

## **SUMMARY/RESPONSE TO COMMENTS ON DRAFT GENERAL PERMIT**

The Indiana Department of Environmental Management (IDEM) requested public comment from [date in regular type], through [date in regular type], on IDEM's draft rule language. IDEM received comments from the following parties:

Accelerate Indiana Municipalities (AIM)  
Allen County Surveyor's Office (ACSO)  
Chesterton Storm Water Utility, Water Quality Program (CSWU)  
City of Angola (CA)  
City of Elkhart (CE)  
City of Fort Wayne (CFW)  
City of Goshen (CG)  
City of Indianapolis Department of Public Works (CIDPW)  
Hancock County Surveyor (HCS)  
Howard County Commissioner (HCC)  
Indiana Association for Floodplain and Stormwater Management (INAFSM)  
Lake County Surveyor (LCS)  
Northwest Indiana Stormwater Advisory Group (NISWAG)  
Southern Indiana Stormwater Advisory Committee (SWAC)  
Tippecanoe County Partnership for Water Quality (TCPWQ)  
Wessler Engineering (WE)  
Whitley County SWCD (WCSWCD)

Following is a summary of the comments received and IDEM's responses thereto.

### **No section identified/general comments:**

*Comment:* The commenters respectfully and urgently request that IDEM extend the public comment period for the MS4 General Permit for an additional 60 days until March 25, 2021. Given this update is the first since the original language was developed nearly 20 years ago, appropriate time for review and consideration should be granted to all permit holders and impacted stakeholders. The timing of public comment for the draft MS4 permit during the holiday season strongly demonstrates the need for additional review time. The difficulty in collaborating with MS4 partners, stakeholders and elected officials has been further compounded due to COVID-19 limiting interactions. Municipalities adjusting to the new COVID-19 work requirements has forced changes to virtually every work practice.  
(NISWAG, SWAC)

*Response:*

An additional 2 weeks was provided for comments. This was determined to be sufficient since IDEM conducted multiple meetings with an advisory group that represented multiple entities that had interest in the draft permit. In addition, IDEM has participated in multiple events/conferences to discuss and receive feedback on the draft permit.

*Comment:* The commenters request that more time is allowed for MS4s throughout the state of Indiana to thoroughly review the new MS4 General Permit and the new Construction GP. It is important that additional time is given so that all MS4s can see how the new CGP requirements will affect their programs. Reviewing two detailed permits at the same time has been extremely difficult. (CA, HCS, INAFSM, TCPWQ)

*Response:*

An additional 2 weeks was provided for comments. This was determined to be sufficient since IDEM conducted multiple meetings with an advisory group that represented multiple entities that had interest in the draft permit. In addition, IDEM has participated in multiple events/conferences to discuss and receive feedback on the draft permit.

*Comment:* For consistency throughout the permit, the commenter suggests changing all completion timeframes and due dates from months to days. Additionally, all dates should be based off the same activity or event. Changing the language makes it clear to an MS4 the exact date all the required submittals are based on. The commenter suggests changing all completion timeframes and due dates to either “within XX days of the NOI submittal date” or “within XX days of when the initial NOI submittal is received by IDEM”, instead of “within XX months of permit coverage,” “end of the first year,” or “end of the fifth year.” If items are due by the expiration date of the general permit, then it should be stated. (WE)

*Response:*

IDEM has modified the permit, where appropriate, to list dates in months.

*Comment:* The requirements for newly designated MS4s are not clearly integrated into the proposed permit language. The MS4 Program is multi-faceted with many components, some of which take place simultaneously, while other elements must happen in sequence to support logical implementation. The permit language, especially for newly designated MS4s, should be concise and linear, and should not require outside support from consultants to understand and successfully implement the program. Although the committee consists of seasoned MS4 communities, we recognize that a few of our neighboring municipalities will likely be designated as MS4s soon, and while we intend to offer them support, we also want the requirements to be transparent and manageable. At a minimum, we feel summary fact sheets and milestone targets should be compiled for existing and newly designated MS4 entities. (SWAC)

*Response:*

IDEM will prepare a compliance schedule that will list milestone dates for existing MS4s that renew permit coverage as well as newly designated MS4s.

*Comment:* Given the complexity of the MS4 Program and the implications for noncompliance, a guidance document from IDEM to better outline and define permit elements would be tremendously beneficial to the success of existing and newly designated MS4s. The guidance document could be periodically modified and expanded upon as real-world conditions unfold for MS4 entities, which could promote more pragmatism and program success for both permit holders and IDEM goals. Examples where guidance materials would be beneficial include expectations for ongoing water quality characterizations, outlet versus outfalls for short segments like culverts and bridges, etc. (SWAC)

*Response:*

IDEM plans to develop a document that clarifies items within the new general permit. As the program is implemented and new issues are brought to the attention of IDEM it will be updated.

*Comment:* Though some preliminary discussions and presentations from IDEM have taken place regarding potential contents of the draft MS4 permit, no webinars or presentations have been given by IDEM or its agents to review the permit contents since the draft was officially published for public advertisement. Given the gravity of this program and the number of permit holders, as well as the population impacted through this permit, it would seem appropriate that IDEM conduct an outreach campaign in the form of a recorded, interactive webinar presentation, followed by a question-and-answer session. Summary fact sheets of the new requirements for permits developed and selectively distributed by consultants invited to rulemaking meetings should not be construed as an official outreach campaign on behalf of IDEM prior to the official release of the draft permit. (SWAC)

*Response:*

IDEM implemented a process to obtain feedback and collaboration on the draft permit. This was achieved through an advisory workgroup that was representative of the permittees, consultants, professional organizations, and interested parties. Members of the advisory group were represented statewide and were asked to have dialogue with others that were not part of the group. IDEM has presented at a variety of conferences to explain the permit and its content and receive feedback.

*Comment:* IDEM should host several meetings around the state explaining the changes and additional information they are requiring and timeline to complete. Communities are not aware of what is taking place. It should be made very simple as to what is required, when it is to be implemented, and when to report it. Small MS4s should not have to spend lots of money and manpower to meet this requirement or hire consultants to be able to understand what is required. At the very least, the commenters would like to request that IDEM hold additional public meetings on the MS4 GP for the purpose of gathering additional comments and having further discussion on the permit requirements. (CA, HCS, INAFSM)

*Response:*

IDEM implemented a process to obtain feedback and collaboration on the draft permit. This was achieved through an advisory workgroup that was representative of the permittees, consultants, professional organizations, and interested parties. Members of the advisory group were represented statewide and were asked to have dialogue with others that were not part of the group. IDEM has presented at a variety of conferences to explain the permit and its content and receive feedback.

*Comment:* The commenters support the use of a tiered MS4 permit and request that due consideration be given to this approach. MS4 Coordinators who have additional titles or responsibilities would be hard-pressed to meet all the new requirements proposed in the general permit. A tiered approach would allow a much better chance for full compliance for smaller MS4 communities. This tiered approach would also likely lessen the financial burden on smaller municipalities and MS4 communities that do not have the capacity to achieve full compliance with the current staffing and budgetary restraints. (CA, HCS, INAFSM)

*Response:*

Upon releasing the initial draft permit and holding the first advisory group meeting, the draft permit presented had already received comments from U.S. EPA. IDEM acknowledges the tiered approach, but at this time will not consider the tiered approach. For the next permit cycle IDEM anticipates that this approach will be considered.

*Comment: Update the MS4 General Permit to be consistent with 327 IAC 2-1.3-2(50) as follows:*

*Add "discharges from potable water sources" and "rising ground waters" to the list. (CA, INAFSM, LCS, TCPWQ)*

*Comment: There are some wording issues and definitions that need to be clarified and consistent, such as "discharges from potable water sources", "rising ground water", and the requirement for a web page and what should be posted on it. Not all small towns have a web page and if it is available in their office that should be adequate. The public is not going to understand the reports, which could lead to misunderstanding and misguided information. (HCS)*

*Response:*

The discharges from potable water sources and rising ground water have been removed from the fact sheet. The list in the Fact Sheet and the permit are now identical and do not require further changes.

The issue related to web access for small towns has not been demonstrated to be unavailable. Current audits and assessments of MS4s have shown no issues with MS4s having web availability. If there is an issue the MS4 can work with IDEM to meet this requirement on any platform that the MS4 currently uses.

*Comment: The commenter believes that taxpayers, as well as building and construction trades, are going to find these increased fees and costs unacceptable. Adding unnecessary regulations always increase costs, which ultimately penalizes the end user. Please do not add additional burdensome regulations. Some of the current rules are already over the top. We should be finding ways to cut regulations and work with the building industry to promote growth and housing for our communities. (HCC)*

*Response:*

IDEM has not updated the current regulation (327 IAC 15-13) since 2003. During this time period many changes have been made at the federal level for which IDEM is required to update our regulatory requirements.

*Comment: It is the commenters' understanding that IDEM is working on guidance documents for both permits. The commenters request that the draft guidance be issued at the same time as a revised draft permit to give MS4s an opportunity to also comment on it. Questions or misunderstandings that MS4s have on some of the permit language could be easily cleared up by the guidance which may eliminate the need for them to comment on or object to certain areas of permit language. Conversely, the guidance may raise additional concerns with certain permit language that MS4s may wish to comment on. (CA, INAFSM, LCS, TCPWQ)*

*Response:*

IDEM does plan to have a document developed upon issuing the permit. The intent of this document is to clarify and expand on requirements within the permit. The document will also be updated as IDEM works with the regulated community to ensure the program is implemented in a consistent manner across MS4s.

*Comment:* A compliance schedule table should be added to the permit so that all compliance deadlines are in one spot. Since there are so many time deadlines for permit document submittals to IDEM and/or for completion of permit compliance items, such a table would greatly help MS4 entities. There is also a lack of consistency among those deadlines. All compliance deadlines should have a timeframe expressed (such as days) in the same way. (CA, INAFSM, LCS)

*Response:*

The compliance deadlines were placed within the appropriate Sections of the permit. IDEM has agreed to develop a schedule of compliance dates that will be in one document and also placed on the IDEM webpage.

*Comment:* Please provide a simple checklist of what is required for each MCM and an excel spreadsheet or similar tool that every MS4 can use for reporting. There is a lot of new information and several new requirements contained in this new permit. (CA, INAFSM)

*Response:*

The compliance deadlines were placed within the appropriate Sections of the permit. IDEM has agreed to develop a schedule of compliance dates that will be in one document and also placed on the IDEM webpage.

The Annual Report form is being updated to match the requirements in the permit. The Annual Report form will be available to all MS4s and will be the template for the type of information that is required to be submitted by each MS4.

*Comment:* Implementing annual reports should result in better record keeping and more accountability. This should enhance consistency and performance for MS4 permit holders, while also providing more opportunities for interaction with IDEM. (SWAC)

*Response:*

IDEM agrees with this statement. Refer to previous comment.

## **1.0 General Permit Coverage**

*Comment:* In section one or two of the permit, the permit language should indicate that the MS4 Program is an unfunded federal mandate by Congress under the Clean Water Act, National Pollutant Discharge Elimination System (NPDES) Stormwater Program, and to recognize that the activities required by this permit are required to be self-funded by the MS4s. This may help facilitate acceptance for MS4 communities, both existing and newly designated entities. (SWAC)

*Response:*

This should not be included in the general permit as unfunded mandates are not uncommon with federal rules. This type of language is not appropriate for the permit. IDEM continues to emphasize that MS4s should educate local officials on their program. IDEM has also been evaluating our approach to the auditing process and how we may be able to emphasize the importance of compliance with the permit. In addition, a document will be developed that clarifies and/or provides guidance. This document will include references to stormwater utilities and assessment of user fees that may aid MS4s on this topic.

## 1.2 Discharges Authorized/Covered by this Permit

### **Section 1.2(b):**

*Comment:* The commenter suggests the following alternative language:  
“Stormwater commingled with other discharges either regulated by other NPDES permits or ~~are~~ determined by IDEM or the MS4 entity to not be a significant source of pollutants. ~~These include, but not limited to the discharges in the following table~~ **including, without limitation, the following:** (CFW)

*Response:*

This change has been made.

*Comment:* This section contains a list of 14 items that, when commingled with stormwater, would be considered authorized discharges. However, the accompanying General Permit Fact Sheet issued by IDEM for this permit contains a list of 16 items. The commenters recommend revising one or both permits to ensure consistency. The list of items is also not consistent with the Construction Stormwater General Permit (CA, CFW, INAFSM, LCS, TCPWQ)

*Response:*

The Fact Sheet has been revised to be consistent with the permit language. The listed items will not be modified to match the Construction Stormwater General Permit. The overall intent and scope of the MS4 General Permit covers more areas of concern beyond those that are associated with active construction sites.

### **Section 1.2(b)(1):**

*Comment:* This should not include hyperchlorinated water unless the water is dechlorinated first. (CE)

*Response:*

Chlorinated water needs to be dechlorinated prior to discharge to the storm sewer system. Changes have been made to the permit to better clarify when discharges are allowable.

