

1. MCM 3. Illicit Discharge Detection and Elimination:

A. Illicit and Allowable Discharges:

- 1. Discharges regulated by a separate NPDES or TPDES permit;*
- 2. Discharges for which an NPDES or TPDES permit application has been submitted or an NPDES/TPDES permit is not required; and*
- 3. Other non-stormwater discharges, as described below, that are not prohibited by the permittees in the SWMP. The SWMP must identify any categories of non-stormwater discharges that are not prohibited from being discharged into the MS4, in accordance with the following conditions:*
 - a) Categories of non-stormwater discharges that the permittees may exempt from the prohibition on non-stormwater entering the MS4.*
 - b) The non-stormwater discharges exempted from the prohibition on non-stormwater must be reasonably expected not to be significant sources of pollutants based on either the nature of the discharges, or conditions placed on the discharges by the permittees.*
 - c) The SWMP must describe any local controls or conditions placed on discharges exempted from the prohibition on non-stormwater. Permittees shall prohibit any individual non-stormwater discharge otherwise exempted under this paragraph from the prohibition on non-stormwater that is determined by the permittee to be contributing significant amounts of pollutants to the MS4.*

The City of Fort Worth has listed all allowed non-stormwater discharges in the Environmental Code section of the City Code. The Environmental Code was formally adopted by the City Council on November 28, 1995 and an amended stormwater section was passed on May 18, 1999. This code describes what constitutes a stormwater violation and what enforcement actions can be taken. The USEPA has made this code available as a model ordinance for use by other cities by publishing it on their national Web Page. Currently, efforts are underway to amend the existing Environmental Code to incorporate the additional restrictions imposed by the renewed permit.

Non-stormwater discharges that are allowed into the MS4 and listed in Section 12.5-302 of the City Code are:

- A discharge authorized by, and in full compliance with, an NPDES permit (other than the NPDES permit for discharges from the MS4);
- A discharge or flow resulting from fire fighting by the Fire Department;
- A discharge or flow of fire protection water that does not contain oil or hazardous substances or materials that the Fire Code requires to be contained and treated prior to discharge, in which case treatment adequate to remove harmful quantities of pollutants must have occurred prior to discharge;
- Agricultural stormwater runoff;
- Uncontaminated groundwater infiltration (as defined at 40 C.F.R. § 35.2005(20)) to the MS4;
- Uncontaminated discharge or flow from a foundation drain, crawl space pump, or footing drain;
- Drainage from a private residential swimming pool containing no harmful quantities of chlorine or other chemicals. Drainage from swimming pool filter backwash is prohibited;

- A discharge or flow of uncontaminated stormwater pumped from an excavation;
- A discharge or flow from
 - water line flushing or disinfection that contains no harmful quantity of total residual chlorine (TRC) or any other chemical used in line disinfection
 - lawn watering, or landscape irrigation;
 - a diverted stream flow or natural spring;
 - uncontaminated pumped groundwater or rising groundwater;
 - a potable water source not containing any harmful substance or material from the cleaning or draining of a storage tank or other container;
 - air conditioning condensation that is unmixed with water from a cooling tower, emissions scrubber, emissions filter, or any other source of pollutant;
 - individual residential car washing;
 - a riparian habitat or wetland;
 - cold water (or hot water with prior permission of the Director) used in street washing or cosmetic cleaning that is not contaminated with any soap, detergent, degreaser, solvent, emulsifier, dispersant, or any other harmful cleaning substance;

TRWD Program

TRWD has a general ordinance which prohibits pollution immediately adjacent to its reservoirs and within areas under District jurisdiction. This ordinance gives the District enforcement power to eliminate discharges and improper disposal. Illicit discharges are most often identified through public complaints reported to District offices. Environmental inspectors with the TRWD perform investigations and respond to water quality complaints. Although the District has enforcement authority, it typically notifies other appropriate agencies, such as the co-permittees and TCEQ.

TRWD has written into its floodway construction criteria some preventative measures specific to water pumps set in the floodway. All pumps must be set in a containment structure capable of containing 1.5 times the total quantity of fluids within the pump. A containment boom must also be in place in the river at a 50' radius from the extraction point. In addition, all water pumps placed below the top of river channel must be removed at end of workday, unless supervision is provided 24 hours a day. All of these measures are an effort to prevent accidental discharges from the pump units into the river.

TxDOT Program

TxDOT prohibits non-stormwater discharges to the MS4. For the purposes of the TPDES permit, the following discharges need not be addressed as illicit discharges by TxDOT nor prohibited from entering the MS4:

- Discharges regulated by a separate NPDES or TPDES permit;
- Discharges for which an NPDES or TPDES permit application has been submitted; and
- Other non-stormwater discharges that are not prohibited by TxDOT in the SWMP.

