall and rationale used to determine the priority status is new.

Enforcement Response

This permit continues to require each Permittee have an enforcement response plan that describes how the Permittee will enforce its illicit discharge ordinance once an illicit contributor is identified. While this condition is not new, additional information, such as identifying all available enforcement mechanisms the Permittee may utilize to compel compliance, was added.

- **Changes from previous permit:** No substantial changes. Minor changes such as providing the name or title of person(s) responsible for utilizing enforcement were added.

Investigation and Elimination Procedures

Where enforcement response procedures outline how the ordinance is enforced once an illicit contributor is identified, the investigation and elimination procedures outline the actions the Permittee will take to respond when illicit discharges are suspected or identified through screening, notification,

complaints, or other sources. Each Permittee should have procedures for expeditiously investigating portions of the MS4 suspected to contain illicit discharge based upon field screening, complaints, visual observation or other relevant information. These procedures shall identify the person responsible, the response time, investigation techniques to employ, and necessary equipment. Each Permittee must also have a plan for responding to spills that discharge into or out of the storm sewer, including prevention and containment. For public sources, this can mean beginning to take steps to stop the illicit discharge. For private sources, this can mean beginning to use the enforcement response procedures (written notice, notice of noncompliance letter (NON), etc.).

- **Changes from previous permit:** No changes.

II. D. Construction Site Pollutant Control

This permit continues the requirement to implement a construction site pollutant control program to reduce the discharge of sediment from construction sites. The reissued permit does not contain major changes; however, some minor additions were added. The following sections note where changes have and have not occurred.

Unlike the other Permittees, Milwaukee County does not have private construction sites occurring within its permitted area. This means the County does not have plan review or permitting procedures for private developments. Thus, the County does not have permitted private construction sites to inspect or take enforcement, when needed. Although County developments can occur within its permitted area, as noted within the permit, the County defers to the applicable municipal construction erosion control ordinance for County projects. Therefore, the local municipality is responsible for conducting plan review and issuing permits for County projects that occur within its community. As the local municipality issues permits for County projects, this means the County is not required to conduct the erosion control inspections required by this permit nor can it use the enforcement provisions in the local municipality's ordinance when noncompliance is observed. During the permit drafting process, the County explained the local municipality regulates county projects (e.g., new and redevelopment on County land) but the Wisconsin Department of Transportation (WisDOT) reviews and permits County roads reconstruction projects. As such, the County does not have plan review and permitting, inspection, and enforcement procedures to implement as required by the permit. However, to clearly demonstrate compliance, the County should explain how its Construction Site Pollutant Control program operates within its written program.

Ordinance

Permittees are expected to have a construction site ordinance in place which requires construction plans which meet the performance standards in ch. NR 151, Wis. Adm Code, allows for inspection and enforcement to ensure compliance with performance standards, and requires site operators to properly manage waste materials on construction sites.

- **Changes from previous permit:** No changes.

Plan Review and Permitting

The Permittee's plan review and permitting procedures should identify the steps construction site operators will follow to obtain a construction permit and the procedures the plan review staff will follow to review and issue construction site/erosion control permits. The procedures should also describe how the Permittee considers water quality impacts through its plan review process as required in s. NR 216.07 (4) (b), Wis. Adm. Code. These considerations can be in the form of a checklist or specific BMPs for certain site conditions but must describe a consistent process or evaluation that is applied to all sites within the Permittee's jurisdiction. For example, the Permittee may require certain

BMPs on high slope or large sites, or additional barriers if the site is adjacent to wetlands or other waterbodies. The Permittee may also require identification of portable toilets on construction sites and require them to be on impervious surfaces and in locations of low traffic to limit bacteria runoff.

While this section is not new, additional information, such as identifying the name or title and contact information of the individual(s) responsible, was added. These additions were made for clarity and so the Department can more easily contact the correct individual(s), when necessary. In situations where there is not an individual ultimately responsible for a certain procedure, the responsible municipal department may be provided. For example, if a City's Engineering Department consists of multiple individuals who are all responsible for the same plan review and permitting procedures, the Permittee may provide the contact information for the City's Engineering Department.

- **Changes from previous permit:** No substantial changes. Minor changes such as providing the name or title of person(s) responsible have been added.

Erosion Control Inspections

The inspection frequencies within Table 3 in the permit are consistent with the previous permit. These inspections are required for any construction site, including municipal projects, disturbing one acre or more of land, and sites of less than one acre if they are part of a larger common plan of development or sale. Permittees may require inspection of smaller sites or more frequent inspection frequencies, but at a minimum, each Permittee must complete inspections according to Table 3. All active sites must be inspected every 45 days and follow-up inspections are required until issues are resolved. Each Permittee is also required to keep record of all inspections and follow-up for 5 years. While this section is not new, additional information, such as contact information, is new.

- **Changes from previous permit:** No substantial changes. Minor changes such as providing the name or title of person(s) responsible have been added.

Enforcement Response

This permit continues to require each Permittee have an enforcement response plan that describes how and when the Permittee will use the enforcement provisions in its local ordinance to ensure the discharge of sediment and pollutants is controlled accordingly. For example, a Permittee may elect to issue a stop work order after an initial inspection and conduct a follow-up inspection 7 days later in the case of a site that has not installed erosion and sediment control practices but has begun mass site grading. While this section is not new, additional information, such as contact information, is new.

- **Changes from previous permit:** No substantial changes. Minor changes such as providing the name or title of person(s) responsible have been added.

Measurable Goal – Storm Water Education for Private Developers

As previously described, measurable goals are intended to reduce the discharge of a Permittee's storm water pollutants to the MEP – part of the MS4 permit standard. Thus, Permittees should continuously assess implementation of its programs and identify areas for improvement. Noted within the reapplication for permit coverage materials, many of the co-Permittees identified a variety of issues related to private construction site developers. For example, the Village of Menomonee Falls explained that municipally conducted erosion control inspections result in a significant number of enforcement actions. In addition to noncompliance resulting in the discharge of stormwater pollutants, conducting a significant number of enforcement actions takes a considerable amount of Village resources. As such, the Village proposed a measurable goal of reducing the number of enforcement actions. To work towards this goal, the Village proposed to discuss erosion control requirements during its pre-construction meetings.