### **Section 1.2(b)(4):**

*Comment:* The commenter would like to modify the “straight release of storm sewer cleaning water” to “excess storm sewer cleaning water not collected by a vacuum device”. (CG)

*Response:*

This change has been made in the permit language.

*Comment:* Numbers nine and 13 in the fact sheet are repetitive and should be combined or made to match the descriptions in the General Permit numbers eight and nine. (CG)

*Response:*

The tables have been revised to match the tables in the general permit.

**Section 1.2(b)(6):**

*Comment:* Update this item from "uncontaminated ground water" to "uncontaminated pumped ground water". (CA, INAFSM, LCS, TCPWQ)

*Response:*

This change has been made in the permit language.

1.3 Discharges Not Authorized by this Permit

**Section 1.3(a):**

*Comment:* Change this text from "when IDEM determines the discharge will lower the water quality as defined under 327 IAC 2-1.3-2(50)" to "when IDEM determines the discharge will **significantly** lower the water quality as defined under 327 IAC 2-1.3-2(50)". (CA, INAFSM, LCS, TCPWQ)

*Response:*

This change has been made in the permit language.

**2.0 Permit Coverage and Designation Criteria**

*Comment:* Use of the term "areas" could be interpreted to impose requirements on an MS4 entity for stormwater discharges that are not under the MS4 entity's ownership, jurisdiction, or control. The commenter suggests replacing the word "areas" with "conveyance systems" to clarify the scope of the MS4 entity's responsibility. (CFW)

*Response:*

The permit requirements cannot be applied to any area that the permittee does not have jurisdiction or ownership of regardless of the language in the permit. The permit states and clearly defines the scope of applicability as

*"This permit applies to all areas under the ownership, control, or jurisdiction of a designated municipal separate storm sewer system (MS4) entity."*

2.1 Designation of a MS4

**Section 2.1(a)(3):**

*Comment:* The mention of the area in which a county must implement their MS4 Program is not as clear as the current wording in 327 IAC 15-13-3(a)(2). The draft wording initially appears to imply that every component of the MS4 Program must be implemented throughout the entire county if that county contains a mapped Urbanized Area (UA). It's not until Section 4.1(b) that more specific guidelines for the areas in which a county may choose to administer specific program components appear in the text. Additional clarification may help facilitate permit implementation and avoid confusion for county MS4 permit holders. (SWAC)

*Response:*

Section 2.1(a)(3) is related to designation of MS4 and 4.1(b) is associated with performance and expectations. This item is correctly placed in the permit based on the heading of the Section. The document to clarify items in the permit will expand on this issue.

**Section 2.1(a)(7):**

*Comment:* The subdivisions (A) through (H) are not identified in the text above or appear to pertain to an earlier version of the draft permit. Please clarify this reference. (CA, INAFSM, LCS, TCPWQ, WCSWCD)

*Response:*

This change has been made in the permit language.

2.2 Permit Coverage

**Section 2.2:**

*Comment:* The commenter proposes statewide changes to automatically transfer jurisdiction over regulated drains contained entirely within the municipal boundaries to the municipality. This would eliminate uncertainty regarding which entity is responsible to ensure that discharges to and from county regulated drains to the MS4 conveyance system comply with the permit requirements. Alternatively, the commenter requests clarification on how it is supposed to manage potential permit violations that stem from issues related to regulated drains not under the city’s jurisdiction or control. (CFW)

*Response:*

Any violations that fall outside the City’s jurisdiction would be addressed through the MS4 with jurisdiction.

There is a process identified in Section 36-9-27-20 - Drains located in municipalities or sanitary districts; relinquishment of jurisdiction by board - “A board may, by resolution, relinquish its jurisdiction over ditches and drains located in a municipality or a sanitary district, if that jurisdiction is accepted by the municipality or sanitary district.” Ind. Code § 36-9-27-20.

**3.0 Water Quality Characterization**

*Comment:* The term “outfall” has been removed from this draft permit language, which seems to expand characterization to include sheet flow and other non-outfall stormwater discharges. Removing the single word “outfall” changes the definition of the MS4, which is responsible for point source discharges from the conveyances, and therefore outfalls, in the MS4. The commenter suggests retention of the current language in 327 IAC 15-13-7(a):

“A MS4 entity must characterize the water quality of all known waters that receive storm water **outfall** discharges from the MS4 area.” (CIDPW)

*Response:*

The permit has been modified to clarify the issue raised by the commenter.

### 3.1 Water Quality Characterization Report

*Comment:* The commenter states that the Water Quality Characterization Report (WQCR) is an essential part for each community in understanding the uniqueness of its water quality challenges and the most appropriate approaches to address these challenges. Like the initial general MS4 permit, the inclusion of the WQCR promotes data collection and critical thinking to promote a continuous, iterative approach to MS4 enhancements. (SWAC)

*Response:*

IDEM agrees with commentor.

*Comment:* Currently, in the draft permit, the Water Quality Characterization Report (WQCR) is due the same time as the Stormwater Quality Management Plan (SWQMP), 180 days after the Notice of Intent (NOI) is submitted. It is the commenter's belief that the WQCR should help define each community's unique challenges to develop targeted, specific activities for their SWQMP. The commenter suggests that the SWQMP should for existing MS4s be due at least 90 days after IDEM's acceptance of the WQCR. (SWAC)

*Response:*

Additional language has been added to the permit to better clarify timelines for newly designated and existing MS4s.

#### **Section 3.1(C)(2):**

*Comment:* Please explain how IDEM wants the MS4s to report the structural condition of their owned and operated structural storm water management measures, as the standard for reporting is not specified in the permit for the various types of measures. (CSWU)

*Response:*

This information will be addressed in separate document to clarify the permit and/or the annual report form.

#### **Section 3.1(c)(3):**

*Comment:* How does IDEM expect the MS4s to provide identification for all wetlands and lakes? (CSWU)

*Response:*

The permit has been modified to clarify this item.

#### **Section 3.1(c)(6):**

*Comment:* This is not feasible without seeking outside expertise. Such an effort would be an incredible expense to the MS4 entity and would involve extensive staff time for little return on investment in terms of the actual impact on water quality. Accordingly, the commenter suggests deleting this requirement. (CFW)

*Response:*

This is similar language that is in 327 IAC 15-13 and implementation has not been an issue. This portion of the WQCR is part of the assessment of the MS4 area that provides a baseline for areas where a MS4 may want to place emphasis in administering the local program.

**Section 3.1(c)(7):**

*Comment:* The commenter seeks clarification regarding whether the term “sensitive resource areas” has the same meaning as “sensitive areas” as defined in Appendix A—Definitions. Do the requirements of this section apply throughout the MS4 entity’s jurisdictional boundaries or only “sensitive areas” as defined in Appendix A? (CFW)

*Response:*

Sensitive areas have been defined in the definitions. The word “area’ has been removed from the permit to be consistent with the definition. The purpose of this part of the permit does apply to the entire MS4 area. The requirement as listed specifies that the highest priority should be given to these areas.

**3.2 Water Quality Characterization Report: Submittal**

*Comment:* Submission of an initial WQCR within 180 days may prove difficult, if not impossible, for many MS4 entities. The commenters suggest extending the deadline for this initial submission to at least 12 months. (CFW, WE)

*Response:*

Additional language has been added to the permit to better clarify timelines for newly designated and existing MS4s.

*Comment:* The resources required to update the WQCR on an annual basis will present significant operational challenges. Under this new draft general permit, MS4 entities are also required to update the WQCR when permit coverage is renewed and when new TMDLs are approved by U.S. EPA. The renewal of the permit is an appropriate trigger for updates to the WQCR, but the requirements for annual updates and U.S. EPA updates for the designation of new TMDLs should be deleted. (CFW)

*Response:*

The requirement for the addition of TMDL information will be included in a new annual report form. The work required to determine if a TMDL is completed is minimal, requiring only an internet search. MS4s are also included in the development of new TMDLs.

**3.3 Water Quality Characterization Report: Certification**

*Comment:* Each MS4 will need to request and obtain biological information and data from IDEM to effectively evaluate the biological sensitive areas. With each MS4 requesting this information, receiving the data from IDEM and completing the conclusions for the report may take longer than the deadline allows. (WE)

*Response:*

The MS4 should collect data from all available sources which may include IDEM. There is a significant amount of data is available online or form other sources. If additional time is needed to collect the data and develop the WQCR, a MS4 may request an extension.

#### 4.0 Performance Requirements and Program Implementation

*Comment:* The language in the introductory paragraph of this section could be interpreted to suggest strict compliance with the numeric and narrative water standards is required under the terms of the permit. The commenter suggests the following revision to clarify this issue:

“All permittees must comply with this permit to demonstrate that all discharges authorized under this permit are managed to ~~meet numeric and narrative water quality standards~~ **reduce the volume of pollutants discharged to the applicable receiving waters** to the Maximum Extent Practicable (MEP), ~~with compliance required upon beginning such a discharge~~. For stormwater discharges, implementation of the stormwater quality management plan (SWQMP) and appropriate stormwater management measures is considered compliance with this requirement.” (CFW)

*Response:*

The permit is required to meet the WQS. It is assumed by IDEM and U.S. EPA that meeting the permit will meet the WQS. If the permittee cannot meet the permit, then the MS4 will need to apply and provide documentation and should receive a MEP for that particular MCM and WQS.

#### 4.1 General Performance Requirements

##### Section 4.1(b)(4):

*Comment:* A broad interpretation may include any regulated drains or roads not in a County’s MS4 area. What is the definition of a "facility"? This is very ambiguous and should be defined in Appendix A. (CA, CE, INAFSM, LCS)

*Response:*

This would not include roads, regulated drains, or drainage systems, unless they were associated with a facility.

IDEM has added a definition for facility where it is referenced in other parts of the permit.

##### Section 4.1(c):

*Comment:* It is unclear if this section is aimed at the person primarily responsible for administering each MCM, or all the employees involved in the administration of each MCM. Similarly, it is unclear whether the training required by Section 4.1(d) applies to the individuals intended to be covered by this section or if there are individuals who are supposed to receive training. (CFW)

*Response:*

The MS4 must have a responsible party for each MCM. A person can be responsible for multiple MCMs. Training is required for each person who is responsible to administer an MCM. This must include the person responsible for the administration of the MCM or staff responsible for reviewing compliance with an MCM.

*Comment:* If an MS4 hires a SWCD to administer any part of the MS4 program, would IDEM also be able to employ the SWCD for review and inspection of MS4 owned projects? This seems to be a conflict of interest. The understanding of the stakeholder group was that all references to SWCDs were to be removed from the permit. (CA, INAFSM)

*Response:*

SWCD was removed and/or additional responsibilities from the permit. However, IDEM did not agree to remove references to SWCD in their entirety. The reference in this part of the permit is a suggested list of entities for which the MS4 may utilize through agreements to carry our program responsibilities. IDEM is addressing the potential areas that may be considered a conflict of interest.

#### **Section 4.1(d):**

*Comment:* The following revision to this section is suggested:

“Provide training opportunities for MS4 staff implementing the program that is specifically targeted to their responsibilities. At a minimum, each **MS4** employee **responsible for implementing the program** must receive 12 hours of annual training with at least eight (8) of the twelve (12) hours of training distributed amongst the specific minimum control measure(s) for which they are responsible for administering.” (CFW)

*Response:*

The change has been made to the language in the permit.

*Comment:* How was the requirement for the 12 hours of annual training established? (CSWU)

*Response:*

This number was discussed by members of the Advisory Group and IDEM believes this number is achievable.

*Comment:* How will IDEM decide what is considered training? (CSWU)

*Response:*

Training is any activity, either in person or online that provides educational value. The title of the training and the date of the training is required to document the training. The training does not require a certification.

*Comment:* Will IDEM provide training opportunities to meet the 12-hour requirement since not many opportunities currently exist? (CSWU)

*Response:*

IDEM is working on providing additional training opportunities for MS4s, however there are numerous training opportunities that are available at conferences, online, etc. that would qualify to meet the training requirements.

*Comment:* What if the 12-hour requirement can't be achieved by an individual for a specific MCM? The commenter believes that the annual twelve-hour requirement per MCM is excessive and requests that the number of required hours be decreased by at least half. (CSWU)

*Response:*

A MS4 would provide information in the annual report as to why the 12 hours of training could not be met. The 12 hours of training was discussed by members of the Advisory Group and IDEM believes this number is achievable.

*Comment:* The commenter suggests changing “employee” to “MS4 Permit Coordinator and/or delegate”, because training requirements for individuals whose interactions, jobs, and activities with the potential to impact stormwater quality have been included elsewhere in this draft permit for construction, post-construction, illicit discharge investigation, and good housekeeping practices. (CIDPW)

*Response:*

The permit language has been changed to “each MS4 employee responsible for implementing the program”.