B. Detection and Elimination of Illicit Discharges

1. Elimination of Illicit Discharges and Improper Disposal: The permittees shall require the operator of an illicit discharge or improper disposal practice to eliminate illicit discharge practices as quickly as reasonably possible. Where elimination of an illicit discharge within 30 days is not possible, the permittees shall require an expeditious

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

2. Within one year from the date of permit issuance, if not already addressed, the SWMP must include the following:

a) a list of techniques used for detecting illicit discharges; and

b) appropriate actions and enforcement procedures for removing the source of an illicit discharge.

Elimination of Illicit Discharges and Improper Disposal

The City passed a comprehensive environmental ordinance on November 28, 1995. An amended stormwater section was passed on May 18, 1999. Enforcement of this ordinance is primarily the responsibility of TPW/ENV personnel involved in MS4 screening and monitoring activities, inspection of construction sites and industrial facilities, spill response, and other investigations. A broad variety of enforcement options are available should a violation of the code be observed. The primary ordinance used by the investigators is 12.5-302(a). It states:

Section 12.5-302. Discharge to MS4 Prohibited.

- (a) A person commits an offense if the person introduces or causes to be introduced into the MS4 any discharge that is not composed entirely of stormwater.

The only affirmative defenses a violator can use are listed in Section 12.5-302(b) as described in (A) NON-STORM WATER DISCHARGES above. All other discharges are considered illicit and subject to regulatory actions. Enforcement options available to all Environmental Management Division staff are described below.

CITY OF FORT WORTH ENVIRONMENTAL CODE

DIVISION 3. ENFORCEMENT

Section 12.5-111. Enforcement Options.

- (a) In this Division term "Director" shall mean the Director of the Department of Environmental Management, the Director of the Department of Water, the Director of the Department of City Services, or the authorized representative of any of said directors.
- (b) The primary administration and enforcement of this chapter shall be divided as follows:
- (1) Department of Environmental Management:

Article I, Division 4 - Environmental Use Agreements
Article II - Air Quality;
Article III - Stormwater; and
Article IV - Groundwater and Surface Water Quality

(2) Department of Water:

Article V - Public Drinking Water;
Article VI - Industrial Wastewater; and
Article VII - Liquid Waste

(3) Department of City Services:

Article VIII - Solid Waste and Recycling

- (c) When a Director determines that a violation of this chapter over which the Director has jurisdiction has occurred or is occurring, the following remedies are available to such Director. The remedies provided for in this Section or elsewhere in this chapter are not exclusive. A Director may take any, all, or any combination of these actions against a violator, consecutively or concurrently:
- (1) Issuance of a warning notice;
 - (2) Issuance of one or more citations;
 - (3) Issuance of a notice of violation;
 - (4) Execution of a consent order;
 - (5) Issuance of a compliance order;
 - (6) A show cause hearing;
 - (7) A stop work order;
 - (8) Nuisance abatement, if applicable;
 - (9) Permit suspension or revocation proceedings, if applicable;
 - (10) Suspension of utility service or MS4 access as provided in Articles III, V, and VI;
 - (11) Request the City Attorney to institute suit for civil remedies as provided by this Article, or state or federal law; or
 - (12) Any other remedy provided in this chapter.
- (d) Nuisances as defined under this chapter may be enforced by any of the above options with the exception of citations, unless the nuisance is also a defined criminal offense.
- (e) If two or more Directors have concurrent jurisdiction over the provisions of this chapter, they shall strive to coordinate their enforcement efforts to the degree practicable.

Section 12.5-112. Criminal Citation.

A Director is authorized to issue citations for violations of those provisions of this chapter over which he has enforcement authority. A Director is also authorized to issue citations for violations of state environmental laws which are punishable only by a fine not to exceed the jurisdictional limits of the Fort Worth Municipal Court, unless such authority is denied under state law.

Section 12.5-113. Notice of Violation.

- (a) When a Director finds that any person has violated, or continues to violate, this chapter or any permit or order issued hereunder, the Director may issue to such person a written notice of violation.
- (b) No later than the tenth day after receipt of the notice, the violator shall submit to the issuing Director an explanation of the violation and a plan for the satisfactory correction and prevention of a reoccurrence of the violation. Such plan shall include specific actions to be taken by the violator.
- (c) If the violator denies that any violation occurred, or contends that no corrective action is necessary, he shall submit to the Director no later than the tenth day after receipt of the notice, a written explanation of the basis of any such denial or contention.
- (d) Submission of an explanation and/or plan in no way relieves a violator of liability for any violations occurring before or after receipt of the notice of violation.
- (e) Issuance of a notice of violation shall not be a bar against, nor a prerequisite for, taking any other action against a violator.

Section 12.5-114. Consent Order.

- (a) A Director may enter into a consent order, assurance of voluntary compliance, or similar agreement with any person responsible for noncompliance with any provision of this chapter or any permit or order issued hereunder.
- (b) Such agreement may include specific action to be taken by the violator to correct the noncompliance within a time period specified by the agreement.

- (c) Such agreements have the same force and effect of compliance orders and remediation, abatement, and restoration orders, and shall be judicially enforceable.

Section 12.5-115. Compliance Order.