Along with the Permittees, the Department also identified a variety of issues related to private construction site developers while conducting erosion control inspections and MS4 audits. Consequently, this permit requires each Permittee, except Milwaukee County³, to provide education to private construction site developers within its community that require a Department NOI. Permittees are not required to provide education to developers for sites that do not require a Department NOI. Permittees may choose how to provide their education and what to educate on. For example, Permittees providing education during pre-construction meetings may educate on the importance of compliance (i.e., educate about water quality to encourage better compliance) but could also educate on the Permittee's compliance expectation (e.g., educate about enforcement actions to encourage better compliance). Permittees may choose other methods to provide this education as well. For example, during the previous permit term, the City of Milwaukee requested private site developers to watch an educational video before initiating construction activities. While the City could continue this effort, to satisfy this measurable goal condition the City would need to require developers watch the video rather than request it. Permittees may also choose passive educational efforts such as providing printed or web-based materials to private developers or including educational materials within their construction site application or construction permit package.

Similar to the Fecal Bacteria Storm Water Education Measurable Goal, Permittees are not required to provide updates to the Department throughout the permit term but are required to submit documentation with its permit reapplication. This documentation must describe the Permittee's educational efforts (e.g., education during pre-construction meetings vs education via updated web-pages) and include the Permittee's determination on whether its education efforts were successful in addressing a specific storm water quality issue and/or noncompliance issue. To make this determination, Permittees may use quantitative data (i.e., number based) or qualitative data (i.e., narrative based). Using the Village of Menomonee Falls example, the Village could determine success by comparing the number of enforcement actions taken pre- and post- education during their pre-construction meetings (i.e., quantitative data). However, the Village could also determine success by asking its inspectors if private site developers seem to have a better understanding and/or noncompliance issues appear less egregious (i.e., qualitative data).

As with the Fecal Bacteria Storm Water Education Measurable Goal, Permittees are not required to describe their education efforts to Private Construction Site Developers within their written Construction Site Pollutant Control program. This is due to the nature of measurable goals and written programs. Written programs describe standard procedures, which will likely require minor revisions over time. However, measurable goals should change each permit term. Permittees who determined its actions were not successful may determine alternative actions are necessary to achieve its goal. Thus, if described within its written program, the Permittee would be required to revise its written program. Conversely, while Permittees who determined its actions were successful may choose to continue implementing those beneficial actions in the future, to reduce the discharge of stormwater pollutants to the MEP, Permittees should establish a new measurable goal to work towards. Consequently, these Permittees would also be required to continuously update its written program.

- **Changes from previous permit:** The Measurable Goal Condition is specific to providing education to private construction site developers within its community that require a Department NOI.

³ Milwaukee County is excluded from this requirement because it does not have private construction site developers to provide education.

II. E. Post-Construction Storm Water Management

The post-construction storm water management program is intended to control the quality of storm water discharges from the MS4 after construction is complete. The discharges should be controlled for the life of the site or until redevelopment takes place.

Since Milwaukee County does not have private developments within its permitted area and defers to the applicable municipal post-construction storm water discharge ordinance for all county projects, the County does not implement some of the required procedures (e.g., plan review and permitting). However, to clearly demonstrate compliance, the County should explain why it does not implement certain procedures with its written Post-Construction Storm Water Management program.

Ordinance

This permit continues the requirement for the Permittee to have an ordinance or regulatory mechanism that applies to sites of specific size and requires post-construction standards equal to or more restrictive than ch. NR 151, Wis. Adm. Code, and Department technical standards. The ordinance should require a storm water management plan for the site, permit application and associated fees, long-term maintenance for post-construction BMPs, and provide the MS4 with inspection and enforcement authority.

- **Changes from previous permit:** No changes.

Plan Review and Permitting

This permit continues to require written procedures the Permittee will employ for reviewing plans for sites which require post-construction BMPs. However, as plan review and permitting procedures commonly differ between public and private developments, the conditions have been separated in the permit for additional clarity.

The procedures should describe the Permittee's review process and items the Permittee reviews to consider water quality impacts.⁴ These may include wellhead protection barriers near drinking water sources or additional controls for developments in TMDL areas. The procedures should also describe how the Permittee reviews requests for regional storm water controls if proposed by the site developer.⁵

As the Permittee's own ordinance contains provisions for storm water management plan requirements,⁶ the written procedure should describe what its requirements are (e.g., operation and maintenance plans, long-term maintenance agreements, etc.), when these requirements are satisfied, and if these requirements are different for public and private projects. For example:

- Some MS4 Permittees require a draft long-term maintenance agreement (LTMA) with the private developer prior to permit issuance and then require the draft LTMA be finalized prior to permit termination. Others may only require the final LTMA prior to permit termination.
- Some MS4 require storm water management plans which include operation and maintenance plans while others require separate operation and maintenance plans.
- Though a Permittee requires LTMA's for privately owned BMPs constructed within its community, the Permittee does not require the same agreement for its own municipally owned BMPs. Rather, the Permittee requires the development of an operation and maintenance plan or

⁴ As required by s. NR 216.07 (5) (b), Wis. Adm. Code.

⁵ As required by s. NR 216.07 (5) (c), Wis. Adm. Code.

⁶ As required by s. NR 216.47, Wis. Adm. Code.

plan containing inspection and maintenance requirements.

While this section is not new, conditions requiring additional information about the Permittees' existing procedures are new. For example, the proposed permit requires the Permittee to provide a description of applications which are reviewed and permitted for post-construction stormwater management within its written program. While Permittees must require post-construction standards equal to ch. NR 151, Wis. Adm. Code, and Department technical standards, this condition was added because Permittees have more restrictive standards and therefore, review and permit additional sites for post-construction stormwater management.

- **Changes from previous permit:** Minor changes such as providing contact information and description of sites reviewed and permitted for post-construction stormwater management.

