



Alabama Department of Environmental Management  
adem.alabama.gov

1400 Coliseum Blvd. 36110-2400 ■ Post Office Box 301463  
Montgomery, Alabama 36130-1463  
(334) 271-7700 ■ FAX (334) 271-7950

JUN 17 2016

**Certified Mail # 91 7108 2133 3936 7152 3900**

Honorable Bill Gillespie, Jr.  
Mayor, City of Prattville  
101 W. Main Street  
Prattville, Alabama 36067

RE: Municipal Separate Storm Sewer System (MS4) Individual Phase II Permit  
NPDES Number ALS000010  
City of Prattville MS4  
Autauga County (001)

Dear Mayor Gillespie:

The Department has made a final determination to issue NPDES Permit No. ALS000010 to the City of Prattville for discharges from its MS4. The NPDES Permit Number ALS000010 will be effective July 1, 2016 and expire on June 30, 2021.

The Department notified the public of its tentative determination to issue NPDES Permit No. ALS000010 on November 28, 2015. Interested persons were provided the opportunity to submit comments on the Department's tentative decision through December 28, 2015. In accordance with ADEM Admin Code r. 335-6-6-.21(7), a response to all comments received during the public comment period are provided with the enclosed permit.

The City of Prattville is responsible for compliance with all provisions of the permit including, but not limited to, the performance of any monitoring, the submittal of any reports, and the preparation and implementation of any plans required by the permit.

If you have questions concerning this permit, please contact Marla Smith either by email at [mssmith@adem.state.al.us](mailto:mssmith@adem.state.al.us) or by phone at 334-270-5616.

Sincerely,

A handwritten signature in blue ink that reads "Jeffery W. Kitchens".

Jeffery W. Kitchens, Chief  
Stormwater Management Branch  
Water Division

JWK/mss

File: FPER/47784

Enclosures: Permit and Response to Comments

cc: Ms. Kacy Sable /Environmental Protection Agency





# NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

PERMITTEE: CITY OF PRATTVILLE

AREA OF COVERAGE: URBANIZED AREAS OF THE CITY OF PRATTVILLE

PERMIT NUMBER: ALS000010

RECEIVING WATERS: WATERBODIES WITHIN THE URBANIZED AREAS OF THE CITY OF PRATTVILLE

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

ISSUANCE DATE: JUNE 17, 2016

EFFECTIVE DATE: JULY 1, 2016

EXPIRATION DATE: JUNE 30, 2021

*GLENNIA L. DEAN*

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Alabama Department of Environmental Management

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## **PART I Applicability**

### **A. *Permit Area***

This permit applies to the urbanized areas of the City of Prattville that are regulated by the Permittee and discharge to the Permittee's Municipal Separate Storm Sewer System (MS4).

### **B. *Authorized Discharges***

1. This permit authorizes all existing or new stormwater point source discharges to waters of the State of Alabama from those portions of the (MS4s) owned or operated by the Permittee. Discharge of pollutants shall be reduced to the Maximum Extent Practicable (MEP), shall not cause, nor contribute to, violations of Alabama Water Quality Standards, and shall be in compliance with Total Maximum Daily Loads (TMDLs) where applicable.
2. The following non-stormwater discharges have been determined not to be significant sources of pollution:
  - a. Water line flushing
  - b. Landscape irrigation (not consisting of treated, or untreated wastewater unless authorized by the Department)
  - c. Diverted stream flows
  - d. Uncontaminated ground water infiltration
  - e. Uncontaminated pumped groundwater
  - f. Discharges from potable water sources
  - g. Foundation and footing drains
  - h. Air conditioning drains
  - i. Irrigation water (not consisting of treated, or untreated, wastewater unless authorized by the Department)
  - j. Rising ground water
  - k. Natural Springs
  - l. Water from crawl space pumps
  - m. Lawn watering runoff
  - n. Individual residential car washing, to include charitable carwashes
  - o. Residual street wash water
  - p. Discharge or flows from firefighting activities (including fire hydrant flushing)
  - q. Flows from riparian habitats and wetlands
  - r. Dechlorinated swimming pool discharges

### **C. *Prohibited Discharges***

The following discharges are not authorized by this permit:

1. Discharges that are mixed with sources of non-storm water, unless such non-storm water discharges are in compliance with a separate NPDES permit or where those dischargers have been determined not to represent significant sources of pollution, as identified by, and in compliance with, Part I.B.2;
2. Discharges of materials resulting from a spill, except emergency discharges required to prevent imminent threat to human health or to prevent severe property damage, provided reasonable and prudent measures have been taken to minimize the impact of the discharges; and

3. The discharge of sanitary wastewater through cross connections or other illicit discharges through the MS4 is prohibited.

## **PART II Storm Water Pollution Prevention and Management Programs**

### ***A. Storm Water Management Program (SWMP)***

1. The Permittee is required to develop, revise, implement, maintain and enforce a storm water management program (SWMP) which shall include controls necessary to reduce the discharge of pollutants from its MS4 consistent with Section 402(p)(3)(B) of the Clean Water Act and 40 CFR Part 122.34. These requirements shall be met by the development and implementation of a storm water management program plan (SWMPP) which addresses the best management practices (BMPs), control techniques and systems, design and engineering methods, public participation and education, monitoring, and other appropriate provisions designed to reduce the discharge of pollutants from the MS4 to the MEP.
2. The Permittee shall provide and maintain adequate finance, staff, equipment, and support capabilities necessary to implement the SWMPP and comply with the requirements of this permit.
3. The SWMPP must address the minimum program elements referenced in Part II.B. to include the following:
  - a. A map of the Permittee's MS4 jurisdictional boundaries;
  - b. The BMPs that will be implemented for each program element;
  - c. The measureable goals for each of the program elements outlined in Part II.B.;
  - d. The proposed schedule – including interim milestones, as appropriate, inspections, and the frequency of actions needed to fully implement each program element; and,
  - e. The person and/or persons responsible for implementing or coordinating the BMPs for each separate program element.
4. Once the initial SWMPP is acknowledged by ADEM, activities and associated schedules outlined by the SWMPP or updates to the SWMPP are conditions of this permit.
5. Unless otherwise specified in this permit, the Permittee shall implement the minimum control measures outlined in Part II.B. of this permit within 365 days of the effective date of this permit.

### ***B. Storm Water Program Elements and Requirements***

1. **Public Education and Public Involvement on Storm Water Impacts**
  - a. The Permittee must develop and implement a public education and outreach program to inform the community about the impacts from storm water discharges on water bodies and the steps that the public can take to reduce pollutants in storm water runoff to the MEP. The Permittee shall continuously implement this program in the areas served by the MS4. The Permittee shall also comply, at a minimum, with applicable State and local public notice requirements when implementing a public involvement/participation program
  - b. The Permittee shall include within the SWMPP the following information:

1. Plans to seek and consider public input in the development and implementation of the SWMPP;
2. The targeted pollutant sources the Permittee's public education program is intended to address;
3. Plans to specifically address the reduction of litter, floatables and debris from entering the MS4;
4. Plans to inform and involve individuals and households about the steps they can take to reduce storm water pollution; and
5. Plans to inform and involve individuals and groups on how to participate in the storm water program (with activities such as, but not limited to, local stream and lake restoration activities, i.e. Adopt-A-Block and PERK; stormwater stenciling, advisory councils, watershed associations, committees, participation on rate structures, stewardship programs, and environmental related activities). The target audiences and subject areas for the education program that are likely to have significant storm water impacts should include the following, at a minimum:
  - a. General Public
    - i. On an annual basis, at a minimum, the general public shall be educated on the general impacts litter has on water bodies, how trash is delivered to streams via the MS4 and ways to reduce and remove the litter;
    - ii. General impacts of storm water flows into surface water from impervious surface; and
    - iii. Source control BMPs in areas of pet waste, vehicle maintenance, landscaping and rain water reuse.
    - iv. Impacts of illicit discharges and how to report them
  - b. Businesses, Including Home-Based and Mobile Businesses
    - i. BMPs for use and storage of automotive chemicals, hazardous cleaning supplies, carwash soaps and other hazardous materials;
    - ii. Impacts of illicit discharges and how to report them.
  - c. Homeowners, Landscapers, and Property Managers
    - i. BMPs for use and storage of pesticides and fertilizers;
    - ii. Storm water pond maintenance.
    - iii. General impacts of storm water flows into surface water from impervious surface
  - d. Engineers, Contractors and Developers
    - i. Impacts of increased storm water flows into receiving water bodies; and
    - ii. Run-off reduction techniques that may include, but not limited to, site design, pervious pavement, alternative parking lot design, retention of forests and mature trees to assist in storm water treatment and flow control BMPS.

6. Evaluation of the effectiveness of the public education program; and
- c. The Permittee shall report each year in the annual report the following information:
    1. A description of the activities used to involve groups and/or individuals in the development and implementation of the SWMPP;
    2. A description of the individuals and groups targeted and how many groups and/or individuals participated;
    3. A description of the communication mechanisms or advertisements used to inform the public and the number of applications that were distributed (i.e. number of printed brochures, copies of newspapers, workshops, public service announcements, etc);

Results of the evaluation plan as required in Part II.B.1.b.6.; and

- d. The Permittee shall make their SWMPP and their annual reports required under this permit available to the public when requested. The current SWMPP and the latest annual report should be posted on the Permittee's website, if available. To comply with the posting requirement, if a Permittee does not maintain a website, they may submit the updated SWMPP and annual report to the Department for electronic distribution when requested in accordance with the Department's public records process.

## **2. Illicit Discharge Detection and Elimination (IDDE)**

- a. The Permittee shall implement an ongoing program to detect and eliminate illicit discharges into the MS4, to the maximum extent practicable. The program shall include, at a minimum, the following:
  1. The development and annual update of an MS4 map. An initial map shall be provided in the SWMPP with updates provided each year in the annual report. The map shall include, at a minimum:
    - a. The latitude/longitude of all known outfalls;
    - b. The names of all waters of the State that receive discharges from these outfalls; and,
    - c. Structural BMPs owned, operated, or maintained by the Permittee.
  2. Within 730 days of the effective date of this permit and to the extent allowable under State law, an ordinance or other regulatory mechanism that prohibits non-storm water discharges to the MS4. The ordinance or other regulatory mechanism shall:
    - a. Include escalating enforcement procedures and actions;
    - b. Provide for the annual review of the IDDE ordinance and update as necessary, and;
    - c. Require the removal of illicit discharges and the immediate cessation of improper disposal practices upon identification of responsible parties. Where the removal of illicit discharge within ten (10) working days is not possible, the ordinance shall require an expeditious schedule for

removal of the discharge. In the interim, the ordinance shall require the operator of the illicit discharge to take all reasonable and prudent measures to minimize the discharge of pollutants to the MS4.