- (a) When a Director finds that any person has violated, or continues to violate, any provision of this chapter, or any permit or order issued hereunder, such Director may issue a compliance order to the violator, directing the violator to come into compliance within a specified time limit.
- (b) Compliance orders may contain other requirements to address noncompliance, including additional management practices and self-monitoring to minimize the amount of pollutants discharged.
- (c) A Compliance order may not extend the deadline for compliance established by a state or federal standard or requirement.
- (d) A Compliance order shall not relieve a violator of liability for any violation, including any continuing violation.
- (e) A person receiving a compliance order may file a written notice of appeal with the Director, no later than the tenth day after receipt of the order. Such notice of appeal shall include an explanation as to why the person believes the enforcement action should not be taken.
- (f) Issuance of a compliance order shall not be a bar against, nor a prerequisite for, taking any other action against a violator.

Section 12.5-116. Show Cause Hearing.

- (a) A Director may order any person who has violated or who continues to violate any provision of this chapter or any permit or order issued hereunder, to appear and show cause why a proposed enforcement action should not be taken.
- (b) A hearing shall not be a bar against, or a prerequisite for, taking any other action against the violator.

Section 12.5-117. [reserved]

Section 12.5-118. Stop Work Order.

- (a) Whenever a Director finds that any operator of a construction site has violated, or continues to violate, any provision of this chapter, or any permit or order issued hereunder, such Director may order that a stop work order be issued to the operator, posted at the construction site, and distributed to all City departments and divisions whose decisions affect any activity at the site.
- (b) Unless express written exception is made by such Director, the stop work order shall prohibit any further construction activity at the site and shall bar any further inspection or approval by the City associated with a building permit, grading permit, subdivision plat approval, site development plan approval, or any other City approval necessary to commence or continue construction or to assume occupancy at the site.
- (c) A person receiving an order under this Section may file a written notice of appeal with the Director who issued it, no later than the tenth day after receipt of the order. Such notice shall include an explanation as to why the person believes the enforcement action should not be taken.
- (d) Issuance of a stop work order shall not be a bar against, or a prerequisite for, taking any other action against the violator.

Section 12.5-119. Reconsideration and Hearing.

- (a) Reconsideration.
 - (1) Any person subject to: a denial of a permit issued under this chapter; a compliance order; a stop work order; an emergency suspension of utility service; or any other enforcement action in this chapter which allows for reconsideration and hearing under this section, may petition the Director who took such action to reconsider the basis for the action. In order for the petition to be considered, it shall be filed with such Director no later than the tenth day after receipt of the notice/order.
 - (2) Failure to submit a timely written petition for reconsideration shall be deemed to be a waiver of any further right to administrative reconsideration or reviews of the action.
 - (3) In its petition, the petitioner shall indicate the provisions of the action objected to, and the reasons for the objection(s), any facts that are contested, the evidence that supports the petitioner's view of the facts, any alternative terms of an order that the petitioner would accept, and whether the petitioner requests a hearing on its petition.

- (4) The effect of a compliance order or stop work order shall be stayed pending the Director's reconsideration of the petition, and any hearing thereon, unless the Director expressly makes a written determination to the contrary. The effect of an emergency suspension of utilities shall not be stayed pending the Director's reconsideration or any hearing, unless the Director expressly and in writing stays the emergency order.
- (5) Within a reasonable time of the submittal of a petition for reconsideration, the Director shall either grant the petition and withdraw or modify the order or modify or grant the permit accordingly; deny the petition if no material issue of fact is raised; or if a hearing has been requested and a material issue of fact has been raised, set a hearing on the petition.

(b) Hearings.

- (1) A Director may also set a hearing if the Director determines that a show cause hearing should be conducted, if grounds exist to revoke or suspend a permit issued under this chapter, or if grounds exist to terminate utilities on a non emergency basis.
- (2) Written notice of the hearing shall be served on the petitioner/violator at least ten days prior to the hearing. Notice shall be served in person or by certified mail, return receipt requested.
- (3) Notice shall specify the date, time and place of the hearing.
- (4) Notice that is mailed shall be deemed received five (5) days after it is placed in a mail receptacle of the United States Postal Service.
- (5) No decision may be rendered at a hearing by reason of the petitioner/violator's failure to appear unless proof of actual service is shown.
- (6) For purposes of this section, a Director shall be empowered to administer oaths and to promulgate procedural rules for the conduct of the hearing.
- (7) Whenever any deadline specified in this Section falls upon a Saturday, Sunday or a City-recognized holiday, the deadline shall be the next regular City business day.

- (8) The date of an order or ruling required to be made under this Section shall be deemed to be the date it is signed.
- (9) Decisions shall be based on a preponderance of the evidence. The City shall have the burden of proof in all hearings except permit denial hearings. In permit denial hearings the burden of proof shall be on the petitioner.
- (10) The Director shall act as the hearings officer.
- (11) After the conclusion of the hearing, the Director shall make written findings of fact and conclusions of law and shall issue a written decision without undue delay.
- (12) A hearing shall exhaust all administrative remedies of the petitioner/violator.

Section 12.5-120. Nuisance Abatement.