Post-Construction BMP Inventory

This permit continues to require each Permittee maintain a post-construction BMP Inventory. An inventory of post-construction BMPs is critical for documenting current and future Total Maximum Daily Load (TMDL) requirements and can be used to help track required BMP inspections, maintenance needs, completed maintenance, or other documentation notes. Permittees may develop and maintain multiple BMP Inventories, if desired. However, each BMP Inventory must include all of the permit requirements. The BMP Inventory must include all municipally owned or operated post-construction BMPs and all privately owned BMPs constructed on or after July 1, 2011.

- Municipally owned BMPs are structural BMPs owned by the Permittee, regardless of date of construction.
- Municipally operated BMPs are also structural BMPs, regardless of date of construction, which are not owned by the Permittee but for which the Permittee has an obligation to ensure the BMP is maintained. For example, a privately owned BMP in which the Permittee has a long-term maintenance agreement and thus, can ensure said BMP is maintained.
- As required by previous MS4 permits, each Permittee is required by its own ordinances to obtain long-term maintenance authority on privately owned BMPs constructed within its jurisdiction since at least July 1, 2011. As such, all privately owned BMPs built on or after July 1, 2011, must be included in this inventory with confirmation of the existence of long-term maintenance agreements.

For each BMP, the inventory must identify:

- The BMP name, location, BMP type, year constructed, and ownership.
- Confirmation of whether each of the following exists for each BMP:
 - Record drawing.
 - An operation and maintenance plan with inspection procedures and schedule.
 - For privately-owned BMPs, long-term maintenance agreements or written documentation of the Permittee's legal authority to inspect and maintain a privately owned BMP, if needed.

Note: To utilize privately owned BMPs towards pollutant reduction goals, the Permittee must have a maintenance agreement in place or have regulatory authority to maintain or require maintenance of the private BMPs.

While this section is not new, some changes were made for clarity.

- **Changes from previous permit:** Clarification of BMPs that must be included within the BMP Inventory. BMP ownership be provided within the BMP Inventory. Clarified that confirmation of documentation listed is required within the BMP Inventory.

Post-Construction BMP Inspection and Maintenance Procedures

As with the previous permit, the reissued permit continues to require Permittees complete long-term maintenance and inspections of all post-construction BMPs, public and private. However, as inspection and maintenance procedures often differ between municipally owned BMP (i.e., public BMPs) and municipally operated BMP (i.e., private BMPs with long-term maintenance requirements), the reissued permit contains conditions that separate BMP inspection and maintenance procedures. For example, a Permittee is typically responsible for inspecting and maintaining its own municipally owned BMPs. However, while a Permittee must ensure municipally operated BMPs are being inspected and maintained according to the long-term maintenance requirement (e.g., a long-term maintenance agreement, LTMA), typically, the BMP owner is responsible for inspecting and maintaining its own BMP. The written procedure should include information such as inspection frequencies and who is responsible for conducting inspections and pursuing maintenance.

Municipally owned and municipally operated BMPs should be inspected per their operation and maintenance plans or long-term maintenance requirements. However, as with the previous permit, the permit sets a minimum expectation that each BMP be inspected at least once every 5 years. If the Permittee requires the private BMP owner to inspect its municipally operated BMP, the Permittee is not required to conduct its own inspection. However, the Permittee is required to ensure the municipally operated BMP is being inspected as required.

- **Changes from previous permit:** BMP Inspection and Maintenance procedures have been separated into two sets of conditions for clarity: (1) Inspection and Maintenance procedures for Municipally Owned BMPs and (2) Inspection and Maintenance procedures for Municipally Operated BMPs.

Enforcement of Long-Term Maintenance Requirements for Municipally Operated BMPs

Consistent with the previous permit, the Permittee is required to enforce its long-term maintenance requirements and describe its enforcement response when addressing compliance issues. This permit continues those requirements, but additional clarity surrounding the enforcement response was added. The reissued permit clarifies the enforcement response should describe how the Permittee will enforce long-term maintenance requirements when noncompliance is discovered. The Permittees' written procedure should describe the person(s) responsible for regulatory and enforcement activities and the general procedure, with associated timeframes, to compel compliance. Below are two examples:

1. If a private BMP owner does not submit its required inspection report, the written procedure should describe the Permittee's process for obtaining the missing inspection report. For example: "If an inspection report has not been submitted within 3 months of its due date, the Director of Public Works, or assigned designee, shall send a notification letter to the private BMP owner. The letter will request the inspection report be submitted with 30 calendar days and if not submitted, the City will conduct the required inspection and charge an inspection fee."
2. If a private BMP owner is not conducting the required maintenance, the written procedure should describe the Permittee's process for ensuring maintenance will be completed in a timely manner. For example: "Through the review of submitted inspection reports, or through other means such as a complaint, it is discovered that a municipally operated BMP requires maintenance, the Director of Public Works, or assigned designee, shall send a notification letter to the private BMP owner. The letter will describe the necessary maintenance required and request the BMP owner provide, within 45 calendar days, its plan to conduct the necessary maintenance in a timely manner or provide documentation demonstrating the required

maintenance has been completed. If a plan, or proof of completed maintenance is not provided within 45 calendar days or the submitted plan does not provide reasonable assurance the required maintenance will be completed in a timely manner, the Director of Public Works may pursue the following actions: [citation, the Permittee conducting the required maintenance and billing the private BMP owner for occurred cost, etc.]”

- **Changes from previous permit:** The enforcement response shall describe how the Permittee will enforce municipally operated BMP long-term maintenance requirements when noncompliance is discovered.

Measurable Goals

Unlike the proposed measurable goals for the Construction Site Pollutant Control Program, Permittees identified a variety of diverse needs for their Post-Construction Storm Water Management programs. For example, conducting more frequent inspections on publicly owned BMPs, developing internal procedures to make the Permittee’s procedure more efficient, and conducting education to private BMP owners. Given the wide range of proposed measurable goals, this condition requires each Permittee to notify the Department of its measurable goal, the intended actions to work towards its goal, and the metrics that will be used to measure if the actions taken were successful in achieving the goal. As with the other measurable goal requirements, Permittees are not required to describe their measurable goal within their written program but, must submit, with their permit reapplication, a summary of the actions taken to reach the measurable goal, metrics used to measure success, and evaluation results.