*Comment:* Specifying the number of training hours does not guarantee comprehension nor performance, may place an unnecessary burden on municipalities, is beyond the requirement for existing certifications (e.g., EnviroCert CPESC, CPSWQ, CPMSM and CPISM are 8 hours/year and CESSWI is 6 hours/year), and is not required by federal regulation. (CIDPW, WE)

*Response:*

IDEM believes the 12 hours as described are achievable. The MS4 must have a responsible party for each MCM. A person can be responsible for multiple MCMs. Training is required for each person who is responsible to administer an MCM. This must include the person responsible for the administration of the MCM or staff responsible for reviewing compliance with an MCM. At least 8 of the 12 hours must be distributed amongst the MCMs for which they are responsible for administering.

*Comment:* The commenter suggests a statement of the training outcome expectations, such as knowledgeable in applicable regulatory requirements, current technologies, principles and practices applicable to the MS4. An annual frequency is suggested and consistent with the existing Rule and federal regulation. (CIDPW)

*Response:*

The training as required in the permit is on an annual basis. The expectation is that the training will achieve the purposes stated above. The intent of the training requirement is to distribute the hours amongst the MCMs for which the MS4 employee is responsible for administering.

*Comment:* The commenter suggests modifying the language so that the specified hours of training be completed by “employees administering the program or the stormwater coordinator/assistant stormwater coordinator.” If implemented as written, permit holders could be encouraged to involve fewer staff and departments when administering the MS4 Program due the requirement for all staff involved to complete the 12 hours of training. Less staff involvement and more MS4 compartmentalization seems contradictory to the intent of the MS4 Program of broad inclusion and acceptance. Additionally, more IDEM involvement in educational opportunities like conferences and webinars would be beneficial and appreciated by permitted entities. (SWAC)

*Response:*

The permit language has been changed to “*each MS4 employee responsible for implementing the program...*”

IDEM is working on providing additional training opportunities for MS4s, however there are numerous training opportunities that are available at conferences, online, etc. that would qualify to meet the training requirements.

*Comment:* The commenter suggests removing "provide training opportunities" as it sounds like the MS4 is responsible for creating training content for responsible personnel. It is suggested to rephrase this section to:

“Personnel responsible for administering a MCM shall have a minimum of 3 hours of training specific to their MCM and an additional 2 hours of general training, totaling 5 hours per year. Personnel responsible for administering multiple MCMs shall have a total of 8 hours of annual training divided among the MCMs the individual is responsible for administering.” (WE)

*Response:*

IDEM believes the language in the permit achieves the same objective.

#### **Section 4.1(e):**

*Comment:* It is unclear what is required here. Since the paragraph refers to “performance improvement”, is this section referring to employee performance improvement opportunities or something else? If employee performance is the target, the commenter suggests the following revision to this subsection:

“Maintain and evaluate potential employee performance improvement opportunities in implementing the six (6) MCMs.” (CFW)

*Response:*

The reference in the permit is related to performance in administering the MCMs and not targeted towards staff performance. The permit language has been changed to “*Maintain and evaluate potential overall program performance improvement opportunities in implementing the six (6) MCMs.*”

**Section 4.1(i):**

*Comment:* Renewing MS4s are allowed 730 days from the NOI submittal date to update their IDDE and construction ordinances. Newly designated MS4s, creating a completely new ordinance, should be allowed the same amount of time and should be able to submit either when the ordinance is developed with the MCM certification, or 365 days, whichever is earlier. (WE)

*Response:*

The timelines for newly designated MS4s to develop ordinances are the same as was required in 327 IAC 15-13 for these two MCMs. This was achieved by MS4s at that time and should be achievable by new MS4s that are designated.

**Section 4.1(i)(1):**

*Comment:* A word appears to be missing in line two of this section. The commenter believes it should read as follows:

“...in accordance with this permit no later than 24 months **after** ~~of~~ the submittal of the...”. (CG)

*Response:*

This change has been made in the permit.

**Section 4.1(h):**

*Comment:* When the EPA has designated multiple TMDLs, the commenter seeks clarification regarding which TMDL will control. The commenter also requests deletion of the requirement to update the WQCR whenever the EPA designates a new TMDL. (CFW)

*Response:*

The most recent TMDL for any stream will be the controlling TMDL. The annual report submission requires the new information on the updated TMDL.

4.2 Stormwater Quality Management Plan (SWQMP) General Requirements

**Section 4.2(a)(2):**

*Comment:* What is the meaning of “an evaluation” of the storm water system in this requirement? Is this a visual evaluation only, or is it a visual evaluation with actual physical assessment as to the condition of the entire storm system? (CSWU)

*Response:*

The evaluation is to determine if the structural measure is working properly and will be dictated by the type of measure installed and being evaluated. This can be done in conjunction with the visual evaluation of the entire system.

*Comment:* The permit references “structural stormwater management measures as identified in Section 4.4(b)(5), 4.6(d)-(f) and Section 4.7(g).” However, these sections all reference the need to develop standard operating procedures (SOPs) and other written procedures and internal processes to manage the IDDE program, post-construction measures, etc. Are these types of written procedures what IDEM means by “structural stormwater management measures”? Would a more appropriate reference be Section 4.4 (d) through (f)? (CA, CFW, INAFSM, LCS, TCPWQ)

*Response:*

The permit has been modified to remove 4.4(b)(5) and replace it with 4.4(d) and (e).

*Comment:* This wording is unclear. Based on the referenced sections, it should read:

“Standard procedures for the inspection, operation and maintenance of all stormwater infrastructure within the jurisdiction of the MS4.”? (WCSWCD)

*Response:*

The language has been left as proposed. IDEM believes the intent, as worded achieves the objective. The permit has been modified to remove 4.4(b)(5) and replace it with 4.4(d) and (e).

**Section 4.2(a)(3):**

*Comment:* IDEM should clarify provide examples of what is an appropriate or acceptable “program goal.” (SWAC)

*Response:*

The program goal is basically the goals developed by a MS4 to meet the requirements of each MCM.

**Section 4.2(a)(4)(B):**

*Comment:* How does IDEM define “a discussion” of environmental impact? (CSWU)

*Response:*

The environmental impact is the information provided by a MS4 on the impact of the goals and achievements of the MS4 will have on the environment and the MS4’s stormwater discharge into the environment.

4.3 SWQMP, Public Education, Outreach, Participation and Involvement MCM  
*Comment:* The combination of Public Education and Outreach (MCM1) and Public Participation and Involvement (MCM2) into a single MCM in the draft permit is unnecessary and inconsistent with most other states, as well as the National Pollutant Discharge Elimination System (NPDES) Program outlined in the Clean Water Act. While it is recognized that some overlap can be interpreted between MCM1 and MCM2, the commenter feels these MCMs are separate but complimentary. Combining the MCMs will likely result in less focus on public involvement and participation elements. It is widely known that active, hands-on participation is a critical component of learning. Involvement is a far greater indicator of societal support and behavior change when compared to simply hosting a specific number of events or developing and distributing a targeted number of materials. Keeping the two MCMs separate will promote critical thinking and enhancement for both educational elements and participation objectives. Additionally, the incongruencies with other states and regions may hinder the use of successful strategies in other areas, while also generating confusion with newly designated/regulated MS4 entities. (SWAC)

*Response:*

After implementing the program for years, IDEM believes combination of these MCMs reduces redundancy and provides clearer direction to MS4s. Participation is still required and should not lose its importance as it is required. This change should have no effect on newly designated MS4s.

Combining MCM1 and MCM 2 was discussed at length with the advisory group. The requirements for these MCMs have not changed so combining them does not reduce the requirements. The reasoning for combining the two MCMs was for ease of reporting and to clearly to differentiate items that have been reported under both MCMs. When these were reported on the annual report, activities were often reported in both MCM's.

**Section 4.3(a):**

*Comment:* There is a lot of expected planning being proposed within the overall plan, and it is not clear what IDEM means by a “comprehensive plan”. Is this term also a plan within a plan? (CSWU)

*Response:*

Comprehensive has been removed from the permit.

**Section 4.3(a)(2):**

*Comment:* Are the storm water quality issues pertaining to commercial and illicit discharges in this section, and the proper disposal of waste to businesses in section 4.3(b) the same thing? If so, fulfilling the requirement for one would benefit and fulfill the requirement for the other. (CSWU)

*Response:*

Section 4.3 is an overall stormwater education for multiple groups. 4.3 (b) is a general requirement to develop and implement an overall program where 4.3 (b) directs a MS4 to identify three community wide issues and implement the program.

*Comment:* Is the requirement to “identify at least three (3) community wide stormwater quality issues in the first year of permit coverage” applicable only during the first year of the permit, or is this an annual requirement? (CFW)

*Response:*

The MS4 must identify the groups and targeted issues that will be addressed during the permit cycle. The MS4 is still required to do education and outreach each year. The MS4 will use the original information to guide its education and outreach.

**Section 4.3(a)(3):**

*Comment:* The requirement for MS4s to conduct a minimum of two public events sounds as though the MS4 entity is responsible for leading or coordinating the public events rather than simply participating in them. If that is the case, this requirement may not be feasible. The following revision is suggested to clarify this requirement: “~~Conduct~~ **Participate in** a minimum of two (2) public events annually.” (CFW)

*Response:*

The permit has been changed to: “Conduct a minimum of two (2) public events annually or work collaboratively with other entities to achieve this requirement.”

**Section 4.3(a)(5):**

*Comment:* The requirement to provide training opportunities for builders, developers, contractors, and engineers related to construction site run-off is duplicative of the requirements already covered by the construction site run-off and post-construction MCMs. The commenter proposes deleting this section. (CFW)

*Response:*

The training requirement listed in the MCMs for construction and post-construction are detailed information for MS4 staff performing activities by the MS4. This section focused on education of those entities within the MS4.

*Comment:* Training should be offered to the property owners who will be conducting the operation and maintenance of the post-construction stormwater measures during each permit cycle to ensure they understand the need to maintain the post-construction stormwater measures on their property. The following change is recommended:

“Provide annual training for builders, developers, contractors, engineers, etc. related to the construction site run-off MCM. **Provide sufficient training to property owners (residential, commercial, industrial) on how to inspect and maintain post-construction stormwater measures installed as part of the post-construction MCM requirements.** The training may be completed in cooperation with other entities.” (CE, CG)

*Response:*

The language as currently written specifies the two Minimum Control Measures and the training requirement. IDEM believes that the current language as written provides more flexibility to the MS4s. IDEM will put the suggested language in guidance to further clarify the options.

#### **Section 4.3(b):**

*Comment:* Although an MS4 entity can develop a program for educating schools and businesses on stormwater matters, implementation of that program is dependent upon participation by those entities. Because an MS4 entity cannot require participation in stormwater educational efforts by schools and businesses, we are concerned about a permit requirement that seems to hold the MS4 entity responsible for matters that are beyond its control. The following revision for this section is suggested:

“(b) Develop and implement a program for educating public employees, ~~schools, businesses,~~ and the general public about illicit discharges and proper disposal of waste. The educational effort must include, but is not limited to:” (CFW)

*Response:*

A plan to provide information to schools and businesses is not excessive. While they may not allow or be open to in person learning, information can be shared that would not be different from any other information provided to the general public.

#### **Section 4.3(b)(2):**

*Comment:* What does an “outreach plan” consist of? (CSWU)

*Response:*

Developing a plan to distribute information to the public and other entities, including where and how to distribute them to reach intended targets.

**Section 4.3(c):**

*Comment:* Several MS4s already have websites that include their report-a-polluter program as well as information and resources to educate visitors to the site. Each entity's stormwater ordinance is either on their community's website or already made publicly available. This requirement should be made more flexible so that MS4s will be able to comply. Requiring stormwater fees, rates, and MS4 program compliance information is not necessary and will be very difficult for MS4s to maintain. In addition, some of the partners have items such as their ordinances on individual, local government websites. Would this be acceptable to IDEM? If so, then the requirement should state this. Many communities have municipal code databases that codify the approved ordinances into the municipal code nomenclature that may have a different numbering system than the ordinance. Consider modifying the current draft language from "MS4 stormwater ordinances" to "MS4 stormwater ordinances or links to municipal code database with appropriate section references." Some MS4 stormwater staff have very little control over their entity's website content and find it to be a very difficult and slow process to add or update website content. This requirement must be more flexible to allow for each MS4s local policies and variations. (CA, INAFSM, TCPWQ)

*Response:*

The language will be changed so that a link to a different site or locations is acceptable. If there are complications due to inability to control web content that would be documented in the annual report.

**Section 4.3(c)(5):**

*Comment:* This requires the MS4 entity to publish annual reports on its website. However, some of the information that may be included in an annual report is confidential and not subject to disclosure under the Indiana Access to Public Records Act. Thus, language should be added clarifying that redacted copies of annual reports may be published when necessary to avoid the disclosure of confidential information. Please also clarify the deadline to create a website for MS4 entities that do not already have one. (CFW)

*Response:*

IDEM did not receive any information as to what would be considered confidential. When the annual reports are submitted to IDEM and we receive a public information request, we are required to provide the document as was submitted by the MS4. If the MS4 has information that is confidential it should not be included in the annual report. IDEM encourages MS4s to explain what information may be confidential.