- (a) Unless specifically stated otherwise, any nuisance as defined within this chapter is hereby declared a nuisance if it exists within the corporate limits of the City or within 5,000 feet of such limits.
- (b) A Director may give notice to cease, abate, remove or otherwise remedy a nuisance immediately to:
 - (1) the owner of property upon which a nuisance is located or from which a nuisance originated or is emanating. If the person creating, allowing, or maintaining the nuisance is not the owner of the property, notice shall also be given to such person.
 - (2) any person creating, allowing, or maintaining a nuisance.
- (c) The notice must be given:
 - (1) personally to the owner/person in writing; or
 - (2) by letter addressed to the owner/person at the owner's/person's post office address and sent certified mail, return receipt requested. However, if personal or certified mail service cannot be obtained or the owner's/person's post office address is unknown, notice may be given:
 - A. by publication in the official newspaper of the City at least twice within ten (10) consecutive days;

- B. by posting the notice on or near the front door of each building on the property to which the nuisance relates; or
 - C. by posting the notice on a placard attached to a stake driven into the ground on the property to which the nuisance relates, if the property contains no buildings.
- (d) The notice may order the owner/person to undertake and implement any appropriate action
 - (1) to remediate and/or abate any adverse effects of the nuisance upon the MS4, the Waters of the State, the Waters of the United States, or any other aspect of the environment; and/or
 - (2) to restore any part of the MS4, the Waters of the State, the Waters of the United States, or any other aspect of the environment that has been harmed.
- (e) Such remedial, abatement, and restoration action may include, but not be limited to:
 - (1) monitoring, assessment, and evaluation of the adverse effects and determination of the appropriate remedial, abatement, and/or restoration action;
 - (2) confinement, removal, cleanup, treatment, and disposal of any discharged or released pollution or contamination;
 - (3) prevention, minimization, and/or mitigation of any damage to the public health, welfare, or the environment that may result from the nuisance; and
 - (4) restoration or replacement of City property or natural resources damaged by the nuisance.
- (f) The notice may direct that the remediation, abatement, and/or restoration be accomplished on a specified compliance schedule and/or be completed within a specified period of time. An order issued under this section does not relieve the violator of liability for any violation, including any continuing violation.
- (g) If the owner/person does not comply with the notice within ten (10) days of service, the Director may enter any public or private property containing the nuisance and do any work necessary to abate the nuisance, except the demolition of buildings.

- (h) If the immediate abatement of the nuisance is deemed necessary by a Director to protect the environment or the public health, safety, or welfare from an imminent and substantial endangerment, such Director may, without complying with the notice provisions of this Section or without waiting the ten-day period, enter the subject property and do or cause to be done any work necessary to abate the nuisance and remediate and restore the environment.
- (i) After abating the nuisance, the Director may inform the owner/person in a notice sent certified mail, return receipt requested, that if the owner/person commits another violation of the same kind or nature that poses a danger to the environment or to the public health and safety on or before the first anniversary date of the original notice, the City may without further notice correct the violation at the owner's expense and assess the expense against the owner's property.
- (j) All costs incurred by the City to abate a nuisance and remediate and restore the environment, including the cost of giving notice as required, shall be initially paid by the City and charged to the owner of the property.
- (k) To obtain a lien against the property, the Director causing the abatement shall file a statement of expenses with the County Clerk for the County in which the property is located. The lien statement shall state the name of the owner, if known, and the legal description of the property. The lien shall be security for the costs incurred and interest accruing at the rate of ten (10) percent on the amount due from the date of payment by the City.
- (l) The lien is inferior only to:
 - (1) tax liens; and
 - (2) liens for street improvements.
- (m) A lien may not be filed against real estate protected by the homestead provisions of the Texas Constitution.

Section 12.5-121. Right of Entry.

- (a) A Director may enter premises or vehicles regulated by this chapter at all reasonable times, whenever it is necessary to make an inspection to enforce any of the provisions of this chapter, to inspect permits and records required by this chapter, to collect air, water, waste, or wastewater samples, or whenever probable cause exists to believe that a violation of this chapter or other environmental laws exists on such premises.

- (b) A Director shall first present his credentials and demand entry if the premises are occupied. If the premises are unoccupied, he shall first make a reasonable attempt to locate the owner or person in control of the premises and demand entry.
- (c) Where premises have security measures in force which require proper identification and clearance before entry into its premises, the person in control of the premises shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Director will be permitted to enter without delay for the purposes of performing specific responsibilities.
- (d) If entry is denied or if a person in control cannot be located, the Director shall have every recourse provided by law to secure entry. Such recourse shall include the right to obtain a search warrant under the guidelines of the Texas Code of Criminal Procedure; and for the purposes of same, any person with enforcement authority under this chapter is hereby declared to be a "health officer."

Section 12.5-122. Confidentiality of Records.