3. A dry weather screening program designed to detect and address non-storm water discharges to the MS4. This program must address, at a minimum, dry weather screening of twenty percent (20%) of the outfalls once per year with all (100 percent) screened at least once per five years. Also, priority areas, as described by the Permittee in the SWMPP, will be dry weather screened on a more frequent schedule as outlined in the SWMPP. If any indicators of a suspect illicit discharge is observed during the dry weather screening, then the Permittee shall follow the screening protocol as outlined in the SWMPP.
  4. Procedures for tracing the source of a suspect illicit discharge as outlined in the SWMPP. At a minimum, these procedures will be followed to investigate portions of the MS4 that, based on the results of the field screening or other appropriate information, indicate a reasonable potential of containing illicit discharges or other sources of non-storm water.
  5. Procedures for eliminating an illicit discharge as outlined in the SWMPP;
  6. Procedures to notify ADEM of a suspect illicit discharge entering the Permittee's MS4 from an adjacent MS4 as outlined in the SWMPP;
  7. A mechanism for the public to report illicit discharges discovered within the Permittee's MS4 and procedures for appropriate investigation of such reports; and
  8. A training program for appropriate personnel on identification, reporting, and corrective action of illicit discharges.
- b. The Permittee shall report each year in the annual report the following information:
1. List of outfalls observed during the dry weather screening;
  2. Updated MS4 map(s) unless there are no changes to the map that was previously submitted. When there are no changes to the map, the annual report must state this;
  3. Copies of, or a link to, the IDDE ordinance or other regulatory mechanism; and
  4. The number of illicit discharges investigated, the screening results, and the summary of corrective actions taken to include dates and timeframe of response.

### **3. Construction Site Storm Water Runoff Control**

- a. The Permittee shall develop/revise, implement and enforce an ongoing program to reduce, to the maximum extent practicable, the pollutants in storm water runoff to the MS4 from qualifying construction sites. The program shall include the following, at a minimum:
  1. Within 730 days of the effective date of this permit and to the extent allowable under State law, an ordinance or other regulatory mechanism to require effective erosion and sediment controls, sanctions to ensure compliance, and to provide all other authorities needed to implement the requirements of Part II.B.3. of this permit;

2. A training program for MS4 site inspection staff in the identification of appropriate construction best management practices (example: QCI training in accordance with ADEM Admin Code. r. 335-6-12 or the Alabama Construction Site General Permit);
  3. Procedures for the periodic inspection of qualifying construction sites to verify the use of appropriate erosion and sediment control practices that are consistent with the Alabama Handbook for Erosion Control, Sediment Control, And Stormwater Management on Construction Sites and Urban Areas published by the Alabama Soil and Water Conservation Committee (hereinafter the “Alabama Handbook”). The frequency and prioritization of inspection activities shall be documented in the SWMPP and must include a minimum inspection frequency of once each month for priority construction sites;
  4. Specific procedures for construction site plan (including erosion prevention and sediment controls) review and approval: The MS4 procedures must include an evaluation of plan completeness and overall BMP effectiveness;
  5. Procedures to notify ADEM of construction sites that do not have a NPDES permit discovered during periodic inspections. The notification must provide, at a minimum, the specific location of the construction project, the name and contact information from the owner or operator, and a summary of the site deficiencies;
  6. Requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality; and
  7. A mechanism for the public to report complaints regarding discharges from qualifying construction sites.
- b. ADEM implements a State-wide NPDES construction storm water regulatory program. As provided by 40 CFR Part 122.35(b), the Permittee may rely on ADEM for the setting of standards for appropriate erosion controls and sediment controls for qualifying construction sites and for enforcement of such controls. If the Permittee is relying on ADEM’s program, the Permittee must have this stated in the SWMPP. If not relying on ADEM’s program, then the Permittee’s construction program must include the following, at a minimum:
1. Requirements for construction site operators to implement appropriate erosion and sediment control BMPs consistent with the Alabama Handbook for Erosion Control, Sediment Control, And Stormwater Management on Construction Sites and Urban Areas published by the Alabama Soil and Water Conservation Committee (hereinafter the “Alabama Handbook”);
  2. Development and implementation of an enforcement strategy that includes escalating enforcement remedies to respond to issues of non-compliance;
  3. An enforcement tracking system designed to record instances of non-compliance and the MS4’s responding actions. The enforcement case documentation should include:
    - a. Name of owner/operator;
    - b. Location of construction project or industrial facility;
    - c. Description of violation;

- d. NPDES Permit Number, if applicable
  - e. Required schedule for returning to compliance;
  - f. Description of enforcement response used, including escalated responses if repeat violations occur or violations are not resolved in a timely manner;
  - g. Accompanying documentation of enforcement response (e.g., notices of noncompliance, notices of violations, etc.);
  - h. Any referrals to different departments or agencies;
  - i. Date violation was resolved.
4. The Permittee must keep records of all inspections (i.e. inspection reports), site plan reviews and employee training required by Part II.B.3.
- c. The Permittee shall include within the SWMPP the following information:
- 1. A copy or link of the ordinance or other regulatory mechanism required by Part II.B.3.a.1.;
  - 2. Plans for the training of MS4 site inspection staff as required by Part II.B.3.a.2;
  - 3. A site inspection plan meeting the requirements of Part II.B.3.a.3; and
  - 4. Procedures for site plan reviews required by Part II.B.3.a.4;
- d. The Permittee shall maintain the following information and make it available upon request:
- 1. Documentation of all inspections conducted of qualifying construction sites as required by Part II.B.3.a.3. The inspection documentation shall include, at a minimum, the following:
    - a. Facility type;
    - b. Inspection date;
    - c. Name and signature of inspector;
    - d. Location of construction project;
    - e. Owner/operator information (name, address, phone number, fax, and email);
    - f. Description of the storm water BMP condition that may include, but not limited to, the quality of: vegetation and soils, inlet and outlet channels and structures, embankments, slopes, and safety benches; spillways, weirs, and other control structures; and sediment and debris accumulation in storage and forebay areas as well as in and around inlet and outlet structures; and
    - g. Photographic documentation of all critical storm water BMP components.
  - 2. If not relying on the ADEM statewide program as detailed in Part II.B.3.b of this permit, the Permittee shall maintain documentation of enforcement actions taken at construction sites to include, at a minimum, the following:
    - a. Name of owner/operator;
    - b. Location of construction project;
    - c. Description of violation;
    - d. Required schedule for returning to compliance;
    - e. Description of enforcement response used, including escalated responses if repeat violations occur;
    - f. Accompanying documentation of enforcement responses (e.g. notices of non-compliance, notices of violations, etc.); and
    - g. Any referrals to different Departments or Agencies.

3. Records of public complaints including:
  - a. Date, time and description of the complaint;
  - b. Location of subject construction sites; and
  - c. Identification of any actions taken (e.g. inspections, enforcement, corrections). Identifying information must be sufficient to cross-reference inspection and enforcement records.
4. Educational and Training Documentation for Construction Site Operators
  - a. List of education and training materials and resources
- e. The Permittee shall report each year in the annual report the following information:
  1. A description of any completed or planned revisions to the ordinance or regulatory mechanism required by Part II.B.3.a.1. and the most recent copy, or a link to the ordinance; and
  2. List of all active construction sites within the MS4 to include and the following summary:
    - a. Number of construction site inspections;
    - b. Number of enforcement actions and description of violation;
    - c. Number of construction site runoff complaints received.
    - d. Number of staff trained.

**4. Post-Construction Storm Water Management in New Development and Re-Development**

- a. The Permittee must develop and implement a program, within 730 days from the effective date of the permit, to address post-construction storm water runoff from the MS4 from new development and re-development. Post-Construction Stormwater Management refers to the activities that take place after construction occurs, and includes structural and non-structural controls that may include low-impact development practices to obtain permanent stormwater management over the life of the property's use.
  1. The Permittee shall develop and implement project review and enforcement procedures for qualifying new development and redevelopment projects, to the maximum extent practicable. Specifically, the Permittee shall:
    - a. Develop procedures for the site-plan review and approval process and a required re-approval process when changes to post-construction controls are required; and
    - b. Develop procedures for a post-construction process to demonstrate and document that post-construction stormwater measures have been installed per design specifications, which includes enforceable procedures for bringing noncompliant projects into compliance.
  2. The Permittee must develop and implement strategies which may include a combination of structural and/or non-structural BMPs designed to ensure, to the maximum extent practicable, that post-construction runoff mimics pre-construction hydrology of the site. A 1.14 inch rainfall over a 24-hour period

preceded by a 72-hour antecedent dry period shall be the basis for the design and implementation of post construction BMPs;

3. To the extent allowable under State law, the Permittee must develop and institute the use of an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects.
4. The Permittee must require adequate long-term operation and maintenance of BMPs, that may include one or more of the following as applicable:
  - a. The developer's signed statement accepting responsibility for maintenance until the maintenance responsibility is legally transferred to another party; and/or
  - b. Written conditions in the sales or lease agreement that require the recipient to assume responsibility for maintenance; and/or
  - c. Written conditions in project conditions, covenants and restrictions for residential properties assigning maintenance responsibilities to a home owner's association, or other appropriate group, for maintenance of structural and treatment control management practices; and/or
  - d. Any other legally enforceable agreement that assigns permanent responsibility for maintenance of structural or treatment control management practices.
5. The Permittee shall review and evaluate policies and ordinances related to building codes, or other local regulations, with a goal of identifying regulatory and policy impediments to the installation of green infrastructure and low-impact development techniques.
  - b. The Permittee shall report each year in the annual report the following information:
    1. Copies of, or link to, the ordinance or other regulatory mechanism required by Part II.B.4.a.3;
    2. A list of the post-construction structural controls installed and inspected during the permit year;
    3. Updated inventory of post-construction structural controls including those owned by the Permittee;
    4. Number of inspections performed on post-construction structural controls; and,
    5. Summary of enforcement actions.