**Section 4.3(h)(3):**

*Comment:* Why would contractors, developers, and builders need post-construction stormwater training? This would be better directed towards the property owner (residential, commercial, industrial) who will be operating and maintaining these measures. The following change is suggested for this section:

“The number and types of construction and/or post-construction stormwater training opportunities that were provided to contractors, developers, builders, and property owners during the reporting period.” (CE, CG)

*Response:*

This change has been made to the permit.

**Section 4.3(g):**

*Comment:* How does IDEM propose an MS4 measure changes in public awareness, and can you provide a list of examples of how to measure awareness changes? (CSWU)

*Response:*

This is a narrative evaluation. Is the MS4 observing any changes in the community because of outreach? Increase in activities or communication or decrease in material in the system are examples.

**Section 4.3(h):**

*Comment:* How does IDEM propose that an MS4 to observe, measure, and describe behavioral changes? (CSWU)

*Response:*

This is a narrative evaluation. Is the MS4 observing any changes in the community because of outreach? Increase in activities or communication or decrease in material in the system are examples. This is the same information that will be used by the MS4 to determine if any changes are needed to better meet MCM 1 and MCM 2.

SWQMP, Illicit Discharge Detection and Elimination MCM

**Section 4.4(b)(4):**

*Comment:* This section states that MS4 entities must coordinate activities to keep commonly dumped wastes such as household hazardous waste, motor oil, antifreeze, and pesticides out of the collection system. At the same time, Section 4.4(b)(5)(F) appears to prioritize elimination of discharges related to sanitary sewage contaminated run-off and direct dumping of pollutants. Section 4.4(f) requires the MS4 entity to develop and update a map that identifies high priority areas for administering the IDDE program. Please clarify what types of pollutants should be classified as higher priority—e.g., sanitary sewage contaminated run-off or household hazardous waste, motor oil, antifreeze, and pesticides—for purposes of meeting these requirements. (CFW)

*Response:*

The coordination activities are part of MCM 1 and 2 and working with your Solid Waste Management District. 4.4(b)(5)(F) should be part of the mapping priority areas of 4.4(f).

*Comment:* The following revision to this section is suggested to clarify that MS4s are not required to lead or organize such activities:

“~~Coordinate~~ **Participate in** activities that are used to keep commonly dumped wastes out of the collection system, such as, but not limited to household hazardous waste, motor oil, antifreeze, and pesticides.” (CFW)

*Response:*

The language has been changed to Participate and/or coordinate.

*Comment:* Who should MS4s “coordinate activities” with to keep commonly dumped wastes out of the collection system? (CG)

*Response:*

The language has been changed to Participate and/or coordinate.

**Section 4.4(b)(5)(A):**

*Comment:* There are instances where, despite best efforts, the source may not be able to be determined within two business days. If this section is not changed, MS4 entities may run into issues to meet this requirement. (CG, CFW, CIDPW)

*Response:*

The requirement was intended to “initiate” the investigation within two business days.

*Comment:* The following revision is suggested for this section:

“A requirement to initiate an investigation that seeks to identify and locates the source of any continuous or intermittent non-stormwater discharge within two (2) business days of being notified of the discharge.” (CFW)

*Response:*

The requirement was intended to “initiate” the investigation within two business days.

*Comment:* The language should be modified in this section to require two business days for unauthorized discharges with the potential to cause significant impact. Consider removing “any non-stormwater discharge” and replace with “any unauthorized stormwater discharge per Section 1.2 unless such flow is identified as a significant contributor of pollutants to the MS4.” (CIDPW)

*Response:*

The permit language has been changed and now references unauthorized discharges. Section 1.2 is a list of authorized discharges.

**Section 4.4(b)(6)(B):**

*Comment:* Unfunded and unbudgeted costs could result in the form of additional monitoring personnel, setup, and maintenance to meet this requirement. This requirement may also stray from existing programs that MS4s are already implementing per their own program development. (AIM)

*Response:*

The language indicates that a hotline, website or phone number are acceptable. It does not appear to be excessive for a staff member to check once during a business day.

*Comment:* This section requires utilizing a designated hotline, website, and/or emergency phone number. We are not first responders or remediation companies and should not be at the site of a spill that is for professionals. In addition, the amount of training required needs to be scaled back. We can only control what belongs to us, and therefore the language "MS4 owned and operated outfalls" needs to be added to this section. This includes post construction. We would be trespassing if we inspected a private BMP on some sites. We do not have the authority to check these. (HCS)

*Response:*

The requirement for this is for reporting only. This does not require the MS4 personnel to be responsible for areas outside their jurisdiction. In addition, there may be discharges from outfalls that are not owned and operated by the MS4s that are directed to a MS4 conveyance therefore "MS4 owned and operated outfalls" was not added.

*Comment:* This requirement is much more expansive than the current Rule 13 requirement. Potentially this requirement would mandate the need for additional staffing and be expensive to implement. Could this requirement be clarified to indicate whether using something like a website and an email account is sufficient to comply with this provision? Also, several MS4s require that complaints be filed in person so that the MS4 has an opportunity to educate on and mitigate issues promptly. This should be added as an acceptable method to implement this requirement. (CA, INAFSM, TCPWQ)

*Response:*

The language indicates that a hotline, website or phone number are acceptable. It does not appear to be excessive for a staff member to check once during a business day. Walk in reporting would be an acceptable method, but due to limited availability and access to MS4 offices this necessitates those additional methods are available as listed in the permit.

#### **Section 4.4(c):**

*Comment:* Renewing MS4s are allowed 730 days from the NOI submittal date to update their IDDE and construction ordinances. Newly designated MS4s, creating a completely new ordinance, should be allowed the same amount of time and should be able to submit either when the ordinance is developed with the MCM certification, or 365 days, whichever is earlier. (WE)

*Response:*

The timelines for newly designated MS4s to develop ordinances are the same as was required in 327 IAC 15-13 for these two MCMs. This was achieved by MS4s at that time and should be achievable by new MS4s that are designated.

**Section 4.4(d):**

*Comment:* In this section, the minimum pipe diameter to be considered as an outfall has been removed from the permit and should be specified. In the current permit, the minimum diameter for an outfall is 12 inches. (SWAC)

*Response:*

All outfalls that contribute stormwater discharges to waterways need to be identified. Sizing was used in the early adoption of the MS4 permit to separate this requirement into manageable pieces. The current permittees should have identified all discharges from their MS4. Newly designated MS4s must complete mapping throughout the permit cycle beginning with a plan in year one and completing the mapping by the end of year five.

**Section 4.4(d)(2):**

*Comment:* Should there be a time frame placed on this section? Some existing MS4s that obtain or annex in a new area will need time to map the new area. (CA, INAFSM, LCS)

*Response:*

The permit has been modified to at least annually.

**Section 4.4(e)(2):**

*Comment:* The existing language in 327 IAC 15-13-14 (1) should be retained. At a minimum, longitude and latitude for mapped outfall locations must be done in decimal degrees. If a global positioning system is utilized, mapping-grade accuracy data shall be collected, where an accuracy discrepancy is less than five (5) meters. The specification of an exact distance, such as “within 5 meters”, is more intuitive and easier to apply upon evaluation of accuracy visually. In addition, the accuracy prescribed of five (5) decimal places is equivalent approximately to slightly more than one (1) meter, which is an unnecessary degree of accuracy and precision and will not add value to the functioning of the MS4. In addition, a photograph of each outfall is not necessary for the proper functioning of the MS4 and the elimination of illicit discharges and can be argued may not be the best method of retention of outfall descriptive information. Such a requirement may become a costly and undue burden on the MS4 should the number of outfalls be large, and the addition of new outfalls is continual. Photographs should be changed to a recommendation instead of a requirement. (CIDPW)

*Response:*

This language was determined by the MS4 group to be the best way to capture the outfalls.

**Section 4.4(e)(3):**

*Comment:* IDEM maintains the 303(d) list, including a GIS-mapped formatted display, which is readily accessible by MS4s. The requirement for the MS4 to also retain this information is redundant within local mapping and could lead to inaccuracies due to everchanging information. (CIDPW)

*Response:*

This language was determined to be acceptable by the advisory group as the best way to capture the overall information for the MS4. The MS4 should also be aware of these waters within their MS4 and utilize them as a management tool to implement their program.

**Section 4.4(f):**

*Comment:* Requiring the MS4 to assess and determine high priority areas for the IDDE program is reasonable and expected. However, requiring a map as the prescribed tool unnecessarily limits the method the MS4 must utilize to be successful. This should be changed to “map or narrative description.” (CIDPW)

*Response:*

This language was determined to be acceptable by the advisory group as the best way to capture the overall information for the MS4. A map is unique in that it identifies the system in a manner that can be used in administering the program. A map can be readily accessible to staff where a narrative can be more complicated to interpret.

**Section 4.4(g)(1):**

*Comment:* The proposed requirement as written is intended for only newly designated MS4s and does not give a timeline for implementation for existing MS4s. This requirement needs to be clarified since existing MS4s should not need to send in certification forms for their existing programs. The commenters suggest rewording this language to add “**or 180 days after the submittal of the updated SWQMP for existing MS4s.**” (CA, INAFSM, LCS, TCPWQ)

*Response:*

This change has been made to the permit.

**Section 4.4(h)(2):**

*Comment:* Please clarify this requirement by adding “**from MS4 owned and operated outfalls.**” (CA, INAFSM, LCS)

*Response:*

This change has been made to the permit.

However, it is the responsibility of a MS4 to address illicit discharges from any outfall that is discharging non-stormwater into the MS4 stormwater system. These types of illicit discharge from non MS4 outfalls must be addressed and eliminated. A non-MS4 outfall could be a drain coming out of a business, the MS4 may not own the outfall but would own the conveyance to which it discharges. The MS4 may not need to screen the outfall as part of Section 4.4(h) but should eliminate the discharge if it is associated contaminated run-off and/or discharges.

**Section 4.4(k):**

*Comment:* Is a written location (latitude and longitude coordinates) acceptable when submitting the location of new outfalls mapped or dry weather screened, or is a GIS generated map required? If a GIS map is required, can it be an interactive map on a website or a GIS shapefile? (CG)

*Response:*

A written location of Latitude/Longitude are acceptable.

#### 4.4 SWQMP, Construction Site Stormwater Run-off MCM

##### **Section 4.5(c):**

*Comment:* Renewing MS4s are allowed 730 days from the NOI submittal date to update their IDDE and construction ordinances. Newly designated MS4s that are creating a completely new ordinance should be allowed the same amount of time, submitting when the ordinance is developed with the MCM certification or 365 days, whichever is earlier. (WE)

*Response:*

IDEM chose to use the same timeframe for newly designated MS4s that was required in 327 IAC 15-13 which is 365 days.

*Comment:* The requirement to inspect 100 percent of the actively disturbed construction sites quarterly should be capped to a maximum of 50 or be changed to require that 100 percent of active construction sites be inspected annually. (ACSO)

*Response:*

The permit has been changed in response to the commenter to focus on initial land disturbance and compliance. A minimum frequency has also been included of one hundred (100) percent of all active construction sites with land-disturbing activities of five (5) acres or more and priority sites as identified by the MS4 must be inspected biannually and fifty (50) percent of active construction sites with land-disturbing activities of less than five (5) acres but at least one acre must be inspected annually.

*Comment:* Does this mean that sites that have no active construction and have seed planted awaiting growth will not need to be inspected quarterly by MS4s? (CE, CG)

*Response:*

The permit has been changed in response to the commenter to focus on initial land disturbance and compliance. A minimum frequency has also been included of one hundred (100) percent of all active construction sites with land-disturbing activities of five (5) acres or more and priority sites as identified by the MS4 must be inspected biannually and fifty (50) percent of active construction sites with land-disturbing activities of less than five (5) acres but at least one acre must be inspected annually.

*Comment:* What does “actively disturbed construction site” mean? Does it mean a construction site with on-going construction where the ground is being disturbed? Does it exclude projects where vegetation is being established and construction activity is completed? If this term means all projects with an open permit, the commenter has concerns with the “100% inspection rate quarterly” requirement, as it could be unrealistic for MS4s with only a couple of employees and many permitted projects. (CG)

*Response:*

The permit has been changed in response to the commenter to focus on initial land disturbance and compliance. A minimum frequency has also been included of one hundred (100) percent of all active construction sites with land-disturbing activities of five (5) acres or more and priority sites as identified by the MS4 must be inspected biannually and fifty (50) percent of active construction sites with land-disturbing activities of less than five (5) acres but at least one acre must be inspected annually.