- (a) Information and data obtained from reports, surveys, permit applications, permits, and monitoring programs, and from a Director's inspection and sampling activities, shall be available to the public without restriction, unless the owner, operator, or permittee specifically requests, and is able to demonstrate to the satisfaction of the City, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under the Texas Public Information Act.
- (b) A person making an assertion of confidentiality shall do so at the time the information or data is submitted as follows:
 - (1) A cover sheet, stamped or typed legend, or other form of written notice shall be placed on or attached to the information, denoting it as "trade secret," "proprietary," or "confidential."
 - (2) If only portions of a document are alleged to be confidential, such portions shall be clearly identified, and may be submitted separately to facility handling and identification by a Director.
 - (3) If the submitter wants the information to remain confidential only to a certain date or until the occurrence of a certain event, this shall also be clearly provided for.

- (c) All submitted records will be made available immediately upon request to governmental agencies for uses related to the City's NPDES programs or pretreatment program, and in enforcement proceedings involving the person furnishing the report.
- (d) Wastewater constituents and characteristics and other effluent data will not be recognized as confidential information and will be available to the public without restriction.

Section 12.5-123. Judicial Remedies and Penalties.

(a) Criminal Remedies

- (1) An offense as defined under this chapter is a misdemeanor punishable by a fine not to exceed \$2,000.00. Each separate occurrence of a violation or each day that a violation continues shall constitute a separate offense.
- (2) If an offense defined under this chapter does not include a culpable mental state, then one is not needed and the offense shall be one of strict liability.
- (3) An offense is so defined in this code by the phrase: "A person commits an offense...."

(b) Civil Remedies

- (1) The City may invoke Sections 54.011 - 54.017 of the Texas Local Government Code and petition the state district court or the applicable county court at law, through the City Attorney, for either injunctive relief, civil penalties, or both injunctive relief and civil penalties, whenever it appears that a person has violated, or continues to violate, any provision of this chapter that relates to:
 - A. the preservation of public safety, relating to the materials or methods used in construction of any structure or improvement of real property;
 - B. the preservation of public health or to the fire safety of a building or other structure or improvement;
 - C. the establishment of criteria for land subdivision or construction of buildings, including street design;

- D. dangerously damaged or deteriorated structures or improvements;
 - E. conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents; or
 - F. point source effluent limitations or the discharge of a pollutant from a point source into the Publicly Owned Treatment Works (POTW) or MS4.
- (2) Pursuant to Section 54.016 of the Texas Local Government Code, the City may obtain against the owner or the operator of a facility, a temporary or permanent injunction, as appropriate, that:
- A. prohibits any conduct that violates any provision of this chapter that relates to any matter specified in subsection (b)(1) above; or
 - B. compels the specific performance of any action that is necessary for compliance with any provision of this chapter that relates to any matter specified in subsection (b)(1) above.
- (3) Pursuant to Section 54.017 of the Texas Local Government Code, the City may recover a civil penalty of not more than \$1,000 per day for each violation of any provision of this chapter that relates to any matter specified in Subsection (b)(1)A.- E. above, and a civil penalty of not more than \$5,000 per day for each violation of any provision of this chapter that relates to any matter specified in Subsection (b)(1)F. above, if the City proves that:
- A. the defendant was actually notified of the provisions of the chapter; and
 - B. after the defendant received notice of the chapter provisions, the defendant committed acts in violation of the chapter or failed to take action necessary for compliance with the chapter.
- (4) The City may also institute suit to recover the cost of any actual damages incurred by the City, and any costs of response, remediation, abatement, and restoration incurred by the City as allowed under state or federal laws, or at common law.

- (5) In determining the amount of civil liability, the court should take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the violation, corrective actions by the violator, the compliance history of the violator, and any other factors as justice requires.
- (6) Whenever it appears that a violation or a threat of violation of any provision of Texas Water Code § 26.121, or any rule, permit, or order of the Commission has occurred or is occurring within the jurisdiction of the City of Fort Worth, exclusive of its extraterritorial jurisdiction, the City, in the same manner as the Commission, may have a suit instituted in a state district court through its City Attorney for the injunctive relief or civil penalties, or both, authorized in Texas Water Code § 26.123 (a), against the person who committed or is committing or threatening to commit the violation. This power is exercised pursuant to Texas Water Code § 26.124. In any suit brought under this subsection, the Commission is a necessary and indispensable party.
- (7) Filing a suit for civil penalties or other remedies shall not be a bar against, or a prerequisite for, taking any other action against a violator.

[Section 12.5-124 through 12.5-135 reserved]

TxDOT Program

As required in Part III.B of the District's permit, TxDOT must require the elimination of illicit discharges and improper disposal practices as expeditiously as reasonably possible. Where elimination of an illicit discharge within 30 days is not possible, TxDOT must require an expeditious schedule for removal of the discharge. In the interim, TxDOT must require the operator of the illicit discharge to take all reasonable and prudent measures to minimize the discharge of pollutants to the MS4.