#### **5. Pollution Prevention/Good Housekeeping for Municipal Operations**

- a. The Permittee shall develop, implement, and maintain a program that will prevent or reduce the discharge of pollutants in storm water run-off from municipal operations to the maximum extent practicable. The program elements shall include, at a minimum, the following:
  1. An inventory of all municipal facilities, including municipal facilities that have the potential to discharge pollutants via storm water runoff;
  2. Develop strategies for the implementation of BMPs to reduce litter, floatables and debris from entering the MS4 and evaluate these BMPs annually to determine their effectiveness. If a BMP is determined to be ineffective or infeasible, then the BMP must be modified. The Permittee shall also develop a plan to remove litter, floatable and debris material from the MS4, including proper disposal of waste removed from the system;

3. A Standard Operating Procedures (SOP) detailing good housekeeping practices to be employed at appropriate municipal facilities and during municipal operations that may include, but not limited to, the following:
    - a. Equipment washing;
    - b. Street sweeping;
    - c. Maintenance of municipal roads including Public streets, roads, and highways, including but not limited to unpaved roads, owned, operated, or under the responsibility of the Permittee;
    - d. Storage and disposal of chemicals, pesticides, herbicides and fertilizers (PHFs) and waste materials;
    - e. Vegetation control, cutting, removal, and disposal of the cuttings;
    - f. Vehicle fleets/equipment maintenance and repair;
    - g. External Building maintenance; and
    - h. Materials storage facilities and storage yards.
  4. A program for inspecting municipal facilities for good housekeeping practices, including BMPs. The program shall include checklists and procedures for correcting noted deficiencies;
  5. A training program for municipal facility staff in good housekeeping practices as outlined in the SOP developed pursuant to Part II.B.5.a.3; and
  6. All flood management projects owned, operated, or the responsibility of the Permittee built after the effective date of this permit shall be designed to limit entry of or remove pollutants from the Permittee's MS4. The Permittee shall assess and include in the Annual Report the water quality impacts for all new flood management projects owned, operated or the responsibility of the Permittee built after the effective date of this permit.
- b. The Permittee shall include within the SWMPP the following information:
    1. The inventory of municipal facilities required by Part II.B.5.a.1;
    2. Schedule for developing the SOP of good housekeeping practices required by Part II.B.5.a.3;
    3. An inspection plan and schedule, including checklists and any other materials needed to comply with Part II.B.5.a.4; and
    4. A description of the training program and training schedule required by Part II.B.5.a.5.
  - c. The Permittee shall report each year in the annual report the following information:
    1. Any updates to the municipal facility inventory;
    2. An estimated amount of floatable material collected from the MS4 as required by Part II.B.5.a.2;
    3. Any updates to the inspection plan; and
    4. Any updates to the SOP of good housekeeping practices.
  - d. The Permittee shall maintain the following information and make it available upon request:
    1. Records of inspections and corrective actions, if any; and
    2. Training records including the dates of each training activities and names of personnel in attendance.

**C. *Legal Authority***

To the extent allowed under State law, the Permittee must review and revise its relevant ordinances or other regulatory mechanisms, or adopt any new ordinances that provide it with adequate legal authority to control pollutant discharges into and from its MS4, and to implement and enforce its SWMPP. To be considered adequate, this legal authority must, at a minimum, authorize the Permittee to:

- a. Prohibit non-storm water discharges unless such storm water discharges are in compliance with a separate NPDES permit, or determined by the Department not to be a significant contributor of pollutants to waters of the State;
- b. Prohibit and eliminate illicit connections to the MS4. Illicit connections include pipes, drains, open channels, or other conveyances that have the potential to allow an illicit discharge to enter the MS4;
- c. Control the discharge of spills, and prohibit dumping or disposal of materials other than storm water into the MS4;
- d. Require operators of construction sites and industrial and commercial facilities to minimize the discharge of pollutants to the MS4 to the maximum extent practicable through the installation, implementation, and maintenance of appropriate controls, including installation, implementation and long-term maintenance of post construction controls;
- e. Request information to determine compliance with ordinances or other regulatory mechanism;
- f. Inspect and monitor at reasonable times any facilities, equipment, practices, or operations for active or potential polluted storm water discharges to the MS4;
- g. Promptly require that dischargers cease and desist discharging and/or clean-up and abate a discharge;
- h. Levy citations or administrative fines against responsible parties to include but not limited to non-compliant construction sites;
- i. Require recovery and remediation costs from responsible parties; and
- j. Provide the authority to enter into interagency agreements with other entities for the purpose of controlling the contribution of pollutants to the maximum extent practicable from one MS4 to another MS4.

**D. *SWMPP Review and Modification***

1. The Permittee shall submit to the Department within nine months of the effective date of this permit an initial SWMPP. The Permittee shall implement plans to seek and consider public input in the development, revision and implementation of this SWMPP, as required by Part II.B.1.b.1. Thereafter, the Permittee shall perform an annual review of the current SWMPP and must modify the SWMPP, as necessary, to maintain compliance with the permit. Any modifications to the SWMPP shall be submitted to the Department;
2. The Permittee may modify the SWMPP at anytime during the life of the permit. Any modifications must be submitted to the Department at the time of modification and

included in the subsequent Annual Report. Modifications made to the SWMPP may include, but are not limited to, the replacement of ineffective or infeasible BMPs or the addition of components, controls and requirements;

3. The Permittee shall implement the SWMPP on all new areas added to their municipal separate storm sewer system (or for which they become responsible for implementation of storm water quality controls) as soon as practicable. Implementation of the program in any new area shall consider the plans of the SWMPP of the previous MS4 ownership, if any.

***E. Impaired Waters and Total Maximum Daily Loads (TMDLs)***

1. The Permittee must determine whether the discharge from any part of the MS4 contributes directly or indirectly to a waterbody that is included on the latest §303(d) list or designated by the Department as impaired;
2. If the Permittee's MS4 discharges to a waterbody included on the latest §303(d) or designated by the Department as impaired, it must demonstrate the discharges, as controlled by the Permittee, do not cause or contribute to the impairment. The SWMPP must detail the BMPs that are being utilized to control discharges of pollutants associated with the impairment. If existing BMPs are not sufficient to achieve this demonstration, the Permittee must, within six (6) months following the publication of the latest final §303(d) list, Department designation, or the effective date of this permit, submit a revised SWMPP detailing new or modified BMPs. The SWMPP must be revised as directed by the Department and the new or modified BMPs must be implemented within one year from the publication of the latest final §303(d) list or Department designation.
3. Permittees discharging from MS4s into waters with EPA-Approved TMDLs and/or EPA-Established TMDLs
  - a. The Permittee must determine whether its MS4 discharges to a waterbody for which a total maximum daily load (TMDL) has been established or approved by EPA. If an MS4 discharges into a water body with an EPA approved or established TMDL, it must evaluate whether the discharges as controlled by the Permittee, caused or contributed to the impairment. If the Permittee's discharges caused or contribute to the impairment, then the SWMPP must include BMPs targeted to meet the assumptions and requirements of the TMDL. If additional BMPs will be necessary to meet the requirements of the TMDL, the SWMPP must include a schedule for installation and/or implementation of such BMPs. A monitoring component to assess the effectiveness of the BMPs in achieving the TMDL requirements must also be included in the SWMPP. Monitoring can entail a number of activities including, but not limited to: outfall monitoring, in-stream monitoring, and/or modeling. Monitoring data, along with an analysis of this data, shall be included in the Annual Report.
  - b. If, during this permit cycle, a TMDL is approved by EPA or a TMDL is established by EPA for any waterbody into which an MS4 discharges, the Permittee must review the applicable TMDL to see if it includes requirements for control of storm water discharges from the MS4.

1. If it is found that the Permittee must implement specific allocations of the TMDL, it must assess whether the assumptions and requirements of the TMDL are being met through implementation of existing BMPs or if additional BMPs are necessary. The SWMPP must include BMPs targeted to meet the assumptions and requirements of the TMDL. If existing BMPs are not sufficient, the Permittee must, within six (6) months following the approval or establishment of the TMDL by EPA, submit a revised SWMPP detailing new or modified BMPs to be utilized along with a schedule of installation and/or implementation of such BMPs. Any new or modified BMPs must be implemented within one year, unless an alternate date is approved by the Department, from the establishment or approval of the TMDL by EPA. A monitoring component to assess the effectiveness of the BMPs in achieving the TMDL requirements must also be included in the SWMPP. Monitoring can entail a number of activities including, but not limited to: outfall monitoring, in-stream monitoring, and/or modeling. Monitoring data, along with an analysis of this data, shall be included in the Annual Report.

***F. Responsibilities of Permittee***

If the Permittee is relying on another entity to satisfy one or more requirements of this permit, then the Permittee must note that fact in the SWMPP. The Permittee remains responsible for compliance with the permit and reliance on another entity will not be a defense or justification for non-compliance if the entity fails to implement the permit requirements.

**PART III Monitoring and Reporting**

1. If there are no 303(d) listed or TMDL waters located within the Permittee's MS4 area, no monitoring shall be required. The SWMPP shall include a determination stating if monitoring is required.
2. If a waterbody within the MS4 jurisdiction is listed on the latest final §303(d) list, or otherwise designated impaired by the Department, or for which a TMDL is approved or established by EPA, during this permit cycle, then the Permittee must revise its monitoring program to include monitoring that addresses the impairment or TMDL. Any revisions to the monitoring program shall be documented in the SWMPP and Annual Report. In addition, the permit may be modified by the Department to establish the additional or revised monitoring locations.
3. Proposed monitoring locations, and monitoring frequency shall be described in the SWPPP with actual locations described in the annual report;
4. The Permittee must include in the monitoring program any parameters attributed with the latest final §303(d) list or otherwise designated by the Department as impaired or are included in an EPA-approved or EPA-established TMDL;
5. Analysis and collection of samples shall be done in accordance with the methods specified at 40 CFR Part 136. Where an approved 40 CFR Part 136 does not exist, then a Department approved alternative method may be used;

6. If the Permittee is unable to collect samples due to adverse conditions, the Permittee must submit a description of why samples could not be collected, including available documentation of the event. An adverse climatic condition which may prohibit the collection of samples includes weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.);
7. Monitoring results must be reported with the subsequent Annual Report and shall include the following monitoring information:
  - a. The date, latitude/longitude of location, and time of sampling;
  - b. The name(s) of the individual(s) who performed the sampling;
  - c. The date(s) analysis were performed;
  - d. The name(s) of individuals who performed the analysis;
  - e. The analytical techniques or methods used; and
  - f. The results of such analysis.