- **Changes from previous permit:** Each Permittee must establish, work towards, and evaluate the success of its Post-Construction Storm Water Management Measurable Goal. Permittees must also submit documentation for the Measurable Goal as required by the permit.

II. F. Pollution Prevention

Pollution prevention activities are employed to reduce municipal sources of pollution. This section consists of multiple sub-programs which include training requirements. The sub-programs include winter road management, nutrient management, street sweeping and catch basin cleaning, management of leaves and grass clippings, and Storm Water Pollution Prevention Plans for municipal properties.

Since Permittees are required to have written program procedures describing how it intends to implement its sub-programs, further explanation to common questions pertaining to sub-program implementation and written program expectations are described below.

If a sub-program is not being implemented to any extent within the Permittee’s community, and is therefore not applicable, a written program describing implementation is not required. However, it is recommended the Permittee submit documentation confirming the sub-program is not being implemented. For example, if a Permittee does not have any applicable properties requiring a nutrient management plan, it is recommended the Permittee provide a statement confirming this.

If a sub-program is being implemented by an entity which is not the Permittee, the Permittee is required to have a written program describing how its sub-program is being implemented and how the Permittee is ensuring implementation is consistent with permit requirements. For example, if a neighboring community or private contractor is conducting winter road management on behalf of a Permittee, this Permittee must have a written program procedure

describing how its sub-program activities are being implemented and how the Permittee is ensuring permit conditions are met (e.g., describing how the Permittee is ensuring calibration is occurring at least annually).

If a sub-program is being implemented to any extent, the Permittee is required to have a written program describing how activities of the sub-program are being implemented. For example, if a Permittee does not collect leaves but its residents may bring collected leaves to one of its municipal properties, the Permittee should describe this in its written program.

Internal Pollution Prevention Training Requirements

Consistent with the previous permit, this permit continues to require Permittees provide training to municipal staff involved in pollution prevention activities. While these training requirements have not changed, the location of these conditions has changed.

Within the previous permit, internal training for Winter Road Management and Storm Water Pollution Prevention Plans for municipal properties were specifically referenced within their respective sections. However, internal training for street sweeping, catch basin cleaning, and leaf collection were not specifically referenced within their respective sections but rather located under a single condition named “Internal Training and Education” (previous permit condition II.G.6). The reissued permit removed this single internal training condition but added internal training conditions within the pollution prevention sub-programs for clarity.

As with the previous permit, internal training procedures (e.g., content, format, and attendees) are determined by the Permittee. However, a description of the intended trainings must be described within the Permittee’s written program. As Permittees should provide internal training based on their needs, at minimum, the description should provide a general understanding of the Permittees intended trainings. For example, a Permittee with consistent street sweeping crews may not require in-depth training (e.g., importance of sweeping the curb-line). As such, said Permittee may determine a refresher training is more adequate (e.g., reminder to wash out street sweeper equipment inside of the garage with sanitary sewer drains).

Although Permittees may determine internal training efforts are most appropriate for staff implementing the sub-program (e.g., street sweeping crews), internal training could also be provided to those involved in the implementation of the sub-program. For example, Permittees that contract with a third party to conduct their street sweeping may not have internal staff to provide training to. As such, internal trainings may look different from Permittees who conducts their own services. For example:

- Training may be provided to the individual(s) responsible for performing the contractor’s services. This training should educate the responsible individual(s) on performing the service so they will make educated decisions, include any additional requirements they may need in their contract, and/or answer any questions the contractor has about performing the service for the Permittee.
- Permittees may provide training to municipal staff and/or elected officials to educate them on the service the contractor provides. This training may include an explanation of what to do if the service appears inadequate or how to recognize common complaints that suggest street sweeping services are being performed inadequately (e.g., curb line is not swept, sweeper

appears to be clogged because sediment is being left behind, etc.).

- In lieu of providing a municipally conducted training, the Permittee may alternatively describe how it will ensure its contractor is adequately trained and implementing procedures as intended. While a service contract may provide expectations (e.g., the contract requires sweeping the entire community at least twice each year, once in the spring after snow melt, and once in the fall after leaf collection), the Permittee's written procedure shall explain how the Permittee verifies the contracted servicer is adequately trained and/or implementing procedures as intended. The Permittee may require the contractor to submit proof of training, require the contractor to attend a training, or the Permittee may implement a procedure to verify the contractor's services were adequate and implemented as intended.
- The Permittee may choose other methods to conduct its required trainings for third party contractors. Permittees should consult with their local storm water specialist with questions about appropriate training methods.

Winter Road Management

This permit continues the requirement for Permittees to not apply road salt or deicers in quantities larger than required to maintain public safety. To reduce overapplication of salt and deicers, Permittees must have and implement a salt application, salt reduction strategy, or similar document which describes the conditions, equipment and strategy which will be followed during deicing events. The Wisconsin Department of Transportation (WisDOT) Highway Maintenance Manual - Chapter 6, contains guidelines on winter maintenance including application of road salt and other deicers.⁷ These guidelines and additional resources, such as those provided by Wisconsin Salt Wise,⁸ or Minnesota Pollution Control Agency,⁹ can be used to assist with evaluating and/or revising the Permittees' salt reduction strategies.

The permit continues to require annual calibration for salt application machinery. Each Permittee's winter road management program should describe how calibration is completed for each piece of equipment¹⁰ and should maintain records showing equipment was calibrated. Factory calibration is not considered acceptable for annual calibration as new machinery has been shown to significantly over apply salt based on factory settings.¹¹ Calibration is also key for properly using the quantity of deicers used for reporting on the annual report.

The permit continues to require Permittees track and report the quantity of salt and other deicing products used. However, a description of how salt and other deicing products are tracked is new.

⁷ Wisconsin Department of Transportation (WisDOT) Highway maintenance manual -Chapter 6.