The District does not have the legal authority to enforce state laws. TxDOT must rely completely on TCEQ or a local municipal agreement for law enforcement. As such, upon detection of a potential illicit connection, dumping, other illegal activity, or accident spills, the District will investigate on-site and within the state ROW and then report the problem as appropriate. In the event that a possible illicit discharge is identified, the District will trace the flow upstream to the extent of state property. The District will report flows originating off of state ROW to the appropriate responsible party for further action. In the event the flow appears to create a hazard or contain toxic or noxious substances, the District will report the flow to either the TCEQ or EPA. TxDOT also has an "Interagency Cooperation Contract" between the TCEQ and TxDOT that is intended to mitigate potential pollutant discharges to surface waters and to environmentally sensitive areas.

C. Overflows and Infiltration:

Fort Worth Water Department Inflow and Infiltration Program

The Fort Worth Water Department has two major programs to limit seepage and overflows of sanitary sewage from entering the MS4. One program is an ongoing effort to maintain and repair defective portions of the sanitary sewer system, and to eliminate stoppages in the system as soon as possible after they occur. A second program involves implementation of a systematic inflow/infiltration (I/I) reduction effort.

The Field Operations Division of the Fort Worth Water Department has an aggressive wastewater collection system operations and maintenance program that combines preventive and scheduled maintenance, corrective (emergency) repairs, aggressive cleaning and replacement.

Preventive/scheduled maintenance activities include internal televised inspection of problem lines, identification and repair of offset joints, cracks, manholes, etc. These repairs are generally completed within 30 days of their identification. We have also developed a scheduled walkout program to follow basin mains, identifying and correcting defects as we find them. A monthly helicopter flight also identifies defects. We have identified and plugged all known storm drain/sanitary sewer bypass connections. An aggressive vaporooter program eliminates root growth in sanitary sewers (through chemical application), which ultimately decreases the size and number of cracks.

Corrective (emergency) repairs are those involving major collapse of a line. Our goal is to complete these repairs within three (3) days.

Replacement of sewer lines includes both trenchless and open cut methodologies and is effected through capitalized projects. Approximately \$5 million is budgeted each year for such work and is dedicated to replacements (not new lines or major collection mains, which are funded through capital improvement funds). The replacements are prioritized based upon the degree of failure of the lines.

An I/I reduction effort is incorporated into the City's Wet Weather Wastewater Management Program. The program, implemented in 1993 as directed by a USEPA Administrative Order, was designed to eliminate wastewater collection system overflows by the year 2001. The I/I program includes four major projects: an engineering management/prioritization study, an I/I reduction project, a major collector relief project and a wastewater treatment plant improvement project.

The Fort Worth Wet Weather Wastewater Management Program Administrative Order was closed by the USEPA as of August of 2000 based on substantial completion of all work identified in the Administrative Order. To date over 96% of all the construction projects included in the program have been completed. There were over 350 construction projects in the program and these projects addressed the replacement or rehabilitation of existing lines or the addition of new sanitary sewers to increase the capacity of the system. The total amount of footage included in these projects was over 1,350,000 feet. Completion of the final projects was accomplished prior to the end of 2001. The program has also completed the sanitary sewer

system hydraulic model to assist the department in the continuing evaluation of the collection system in the coming years.

TRWD Program

The TRWD has a General Ordinance in place that prohibits untreated sanitary sewer discharges into its reservoirs and within the jurisdictional area of the District. Employees perform inspections of District properties and illicit discharges are reported to District offices where appropriate personnel are assigned to investigate and mitigate the discharge. A description of the General Ordinance is contained in the TRWD management program description section of this re-application.

TxDOT Program

The District neither owns nor operates any municipal sanitary sewer lines within its ROW nor regulates this activity within its ROW. If sanitary sewer discharges into District MS4s are identified during dry weather or illicit discharge inspections, the District will notify the sewer owner and/or TCEQ of said discharges. This activity would be reported yearly to TCEQ as part of the District's dry weather and illicit discharge screening.

To minimize potential sanitary sewer overflows by systems operated by others, TxDOT requires that any plans for sanitary sewer construction in TxDOT ROW be sealed by a professional engineer. Watertight rings and bolt down covers are utilized. On a case-by-case basis, TxDOT also requires that the sanitary sewer be encased in flowable fill or steel casing, which provides additional security from damage and/or leakage.

D. Household Hazardous Waste and Used Motor Vehicle Fluids:

The City's environmental ordinance prohibits discharge/dumping of materials such as grass clippings, leaf litter and animal wastes into storm sewers (e.g. sweeping collected grass clippings into a curb inlet or dumping bags of collected leaves into a drainage channel). However, it is not the intent of the ordinance to prohibit natural occurrences (e.g. leaves that fall from trees into storm drainage channels or grass clippings left as mulch that are inadvertently washed into a storm drain during a rain event).