*Comment:* Inspection of 100% of all construction sites quarterly may not be practicable for larger MS4s and unnecessarily requires sites with little risk to the MS4 be visited at the same frequency as those of high risk. The commenter suggests retention of the existing language per 327 IAC 15-13-15(f)(3) and (4). (CIDPW)

*Response:*

The permit has been changed in response to the commenter to focus on initial land disturbance and compliance. A minimum frequency has also been included of one hundred (100) percent of all active construction sites with land-disturbing activities of five (5) acres or more and priority sites as identified by the MS4 must be inspected biannually and fifty (50) percent of active construction sites with land-disturbing activities of less than five (5) acres but at least one acre must be inspected annually.

*Comment:* The commenter suggests that inspections should occur at least once or twice per year to enable assessment during wet and dry weather periods. This requirement should only apply to projects subject to the general construction permit. (CIDPW)

*Response:*

The permit has been changed in response to the commenter to focus on initial land disturbance and compliance. A minimum frequency has also been included of one hundred (100) percent of all active construction sites with land-disturbing activities of five (5) acres or more and priority sites as identified by the MS4 must be inspected biannually and fifty (50) percent of active construction sites with land-disturbing activities of less than five (5) acres but at least one acre must be inspected annually.

If the MS4 regulates to a lower threshold, the MS4 may choose to inspect these areas based on their local procedures and the illicit discharges program and complaints.

**Section 4.5(f):**

*Comment:* Please clarify this requirement. The current requirement of writing the installation of temporary and permanent storm water measures into the SWPPP should be adequate. (CSWU)

*Response:*

IDEM agrees with this concept and that each project should have the measures that will be used on the project incorporated into the plan. However, to provide information to those working within the MS4, adoption or development of standards and specifications provides expectations to the regulated community. Some MS4s have utilized this option to specify specific commercial products that are acceptable based on a specification.

*Comment:* How does IDEM define written standards and specifications? Does this mean that the MS4 must develop new standards and specifications outside of the manufacturer's prescribed use, installation, and maintenance of a storm water quality measure? (CSWU)

*Response:*

It is not the expectation that a MS4 develop extensive standards but can simply reference a set of standards. IDEM accepts erosion and sediment control practices from the ISWQM, but also will accept those of other states etc.

The concept of this requirement is similar to that cited by the commenter related to INDOT and AASHTO.

**Section 4.5(h):**

*Comment:* Renewing MS4s are allowed 730 days from the NOI submittal date to update their IDDE and construction ordinances. Newly designated MS4s that are creating a completely new ordinance should be allowed the same amount of time, submitting when the ordinance is developed with the MCM certification or 365 days, whichever is earlier. (WE)

*Response:*

IDEM is allowing existing MS4s additional time to modify the local ordinance associated with the construction site stormwater run-off minimum control measure. With regard to newly designated MS4s, the 365 days is consistent with 327 IAC 15-13 and was required to be met in 2003 when IDEM designated the first group of MS4s.

**Section 4.5(i)(1):**

*Comment:* Why is IDEM requiring MS4s to list professional certifications for MS4 staff when IDEM does not have certification requirements under the MS4 program? (CSWU)

*Response:*

This will provide IDEM with information related to the training program. Many of the national certifications require continuing education units (CEUs) that a MS4 may use to demonstrate that the education requirements are being met.

*Comment:* What is meant by "other" MS4 departments? Is this referring to external or internal departments? Is IDEM requiring a paper trail or reporting concerning internal department interactions? Does this mean asking questions specific to the internal operations of an MS4 during an audit or requiring proof of cooperation? (CSWU)

*Response:*

One of the issues that is continually identified is related to the definition of a MS4. The MS4 would be all Departments of the city or county and not the Department where the MS4/Stormwater Program resides. The MS4 is not that single department, but all departments within that city/county. The intent of this requirement is that the MS4, regardless of the location of department that administers the program communicate across all departments within the MS4 on the construction run-off MCM. This practice should extend across the entire MS4 program and all MCMs.

**Section 4.5(j):**

*Comment:* Is the annual training requirement in this section the same annual training requirement included in Section 4.1(d)? (CFW)

*Response:*

4.5(j) is specific to MS4 staff that are administering the construction MCM and is related to how documentation is to be provided. Section 4.1(d) is the overall goal for employee training and not specific to an MCM.

#### 4.6 SWQMP Post-construction Stormwater Run-off MCM

##### **Section 4.6 (c (1) – (2):**

*Comment:* Is this new requirement now meant to replace the Indiana Storm Water Quality Manual that IDEM established in 2007? This would be burdensome on the MS4s and would add burden on the engineers and developers, who would be required to understand the varying levels of design criteria and standard expectations between MS4s. (CSWU)

*Response:*

The manual was completed with the exception of a few measures in the erosion and sediment control section (most of these being lower priority measures that are often proprietary). The planning section of the manual includes design concepts for post-construction and the post-construction section offers basic design requirements for measures. The post-construction section provides basic design concepts that will often require engineering design. Many local communities have already adopted quality and quantity measures locally prior to MS4s or designated MS4s have since adopted standards.

IDEM does not have the expectation for this item to replace the manual. It is acceptable to reference it or reference other manuals or the MS4s own set of standards. A MS4 also has the option to require different standards that are specific to local resource needs. This requirement is not different from the way MS4s have been operating since 2003 and post-construction requirements within each MS4 should be well established to achieve these objectives.

##### **Section 4.6(c)(3)(A):**

*Comment:* Please explain why IDEM would expect MS4s to set design parameters that allow three different pre-development discharge rates? (CSWU)

*Response:*

It is standard engineering practice to look at a variety of discharge rates for different applications such as detention. There may be confusion that the intent is to regulate flow rates in streams. The intent is to regulate what falls on the ground and transports pollutants. Therefore, stormwater run-off and not discharge is what is regulated for purposes of water quality.

*Comment:* New MS4s could use some guidance in establishing local stormwater management requirements. Fixed release rates should be used for post-development discharges instead of relying on estimates of pre-development discharges. Also, a pre-development discharge rate estimated at a watershed scale may be significantly less than a rate estimated at a project scale. (WCSWCD)

*Response:*

The MS4 standard in the permit does not limit an entity from using the 2-, 10- and 100-year release rate. It may be true that the rate estimated will be different or less, but there is nothing restricting the MS4 for using a micro scale estimate versus a watershed wide estimate.

**Section 4.6(c)(3)(B):**

*Comment:* This section requires a community to select a requirement for post-construction pollutant reduction measures based on correctly sizing BMPs to treat the Water Quality Volume (WQV) or water quality flow rate to ensure compliance with Indiana Administrative Codes (327 IAC 2-1-6(a)(1)(A-D) and 327 IAC 2-1.5-8(a) and (b)(1)(A-D)). Neither of these codes specify an actual value, target storm event, or treatment standard for pollutants. No industry standard or universal design approach exists for the term “Water Quality Volume.” IDEM’s current Indiana Storm Water Quality Manual does not include this term, nor any specific standard to post-construction best management practices. Suggestions to MCM 5 enhancements may include designing to a target storm event (i.e. 80<sup>th</sup> percentile), addressing and defining the “first flush,” and/or requiring all developments disturbing one or more acres to, at a minimum, provide one sheet in construction plans dedicated solely to post-construction site conditions, target pollutants, and corresponding treatment standards. (SWAC)

*Response:*

The intent is to include and define water quality volume in the stormwater quality manual or in the interim in a sample stormwater ordinance, and/or guidance document. The first flush of a storm, typically its first inch of water, are the same as the water quality volume. Reference to 327 IAC 2-1-6 is the basis for the stormwater permit and one of the primary reasons to establish a standard for post-construction. “

**Section 4.6(c)(3)(C):**

*Comment:* Replace the word “increasing” with the word “increase”. (WCSWCD)

*Response:*

This change has been made.

**Section 4.6(c)(3)(D):**

*Comment:* IDEM's insistence to include LID and infiltration measures as part of the post-construction measures on private property will create an increased burden on the property owners, homeowner associations, and property managers to ensure the operation and maintenance of such measures are applied and consistent. This will also place an additional burden on the town to require inspections of such practices. (CSWU)

*Response:*

It is important that MS4s select post-construction measures that are directed to improve water quality. There are a variety of measures available which does include LID, green infrastructure, and infiltration. IDEM has modified the permit and inserted the word “may include”.

*Comment:* As written, strategies such as low impact development, green infrastructure, and infiltration measures are required in addition to post construction treatment measures. Planned postconstruction measures may adequately meet quality and quantity requirements, such that the requirement of additional strategies, GI and LID included, increase and possibly double installation, annual operation and maintenance, and inspection resourcing and expenses, which places an unnecessary burden on property owners and municipalities. In addition, the order of inclusion of such strategies being prior to other post-construction measure is too prescriptive. Inclusion of such strategies may best fall after and not prior to planned post construction treatment measures. The commenter suggests that such strategies and measures, including green infrastructure,

LID, and infiltration, be recommended where and when practicable, but not required. (CIDPW)

*Response:*

It is important that MS4s select post-construction measures that are directed to improve water quality. There are a variety of measures available which does include LID, green infrastructure, and infiltration. IDEM has modified the permit and inserted the word “may include”.

**Section 4.6(c)(3)(D)(1):**

*Comment:* Taking into consideration the variability of soils, water tables, etc., will IDEM provide MS4s with any certification or verification of efficacy of the many LID practices? (CSWU)

*Response:*

It is important that MS4s select post-construction measures that are directed to improve water quality. There are a variety of measures available which does include LID, green infrastructure, and infiltration. IDEM has modified the permit and inserted the word “may include”.

MS4s, currently administering local programs have already developed standards and specifications to include these approaches into their local programs.

*Comment:* Does IDEM intend to provide the range of costs for the many LID practices so that developers can consider the additional costs they will have to assume in their developments? (CSWU)

*Response:*

It is important that MS4s select post-construction measures that are directed to improve water quality. There are a variety of measures available which does include LID, green infrastructure, and infiltration. IDEM has modified the permit and inserted the word “may include”.

MS4s, currently administering local programs have already developed standards and specifications to include these approaches into heir local programs.

**Section 4.6(c)(3)(D)(2):**

*Comment:* Will IDEM require the use of infiltration practices on soils with low to very low permeability, such as silt and clay? (CSWU)

*Response:*

IDEM will not require the use of infiltration measures. This is a local decision. A MS4 can establish whether or not they want to use infiltration within the MS4 or require other types of approaches to address stormwater quality and quantity. IDEM also agrees that infiltration should not be used in areas that are not suitable for infiltration.

*Comment:* Will there be a cost-to-development threshold that would allow this requirement to be exempt? (CSWU)

*Response:*

It is important that MS4s select post-construction measures that are directed to improve water quality. There are a variety of measures available which does

include LID, green infrastructure, and infiltration. IDEM has modified the permit and inserted the word “may include”.

MS4s, currently administering local programs have already developed standards and specifications to include these approaches into their local programs.

**Section 4.6 (c)(4):**

*Comment:* The use of a stormwater measure meeting the definition of a Class V injection well on any project (private or MS4 owned and/or operated) that is required to obtain a permit under the Construction Stormwater General Permit is to be registered with U.S. EPA, not just MS4 owned and/or operated. (CE, CG)

*Response:*

This has been modified in the permit to clarify that registration should be for MS4 owned projects but also for projects where a MS4 requires the use of a Class V injection well. The private entity would register the measure with U.S. EPA.

*Comment:* We feel that IDEM should take over the Class V Injection Well program from U.S. EPA, and all Class V injection wells should be registered with the State of Indiana. (CG)

*Response:*

At this time, the US EPA maintains the list of registered Class V injection wells. IDEM does not plan to assume the responsibility for this program.

**Section 4.6(c)(5):**

*Comment:* As written, strategies that promote volume reduction, infiltration, filtering, harvesting, evapotranspiration, vegetative practices, or alternative treatment systems are required in addition to post construction treatment measures. Planned post-construction measures may adequately meet quality and quantity requirements, such that the requirement of additional strategies increase and possibly double installation, annual operation and maintenance, and inspection resourcing and expenses, which places an unnecessary burden on property owners and municipalities. The commenter suggests that such strategies and measures where and when practicable be recommended but not required. (CIDPW)

*Response:*

It is important that MS4s select post-construction measures that are directed to improve water quality. There are a variety of measures available which does include LID, green infrastructure, and infiltration. IDEM has modified the permit in Section 4.6 (c)(3)(D) and inserted the word “may include”. With regard to Section 4.6 (c)(5) this part of the permit specifically addresses and requires measures to be used where infiltration is used in wellhead protection areas or karst landscapes. This approach and requirement have been modified to further clarify how language in 327 IAC 15-13 was being administered.

**Section 4.6(c)(5):**

*Comment:* The commenter suggests that prior to mandatory implementation, a study be conducted to better assess the issues, impediments, and impacts of such a requirement. For example, other state regulations offer alternatives, should implementation not be feasible for a particular project or site. Such programs might include off-site mitigation, fee-in-lieu-of, or trading options for difficult sites. As of 2016, only 13 states had implemented treatment and retention programs, which vary in requirements state to state. A study of these programs to learn the most effective and efficient approaches would be beneficial to the regulated community. (CIDPW)

*Response:*

Section 4.6 (c)(5) of the permit specifically addresses and requires measures to be used where infiltration is used in wellhead protection areas or karst landscapes. This approach and requirement have been modified to further clarify how language in 327 IAC 15-13 was being administered. The permit language lists specific items, but also includes alternative treatment systems which does allow the MS4 to choose measures to meet their local objectives. Therefore, IDEM does not believe a study on this issue is necessary.