<https://wisconsin.gov/Pages/doing-bus/local-gov/hwy-mnt/mntc-manual/chapter06.aspx> The WisDOT highway salt storage requirements are contained in ch. Trans 277, Wis. Adm. Code.

⁸ Resources provided by Wisconsin Salt Wise can be found at: <https://www.wisaltwise.com/>

⁹ Minnesota Pollution Control Agency's Smart Salting for Roads Manual can be found at: <https://www.pca.state.mn.us/sites/default/files/p-tr1-13.pdf>

¹⁰ Wisconsin Salt Wise has calibration directions and training videos for commonly used equipment. Resources are available here: [Calibration Examples](#)

¹¹ This finding is based on a previous discussion between Department staff and Mary Jo Lange, former Director of Public Works for the City of Cudahy, in 2020. Testing of a new truck in 2018 was over applying salt by 92%.

As previously described, this permit continues to require each Permittee provide training on its salt reduction strategy at least once every other year. Training is a best management practice and should help ensure the strategy is implemented as intended. The anticipated training and its participants are determined by the Permittees, but they should be described in the written program procedure. Permittees may propose to reduce the required salt reduction strategy frequency. However, Permittees must continue to provide training at the frequency (i.e., every other year) until changes are approved from the Department in writing.

Although not required by a specific permit condition, Permittees should continuously evaluate its salt reduction strategy, and all of its programs, to identify potential improvements and to reduce pollutants to the maximum extent practicable (MEP – part of the MS4 permit standard). The Department encourages each Permittee to consider utilizing its required trainings as a mechanism to identify potential improvements. For example, some MS4 Permittees in the state have implemented evaluation meetings with salt application crews as part of its required trainings. While some MS4 Permittees conduct these meetings at the beginning and/or end of each winter season, others have conducted these meetings before and/or after each winter event. During these evaluation meetings, staff responsible for determining the application rates (e.g., DWP Director or Superintendent) meet with application crews to discuss implementation outcomes and potential improvements.

- **Changes from previous permit:** A Permittee must describe how it tracks salt and other deicing products used. A Permittee may propose to reduce its required training frequency, however, it must continue at the required frequency until changes are approved by the Department in writing.

Nutrient Management:

Nutrient management plans are required for fertilizer and nutrient application on any municipally controlled properties (parks, athletic fields, golf courses, lawns, etc.) with five acres or more of pervious area. Municipally controlled property means any property in which the Permittee (MS4 staff or representative) is managing. Nutrient management plans must be based on soil samples for each individual property that qualifies. For additional information, please refer to DNR Technical Standard 1100, Interim Turf Nutrient Management and additional guidance found here:

https://dnr.wi.gov/topic/stormwater/standards/turf_nutrient.html

If a Permittee is applying nutrients to at least 5 acres of pervious area on a single municipally controlled property, the Permittee shall follow a site-specific nutrient management plan. However, the MS4 Permittee is not required to follow a site-specific nutrient management plan for properties in which the Permittee is not managing. For example, if the MS4 Permittee is not responsible for applying nutrients to a county-owned park within its community, the MS4 Permittee is not required to follow a site-specific nutrient management plan for said county-owned park. If nutrients are applied to an applicable county-owned park, the county is responsible for following a site-specific nutrient management plan.

- **Changes from previous permit:** No changes.

Street Sweeping and Catch Basin Cleaning:

Street sweeping and catch basin cleaning activities are an effective way to remove large sediment particles that would otherwise be washed away during precipitation events. Permittees conducting these activities are required to have a written program that describes its procedure in detail and complies with permit conditions. Consistent with the previous permit, Permittees using street sweeping or catch basin cleaning to meet a water quality requirement under this permit or a previous permit (e.g., the developed urban area performance standards of s. NR 151.13(2), Wis. Adm. Code and/or TMDL

pollutant loading analysis) shall conduct its street sweeping and/or catch basin cleaning at the frequencies identified in its modeling analysis. New to this permit is the requirement for the Permittees to include these frequencies within its written program procedures.

Collected street sweeping material is considered solid waste and must be disposed of in an appropriate manner. If a Permittee stages this solid waste material prior to final disposal, BMPs shall be employed to prevent contamination with storm water runoff. Dewatering and drying this solid waste material should be done in a manner that does not allow for liquid generated from this material to discharge to waters of the state (surface, ground, or wetland) as this is considered a non-storm water discharge and is not authorized by this permit. All material should be disposed of in a landfill unless the Permittee has an approved beneficial reuse exemption from the DNR Solid Waste Program.

- **Changes from previous permit:** Written programs must include the sweeping and/or catch basin cleaning frequency identified in the Permittees' modeling analysis. Internal training requirements have been incorporated into each required sub-program.

Management of Leaves and Grass Clippings

Collection of leaves is an effective measure for reducing nutrient input from urban storm water runoff. While many BMPs are designed to settle out solid materials, leaf matter leaches dissolved phosphorus, which is not captured by traditional settling devices. Collection of leaves before precipitation is essential for reducing dissolved phosphorus contributions from the MS4. This permit continues to require each Permittee provide a description of its leaf collection program, including the methodology and equipment used for collection, the frequency and timing of collection, and instructions for residents and landowners on where to locate leaves for collection.

- **Changes from previous permit:** Internal training requirements have been incorporated into each required sub-program.

Storm Water Pollution Prevention Planning

This permit continues the requirement for municipal garages, storage areas, and other public works related facilities (e.g., composting facilities) with the potential to generate storm water pollution to have storm water pollution prevention plans (SWPPP) for each site under the Permittee's control. These sites would normally be covered by an industrial storm water permit, but to avoid the need for multiple permits, the requirements for these industrial sites have been incorporated in the MS4 permit.

SWPPP requirements have not changed. However, where the previous permit referenced s. NR 216.27 (3), Wis. Adm. Code for SWPPP requirements, this permit provides the requirements within the permit.

Consistent with the previous permit, SWPPPs shall be revised as needed to be consistent with current site conditions and activities and new or revised SWPPPs should be submitted to the Department upon completion or with that reporting year's MS4 Annual Report.