The City of Fort Worth operates a permanent household hazardous waste collection center, known as the Environmental Collection Center (ECC). The center is open to the public from 11:00 AM to 7:00 PM on Thursday and Friday and from 9:00 AM to 3:00 PM on Saturday. Residents of Fort Worth and other cities that participate in our program can bring a variety of wastes to the center for disposal, free of charge. The center will accept all types of automotive fluids, batteries, and household chemicals; fluorescent lights; pesticides; herbicides; paint; and most types of hazardous materials. Materials not accepted at the center include: ammunition, medical waste, explosives, radioactive materials, electronics, gas cylinders, and tires. Understanding that many citizens either cannot, or will not, travel to the center; the City also sponsors numerous mobile collections where employees go into the neighborhoods for one-day collection events. In addition to the ECC the city has three free drop-off stations open to Fort Worth homeowners and renters. Drop-off stations may be used for disposal of trash and recyclables, as well as old tires (limit four per household every six months),

furniture, minor remodeling debris, brush and yard trimmings, home computers, and electronics and other bulky items such as appliances and televisions.

E. MS4 Screening and Illicit Discharge Inspections:

City of Fort Worth Program

Fort Worth has an ongoing Dry Weather Field Screening program that tests all known major outfalls in the city a minimum of once per five (5) years. Investigators perform trace-back and other follow-up investigation in response to any suspected illicit discharge. The Dry Weather Field Screen program is described in detail in Section 11 of this document (Monitoring and Screening Programs).

TxDOT Program

The normal inspection and maintenance activities performed by TxDOT will include screening for potential environmental problems with the storm drainage systems. This will include visual inspections for dry weather discharges or other indications of potential undesirable environmental impacts.

TxDOT has in-place an Advanced Outfall Tracking System (AOTS) which tracks the outfall locations, screening data (both physical observation and chemical result), and classification of each MS4 outfall. Dry weather screening points will be chosen based on the Tracking system as well as the land use and the discharge route.

F. NPDES and TPDES Permittee List:

The City of Fort Worth has developed Microsoft Access databases to track permitted construction sites and industrial facilities. The databases were initially populated using information from the EPA Region 6 NOI database. These lists are updated regularly with information obtained from the TCEQ Central Registry and Water Quality General Permits search tool and information gathered by City staff in the course of construction site and industrial facility inspections.

Section 12.5-333 of the City's Environmental Code requires that all facilities required to operate under an NPDES or TPDES permit must send a copy of their NOI to the City. It states:

Section 12.5-333. Submission of NOI to City.

- (a) The operator of a facility, including construction sites, required to have a NPDES or TPDES permit to discharge storm water associated with industrial activity shall submit a copy of the Notice of Intent (NOI) to the Director at the same time the operator submits the original Notice of Intent to the EPA or the TNRCC as applicable.
- (b) The copy of the Notice of Intent may be delivered to the Director either in person or by mailing it to:

Notice of Intent to Discharge Storm Water
Department of Environmental Management
1000 Throckmorton Street
Fort Worth, Texas 76102

- (c) A person commits an offense if the person operates a facility that is discharging storm water associated with industrial activity without having submitted a copy of the Notice of Intent to do so to the Director.

G. MS4 Map:

1. Requirements:

- A. *The permittee shall develop or revise as necessary the MS4 map to include the following information:*
 - i. *The location of all MS4 outfalls;*
 - ii. *The names and locations of all waters of the U.S. that receive discharges from the outfalls; and*
 - iii. *Any additional information needed by the permittee to implement its SWMP.*
- B. *The permittee shall document the source information used to develop the MS4 map, including how the outfalls are verified and how the map will be regularly updated.*

2. Deadlines for Compliance:

- A. *The new MS4 Areas: Within one (1) year from the date of permit issuance, the permittees shall develop and implement procedures to insure that the above requirements are met for all new portions of the MS4.*
- B. *Existing MS4 Areas: Within three (3) years from the date of permit issuance, the permittees shall demonstrate that it has evaluated all existing portions of the MS4 and that the above requirements have been met to the extent practicable.*

All MS4 assets have been mapped from schematics (drawings/plans) and have been field verified. Field survey will be completed in 2013, which will more than likely entail finding additional assets not included on the schematics. Waters of the U.S. are encompassed in the National Hydrography Dataset (NHD) as maintained by the United States Geological Survey (USGS). Currently, stormwater infrastructure data are maintained by the TPW Stormwater Management Division. MS4 assets are mapped in any newly developed areas, annexations or redevelopments. This is currently accomplished by contract.

TxDOT Activities

An information management system for data, called the Advanced Outfall Tracking System (AOTS) is currently being developed. The District will utilize AOTS to compile a storm sewer outfall map that will contain the elements required under the MS4 permit. AOTS will be a web-

based tool with a central storage database that holds field-collected and desktop mapped TxDOT related outfall and crossing point data. The AOTS will allow for storage of data associated with field inspections, follow-up investigations, and third-party notifications. The stored data will be accessed via the internet in the form of an outfall, crossing point, and drainage area GIS map, together with the corresponding attribute and inspection data. The website will be primarily broken down into a Map Viewer and Data manager. Overall, the website will provide dynamic mapping capabilities and near-real time tracking information related to TxDOT outfalls within individual districts in particular and across the entire state of Texas in general.