**Section 4.6(d):**

*Comment:* The commenters question whether they would have the legal authority to require and then enforce agreements between private parties to contain provisions for continued maintenance. (CA, INAFSM)

*Response:*

The intent of this Section is to establish provisions that when a MS4 requires post-construction measures there is a mechanism in place to ensure long term functionality of the measures. Without a mechanism that is enforceable, the functionality of these measures may be compromised, and corrective action would not be achievable. A MS4 may not have included this provision in past permits, but with the new permit, this issue should be addressed.

*Comment:* Please clarify this section, as the current wording appears to indicate that the original owner of the post-construction BMP maintains responsibility in perpetuity, even when ownership is transferred to another party. If the permit intends to state that responsibility for a BMP should be transferred with changes in ownership, a modification to the wording in the draft permit is requested. (SWAC)

*Response:*

This Section lists options that a MS4 may chose from to ensure there is a legal agreement that assigns responsibility for long term maintenance. The fourth (4) item does allow for a MS4 flexibility in implementing this item if an alternative method is available and/or preferred by the MS4.

**Section 4.6(e):**

*Comment:* This section contains almost identical language to 4.6(f) and should be combined. (CA, INAFSM, LCS, TCPWQ)

*Response:*

Modifications have been made to the permit.

*Comment:* Several MS4s throughout Indiana have not been conducting routine post-construction BMP inspections since Rule 13 does not require them. These MS4s will have to develop a new program for this requirement. The commenters request that this requirement begin with allowing MS4s time to develop an inventory of post-construction measures. For example, for the first year of the permit, and then they could inspect 25% each year for the last 4 years of the permit. (CA, INAFSM, TCPWQ)

*Response:*

This Section of the permit has been modified to address this comment, but other comments received on this specific issue. The frequency for privately owned post-construction measures has been changed to include 100 percent of the measures be inspected during the permit cycle but now allows the MS4 to cap the inspections at 250. 100 percent of all MS4 owned measures must be inspected during the permit cycle. IDEM believes the changes to the permit allows flexibility to the MS4s to achieve this requirement without specifying a percentage for each year. If a MS4 chooses to inventory measures in year one, this would be an allowable option.

*Comment:* Increasing this inspection requirement to begin when MS4s originally adopted their ordinance places a huge burden on MS4s to go back to cases from 2004. Requiring MS4s to locate and begin inspecting all privately-owned post-construction BMPs installed in the last 17 years will be very costly and time consuming. Since Rule 13 only requires that records be retained for 5 years, MS4s may not have any records of where these BMPs are located. It was the understanding of IDEM's MS4 Stakeholder group that reviewed the various drafts of the permit that this requirement would start with the effective date of the new MS4 permit. In addition, this requirement will penalize those MS4s who adopted their ordinances when they should have in 2004. What will the requirement be for MS4s who did not adopt their post-construction ordinance as required by the timeline contained in Rule 13?

Some MS4s may not have the ability to legally access private property to inspect privately owned postconstruction BMPs, so this capability would also need to be added to their existing programs. Similarly, if a postconstruction inspection shows that a BMP or several BMPs need to be cleaned, the MS4 may not have the legal authority to require the private property owner to perform this maintenance. (CA, INAFSM)

*Response:*

The intent of this Section is to establish provisions that when a MS4 requires post-construction measures there is a mechanism in place to ensure long term functionality of the measures. Without a mechanism that is enforceable, the functionality of these measures may be compromised, and corrective action would not be achievable. A MS4 may not have included this provision in past permits, but with the new permit, this issue should be addressed

The long-term maintenance of post-construction measures is critical to improving and maintaining water quality within the MS4. Therefore, it is important that post-construction measures are inspected and maintained. The current Rule does specify that the MS4 should have a written operational and maintenance plan for all measures, therefore the MS4 should have records of all those measures that they required to be installed.

This Section of the permit has been modified to address this comment, but other comments received on this specific issue. The frequency for privately owned post-construction measures has been changed to include 100 percent of the measures be inspected during the permit cycle but now allows the MS4 to cap the inspections at 250. 100 percent of all MS4 owned measures must be inspected during the permit cycle.

If it is determined that the MS4 does not have the legal authority to inspect measures that were required under 327 IAC 15-13, this should be addressed in the inventory of measures that a MS4 is expected to inspect.

**Section 4.6(f):**

*Comment:* Rule 13 does not currently require routine onsite post-construction BMP inspections. Creating or expanding local MS4 programs will come with an unfunded and unplanned cost burden. Additionally, inspecting post-construction measures installed since the MS4 was originally adopted is extremely burdensome, and MS4s will not likely have all the records that, in some cases, go back 16 or more years. Adding this requirement now, rather than in the original rule 13, creates an unfair burden late in the game. (AIM)

*Response:*

The long-term maintenance of post-construction measures is critical to improving and maintaining water quality within the MS4. Therefore, it is important that post-construction measures are inspected and maintained. The current Rule does specify that the MS4 should have a written operational and maintenance plan for all measures, therefore the MS4 should have records of all those measures that they required to be installed.

**Section 4.6(f):**

*Comment:* The commenter suggests revising the language as indicated below: “Establish written procedures and internal processes to inspect post-construction measures to ensure the measures are maintained and operational for those owned and/or operated by the MS4 entity and as appropriate for those measures ~~required to be installed at the direction of the MS4 entity and~~ operated by private entities identified in 4.6 (e).” (WE)

*Response:*

This Section of the permit has been modified to address this comment, but other comments received on this specific issue.

This Section of the permit has been modified to address this comment, but other comments received on this specific issue. The frequency for privately owned post-construction measures has been changed to include 100 percent of the measures

be inspected during the permit cycle but now allows the MS4 to cap the inspections at 250. 100 percent of all MS4 owned measures must be inspected during the permit cycle.

**Sections 4.6(f)(2):**

*Comment:* Concise language is needed for privately owned post-construction measures. Please clarify that the privately-owned measures that were deemed appropriate to include in the inspection program (Section 4.6 (e)) are the only measures to be inspected each permit term. It is assumed that “as appropriate” would be interpreted as measures that have multiple complaints, structural issues, or a defunct homeowners association. (WE)

*Response:*

This Section of the permit has been modified to address this comment, but other comments received on this specific issue.

*Comment:* This section contains contradictory language with section 4.6(f)(3). Section 4.6(f)(2) states that MS4-owned post construction inspection measures should be completed by the end of the five- year permit cycle, whereas section 4.6(f)(3) states that the same MS4-owned post construction inspection measures should be inspected annually. The commenters seek clarification regarding how frequently MS4 owned measures must be inspected. (ACSO, CFW, WE)

*Response:*

This Section of the permit has been modified to address this comment, but other comments received on this specific issue.

**Section 4.6(f)(3):**

*Comment:* This section states that all privately-owned post-construction measures must be inspected every permit term by the MS4. This requirement is burdensome to the MS4 and would require additional manpower and funds. The commenter suggests deleting this section. (WE)

*Response:*

This Section of the permit has been modified to address this comment, but other comments received on this specific issue. The frequency for privately owned post-construction measures has been changed to include 100 percent of the measures be inspected during the permit cycle but now allows the MS4 to cap the inspections at 250.

*Comment:* The request that all privately-owned measures are to be inspected at a frequency to ensure that 100 percent of the measures are inspected within the five-year permit cycle is a significant request for a large county. This requirement makes no discernment between small MS4s and large MS4s. Why was this requirement increased from 50 percent to 100 percent? (ACSO)

*Response:*

This Section of the permit has been modified to address this comment, but other comments received on this specific issue. The frequency for privately owned post-construction measures has been changed to include 100 percent of the measures be inspected during the permit cycle but now allows the MS4 to cap the inspections at 250. 100 percent of all MS4 owned measures must be inspected during the permit cycle.

*Comment:* The commenter requests that a cap of 250 be added to the requirement for the number of privately-owned sites that must be inspected for post construction measures over the five-year cycle, or that the requirement is changed back to 50-75 percent of post construction measures that must be inspected. Alternatively, the MS4 should be allowed to limit this requirement in our ordinance to the MS4 area. (ACSO)

*Response:*

This Section of the permit has been modified to address this comment, but other comments received on this specific issue. The frequency for privately owned post-construction measures has been changed to include 100 percent of the measures be inspected during the permit cycle but now allows the MS4 to cap the inspections at 250. 100 percent of all MS4 owned measures must be inspected during the permit cycle.

*Comment:* There is no mention of when a project must be added to the post construction BMP inspection listing for projects at or near construction completion. If a project is just completed in the fourth year of the permit cycle, are we required to inspect those post-construction BMPs right away in the fifth year? The commenter requests that upon completion of a construction project, MS4s would be required to start long-term inspections of post construction site BMPs for those sites three years from the site completion date. (ACSO)

*Response:*

If a project is completed during the permit cycle, the measure should be inspected at the time the construction permit is complete. Many MS4s have processes in place that ensures measures are functional at the time a project is complete. This inspection would be considered complete for that measure until the next permit cycle.

*Comment:* It is our opinion that the requirement for the inspection of 100 percent of all privately-owned postconstruction measures within the 5-year permit cycle is not realistically achievable for the following reasons:

Lack of time and/or manpower to complete the task. For smaller MS4 communities that have MS4 Coordinators with other job duties, this is a monumental undertaking. Was a fiscal impact study completed to determine the impact of these requirements?

Legal counsel has advised employees cannot legally enter onto private property without permission of the property owner. Receiving permission in a timely matter, if at all, would result in long time delays at a minimum and may even end up in court if permission to enter private property is never granted. The amount of work hours devoted to this requirement could be substantial with little return, especially when considering payment to an attorney should a property owner refuse.

Some liability may be involved on the part of the inspector, especially if the inspector is not trained appropriately to be inspecting certain types postconstruction measures or requires maintenance that is later determined not to be appropriate or corrective in nature. The use of stormwater management agreements signed by the appropriate person or entity places the responsibility on the owner for proper maintenance and operation. The agency only becomes involved if the problem is not corrected as outlined in the local ordinance. The city does not want to take on any potential for liability when the responsibility lies with the property owner. (CA)

*Response:*

This Section of the permit has been modified to address this comment, but other comments received on this specific issue. The frequency for privately owned post-construction measures has been changed to include 100 percent of the measures be inspected during the permit cycle but now allows the MS4 to cap the inspections at 250. 100 percent of all MS4 owned measures must be inspected during the permit cycle.

If it is determined that the MS4 does not have the legal authority to inspect measures that were required under 327 IAC 15-13, this should be addressed in the inventory of measures that a MS4 is expected to inspect.

The MS4 should address employee training for this MCM.

*Comment:* This inspection requirement is greatly expanded from a previous version of the permit. By increasing this inspection requirement to begin when MS4s originally adopted their ordinance this places a huge burden on MS4s to go back in most cases to 2004. Requiring MS4s to locate and begin inspecting all privately-owned post-construction BMPs installed in the last 17 years will be very costly and time-consuming. Since Rule 13 only requires that records be retained for only 5 years, MS4s may not have any records of where these BMPs are located. (AIM, CA, INAFSM, TCPWQ)

*Response:*

The long-term maintenance of post-construction measures is critical to improving and maintaining water quality within the MS4. Therefore, it is important that post-construction measures are inspected and maintained. The current Rule does specify that the MS4 should have a written operational and maintenance plan for all measures, therefore the MS4 should have records of all those measures that they required to be installed.

This Section of the permit has been modified to address this comment, but other comments received on this specific issue. The frequency for privately owned post-construction measures has been changed to include 100 percent of the measures be inspected during the permit cycle but now allows the MS4 to cap the inspections at 250. 100 percent of all MS4 owned measures must be inspected during the permit cycle.

If it is determined that the MS4 does not have the legal authority to inspect measures that were required under 327 IAC 15-13, this should be addressed in the inventory of measures that a MS4 is expected to inspect.

*Comment:* It was the understanding of IDEM's MS4 Stakeholder group that reviewed the various drafts of the permit that this requirement would start with the effective date of the new MS4 permit. In addition, this requirement will penalize those MS4s who adopted their ordinances when they should have in 2004. What will the requirement be for MS4s who did not adopt their post-construction ordinance as required by the timeline contained in Rule 13? Some MS4s may not have the ability to legally access private property to inspect privately owned post-construction BMPs so this ability would also need to be added to their existing programs. (CA, INAFSM, TCPWQ)

*Response:*

comments received on this specific issue. The frequency for privately owned post-construction measures has been changed to include 100 percent of the measures be inspected during the permit cycle but now allows the MS4 to cap the inspections at 250. 100 percent of all MS4 owned measures must be inspected during the permit cycle.