#### **PART IV Annual Reporting Requirements**

1. The Permittee shall submit to the Department an annual report (1 hardcopy and 1 electronic copy) no later than January 31 of each year. The annual report shall cover the previous fiscal year beginning October 1 through September 30, and annually thereafter.
2. On or after December 21, 2020, all annual reports shall be submitted to the Department electronically in a prescribed manner acceptable to the Department.
3. The Permittee shall sign and certify the annual report in accordance with Part V.K.
4. The annual report shall include the following information, at a minimum, and in addition to those requirements referenced in Part II.B and Part III:
  - a. A list of contacts and responsible parties (e.g.: agency, name, phone number, address, & email address) who had input to and are responsible for the preparation of the annual report.
  - b. An overall evaluation of the storm water management program developments and progress for the following:
    1. Major findings such as water quality improvements or degradation;
    2. Major accomplishments;
    3. Overall program strengths/weaknesses;
    4. Future direction of the program;
    5. The Permittee(s) will make an overall determination of the effectiveness of the SWMPP taking into account water quality/watershed improvements; and

6. Required actions that were not performed, and reasons why the actions were not accomplished.
- c. The annual report will include a narrative report of all program elements referenced in Part II.B of this permit. The activities concerning a program element shall be discussed as follows:
    1. Program element activities completed and in progress;
    2. General discussion of element. Explanation for all element activities that have not been fully implemented or completed. Results of activities shall be summarized and discussed (e.g.: maintenance caused by inspection, pollutants detected by monitoring, investigations as a result of dry and wet weather screening, number and nature of enforcement item, education activities/participation);
    3. Status of program element with compliance, implementation, and augmentation schedules in Part II of the permit;
    4. Assessment of controls; and
    5. Discussion of proposed element revisions.
  - d. The annual report shall contain a monitoring section which discusses the progress and results of the monitoring programs required under Part III of the permit and shall include, at a minimum, the following information.
    1. Status of implementation of the monitoring program;
    2. Map(s) showing the monitoring station locations, latitude/longitude, and narrative site descriptions, including watershed size;
    3. Raw data, results, methods of evaluating the data, graphical summaries of the data, and an explanation/discussion of the data for each component of the monitoring program;
    4. An analysis of the results of each monitoring program component;
    5. A comparison of the reporting year's data to the previous five years of data to establish a trend analysis to determine the relative health of the receiving water;
    6. All monitoring reports and supporting data shall be submitted in hardcopy and/or electronically in a format deemed acceptable to the Department concurrently with the submission of the Annual Report; Failure to provide this data in a format appropriate to the Department for review shall be a violation of this permit; and
    7. The interpretation of the analytical data, required by Part III of the Permit, for determinacy of meeting water quality standards.
  - e. Provide the status of the implementation and proposed changes to the SWMPP to include assessment of controls and specific improvements or degradation to water quality;
  - f. Provide a summary of inspections and enforcement actions for regulatory program. Enforcement actions should include a corrective actions summary;
  - g. Implementation status of the public education programs; and
  - h. Status of expenditures and budget for the past fiscal year and the next fiscal year for the Permittee's program. The analysis shall indicate budgets and funding sources.

## **PART V Standard and General Permit Conditions**

### ***A. Certification and Signature of Reports***

All reports required by the permit and other information requested by the Director shall be signed and certified in accordance with Part V.K. of this permit.

### ***B. Submittals***

All documents required to be submitted to the Department by this permit, shall be addressed to:

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

Certified and Registered Mail shall be addressed to:

Alabama Department of Environmental Management  
Stormwater Management Branch, Water Division  
1400 Coliseum Blvd  
Montgomery, Alabama 36110-2059

### ***C. Retention of Records***

The Permittee shall retain the storm water quality management program developed in accordance with Part II of this permit until at least five years after coverage under this permit terminates. The Permittee shall retain all records of all monitoring information, copies of all reports required by this permit, and records required by this permit, and records of all other data required by or used to demonstrate compliance with this permit, until at least three years after coverage under this permit terminates. This period may be explicitly modified by alternative provisions of this permit or extended by request of the Director at any time.

### ***D. Duty to Comply***

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

### ***E. Civil and Criminal Liability***

#### **1. Tampering**

Any person, who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained or performed under this permit shall, upon conviction, be subject to penalties as provided by AWPCA.

#### **2. False Statements**

Any person knowingly makes any false statement, representation, or certification in any record or other documentation submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance, shall, upon conviction, be punished as provided by AWPCA.

3. Relief from Liability

Nothing in this permit shall be construed to relieve the Permittee(s) of civil and criminal liability under AWPCA or FWPCA for non-compliance with any term or condition of this permit.

***F. Duty to Reapply***

1. If the Permittee intends to continue an activity regulated by this permit beyond the expiration of this permit, the Permittee must apply for and obtain a new permit. The application shall be submitted at least 180 days prior to expiration of this permit.
2. Failure of the Permittee to apply for re-issuance at least 180 days prior to permit expiration will void the automatic continuation of the expiring permit provided by ADEM Administrative Code, Rule 335-6-6-.06, and should the permit not be re-issued for any reason any discharge after expiration of this permit will be an unpermitted discharge.

***G. Need to Halt or Reduce an Activity Not a Defense***

It shall not be a defense for a Permittee 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.

***H. Duty to Mitigate***

The Permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human or the environment.

***I. Duty to Provide Information***

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

***J. Other Information***

If the Permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information with a written explanation for the mistake and/or omission.

***K. Signatory Requirements***

All reports and forms to be submitted by this permit, AWPCA and the Department's rules and regulations, shall be signed by a "responsible official" of the Permittee, as defined in ADEM Administrative Code, Rule 335-6-6-.09, or a "duly authorized representative" of such official, as defined by ADEM Administrative Code, Rule 335-6-6-.09, and shall bear the following certification:

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

**L. *Oil and Hazardous Substance Liability***

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the Permittee from any responsibilities, liabilities, or penalties to which the Permittee is or may be subject under Section 311 of FWPCA.

**M. *Property and Other Rights***

This permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to persons or property or invasion of other private rights, or any infringement of Federal, State, or local laws or regulations, nor does it authorize or approve the construction of any physical structures or facilities or the undertaking of any work in any waters of the State of Alabama.

**N. *Severability***

The provision 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 the permit shall not be affected thereby.

**O. *Compliance with Statutes and Rules***

This permit is issued under ADEM Administrative Code, Chapter 335-6-6. All provisions of this chapter that are applicable to this permit are hereby made a part of this permit.

This permit does not authorize the non-compliance with or violation of any laws of the State of Alabama or the United States of America or any regulations or rules implementing such laws.

**P. *Proper Operations and Maintenance***

The Permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Permittee to achieve compliance with the conditions of this permit and with the requirements of storm water pollution prevention plans. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by a Permittee only when necessary to achieve compliance with conditions of the permit.

**Q. *Monitoring Records***

1. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
2. The Permittee shall retain records of all monitoring information including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of reports required by this permit, and records of all data used to complete the application of this permit, for a period of at least three (3) years from the date of the sample, measurement, report or application. This period may be extended at the request of the Director at any time.

**R. *Monitoring Methods***

Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.

**S. *Right of Entry and Inspection***

The Permittee shall allow the Director or an authorized representative, upon presentation of credentials and other documents as may be required by law, to:

1. Enter upon any of the permittee's premises where a regulated facility or activity or point source is located or in which any records must be maintained under conditions of this permit;
2. Have access to and copy, at reasonable times, any records required to be maintained by the terms and conditions of this permit;
3. Inspect, at reasonable times, any point source, any monitoring equipment or practices being maintained to comply with this permit, or any treatment or control or systems being maintained to comply with this permit; and
4. Sample or monitor, at reasonable times, for the purposes of determining permit compliance or as otherwise authorized by AWPCA, any substances or parameters at any location.

**T. *Additional Monitoring by the Permittee***

If the Permittee monitors more frequently than required by this permit, using test procedures approved under 40 CFR Part 136 or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the monitoring report. Such increased monitoring frequency shall also be indicated on the monitoring report.

**U. *Permit Modification and Revocation***

1. This permit may be modified or revoked or reissued, in whole or in part, during its term for cause including but not limited to, the following:
  - a. If cause for termination under Part V.A.3., of this permit exists, the Director may choose to revoke or re-issue this permit instead of terminating the permit;
  - b. If a request to transfer this permit has been received, the Director may decide to revoke and re-issue or to modify the permit; or
  - c. If modification or revocation and re-issuance is requested by the Permittee and cause exists, the Director may grant the request.
2. This permit may be modified during its term for cause, including but not limited to:
  - a. If cause for termination under Part V.A.3., of this permit exists, the Director may choose to modify this permit instead of terminating this permit;
  - b. The Director has received new information that was not available at the time of permit issuance and that would have justified the application of different permit conditions at the time of issuance;
  - c. Errors in calculation of discharge limitation or typographical or clerical errors were made;
  - d. To the extent allowed by ADEM Administrative Code, Rule 335-6-6-.17, when the standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or judicial decision after the permit was issued;
  - e. To the extent allowed by ADEM Administrative Code, Rule 335-6-6-.17, permit may be modified to change compliance schedules;

- f. To incorporate an applicable Section 307(a) of FWPCA toxic effluent standard or prohibition;
  - g. When required by the re-opener conditions in this permit;
  - h. Upon failure of the State to notify, as required by Section 402(b)(3) of FWPCA, another State whose water may be affected by a discharge permitted by this permit;
  - i. When required to correct technical mistakes, such as errors in calculation, or mistaken interpretations of law made in determining permit conditions;
  - j. When requested by the Permittee and the Director determines that the modification has cause and will not result in a violation of federal or State law, rules, or regulations;
  - k. To add a new Permittee who is the owner or operator of a portion of the Municipal Separate Storm Sewer System; or
  - l. To change portions of the Storm Water Quality Management Program that is considered permit conditions.
3. This permit may be terminated during its term for cause, including but not limited to, the following:
- a. Violation of any term or condition of this permit;
  - b. The Permittee's misrepresentation or failure to disclose fully all relevant facts in the permit application or during the permit issuance or the permittee's misrepresentation of any relevant facts at any time;
  - c. Materially false or inaccurate statements or information in the permit application or the permit;
  - d. The Permittee's discharge threatens human life or welfare or the maintenance or water quality standards; or
  - e. Any other cause allowed by ADEM Administrative Code, Rule 335-6-6.
4. This permit may be suspended during its term for cause, including but not limited to, the reasons for termination listed above.
5. The filing of a request by the Permittee for modification, suspension or revocation of this permit, in whole or in part, does not stay any permit term condition.