When site conditions and/or activities change, the expectation is for a Permittee to revise its SWPPP. Similarly, if inspections indicate changes are needed to the site and/or activities, the expectation is for a Permittee to revise its SWPPP. However, if site conditions and/or activities do not change, and therefore the SWPPP does not require revisions, it may be unclear if the SWPPP was evaluated. Consequently, this permit includes a new requirement. Once during the permit term, Permittees must each evaluate their own SWPPPs and document that the evaluation occurred. Permittees may add a cover page, appendix, or change the document date to indicate the evaluation occurred. If the Permittee

determines its SWPPP does not require revisions, documentation that the SWPPP evaluation occurred is still required.

- **Changes from previous permit:** Document SWPPP evaluations occurred at least once during the permit term.

II. G. Storm Water Quality Management

Permittees are expected to maintain all BMPs used to achieve their existing control level in accordance with s. 281.16 (2) am (3), Wis. Stats. Maintenance and continued operation of BMPs is necessary to prevent backsliding. Permittees in the region have collectively achieved a 23.6% reduction and the Milwaukee River TMDL sets much higher reduction goals for TSS.

II. H. Storm Sewer System Map

The reissued permit provides a statement explaining that Permittees may develop multiple maps to more easily identify the required information. Although not described within the permit, Permittees may also submit hyperlinks to Geographic Information System (GIS) maps provided the Department has access to the GIS maps.

II. J. Annual Report

Consistent with the previous permit, Permittees are required to submit annual reports electronically through the Department's electronic reporting system as required by the USEPA eReporting Rule, using the Department-provided form. This electronic system is available at:

<https://dnr.wi.gov/permits/water/> or [Storm Water MS4 eReporting](#). Municipal storm water permit eReporting information and user support tools can be found at:
<https://dnr.wi.gov/topic/stormwater/municipal/eReporting.html>.

II. K. Reapplication for Permit Coverage

The permit application requirements are consistent with the previous permit and specify additional information Permittees must submit 180 days prior to permit expiration (on February 1, 2031). The Department will consider these materials and other relevant information to develop the next Menomonee River Watershed Permit¹².

Permittees must submit their reapplication information electronically through the Department's eReporting system. This electronic system is the same internet-based system used to submit MS4 Annual Reports. However, unlike the MS4 Annual Report, information required for the reapplication package will not be submitted on Department forms. Permittees may provide the information in a written format of their choosing.

III Total Maximum Daily Loads (TMDLs)

This section continues requirements to address the Milwaukee River TMDL as well as municipality specific requirements. These conditions are required because additional BMPs and controls beyond those currently employed are needed to attain water quality standards.¹³

¹² Consistent with ss. NR 216.01 and .07, Wis. Adm. Code.

¹³ Sawyers, A.D. and Best-Wong, A. November 26, 2014. Revisions to the November 22, 2002 Memorandum "Establishing Total Maximum Daily Load (TMDL) Wasteload Allocations (WLAs) for Storm Water Sources and NPDES Permit Requirements Based on Those WLAs." USEPA office of Watershed Management

III.A. Prior Department Concurrence That TSS and TP WLAs have been met

Prior to permit issuance, the Village of Elm Grove received written concurrence from the Department that its TSS and TP WLAs have been met in all reachsheds. As described in the concurrence letter, dated September 27, 2024, the Village shall maintain existing BMPs in operational condition through its municipal maintenance program, long-term maintenance agreements, and/or continue supporting any pollutant trading activities utilized to meet the WLAs. Due with the permit reapplication materials, the Village of Elm Grove must certify its discharges to areas subject to TMDL WLAs have not changed due to annexation or development or, provide a map and updated TSS and Tabular Summary as described in the permit.

Although the Village of Elm Grove met its TSS and TP WLAs in all reachsheds, the Village entered into a Water Quality Trade agreement with Waukesha County as a pollutant trading credit generator. Consequently, the Village is required to implement its approved Water Quality Trading Plan (WQT-2025-0003) and submit documentation required by the approved Water Quality Trade Plan as required by the permit. Water Quality Trade documentation requirements are located within Section VIII of the permit.

III.B. Implementation of Individual TMDL Benchmarks

Permittees that have not met TSS and TP WLAs in all reachsheds must continue to make progress, to the Maximum Extent Practicable, each permit term until WLAs are achieved in all reachsheds. To demonstrate progress towards WLAs, Permittees may implement structural controls (i.e., BMPs), nonstructural controls where effectiveness information is available (e.g., street sweeping, adopting more stringent development and redevelopment standards, etc.), and/or participate in alternative compliance options such as Water Quality Trading.

The Individual TMDL Benchmarks identify specific actions each Permittee must complete during the term of this permit to demonstrate progress on its TMDL WLAs. Permittees initially proposed these actions with their permit reapplication materials, however, additional conversations with Permittees occurred after the reapplication materials were submitted to develop these conditions.

While some TMDL Benchmark conditions include project specific information, others do not – this was due to the quantity of information provided. For example, rather than listing 40 new and recently completed projects that must be incorporated into the City of Brookfield’s modeling, the TMDL Benchmark condition reads “The City shall incorporate new and recently completed City owned BMPs that occurred in MRB TMDL areas into the City’s MRB TMDL modeling”.

To track these efforts, the intended projects and actions are provided in the table below.