If it is determined that the MS4 does not have the legal authority to inspect measures that were required under 327 IAC 15-13, this should be addressed in the inventory of measures that a MS4 is expected to inspect.

4.5 SWQMP, Municipal Operations Pollution Prevention & Good Housekeeping  
MCM

**Section 4.7 (b)(3):**

*Comment:* Please clarify where the latitude and longitude coordinates should begin for purposes of this requirement. (CFW)

*Response:*

The permit has been changed

*Comment:* The commenter suggests removing the requirement to document latitude and longitude, as facility street addresses and map locations are adequate documentation. If this requirement is retained, the following alternative language is suggested:

**“At a minimum, longitude and latitude for mapped facility in decimal degrees, or, if a global positioning system is utilized, mapping-grade accuracy data shall be collected, where an accuracy discrepancy is less than five (5) meters.”**

The specification of an exact distance, such as “within 5 meters”, is more intuitive and easier to apply upon evaluation of accuracy visually. In addition, the accuracy prescribed of five (5) decimal places is equivalent approximately to slightly more than one (1) meter, which is an unnecessary degree of accuracy and precision and will not add value to the functioning of the MS4. (CIDPW)

*Response:*

The permit has been changed to clarify.

**Section 4.7(c):**

*Comment:* How is the term “facility” being defined? (AIM)

*Response:*

The permit has been changed

*Comment:* How is the assessment in section 4.7(c) different from the quarterly inspection requirements under section 4.7(f)? (CSWU)

*Response:*

The assessment is to determine if a MS4 owned and operated facility is a stormwater facility that would require development of a SWPPP and an inspection program.

**Section 4.7(c):**

*Comment:* The requirement for annual assessments for MS4 owned and/or operated facilities should be limited to pollutants that are likely to have a negative impact on water quality. Accordingly, the commenter suggests the following revision to this section:

**“Complete an annual assessment of all MS4 owned and/or operated facilities that use, store, or discharge pollutants that can degrade water quality. The assessment should be based on the pollutants that are associated with the facility.”**  
(CFW)

*Response:*

The permit has been changed.

**Section 4.7(c):**

*Comment:* How is the term “facility” being defined? (AIM)

*Response:*

The permit has been changed to clarify the requirement and a definition added to the permit.

*Comment:* It should not be necessary to inspect or have a SWPPP for a courthouse or annex. It should only be required for facilities where there is a potential for pollution or sediment runoff. The identification of special events should be removed. We do not have the ability to cover parades, fairs, etc. They are not under our control. (HCS)

*Response:*

The permit has been changed to clarify when a SWPPP is required and what facilities require inspections.

**Section 4.7(d):**

*Comment:* This section should be rephrased concerning facility SWPPPs and nonpriority sites since this is the first and only area the term “nonpriority site” is used.

“Develop or update and revise a stormwater pollution prevention plan (SWPPP) for each MS4 owned and/or operated facilities where activities or storage require stormwater pollution prevention planning. ~~The SWPPP, for nonpriority facilities may be combined by facility type.~~” (WE)

*Response:*

The permit has been changed

*Comment:* The requirement to have a SWPPP for each MS4 owned and/or operated facility appears expansive. Would a stand-alone municipal office or administration building need a SWPPP? IDEM must clarify this requirement to limit the scope of the types of facilities that have issues that justify the need for having a SWPPP. (LCS, TCPWQ)

*Response:*

The permit has been changed to clarify when a SWPPP is required and what facilities require inspections.

**Section 4.7(d)(6)(F)(4):**

*Comment:* Does IDEM want every single possible item disposed of at any MS4 owned facility or produced during all MS4 activities to have a written procedure for disposal? (CSWU)

*Response:*

The permit has been changed as follows:

4) General maintenance procedures and disposal requirements ~~associated with each maintenance activity occurring~~ at the facility.

*Comment:* Does IDEM want every single maintenance procedure at any MS4 owned facility or conducted during all MS4 activities to have a written maintenance procedure? (CSWU)

*Response:*

The permit has been changed as follows:

4) General maintenance procedures and disposal requirements ~~associated with each maintenance activity occurring~~ at the facility.

*Comment:* Can these procedures be written as SOPs? (CSWU)

*Response:*

Yes

**Section 4.7 (f)(1):**

*Comment:* Quarterly inspections of city-owned facilities will be difficult at best. We suggest changing this to semi-annual or annual inspections, especially for low priority locations. (CE, CG)

*Response:*

The quarterly inspections may be completed by the facility manager only, however one of the inspections must be completed by the MS4 coordinator. The facility personnel should be onsite regularly and doing three quarterly inspections should not pose a problem. The MS4 coordinator inspection may be used as a training opportunity for the facility personnel to help maintain meaningful inspections at the facility.

*Comment:* Commenter suggests two inspections a year, one in the spring and one in the fall. One inspection can be conducted by the facility personnel and one can be conducted by the MS4 Coordinator or designee. (CG)

*Response:*

The quarterly inspections may be completed by the facility manager only, however one of the inspections must be completed by the MS4 coordinator. The facility personnel should be onsite regularly and doing three quarterly inspections should not pose a problem. The MS4 coordinator inspection may be used as a training opportunity for the facility personnel to help maintain meaningful inspections at the facility.

*Comment:* Why is IDEM increasing the MS4 facility inspections to a quarterly time frame? (CSWU)

*Response:*

The quarterly inspections may be completed by the facility manager only, however one of the inspections must be completed by the MS4 coordinator. The facility personnel should be onsite regularly and doing three quarterly inspections should not pose a problem. The MS4 coordinator inspection may be used as a training opportunity for the facility personnel to help maintain meaningful inspections at the facility.

*Comment:* For the new quarterly inspection of each facility, the mandated frequency is too much to apply to all facilities that would have SWPPPs. Since every facility is different with varying activities and items such as the amount and type of chemical storage, the frequency of inspections for each facility should be determined by the MS4. The commenters recommend that inspections should be conducted quarterly for facilities such as street and highway facilities or hot spots. In addition, IDEM should list facilities that are defined as hot spots. Park facilities such as maintenance areas should be treated differently than park recreational facilities. (CA, INAFSM, LCS, TCPWQ)

*Response:*

The permit has been changed to address quarterly inspections and the type of facilities that require inspections.

**Section 4.7(g)(1):**

*Comment:* Please clarify what is meant by "procedures". Does this section now require that all waste generated and disposed of be documented? (CSWU)

*Response:*

The SOP and SWPPP for each facility needs to have procedures outlined on how all material that is disposed of at the facility is handled or should be handled. This could be done by broader categories if necessary.

**Section 4.7(g)(2):**

*Comment:* Can the documentation be in the form of work orders? (CSWU)

*Response:*

Yes

**Section 4.7(g)(3):**

*Comment:* Does visual inspection mean that an MS4 is to visualize every linear foot of storm sewer pipe, culvert, ditch, swale, etc. for the entire MS4 every year? Please consider changing this to be completed by the end of the permit cycle or make allowances for municipalities that have larger stormwater systems. (CE, CSWU)

*Response:*

Permit changed and clarifying language in clarification document.

*Comment:* Please clarify the meaning of "must be documented as to the functionality of the system". (CSWU)

*Response:*

Permit has been changed.

*Comment:* The requirement for a visual inspection of all catch basins, outfalls, and conveyance systems to be completed by the end of year two for the entire system will be difficult, if not impossible, to achieve for communities with several thousand miles of infrastructure. Accordingly, the commenter suggests the following revision to this section:

“A visual inspection of all catch basins and outfalls, ~~and conveyance systems.~~ The inspection to assess the system:

(A) Must be prioritized in year ~~one~~ two and visual inspections ~~for the entire system~~ completed by the end of year ~~two (2)~~ **five (5)**.

(B) Must be documented as to the functionality of the system.

(C) Must follow the maintenance and corrective action outlined in (4) below.” (CFW)

*Response:*

In the clarification document the intent of this is being better detailed. The visual inspections will not require scoping the entire length of storm sewer pipe. The visual inspections will be surface only and may be completed by any person who is trained by the MS4 coordinator on good housekeeping practices. The entire system should be constantly under review for issues. The audits of the MS4s have show that employees trained in stormwater are reviewing the system visually at a rate of normally monthly.

*Comment:* Two years to televise and visualize the entire length of the storm sewer pipes throughout an MS4 is not enough time. More time needs to be allotted for this requirement. Will this need to be repeated during each 5-year permit cycle? (CG)

*Response:*

In the clarification document the intent of this is being better detailed. The visual inspections will not require scoping the entire length of storm sewer pipe. The visual inspections will be surface only and may be completed by any person who is trained by the MS4 coordinator on good housekeeping practices. The entire system should be constantly under review for issues. The audits of the MS4s have show that employees trained in stormwater are reviewing the system visually at a rate of normally monthly.

*Comment:* Must the visualization of the MS4 conveyance system occur after the effective date of the MS4 general permit, or would previous inspections of a conveyance system component be sufficient? If a previous inspection is sufficient, is there a maximum timeframe the required inspection cannot exceed? (CG)

*Response:*

This needs to be done during the permit cycle.

*Comment:* What is the end goal of this permit requirement? The cost to comply with the televising of the full storm sewer is very high and unfeasible and will be cost prohibitive for many MS4 communities. This is more stringent than sanitary sewer requirements for individual community NPDES permits. (CG)

*Response:*

In the clarification document the intent of this is being better detailed. The visual inspections will not require scoping the entire length of storm sewer pipe. The visual inspections will be surface only and may be completed by any person who is trained by the MS4 coordinator on good housekeeping practices. The entire system should be constantly under review for issues. The audits of the MS4s have show that employees trained in stormwater are reviewing the system visually at a rate of normally monthly.

*Comment:* The commenters support flexible language for this requirement because it gives entities the ability to implement an assessment program that is tailored to the particulars of an entity's system, as well as tailored to an entity's unique areas of concern. However, requiring that the visual inspection for the entire MS4 conveyance system be completed within 2 years is not realistic. This requirement should be changed to be completed once per 5-year permit term. (ACSO, CA, CFW, INAFSM, LCS, SWAC, TCPWQ, WCSWCD)

*Response:*

In the clarification document the intent of this is being better detailed. The visual inspections will not require scoping the entire length of storm sewer pipe. The visual inspections will be surface only and may be completed by any person who is trained by the MS4 coordinator on good housekeeping practices. The entire system should be constantly under review for issues. The audits of the MS4s have show that employees trained in stormwater are reviewing the system visually at a rate of normally monthly.

*Comment:* Please provide clarification on the intent and wording of this requirement. When requiring system-wide inspection over a two-year period, inconsistencies would arise over the permit cycle, as maintenance would most likely be neglected to meet inspection schedule mandates. The maintenance program required in this section can be developed and updated concurrently as inspections take place. (SWAC)

*Response:*

In the clarification document the intent of this is being better detailed. The visual inspections will not require scoping the entire length of storm sewer pipe. The visual inspections will be surface only and may be completed by any person who is trained by the MS4 coordinator on good housekeeping practices. The entire system should be constantly under review for issues. The audits of the MS4s have show that employees trained in stormwater are reviewing the system visually at a rate of normally monthly.

**Section 4.7(g)(4):**

*Comment:* Please clarify what "visual monitoring" is and what level of inspection is required. (CSWU)

*Response:*

In the clarification document the intent of this is being better detailed. The visual inspections will not require scoping the entire length of storm sewer pipe. The visual inspections will be surface only and may be completed by any person who is trained by the MS4 coordinator on good housekeeping practices. The entire system should be constantly under review for issues. The audits of the MS4s have show that employees trained in stormwater are reviewing the system visually at a rate of normally monthly.

*Comment:* Visual inspection of all conveyance systems is likely impracticable due to limited accessibility to all parts of the system, such as subsurface piping systems. Prescription of 'visual inspection' mandates the method of inspection, which limits the MS4 to a method which may not be the most effective, nor utilize the most current technologies for assessing system functionality. Prescribing visual monitoring at least three times per year is too prescriptive and arbitrary. The following change to the language is suggested:

**“The MS4 conveyance and stormwater structural treatment control measures owned and/or operated by the MS4 shall be operated and maintained in a manner to reduce the discharge of pollutants and to assure long-term functionality of the system. At a minimum, operation and maintenance procedures shall exist to identify the inspection process, maintenance activities, erosion prevention, documentation, and schedules. Procedures shall include requirements for removal and tracking and proper waste handling of trash, debris, and pollutant-containing stormwater removed during the maintenance process are properly managed.”** (CIDPW)

*Response:*

In the clarification document the intent of this is being better detailed. The visual inspections will not require scoping the entire length of storm sewer pipe. The visual inspections will be surface only and may be completed by any person who is trained by the MS4 coordinator on good housekeeping practices. The entire system should be constantly under review for issues. The audits of the MS4s have show that employees trained in stormwater are reviewing the system visually at a rate of normally monthly.