***V. Termination of Coverage for a Single Permittee***

Permit Coverage may be terminated, in accordance with the provision of 30 CFR 122.64 and 124.5, for a single Permittee without terminating coverage for other permittees.

***W. Modification of Storm Water Management Program***

Only those portions of the Storm Water Management Program specifically required as permit conditions shall be subject to modification requirements of 40 CFR 124.5. Replacement of an ineffective or infeasible BMP implementing a required component of the Storm Water Management Program with an alternate BMP expected to achieve the goals of the ineffective

or infeasible BMP shall be considered a minor modification to the SWMPP and not modification to the Permit.

**X. *Changes in Monitoring Outfalls***

This permit is issued on a system-wide basis in accordance with CWA §402(p)(3)(i) and authorizes discharges from all portions of the MS4. Since all outfalls are authorized, changes in monitoring outfalls, other than those with specific numeric effluent limitations, shall be considered minor modifications to the permit and will be made in accordance with the procedures at 40 CFR 122.63.

**Y. *Definitions***

1. "Arithmetic Mean" means the summation of the individual values of any set values divided by the number of individual values.
2. "AWPCA" means Code of Alabama 1975, Title 22, the Alabama Water Pollution Control Act, as amended.
3. "Best Management Practices" (BMPs) means activities, prohibitions of practices, maintenance procedures, and other management practices implemented to prevent or reduce the discharge of pollutants to waters of the State. BMPs also include treatment systems, operating procedures, and practices to control facility runoff, spillage or leaks, sludge or water disposal, or drainage from raw material storage.
4. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
5. "Catch basin" is a structure that captures surface runoff and discharges it into an underground storm drain pipe system.
6. "Control Measure" as used in this permit, refers to any Best Management Practice or other method used to prevent or reduce the discharge of pollutants to waters of the State.
7. "CWA" or "The Act" means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub.L. 92-500, as amended Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483 and Pub. L. 97-117, 33 U.S.C. 1251 et.seq.
8. "Department" means the Alabama Department of Environmental Management or an authorized representative.
9. "Discharge", when used without a qualifier, refers to "discharge of a pollutant" as defined as ADEM Administrative Code 335-6-6-.02(m).
10. "Effective Prohibition" means to include requirements to effectively prohibit non-storm water discharges into the storm sewers.
11. "Flood Management Project" means a project that will alter, modify or change the base flood elevation of a 1% annual chance flood event.
12. "Flow-weighted composite sample" means a composite sample consisting of a mixture of aliquots collected at a constant time interval, where the volume of each aliquot is proportional to the flow rate of the discharge at the time of sampling.

13. "Green Infrastructure" refers to systems and practices that use or mimic natural processes to infiltrate, evapotranspire (the return of water to the atmosphere either through evaporation or by plants), or reuse stormwater or runoff on the site where it is generated
14. "Hydrology" refers to the physical characteristics of storm water discharge, including the magnitude, duration, frequency, and timing of discharge.
15. "Illicit connection" means any man-made conveyance connecting a non-storm water discharge directly to a municipal separate storm sewer system.
16. "Illicit discharge" means any discharge to a municipal separate storm sewer that is not composed entirely of storm water except discharges pursuant to a NPDES permit.
17. "Industrial Land Use" means land utilized in connection with manufacturing, processing, or raw materials storage at facilities identified under Alabama State Law.
18. "Infiltration" means water other than wastewater that enters a sewer system, including foundation drains, from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow.
19. "Landfill" means an area of land or an excavation in which wastes are placed for permanent disposal, and which is not a land application unit, surface impoundment, injection well, or waste pile.
20. "Large" municipal separate storm sewer system means all municipal separate storm sewers that are either: (i) located in an incorporated place (city) with a population of 250,000 or more as determined by the latest decennial census.
21. "Low Impact Development" (LID) is an approach to land development (or re-development) that works with nature to manage stormwater as close to its source as possible. LID employs principles such as preserving and recreating natural landscape features, minimizing effective imperviousness to create functional and appealing site drainage that treat stormwater as a resource rather than a waste product.
22. "Major outfall" is the point(s) where the MS4 discharges to a water of the State from (1) a pipe (or closed conveyance) system with a cross-sectional area equal to or greater than 7.07 square feet (e.g., if a single circular pipe system, an inside diameter of 36 inches or greater),(2) a single conveyance other than a pipe, such as an open channel ditch, which is associated with a drainage area of more than 50 acres,(3) a pipe (or closed conveyance) system draining "industrial land use" with a cross-sectional area equal to or greater than 0.79 square feet (e.g., if a single circular pipe system, an inside diameter of 12 inches or greater),(4) or a single conveyance other than a pipe, such as an open channel ditch, which is associated with an "industrial land use" drainage area of more than 2 acres;For the purpose of this permit, outfalls of the "double barrel" type, whose combined cross-sectional area is greater than 7.07 square feet, equivalent to a single circular pipe outfall with an inside diameter of 36 inches or greater, are also considered major outfalls.
23. "MEP" is an acronym for "Maximum Extent Practicable," the technology-based discharge standards and controls necessary for municipal separate storm sewer systems to reduce pollutants in storm water discharges that was established by CWA Section 402(p). These standards and controls may consist of a combination of best management practices, control techniques, system design and engineering methods, and such other provisions for the reduction of pollutants discharged from a MS4 as described in the storm water management system.

24. "Medium" municipal separate storm sewer system means all municipal separate storm sewers that are either: (i) located in an incorporated place (city) with a population of 100,000 or more but less than 250,000 as determined by the latest decennial census.
25. "MS4" is an acronym for "Municipal Separate Storm Sewer System" and is used to refer to either a large, medium, or small municipal separate storm sewer system. The term is used to refer to either the system operated by a single entity or a group of systems within an area that are operated by multiple entities.
26. "Municipal Separate Storm System" is defined at 40 CFR Part 122.26(b)(8) and means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States; (ii) Designed or used for collecting or conveying storm water; (iii) Which is not a combined sewer; and (iv) Which is not part of a Publicly Owned Treatment Works (POTW) as defined in ADEM Administrative Code 335-6-6-.02(nn).
27. "Permittee" means each individual co-applicant for an NPDES permit who is only responsible for permit conditions relating to the discharge that they own or operate.
28. "Point Source" 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 storm water runoff.
29. "Priority Construction Site" means any qualifying construction site in an area where the MS4 discharges to a waterbody which is listed on the most recently approved 303(d) list of impaired waters for turbidity, siltation, or sedimentation, any waterbody for which a TMDL has been finalized or approved by EPA for turbidity, siltation or sedimentation, any waterbody assigned the Outstanding Alabama Water use classification in accordance with ADEM Admin. Code r. 335-6-10-.09, and any waterbody assigned a special designation in accordance with 335-6-10-.10.
30. "Qualifying Construction Site" means any construction activity that results in a total land disturbance of one or more acres and activities that disturb less than one acre but are part of a larger common plan of development or sale that would disturb one or more acres. Qualifying construction sites do not include land disturbance conducted by entities under the jurisdiction and supervision of the Alabama Public Service Commission.
31. "Qualifying New Development and Redevelopment" means any site that results from the disturbance of one acre or more of land or the disturbance of less than one acre of land if part of a larger common plan of development or sale that is greater than one acre. Qualifying new development and redevelopment does not include land disturbances conducted by entities under the jurisdiction and supervision of the Alabama Public Service Commission.
32. "Storm water" is defined at 40 CFR Part 122.26(b)(13) and means storm water runoff, snow melt runoff, and surface runoff and drainage.

33. "Structural Controls" means an engineered BMP constructed with rigid walls and/or weirs and piped drainage that utilize active or passive treatment and/or mechanical systems for the purpose of treating storm water runoff.
34. "Structural Flood Control" means structural measures that control the 1% annual chance floodwaters by construction of barriers, storage areas or by modifying / redirecting channels.

## City of Prattville Comments

### **Comment (1):** Part II. Section B.2. Illicit Discharge Detection and Elimination

a.2.—Amend the initial sentence to read, “Within 730 days of the effective date of this permit and to the extent allowable under State law, adoption of an ordinance or other regulatory mechanism prohibiting non-storm water discharges to the MS4.” The city requires that its deadline to modify or adoption local ordinances be clearly stated in the permit.

**Response (1):** Part II.B.2.a.2 has been revised to include “Within 730 days of the effective date of this permit....”.

### **Comment (2):** Part II. Section B.2. Illicit Discharge Detection and Elimination

a.3--Amend the third sentence to read, “Also, priority areas, as described by the Permittee in the SWMPP, may be dry weather screened on a more frequent schedule as outline in the SMWPP.” The City requests this change to maintain flexibility and discretion in its IDDE program. This change in no way reduces the City’s obligation to conduct dry weather monitoring and detection or to eliminate illicit discharges.

**Response (2):** This language is consistent with the proposed General Phase II Permit (ALR040000). If the Permittee does not have any priority areas then the Permittee should state that in its SWMPP. No changes were made to the draft permit based on this comment.

### **Comment (3):** Part II. Section B.3. Construction Site Storm Water Runoff Control

a.1.—Amend the initial sentence to read, “Within 730 days of the effective date of this permit and to the extent allowable under State law, adoption of an ordinance or other regulatory mechanism prohibiting to require erosion and sediment controls, sanctions to ensure compliance, and to provide all other authorities needed to implement the requirements of Part II.B.3. of the permit.” The city requires that its deadlines to modify or adoption local ordinances be clearly stated in the permit. The proposed amendment also modifies the section of the permit.

**Response (3):** Part II.B.3.a.1 has been revised to include “Within 730 days of the effective date of this permit....”.