Permittee	TMDL Benchmark Condition	Intended Projects and Actions
City of Brookfield	III.B.1.d) Incorporate privately owned BMPs with long-term maintenance agreements (e.g., LTMAAs) from new development and redevelopment that occurred in MRB TMDL areas after November 2017, into the City’s MRB TMDL modeling.	Reserve at Brookfield II, Taco Bell, Milwaukee Electric Tool Phase V, Chilton Bank, Azura Memory Care, Glen at Woodside Creek, Kiddie Academy, Hidden Lake Estates, North Shore Bank, Brookfield Fashion Center, Brookfield Central Athletic Field Improvements, Brookfield East Athletic Improvement, Bohmann & Vick - New Office Bldg, Petawa, Grace Landing, Congregational

		<p>Home Addition, Storage Master, Unity Lutheran Church - Christ the King, Panera Bread Bakery Café #6249, Brookfield East Varsity Baseball Field, Nu Art Dental, Immanuel Lutheran Church – Playground, Congregational Home Garden Terrace, BJ's at the Brownstones, PetSuites Brookfield, Bachmanns Pools, Spas & Saunas - Sidewalk & Parking, Flats at Bishops Woods, Elite Sports, CalCap / MISHKAAT INVESTMENT LLC, Raising Cane's Chicken, Anita's Garden, Crest Cadillac (12800), Café Zupa at CVS Plaza, CVS Plaza - Courtyard Improvement, Crest Cadillac (12800), Burleigh Elementary, Jilly's Car Wash, Krueger Park - Pickle Ball Courts, Chase Bank, and Immanuel Lutheran Church</p>
<p>Village of Germantown</p>	<p>III.B.3.b) Implement at least two BMPs during the permit term</p>	<p>Village's Fire Department and the Village's Police Department</p>
<p>Village of Menomonee Falls</p>	<p>III.B.5.b) Incorporate new and recently completed Village owned BMPs that occurred in MRB TMDL areas into the Village's MRB TMDL modeling.</p>	<p>Installation of the Arthur Avenue Pond, Shady Lane Pond and Storm Sewer, and Wheeler Menomonee Park Pond</p>
<p>City of Milwaukee</p>	<p>III.B.6.b) Incorporate new and recently completed City owned BMPs that occurred in MRB TMDL areas into the City's MRB TMDL modeling.</p>	<p>Major Projects - 2590-04-01 - W Lisbon Ave Permeable Pavers and Bioswales - N. 100th St. To W. Burleigh St., Capital (Harbor District) - S. First St. - E. Lincoln Ave. to S. Chase Ave., Green Alley bb W. Congress St., W. Marion St., N. 75th St., N. 76th St., Green Alley bb W. Auer Ave., W. Burleigh St., N. 88th St., N. 89th St., Green Alley bb S. Honey Creek Dr., S. Lorene Dr., S. Melinda St., W. Wanda Ave., Capital - Meaux Park Bioswales (in Villard Ave - N. 22nd St. to N. Green Bay Ave.), WisDOT - S 27th St Bioswales - W College Ave to W Ramsey Ave, Local Paving - W. Michigan St. Bioswales - N. 35th St. to N. 39th St., Multimodal - Burnham Park Bioswales and Traffic Safety Improvements, Local Paving - 89th St. Bioswales - W. Silver Spring Dr. to W. Carmen Ave., Capital - N. Harbor Dr. Stormwater Trees - E. Summerfest Pl. to E.</p>

		Menomonee St. (extended), Local Paving/Capital - Ohio Playfield Bioswales and Traffic Calming, Green Alley between W. Fiebrantz Ave., W. Hope Ave., N. 62nd St., N. 63rd St., Green Alley between W. Keefe Ave., W. Townsend Ave., N. 46th St., N. 47th St., Green Alley between W. Appleton Ave., W. Chapman Pl., W. Nash St., W. Potomac Ave., Major Projects - 2984-26-72 - N. Sherman Blvd - W. North Ave. to W. Burleigh Ave., and Major Projects - 2984-26-74 - N. Sherman Blvd - W. Burleigh Ave. to W. Capitol Dr.
Milwaukee County	III.B.7.a) Incorporate new and recently completed County owned BMPs that occurred in MRB TMDL areas into the City's MRB TMDL modeling.	Oak Leaf Train Extension: Kohl Park Connection Project, Oak Leaf Trail Connectivity: Bender Park Project, Lincoln Parking lot and Walkway Reconstruction, Bender Park Roadway and Drainage Project, Bender Boat Launch Sediment Abatement and Vegetation Project, Currie Park Parking Lot and Cart Path Improvements Project, Oak Leaf Train Modernization Project, Scout Lake Parking Lot Project, KK Jackson Park Drive Project, and South Shore Beach Rehabilitation Project.
City of Wauwatosa	III.B.8.a) Incorporate new and recently completed City owned BMPs that occurred in MRB TMDL areas into the City's MRB TMDL modeling	116 th Street Park Project, Watertown Plank Road Reconstruction Project, Wisconsin Avenue Project, North Avenue Project, and one (1) green alleyway.
City of West Allis	III.B.9.a) Incorporate new and recently completed City owned BMPs that occurred in MRB TMDL areas into the City's MRB TMDL modeling	6 Points Connection Project (S. 66 th St. Area), City Parking lots (Bioswales, permeable pavers, and porous asphalt), Orchard Street, S. 53 rd St and Burnam Street (DPW Yard), Vacant Lot 2 (9200 Block W Mitchell St), seven (7) green alleyways (permeable pavers), National Avenue (bioswales), Greenfield and 84th Street, and Rodgers Park and 73rd Street.
Village of West Milwaukee	III.B.10.b) Incorporate privately owned BMPs with long-term	Johnson Financial Bank, Palermo's, and Global Power

	maintenance agreements (e.g., LTMAAs) from new development and redevelopment that occurred in MRB TMDL areas into the Village's MRB TMDL modeling.	
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If a Permittee has identified a need to modify its Individual TMDL Benchmark, the Permittee must, as required by permit section III.B.11, notify the Department and provide the reason for modification and a summary of the proposed alternative(s). The expectation is the proposed alternative(s) will be equivalent to the same level of treatment.

Lastly, the Permittees are required to provide an updated estimate of their annual storm water pollutant loads for TSS and TP within each TMDL reachshed. While this is already required to be submitted with the Permittees' reapplication for permit coverage materials (permit section II.K.6), this requirement was also included in the Individual TMDL Benchmark section to ensure this effort is not missed. As required by permit section III.B.12, Permittees who believe it has met its TSS and TP WLAs in all reachsheds shall provide a statement supporting this.