*Comment:* The requirement to inspect and document the stormwater conveyances is unnecessary and burdensome to an MS4. Most MS4s do not have the existing manpower or funding to inspect the entire system in 2 years or even 5 years. If MS4s need a full evaluation of their entire stormwater system, there are other avenues to complete this activity. MS4s can complete a Stormwater Master Plan that evaluates the system and drainage areas and identifies problem areas for improvements. Additionally, MS4s may seek SRF-funding for stormwater improvement projects. SRF funded stormwater projects must include a water quality component and an Asset Management Plan. An SRF project would provide funds for the MS4 to complete an extensive stormwater system evaluation over a longer period. Since these avenues are available, including a full system evaluation in the MS4GP is unnecessary. The requirement to inspect and document the catch basins and conveyances should be removed from the MS4GP. The requirement to inspect outfalls once per permit term is already included under IDDE Section 4.4 (h). The general visual assessments of the catch basins and conveyances under Section 4.7 (g)(4) as part of an overall maintenance program is more reasonable as this can be completed based on employee observations, public complaints, projects, or as needed and follow existing maintenance work orders or documentation. (WE)

*Response:*

In the clarification document the intent of this is being better detailed. The visual inspections will not require scoping the entire length of storm sewer pipe. The visual inspections will be surface only and may be completed by any person who is trained by the MS4 coordinator on good housekeeping practices. The entire system should be constantly under review for issues. The audits of the MS4s have show that employees trained in stormwater are reviewing the system visually at a rate of normally monthly.

*Comment:* Due to seasonal constraints and other matters beyond their control, the commenter believes that compliance with a firm requirement to increase visual monitoring to at least three times per year is unrealistic. The commenter suggests deleting the specific number of monitoring visits to read as follows:

“Increasing visual monitoring ~~to at least three (3) times per year~~ for those areas with reoccurring issues until such time that the problem is eliminated.” (CFW)

*Response:*

Increasing the visual inspections for problem areas should be a minimum for an MS4. If there are more than a minimal amount of problem areas that need to be reviewed the MS4 may outline in the annual report these issues and outline actions to eliminate these problem areas. If there is not a solutions or changes to infrastructure are needed this information can be documented in the annual report as well.

**Section 4.7(g)(4)(B):**

*Comment:* What does IDEM mean by the tracking of trash and debris? Does this mean tracking the amount of trash and debris generated, or tracking its movement to a disposal location? (CSWU)

*Response:*

The permit has been changed.

**Section 4.7(g)(5)(A):**

*Comment:* Please define the term “maintenance” in this section and why it is considered necessary. The MS4 program does not dictate the priorities of road maintenance. This is determined by the Street Commissioner and Town Engineer based on the condition and safety of the road. (CSWU)

*Response:*

The MS4 is responsible for any possible stormwater contamination that is discharged from their system. While the MS4 does not oversee the parades/fairs, it is assumed these activities are either permitted by the MS4 or an event sponsored by the MS4 (city, county, etc.) and therefore the MS4 program should be aware of the event and the appropriate stormwater requirements can be addressed requirements to protect stormwater. The burden of the event should be placed on the permitted entity or the MS4 if the MS4 entity is the sponsor.

**Section 4.7(g)(5)(D):**

*Comment:* The requirement for community special events identification and maintenance is too vague. This could apply to all events conducted in an MS4 area, whether the MS4 has control over them or not. (CA, INAFSM, LCS, TCPWQ)

*Response:*

The MS4 is responsible for any possible stormwater contamination that is discharged from their system. While the MS4 does not oversee the parades/fairs, it is assumed these activities are either permitted by the MS4 or an event sponsored by the MS4 (city, county, etc.) and therefore the MS4 program should be aware of the event and the appropriate stormwater requirements can be addressed requirements to protect stormwater. The burden of the event should be placed on the permitted entity or the MS4 if the MS4 entity is the sponsor.

**Section 4.7(g)(5)(E):**

*Comment:* Is IDEM requiring that all road and parking lot maintenance projects also be included in the procedures for disposal of waste? MS4s typically contract out road and parking lot replacement projects, and the contractor is responsible for the disposal or reuse of waste generated from them. Is this information considered sufficient for this requirement? (CSWU)

*Response:*

Yes

**Section 4.7(i):**

*Comment:* What does IDEM mean by “assess the good housekeeping program for adequacy and accuracy”, and against what standard should this be assessed? (CSWU)

*Response:*

The permit has been changed.

**Section 4.7(l):**

*Comment:* It is not clear how flood control structures can be modified to improve water quality. The commenter proposes deleting this section. (CFW)

*Response:*

There is no requirement to modify a structure for water quality purpose, but as opportunities arise, they should be evaluated as to their feasibility to be modified.

**4.6 SWQMP Submittal**

*Comment:* The commenter requests to allow existing MS4s to delay the SWQMP submittal from 180 days to 365 days for this first permit term. MS4s require additional time to evaluate programs for new requirements and develop additional procedures, documentation, and possibly databases. Additionally, MS4s are simultaneously reviewing and updating the WQCR, ordinances, standards, and the CSGP implementation. It is suggested the subsequent MS4GPs would return to the 180-day requirement. (WE)

*Response:*

The MS4 is updating the SWQMP, therefore 180 days should allow a MS4 sufficient time to complete the SWQMP.

**5.0 Water Quality- Based Effluent Limitations**

*Comment:* Please define what “WLA” means by adding the abbreviation after “waste load allocation” in the third paragraph of this section. (CG)

*Response:*

The permit has been changed

*Comment:* The Clean Water Act does not require compliance with Water Quality-Based Effluent Limitations. Therefore, this section adds confusion to each MS4’s legal responsibilities under the CWA. The commenter proposes deleting this section entirely. If that is not possible, the commenter proposes deleting paragraph two in its entirety and revising paragraph one as follows:

~~“It is expected that e~~ Compliance with the conditions in this permit will **constitutes compliance with the MS4 entity’s obligations under the Clean Water Act and corresponding federal and state regulations.**  ~~result in stormwater discharges that will meet applicable water quality standards (327 IAC 2-1).”~~ (CFW)

*Response:*

The permit has been changed

*Comment:* The limitation of ‘maximum extent possible’ needs to be added here in keeping with earlier language in this document. Many municipalities will not be able to meet strict requirements for pollutants (such as E. coli) given the large resident Canada goose populations that inhabit some city limits, unless federal regulations are relaxed to allow for their removal. How is it possible to determine what is being added directly to the waterbody by the geese and what is coming from an area that can be controlled? (CE, HCS)

*Response:*

This has been discussed with EPA Stormwater and TMDL and it is not appropriate.

*Comment:* How will a MS4 verify it is complying with these requirements? Will MS4s with a TMDL WLA be required to routinely sample all public outfalls to prove the stormwater discharge is not contributing the pollutant(s) of concern? If so, this requirement would be cost prohibitive depending upon what the pollutant of concern is. Is it possible to exempt outfalls that have been screened and eliminated as a source of the pollutant(s) of concern? (CG)

*Response:*

Compliance with a TMDL is based on BMPs and best practices implemented to help meet pollutant of concern reduction needs. Monitoring outfalls is not required in this permit.

*Comment:* This section contradicts section 4.0, which states "All permittees must comply with this permit to demonstrate that all discharges authorized under this permit are managed to meet numeric and narrative water quality standards to the Maximum Extent Practicable (MEP)." The commenters suggest adding the same underlined text to this section as follows:

"It is expected that compliance with the conditions in this permit will result in stormwater discharges that will meet applicable water quality standards (327 IAC 2-1) to the MEP. If at any time, conditions associated with a discharge from a MS4 are observed that indicate a discharge that does not meet the applicable water quality standards to the MEP corrective action is required." (CA, INAFSM, LCS, TCPWQ)

*Response:*

This has been discussed with EPA Stormwater and TMDL and it is not appropriate.

## 5.1 Discharge Limitations for Impaired Waters and TMDL implementation

### **Section 5.1(b):**

*Comment:* Given that the final WLA incorporates several other communities and smaller tributaries in between the two points, how does IDEM propose that a community determine the proportion or percentage of the WLA that they are expected to address? (CSWU)

*Response:*

Each MS4 will have a loading associated with the needed reductions in the TMDL

*Comment:* How does IDEM propose that a community determine the proportion or percentage of the WLA that they are expected to address for the less than 100-acre end of the line tributary that generates the community's water over 2.5 miles away from the TMDL sampling point? (CSWU)

*Response:*

Each MS4 will have a loading associated with the needed reductions in the TMDL

### **Section 5.1(b)(3)(C):**

*Comment:* To be consistent with other areas of the permit, this language should be revised as follows:

"Benchmarks and/or milestones should be established to facilitate assessment of progress towards meeting the water quality standards **to the MEP.**" (CA, INAFSM, LCS, TCPWQ)

*Response:*

This has been discussed with EPA Stormwater and TMDL and it is not appropriate.

**Section 5.1(c)(4):**

*Comment:* The use of the word ‘**instillation**’ in the third line is incorrect and should be changed to ‘**installation**’. (CG)

*Response:*

The permit has been changed.

**6.0 Notice of Intent (NOI) Requirements**

*Comment:* This section should be placed before the current Section 3, “Water Quality Characterization.” The NOI is the first submittal required to demonstrate that an MS4 community intends to comply with the requirements of the MS4 General Permit and should therefore be placed consecutively within the permit to avoid confusion and to enhance the clarity and intent of the permit. (SWAC)

*Response:*

This option was discussed internally with IDEM management, and it was agreed that the permit requirements would be placed in the permit rather than the application.

**6.1 NOI Content**

**Section 6.2(a)(4):**

*Comment:* Why has IDEM shifted to requiring 12-digit hydrologic unit codes instead of 8- or 10-digit codes? Is the water quality characterization report also based on the 12-digit hydrologic unit code in the NOI as suggested in Section 3.0? (CFW)

*Response:*

It is more appropriate to use HUC 12 so that smaller MS4s are not accurately represented on the watershed scale.

**Section 6.2(a)(5):**

*Comment:* How is a county MS4 to calculate the population? Based on the UA or the population of the entire county? If based on the UA, this is a very time-consuming exercise which is based on estimating, so the results may not be very accurate. Is MS4 population data something that IDEM really needs and uses? This requirement should be deleted. (CA, INAFSM, LCS)

*Response:*

The MS4 should report the population for the municipality. With regard to a county MS4, the MS4 should report the overall population for the county not including the consolidated cities and towns. IDEM does not expect a calculation be made for only the urbanized areas.

**Section 6.2(a)(7):**

*Comment:* Please clarify what the following language in this section means: “...or when a co-permit identified for each.” (CFW)

*Response:*

The permit has been changed.

**Section 6.2(a)(11):**

*Comment:* Please clarify the definition of “schedule of activities.” Is IDEM looking for information pertaining to when specific requirements of the permit will be met by each permitted MS4, or is IDEM requesting information on specific activities tied to each MCM (such as educational events, trainings, community events, etc.)? (CG)

*Response:*

The permit has been changed.

**8.0 Reporting Requirements**

**Section 8.1(a)(7):**

*Comment:* This section should be deleted. Alternatively, please clarify why this information is being required, and provide an example of what type of description is needed to meet this requirement. (CFW)

*Response:*

The MS4 is required to meet TMDL requirement. Progress towards meeting this goal needs to be report annually.

**8.2 Annual Report Submittal**

*Comment:* Please allow MS4s additional time to compile the Annual Report. MS4s in northern Indiana are still busy with snow removal in the first quarter and do not have the available resources to gather remaining information. Additionally, gathering information from partnering county and other agencies takes time. MS4s would prefer to maintain a good relationship with their partners by not hounding them to provide their final tracking information prior to the time it is due internally for their own agencies. It is suggested to move the submittal date from April 1 to May 1. (WE)

*Response:*

If additional time is needed the MS4 may request and extension.

**9.0 Additional Requirements**

**9.4 Reporting Spills and Noncompliance**

**Section 9.4(b):**

*Comment:* Please clarify the requirements for non-emergency reporting within 24 hours and emergency reporting within 2 hours. Could this be accomplished either orally or in writing by email to wwreports@idem.IN.gov? (CFW)

*Response:*

This is standard language used in NPDES permits and the email address has already been included in the current draft of the permit.

## 9.6 Records Retention

*Comment:* Please provide concise language in the permit for record retention. It is suggested to revise the first sentence to one of the following:

“All records and information must be retained for a minimum of three (3) years **from the document date or from the permit expiration date.**” (WE)

*Response:*

The language has been modified (red text) to read: “All records and information must be retained for a minimum of three (3) years **after the expiration date of permit coverage.** All records must be kept by the MS4 entity in such a manner that the reports will be readily available for IDEM compliance staff review. The...”

## Appendix A- Definitions

*Comment:* The commenter suggests including definitions for commercial and industrial facilities, retail gasoline outlets, and structural stormwater management measures. (CFW)

*Response:*

These definitions have been added to the permit.