**Comment (4):** Part II. Section B.3. Construction Site Storm Water Runoff Control

d.—Amend the initial sentence to read, “If not relying of the ADEM statewide program as detailed in Part II.B.3.b of this permit, the Permittee shall maintain the following information and make it available upon request.” The City requests that its obligations to conduct inspections and maintain inspection records be clearly stated in the Permit.

**Response (4):** Part II.B.3.d.2 of the draft permit was revised to include the following: “If not relying on the ADEM statewide program as detailed in Part II.B.3.b. of this permit, the Permittee shall maintain documentation of enforcement actions taken at construction sites to include, at a minimum, the following:...”.

**Comment (5):** Part II. Section B.4. Post-Construction Storm Water Management in New Development and Re-Development

a.2—Amend the initial sentence to read, “The Permittee must develop and implement strategies which may include a combination of structural and/or non-structural BMPs designed to ensure, to the maximum extent practicable, that post-construction runoff mimics pre-construction hydrology of the site.” The City requests this change to maintain flexibility and discretion in the design of its Post-Construction program. This change is consistent with Federal regulation and does not reduce the City’s obligation to manage post-construction runoff.

**Response (5):** Part II.B.4.a.2 of the draft permit was revised to include the following: “The Permittee must develop and implement strategies which may include a combination of structural and/or non-structural BMPs designed to ensure, to the maximum extent practicable, that post-construction runoff mimics pre-construction hydrology of the site....”.

**Comment (6):** Part II. Section B.4. Post-Construction Storm Water Management in New Development and Re-Development

a.4—The City asks that this section be removed since it is a duplication of Section IV.B.4.a.1.a.

**Response (6):** Part II.B.4.a.4 of the draft was removed.

**Comment (7):** Part II. Section B.4. Post-Construction Storm Water Management in New Development and Re-Development

a.5—Remove section. The City endorses and encourages the use of low impact design and green infrastructure and will include them in regulations adopted to further the requirements of its MS4 permit and our comprehensive development goals. However, 40 CFR 122.34 does not require the modification of local building or development codes to include LID

or green infrastructure. The City requests this change to maintain flexibility and discretion of its Post-Construction program.

**Response (7):** This language is consistent with the General Phase II Permit (ALR040000). No changes were made based on this comment.

**Comment (8):** Part II. Section B.5. Pollution Prevention

a.6—Amend the section to read “6. All flood management projects owned, operated or the responsibility of the Permittee built after the effective date of this permit shall be designed to limit entry of or remove pollutants from the Permittee’s MS4. The Permittee shall assess and included in the Annual Report the water quality impacts for all new flood management projects owned, operated or the responsibility of the Permittee built after the effective date of this permit. “ The City requests this change to maintain flexibility and discretion in the design of its prevention program. This change is consistent with Federal regulation and does not reduce the City’s obligation to develop its own pollution prevention program.

**Response (8):** Part II.B.5a.6 of the draft permits has been revised to include the Commenter’s language.

**Comment (9)** Part II. Section D. SWMPP Review and Modification

1. Amend the first sentence to replace the word “revised” with “initial” since this is the initial permit for the City of Prattville.

**Response (9):** Part II.D.1 of the draft permit has been revised to include the word “initial” instead of “revised”.

**Comment (10)** Part II. Section D. SWMPP Review and Modification

1. Amend the last sentence to read, “Any modification to the SWMPP shall be submitted to the Department with the Permittee’s Annual Report”

2. Amend the second sentence to read, “Any modifications must be submitted to the Department along with the Annual Report.” The reporting necessary for permit monitoring and compliance should not be a burden on the Permittee. Annual reporting should be sufficient for ADEM to ensure permit compliance.

**Response (10):** The language for Part II.D.2 is consistent with the current language in the Phase II General Permit (ALR040000). The Department believes that this language is sufficient in Part II.D.1-2 of the draft permit and no changes were made based on this comment.

**Comment (11):** Part II. Section E. Impaired Waters.

3.a. The Permittee must determine whether its MS4 discharges to a waterbody for which a total maximum daily load (TMDL) has been established or approved by EPA. If an MS4 discharges into a water body with an EPA approved or established TMDL, it must evaluate whether the discharges, as controlled by the Permittee, caused or contributed to the impairment. If the Permittee's discharges caused or contributed to the impairment, then the SWMPP must include BMPs targeted to meet the assumptions and requirements of the TMDL. If additional BMPs will be necessary to meet the requirements of the TMDL, the SWMPP must include a schedule for installation and/or implementation of such BMPs. A monitoring component to assess the effectiveness of the BMPs in achieving the TMDL requirements must also be included in the SWMPP. Monitoring can entail a number of activities including, but not limited to: outfall monitoring, in-stream monitoring, and/or modeling. Monitoring data, along with an analysis of this data, shall be included in the Annual Report.

**Response (11):** Part II.E.3.a. of the draft permit has been revised to include the Commenter's language.

CRS Comments on ALS000010 (City of Prattville)

**Comment (1):** Part II.A.1. indicates the Permittee is required to develop, revise, implement, maintain and enforce a storm water management program (SWMP) which shall include public participation. However, the phrase “public participation” does not clearly mean that an opportunity for open public review of the SWMP language before its initial adoption is required for this permit. We urge ADEM to more explicitly require a public review process for the adoption of a SWMP and for any of its subsequent modifications. This proposed permit should require that the SWMP will be subjected to a similar degree of review that this current public comment process allows for the rest of the permit.

**Response (1):** Parts II.B.1.b.1. and II.D.1. of the draft permit require the Permittee to seek and consider public input in the development and implementation of the SWMPP.

**Comment (2):** The SWMP is to be a condition of the permit (as indicated at Part II.A.4.). Being part of the permit, the SWMP must be available to substantive public review. If that is already ADEM’s intent here, we request ADEM describe that process in the permit more clearly.

**Response (2):** The general public has an opportunity to engage in the development and implementation of the Permittee’s SWMPP as required by Part II.B.1.b.1 of the draft permit.

**Comment (3):** Part II.A.4. indicates the SWMP, once acknowledged by ADEM, is a condition of the Permit. We assume “ADEM acknowledgement” means the SWMP has been vetted by ADEM in terms of its likelihood for successfully achieving the goals of the permit. Or, in other words, we assume “acknowledged” means “substantively reviewed”. If ADEM does not intend to substantively review the SWMP at the time it is submitted, please inform us as a part of your response to comments that such a review is not expected at that time.

**Response (3):** The Department will review the SWMPP and associated monitoring plans, to include any modifications, and will provide comments on the SWMPP and associated monitoring plans as deemed appropriate.

**Comment (4):** We compared this DRAFT Prattville MS4 permit to the Shelby County MS4 permit and found that at Part II.B., the Prattville MS4 permit omits the following paragraphs:

**1. Storm Water Collection System Operations**

**a. Structural Controls**

- i. For Permittee owned/maintained structural controls, the structural controls shall be operated in a manner to reduce the discharge of pollutants, to the MEP;
- ii. For Permittee owned/maintained structural controls, the Permittee shall include in the SWMPP and implement the following:
  1. Maintain a map of the structural controls;
  2. Inspection of existing and newly constructed structural controls on a semiannual basis, at a minimum;
  3. Develop a standard operating procedure (SOP) or inspection checklist for structural control inspection and maintenance procedures;
  4. Stabilization and re-vegetation of eroded areas as needed; and

5. Floatables, litter, sediment and debris, in structural controls, shall be removed as needed.
- iii. The Permittee shall maintain an inventory of structural controls, and maintain a tracking system for inspections and maintenance of the control structures; and
- iv. The Permittee shall report each year in the annual report the following structural control information:
  1. The number of inspections performed on structural controls, to include follow-up inspections and the inspection documentation (i.e. checklist) shall be made available upon request;
  2. A summarization of the maintenance activities performed on structural controls;
  3. The estimated amount of floatables, litter, sediment and debris that was removed;
  4. Copies of any contractual agreements for maintenance activities if not performed by the Permittee, if requested by the Department. The contractual agreement should specify maintenance activities performed and schedule; and
  5. Updated structural controls map of Permittee-owned structural controls added during the preceding year with geographic coordinates.

The above language should be included in the permit, just as it has been required for previous MS4 permits.

**Response (4):** This draft permit is a Phase II MS4 permit for the City of Prattville. The structural control component noted in your comment is not a requirement of the MS4 Phase II regulations and, therefore, is not included as a permit requirement in the Prattville Permit.

**Comment (5):** Part II.B.1.a. adds the following sentence: “The Permittee shall also comply, at a minimum, with applicable State and local public notice requirements when a public involvement/participation program” Does ADEM interpret this sentence to mean that an opportunity for substantive public comment on the SWMP is required before the SWMP is adopted as condition of the Permit? We hope that is the intent here, but are concerned that such an opportunity for public comment is not clearly established in this permit.

**Response (5):** The Department intends for the Permittee to provide an opportunity for public input as required by 40 CFR 122.34 and the permit.

**Comment (6):** Compared to previously adopted MS4 permits, Part II.B.1.b.3 of this DRAFT no longer requires storm drain inlet and catch basins be labeled with “no dumping” messages. We concur that such labeling should neither be required nor prohibited. We think it is important for the Public Education program to share information that increases the public’s understanding that litter and pollutants entering the storm drains is piped directly to our local streams. Making that connection in the public’s consciousness is important.

**Response (6):** Comment noted. Part II.B.1.b.5 of the draft permit does list stenciling as an example of a possible activity for public participation.

**Comment (7):** We appreciate the addition of possible restoration activities at Part II.B.1.b.5. and the addition of “Home-Based and Mobile Businesses” at Part II.B.1.b.5.b. However, also at Part II.B.1.b., an additional paragraph that would require the Permittee to “organize and participate in activities that target the removal of litter, floatables and debris from area waterways” has been removed in this draft. Modeling good behavior is important, so we think the Prattville MS4 should undertake clean-up activities

that draw in public participation. Goals for these activities should be included in the SWMPP. An estimated amount of litter removed during these activities should be included in the annual report.

**Response (7):** Part II.B.1.b.5.a.i of the draft permit has been modified to include the following language: On an annual basis, at a minimum, the general public shall be educated on the general impacts litter has on waterbodies, how trash is delivered to streams via the MS4 and ways to reduce and remove the litter. The Department believes that this modified language addresses the commenter's concerns. Please also note that Part II.B.5.a.ii of the permit requires the Permittee to develop strategies for the implementation of BMPs to reduce litter, floatables and debris from entering the MS4 and evaluate those BMPs annually to determine their effectiveness. If a BMP is determined to be ineffective or infeasible, then the BMP must be modified. The Permittee shall also develop a plan to remove litter, floatable and debris material from the MS4, including proper disposal of waste removed from the system.