III.C. Establishment of WLA Benchmarks for TSS and TP

Consistent with the previous permit, Permittees who have not met their TMDL WLAs for TSS or TP by the end of this permit term must develop pollutant load reduction benchmarks for those parameters and submit them with the permit application package. As previously described, the benchmarks may include structural controls, nonstructural controls, and/or alternative compliance strategies such as Water Quality Trading. As with the previous permit, this permit also requires the Permittee to provide information about the proposed benchmark. However, conditions have been modified for clarity. For each proposed TMDL Benchmark, the Permittee must provide a description of the Benchmark (e.g., BMP type), the location of the Benchmark and impacted TMDL reachshed(s), and an estimate of the TSS and TP pollution reduction provided by the Benchmark.

The Department expects the TMDL Benchmarks to be permit cycle (5-year basis) targets used to assess progress towards meeting the final WLA goal. It is imperative for Permittees to continue to iteratively manage its storm water programs to reduce pollutants and identify the TMDL Benchmarks accordingly.

III.D. Fecal Coliform Reduction Efforts

The third TMDL pollutant with WLAs from the Milwaukee River TMDL is fecal coliform. While the TMDL allocations in the Milwaukee River Basin TMDL are expressed only in terms of fecal coliform, both fecal coliform and E. coli have been listed as sources of recreational use impairments that the TMDL was completed to address.

Fecal Bacteria Dry Weather Outfall Screening

Consistent with the previous permit, this permit requires Permittees to test for a fecal bacteria indicator (e.g., E. coli) during its dry weather outfall screenings, when flow is present. Permittees may test fecal bacteria indicator at any MS4 outfall, however, testing is required at any screened MS4 outfall which discharges to the Milwaukee River Basin.

As with the previous permit, Permittees have the flexibility to select a fecal bacteria indicator and associated action level, that if exceeded, requires specific follow up action or investigation. Although

Permittees provided their intended fecal bacteria indicator and action level with their permit reapplication materials, Permittees may adjust its intended fecal bacteria indicator and action level as more data on dry flow conditions are collected. Thus, permit section III.D.2 requires each Permittee to confirm its fecal bacteria indicator and action level by September 1, 2026. Additionally, if a Permittee intends to change its fecal bacteria indicator or action level after September 1, 2026, the Permittee must propose its changes to the Department for review and approval. Permittees shall continue to follow its existing procedure until changes are approved by the Department in writing.

Lastly, as noted with permit section II.C.2.b)(2), Permittees are expected to expeditiously investigate portions of the MS4 that, based on the results of visual observation, field analysis, laboratory analysis, or other relevant information, indicates a reasonable potential for containing illicit discharges. However, unlike the traditional IDDE sampling parameters (e.g., pH, total chlorine, etc.) sample results for bacteria indicators are not immediately available. As such, Permittees must wait for their bacteria indicator sample results to determine if investigation is needed. Consequently, delays in investigation are anticipated. However, Permittees are expected to expeditiously investigate once bacteria indicator results are available.

Fecal Bacteria Storm Water Education

The previous permit required Permittees to complete a Fecal Coliform Source Inventory which identified known or potential sources of fecal bacteria loading. Once the Inventory was complete, Permittees were required to develop a Fecal Coliform Source Elimination Plan which described actions the Permittee could take to address the known or potential sources. Permittees were not required to implement all of the actions described in their Plans but were required to prioritize identified sources to address during the future permit term. While each Permittees identified known or potential sources specific to its community, all Permittees determined consistent education, and on-going monitoring is needed to address known or potential sources. The actions described in the Permittees' Fecal Coliform Source Elimination Plans have been incorporated into this reissued permit.

- On-going monitoring is required by permit section III.D.1.
 - Each Permittee must continue to test for a fecal bacteria indicator, when flow is present, and begin its source investigation and elimination efforts when its fecal bacteria indicator action level is exceeded.
- Consistent education is required by permit section III.D.4.
 - As each Permittee identified educational efforts to address fecal bacteria sources within its community, this permit requires each Permittee to implement the education efforts identified in its concurred with Bacteria Source Elimination Plan. Given the concurred with Plans already describe the Permittee's intended efforts, Permittees are not required to describe their fecal bacteria storm water education efforts within their written Public Education and Outreach program. However, if the Permittee revises its Plan, the Permittee shall explain the reason for the change within its summary document, as required by permit section III.D.4. While Permittees are not required to provide updates to the Department throughout the permit term, Permittees are required to maintain a summary of its fecal bacteria storm water education efforts to submit with its permit reapplication, as required by permit section III.D.4.a) and II.K.9.

IV. Implementation Schedule

The implementation schedule for new and updated permit requirements which apply to all Permittees is listed in Table 4 of the proposed permit. Table 4 also lists the individual TMDL requirements. Table 4 does not list all the requirements of the permit.

VIII. Water Quality Trading

Water quality trading has been added into the permit as an opportunity for Permittees to achieve or make progress towards achieving TMDL WLAs. The permit conditions are consistent with those for other WPDES wastewater permits with requirements including inspections, annual reporting and plan update requirements.

Additional Information

The proposed WPDES permit, fact sheet, and other MS4 related information are available from the Department's website as indicated below. Web links to pertinent state statutes and administrative codes are also provided.

DNR WPDES Permits on Public Notice website:

<http://dnr.wi.gov/topic/Wastewater/PublicNotices.html>

DNR Storm Water Runoff Permits website:

<http://dnr.wi.gov/topic/stormwater/>

DNR Municipal Storm Water Permits website:

<http://dnr.wi.gov/topic/stormwater/municipal/>

DNR Storm Water Technical Standards, Models and BMPs website:

<http://dnr.wi.gov/topic/stormwater/standards/>

Chapter 283, Wis. Stats.:

<https://docs.legis.wisconsin.gov/statutes/statutes/283.pdf>

Chapter NR 151, Wis. Adm. Code:

https://docs.legis.wisconsin.gov/code/admin_code/nr/100/151.pdf

Chapter NR 216, Wis. Adm. Code:

https://docs.legis.wisconsin.gov/code/admin_code/nr/200/216.pdf

Permit Drafter

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