**Comment (8):** We appreciate the addition of language at Part II.B.2.c that requires the removal of an illicit discharge as expeditiously as practicable. However, the word "expeditious" is subject, so we suggest using "one week" as a limitation unless the Permittee is given specific permission to exceed that time for compliance from ADEM.

**Response (8):** Part II.B.2.a.2.c of the draft Permit has been revised with the removal of the phrase "...expeditiously as practicable." Part II.B.2.a.2.c of the draft Permit states "Require the removal of illicit discharges and the immediate cessation of improper disposal practices upon identification of responsible parties." The draft permit also states where the removal of illicit discharge within ten (10) working days is not possible, the ordinance shall require an expeditious schedule for removal of the discharge.

**Comment (9):** We encourage ADEM to require a more assertive dry weather screening program. It is not clear why ADEM has assumed that it is only necessary to screen dry weather outfalls only once during the five-year term of the permit and further that such complete screening may be delayed to the end of that five-year term. Rather, the Permittee should be encouraged to complete that screening effort as early in the term of the permit as possible. We suggest that 33% of the outfalls be screened each year for the first three years of the permit term and 15% of the outfalls screened each year thereafter.

**Response (9):** Part II.B.2.a.3. of the draft permit requires the Permittee to dry weather screen twenty percent, at a minimum, of the outfalls once per year with 100% screened at least once per five years. Priority areas, as described by the Permittee in the SWMPP, will be dry weather screened on a more frequent schedule. Since the draft permit requires a minimum of 20% of the outfalls to be completed per year along with screening priority outfalls on a more frequent basis, a Permittee cannot delay surveying its entire MS4 to the end of the permit cycle. The Department believes that the language in the draft permit is sufficient and no changes were made based on this comment.

**Comment (10):** If the Permittee opts to rely on ADEM for the construction storm water regulatory program, this DRAFT permit's Construction Site Storm Water Runoff Control program is significantly weaker than the versions adopted by other MS4s. This proposed permit does not include the following elements that have been included in other MS4 permits:

- The permit proposes 'periodic' construction site inspections rather than the specific, measurable requirement for 'monthly' inspections found in other MS4 permits
- Procedures to require all applicable construction sites to obtain coverage under ADEM NPDES
- General Permit ALR10000 or other applicable NPDES permits

- The word ‘effective’ been removed from Part II.B.3.a.1. just before “...erosion and sediment controls,...”
- Requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality
- A mechanism for the public to report complaints regarding pollution discharges from construction sites
- Implementation of an ‘Enforcement Response Plan (ERP)’

**Response (10):** Part II.B.3.a.3 of the draft Permit does require the frequency and prioritization of inspection activities to be documented in the SWMP and must include a minimum inspection frequency of once each month for priority construction sites. This language is consistent with the current General Phase II permit. Part II.B.3.b.2 of the draft Permit requires construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality. This language in Part II.B.3.b.2 will be moved to Part II.B.3.a.6 of the draft Permit. The draft Permit has been modified to include Part II.B.3.a.7 which states the following: A mechanism for the public to report complaints regarding discharges from qualifying construction sites. Part II.3.b.3 of the draft Permit states if the Permittee is not relying on the Department for enforcement of erosion and sediment controls, then the Permittee is required to develop and implement an enforcement strategy that includes escalating enforcement remedies to respond to issues of non-compliance.

**Comment (11):** The term ‘periodic’ is not specific with regard to frequency. For example, ‘once every five years’ is periodic but not adequately frequent. The permit should designate a minimum site inspection frequency such as ‘weekly’ or ‘biweekly’.

**Response (11):** This language is consistent with the current General Phase II MS4 Permit. The Department believes that the language requiring the frequency and prioritization of inspection activities to be documented in the SWMP and must include a minimum inspection frequency of once each month for priority construction sites is sufficient. Since this information is required to be included in the SWMPP, the Department will comment as necessary during the SWMPP review process.

**Comment (12):** We request ADEM provide a rationale for removing the requirement for the Permittee’s Construction Site Storm Water Runoff Control program to have procedures to require all applicable construction sites to obtain coverage under ADEM NPDES General Permit ALR10000 or other applicable NPDES permits. If the MS4 is not checking on the status of construction site coverage, will ADEM have the resources to assure those sites are compliant in obtaining coverage?

**Response (12):** The City of Prattville’s draft permit language is consistent with the language of the current General Phase II MS4 permit. The Department believes that this language is sufficient since the City of Prattville has been designated a MS4 Phase II.

**Comment (13):** Why has the word ‘effective’ been removed from Part II.B.3.a.1 just before “...erosion and sediment controls,...” as it has appears in previous MS4 permits? The current language would allow the Permittee to rely on the ‘BMP defense’, regardless of the actual effectiveness of those BMPs.

**Response (13):** The draft permit has been revised to include the word “effective” in Part II.B.3.a.1 prior to “...erosion and sediment controls....”.

**Comment (14):** The proposed Construction Site Storm Water Runoff Control program also does not include requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality. Why is that language that has been in previous MS4 permits absent here? Those requirements should be included in this permit.

**Response (14):** Part II.B.3.b.2 of the draft Permit requires construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality. This language in Part II.B.3.b.2 will be moved to Part II.B.3.a.6 of the draft Permit.

**Comment (15):** Part II.B.3.b. sets out minimum requirements for an MS4 that does not rely on ADEM for a Construction Site Storm Water Control program. We appreciate that this proposed permit does not appear to explicitly exempt the MS4 from ultimate responsibility for program compliance that seemed to us to be found in the Phase II General MS4 permit.

**Response (15):** Comment noted.

**Comment (16):** The proposed Part II.B.4. Post-Construction Storm Water Management in New Development and Re-Development section allows this Permittee two years to address post-construction storm water runoff from the MS4. This is a significantly longer interval than the one year compliance requirement for other MS4 permits. Would ADEM describe why the longer interval is being allowed here? We encourage ADEM to require implementation within the one year interval.

**Response (16):** The 730 day implementation schedule of Post-Construction Storm Water Management in New Development and Re-Development requirement within this draft permit is consistent with the Post-Construction Storm Water Management in New Development and Re-Development requirement within the 2011 Phase II MS4 General Permit. Since this is a “newly-designated” Phase II MS4 Permittee, the Department believes that the timeframe is appropriate and no changes were made to this draft permit based on this comment.

**Comment (17):** The draft Phase II MS4 General Permit included language that clearly indicates that, to the maximum extent practicable, both volume and velocity of pre-construction storm water runoff should not be exceeded. We encourage ADEM to include that language in the Prattville MS4 permit as well.

**Response (17):** The draft Phase II MS4 General Permit states in Part II.B.4.a.ii. that the Permittee must develop and implement strategies which may include a combination of structural and/or non-structural BMPs designed to ensure, to the maximum extent practicable, that the volume and velocity of pre-construction stormwater runoff is not significantly exceeded. This language is consistent with the language included in the draft Prattville permit. The Department believes that this language is appropriate and no changes were made based on this comment.

**Comment (18):** The basis for design for post-construction structural and non-structural BMPs proposed in this permit is a 1.14 inch rainfall over a 24-hour period preceded by a 72-hour antecedent dry period. This design standard does not achieve the maximum extent practicable standard required by the 1987 amendments to the Clean Water Act. The design standard used for the Phase II MS4s is a 2 year/24 hour rain event, which, for the Prattville area is a 4.2 inch rain event. How can ADEM require small municipalities to meet a much higher standard than Phase I areas? As described below, we not necessarily agree that the 2 year/24 hour standard is appropriate for Phase II areas or Phase I areas. However, the disparity between the requirements for a Phase II area and the language ADEM has adopted

for various Phase I MS4 permits is strikingly different and should be more closely aligned for the sake of better stormwater management and fairness.

We point out that ADEM's justification for use of the 1.14 inch design standard is inconsistent and arbitrary. As we understand ADEM's justification, the 1.1 inch standard is assumed to be appropriate because it is recognized that capturing that amount of rainfall facilitates addressing the 'first flush' of pollutants from an impervious area. ADEM staff have articulated to us that ADEM may regulate 'pollutants' and may not regulate 'pollution'. While we disagree with that interpretation of the Clean Water Act's authority, we nevertheless point out that using 1.1 inches of rain as a definition of the 'first flush' volume is in itself arbitrary. ADEM cannot assert that there are *no* pollutants in runoff from the 'tail-end' of a 2.1 inch rain event that do not need to be managed. From our perspective, ADEM is responsible for regulating runoff to the 'maximum extent practicable', as noted in the 1987 amendments to the Clean Water Act. As we show below, that 'practicability' standard is the 95th percentile rain event standard. Also, the Clean Water Act anticipates that stormwater management expectations will change over time to track a changing MEP standard. So, expectations about what constitutes the 'first flush' should also become more protective over time. This proposed permit is clear that stormwater runoff volume control is a goal of this permit. With that in mind, we suggest revising the design standard to use one of the following options as a basis for design and implementation of post-construction BMPs, all of which are justifiable as MEP in terms of scientific support (see Appendices) and precedent in other Alabama MS4 permits:

- 1) A 1 year/24 hour event; about 3.6 inches for the Birmingham area. This is consistent with an analysis by Dr. Robert Pitt (see Appendix 1)
- 2) A 1 year/3 hour rain event (about 2.1 inches for the Birmingham area, which is consistent with ALDOT's MS4 permitting approach)
- 3) The 95th percentile rain event for the area (about 2.1 inches for the Birmingham area, which is consistent with ALDOT's MS4 permitting approach and the federal facilities approach)

Of these three alternatives, we recommend #3), as we have for every previous stormwater permit for which we have submitted comments for the last several years. Alternative #1) is justifiable from an environmental engineering and scientific basis and Alternatives #2) and #3) are similarly justifiable from an engineering and scientific basis as well as meeting the MEP standard, which these permits are required to do. The 1.14 inch design standard falls short of being a "maximum extent practicable" standard since it falls significantly short of what ALDOT is currently achieving, which is the very definition of practicability. How can ADEM justify post-construction design standards in the neighborhood of 1.1 inches as a 'maximum extent practicable' requirement when such a standard is not in fact the maximum extent practicable standard currently being achieved?

**Response (18):** The intent of the draft permit is to require the Permittee to implement, maintain and enforce a comprehensive stormwater management program which involves using management practices, control techniques and system, design and engineering methods, and such other provisions which are appropriate to reduce the **discharge of pollutants** from its MS4 consistent with Section 402(p)(3)(B) of the Clean Water Act and 40 CFR Part 122.26. 40 CFR 122.26(d)(2)(iv)(A)(2) is clear that the Permittee is responsible for controlling the **discharge of pollutants** in stormwater runoff from new developments and significant redevelopments. Please note that flow is not a pollutant under the Clean Water Act. It is the Department's belief that the utilization of the design storm specified in the draft permit meets the statutory and regulatory requirements.

Regarding the post-construction design standard included in ALDOT's permit, what constitutes MEP is not a "one size fits all", but is determined on a case-by-case basis, which means it may be different for each Permittee based on numerous factors.

**Comment (19):** Prattville's DRAFT MS4 permit does not require a Spill Prevention and Response Program as has been required for other Phase I MS4s. It is inappropriate for an urbanized area like Prattville to have no such program. The program elements to reduce trash in the waterways in this are very much a minimal program when compared to other MS4s permits and should be enhanced to align closely with those for other MS4 permits.

**Response (19):** This draft permit is a Phase II MS4 permit for the City of Prattville. The Spill Prevention and Response program is not a requirement in the MS4 Phase II regulations. However, the draft permit does require the Permittee to have the legal authority to control the discharge of spills, and prohibit dumping or disposal of materials other than storm water into the MS4 (Part II.C.c.).

**Comment (20):** The Annual Reporting requirements for Prattville do not include a requirement to report a summary of inspection reports of municipal facilities. Modeling pollution prevention and good housekeeping practices by the City is important and should be a part of this permit. The City will not be able to encourage another corporate entity to adopt pollution prevention and good housekeeping practices if the City does not have their own demonstrable program.

**Response (20):** Part II.B.5. of the draft Permit requires the Permittee to implement a program for inspecting municipal facilities for good housekeeping practices, including BMPs. This inspection plan and schedule are to be included in the Permittee's SWMPP and any updates/changes shall be reported in the Annual Report. The Permittee is to retain records of inspections and corrective actions, to be available, upon request, and the Department may review these records during audits to verify compliance.

**Comment (21):** In a similar vein, this permit fails to require a Pesticide, Herbicides and Fertilizer Program. Nor does the permit require any Oil, Toxics, and Household Hazardous Wastes Program. Nor is there a requirement for the Permittee to develop an Industrial Storm Water Runoff Program. Each of these program requirements have been a part of every other previous Phase I MS4 permit. Why have requirements for those programs been dropped for Prattville?

**Response (21):** Part II.B.5.a.3. has been modified to include PHFs and now states, "Storage and disposal of chemicals, pesticide, herbicide and fertilizers (PHFs) and waste materials;"

**Comment (22):** The Part III. Monitoring and Reporting section drops all monitoring requirements if Prattville does not have a 303(d) or TMDL stream. It appears that Autauga Creek not its tributaries are found on Alabama's 303(d) list and that no TMDLs have been approved in that watershed. Thus, adoption of this permit would probably mean that no water quality monitoring will be occurring that could detect impairment attributable to urban stormwater runoff. Perhaps ADEM is conducting some general water quality monitoring in the Autauga Creek watershed, but given the resource constraints ADEM faces, it is unwise to assume that expenditure will continue.

All MS4s should do some basic water quality monitoring even if no 303(d) or TMDL streams are within the municipal jurisdiction. Water Quality conditions do not remain static over time, particularly in urban settings. How can the permittee know whether or not there is a stormwater runoff problem affecting water quality if no monitoring is conducted? We urge ADEM to include some basic water quality monitoring requirements sufficient to detect over time changes in water quality impacts due to urban stormwater runoff. It is a goal of this permit to manage urban stormwater runoff impacts and monitoring is essential for an assessment of the efficacy of the programs adopted by the City of Prattville.

It is especially valuable to have monitoring information to detect degrading water quality conditions before those water quality conditions become so degraded as to require 303(d) listing to allow adoption of stormwater management options at an earlier stage when problems are more manageable.

The Prattville MS4 permit should require water quality monitoring to allow an assessment of whether urban stormwater runoff, as it very often does, is having a negative impact on Alabama's water quality. This permit should include a description of a monitoring plan. That plan should be included in the SWMPP and it should be subject to public review and comment. Monitoring should include parameters that are typically important pollutants in urban streams. For example, there should be monthly monitoring of the following parameters:

- a) Temperature
- b) pH/ORP
- c) Turbidity
- d) Conductivity
- e) Dissolved Oxygen
- f) Water Level

In addition, there should be monitoring of the following parameters at least four times per year:

Specific Conductivity	Total Kjeldahl Nitrogen	Biochemical Oxygen Demand	Turbidity
Total Phosphorus	Nitrate plus Nitrite	Chemical Oxygen Demand	Dissolved Oxygen
Total Nitrogen	Hardness	Oil and Grease	Water Level
Total Suspended Solids	Ammonia	Fecal Coliform	Temperature
Total Dissolved Solids	pH	E.Coli	

This parameter list is from another MS4 Permittee's required monitoring responsibilities. It is appropriate to have reasonably similar expectations for this Permittee's monitoring requirements.

Perhaps ADEM already has a statewide monitoring plan that addresses Autauga Creek. However, ADEM cannot claim to have adequate and guaranteed resources to conduct adequate statewide water quality monitoring and that Autauga Creek will always be monitored in the future. It is inappropriate to drop all requirements for a municipality to monitor its urban runoff, a well-known source of water quality impairments for Alabama's streams.

**Response (22):** The federal MS4 regulations do not require Phase II MS4s to monitor. However, the monitoring requirements of this draft permit are consistent with the monitoring requirements of other Phase II entities as required by the Phase II General Permit. Part II.E. of the draft permit requires the Permittee to monitor 303(d) streams, if the MS4 discharge causes or contributes to the impairment. Also, Part II.E. of the draft permit requires that Permittee to include a monitoring plan, if the MS4 discharge is to an EPA-Approved and/or EPA Established TMDL, to assess the effectiveness of the BMPs in achieving the TMDL requirements. Monitoring can entail a number of activities including, but not limited to: outfall monitoring, in-stream monitoring, and/or modeling.

**Part A. EPA requests the following substantive amendments to the Prattville Permit:**

- Part II.B.4.a.6 (page 12). Please add the clarifying language below in bold font to the Prattville Permit.

6. The Permittee shall review and evaluate policies and ordinances related to building codes, or other local regulations, with a goal of identifying regulatory and policy impediments to the installation of green infrastructure and low-impact development techniques. **The review should consider non-structural BMPs in the program, as appropriate, including the following:**

**a. Policies and ordinances that provide requirements and standards to direct growth to identified areas, protect sensitive areas such as wetlands and riparian areas, maintain and/or increase open space (including a dedicated funding source for open space acquisition), provide buffers along sensitive water bodies, minimize impervious surfaces, and minimize disturbance of soils and vegetation.**

**b. Policies or ordinances that encourage infill development in higher density urban areas, and areas with existing storm sewer infrastructure.**

- **Response:** Multiple portions of Part II.B.4. of the proposed Permit reference post-construction storm water management practices, which would include both structural and non-structural BMPs. Part II.B.4.a.6. also includes a requirement for the permittee to review ordinances and policies that would impede the installation of GI/LID techniques, which would include the BMPs mentioned in your comment. No changes were made to the draft permit as a result of this comment.
- Part II.B.2.a.2.c. (page 7). Remove the words “**expeditiously as practicable**” from this requirement.
  - **Response:** Part II.B.2.a.2.c. of the proposed Permit has been revised with the removal of the phrase “.....expeditiously as practicable.”
- Part II.B.3.b.(page 9). States that the Permittee may rely on the Department for enforcement of erosion and sediment controls for qualifying construction sites and must document this in its SWMPP. EPA notes that when the Department accepts responsibility to pursue enforcement in cases referred by Permittees, an inherent conflict of interest exists since the Department remains responsible for enforcing the terms and conditions of the Prattville Permit while simultaneously providing enforcement support to the Permittee for one of the minimum

control measures required in the Prattville Permit. EPA will be monitoring the implementation of this provision in the Prattville Permit.

- **Response:** Comment noted.

**Part B. Comments/Clarifications:**

- Permit Rationale, Effluent Standards and Limitations (page 1). Current language identifies that the Prattville Permit requires any discharge associated with the regulated MS4 be consistent with TMDLS established and/or approved by the EPA, in addition to applicable Water Quality Standards. 40 CFR §122.34(b)(1-6), requires that storm water management programs include the specific six minimum control measures. Therefore, the minimum control measures required should be added to the end of this section as outlined in bold font below:

**This permit also requires that controls (including the six minimum control measures listed above) be developed and implemented to reduce the discharge of pollutants.**

- **Response:** The Permit Rationale has been revised to include the following language “This permit also requires that controls (including the six minimum control measures listed above) be developed and implemented to reduce the discharge of pollutants.”
- Part II.B.2.a.2.c(page 7). Please remove the language in bold font below. It is not necessary to include in this permit requirement.
  - 2. Require the removal of illicit discharges as **expeditiously as practicable** and the immediate cessation of improper disposal practices upon identification of responsible parties
- **Response:** Part II.B.2.a.2.c of the Permit has been revised with the removal of the phrase “.....expeditiously as practicable.”
- Part II.B.5.a.3.(page 13). Lists the requirement for standard operating procedures (SOPs) detailing good housekeeping practices to be employed at appropriate municipal facilities and during municipal operations. However, pesticides, herbicides and fertilizers are not specifically listed in the General Permit. Please add a requirement for SOPs detailing good housekeeping practices for the proper use and management of pesticides (including pest management approach), herbicides and fertilizers to minimize potential for discharge through the MS4.
  - **Response:** Part II.B.5.a.3. of the proposed Permit has been revised to state “Storage and disposal of chemicals, Pesticides, Herbicides and Fertilizers (PHFs) and waste materials.” The Department believes that the revised language addresses the comment.