Develop Plan to Update Outfall Locations:

Develop a plan to update the map with new and relocated outfalls in year 1. Potential sources for outfall location data include but are not limited to:

- Drive the MS4 area and identify new and relocated outfall locations
- Identify outfalls during the illicit discharge survey
- Include new and relocated outfall location as part of illicit discharge detection survey
- Map and screen new outfall locations in new MS4 areas within five (5) years.
- Map and screen new outfalls locations in existing MS4 areas within three (3) years.
- Obtain a list of all Notices of Intent for construction activities from District Construction personnel (September – August), review list and document Phase II roadways with new and relocated outfalls.

Implement Plan Developed to Update Outfall Locations:

Implement plan developed in year 1 to update outfalls on new and relocated construction projects on an on-going basis.

- The new MS4 Areas: TxDOT – Fort Worth District will implement the above plan in year 2.
- Existing MS4 Areas: TxDOT – Fort Worth District will implement the above plan in year 3.

H. Spill Prevention and Response:

Description: Spill Prevention is addressed by the Fort Worth Fire Department's (FWFD) Fire Prevention Bureau. The City of Fort Worth has two primary programs to address spills that may impact the MS4. The FWFD has a HazMat Squad to address major incidents and the Environmental Management Department has a response team to address minor incidents.

FWFD PREVENTION PROGRAM

The FWFD has forty-two (42) fire stations throughout the city at this time with plans for additional stations. The firemen routinely inspect each business and institution in their areas for fire hazards, outdated fire extinguishers and improperly stored hazardous materials. When hazards are identified, the responsible party is given a specified amount of time to correct the violation. Officers with the FWFD Fire Prevention Bureau also inspect institutions, business, and industries concentrating on areas where hazardous materials are kept including aboveground/underground storage tanks. Complaints are also investigated.

FWFD RESPONSE POLICY

The City of Fort Worth was one of the first communities in Texas to establish a HazMat squad in its fire department. Currently, the FWFD has one main HazMat squad stationed downtown, in the center of the city, with four (4) satellite squads stationed in other sectors of the city. All squad members are thoroughly trained and properly equipped to respond to any hazardous material incident.

When a spill is reported via the City's 9-1-1 system, both the station nearest the incident and the HazMat squad are dispatched. The squad uses their on-board computer to begin researching the spilled material, its characteristics and constituents, if known, while en-route to the scene. Frequently, a tentative plan of action is developed by the time the squad has arrived on scene and the squad will have notified Alarm Dispatch to contact other City departments with anticipated personnel and resource requests. The FWFD uses an integrated incident command system with other departments and outside personnel reporting to the Incident Commander upon arrival to the scene.

CFW- TPW/ENV SPILL RESPONSE PROGRAM

When the City's spill response program was developed in 1996 a Spill Response Team was established within the Environmental Management Department (EMD) to assist the FWFD in mitigating spills. The team consisted of four staff that worked in shifts of two staff members per shift and was dispatched through both the FWFD Alarm Dispatch Division and the EMD Field Office.

The FWFD has taken on an increasingly responsible role in cleaning up small spills to the extent that TPW/ENV no longer needs four staff dedicated to spill response. For most small motor vehicle accidents, the FWFD remediates any spills and transports absorbent and other materials to the fire station. TPW/ENV periodically picks up the collected waste for proper disposal. In 2006 EMD spill response tasks were integrated into the department's watershed monitoring and investigations group, which currently consists of four field staff and a supervisor working regular four- or five-day weeks Monday through Friday.

TPW/ENV maintains the ability to handle spills of both hazardous and non-hazardous materials of up to 500 gallons and the City continues to keep two private environmental response firms under contract to remediate larger spills when required.

TPW/ENV field staff is empowered to enforce City Code and as such, can require remediation of any spill when a private entity is identified as the responsible party. In a typical incident, the responsible party is issued a written Notice of Violation and given a specific amount of time, appropriate to the type and amount of material spilled, to remediate the spill. If the directives of the NOV are not followed, a criminal citation may be issued and one of the City's contractors will be called in to remediate the spill if necessary. The responsible party may then be billed for the contractor's services. Failure to pay the bill may result in a civil suit being filed by the City Attorney's Office.

TRWD PROGRAM

TRWD will explore good housekeeping practices at all District owned facilities. Pollution prevention measures will be evaluated at District owned operations facilities and locations where materials may be stockpiled. Necessary improvements will be made to reduce pollutant load from facilities owned by TRWD. Annual training for operations employees will be implemented to make them aware of pollution prevention practices in the field and at maintenance facilities.

TXDOT PROGRAM

TxDOT must implement and improve, as necessary, programs that prevent, contain, and respond to spills that may discharge into the MS4. Where discharge of material resulting from a spill is necessary to prevent loss of life, personal injury, or severe property damage, TxDOT must ensure that the parties responsible for the spill take all reasonable steps to minimize or prevent any adverse effects to human health or the environment. The spill response programs may include a combination of spill response actions by TxDOT (and/or another public or private entity), and legal requirements for private entities within the jurisdiction of TxDOT. This permit does not transfer liability for a spill itself from the party(ies) responsible for the spill to TxDOT(s) nor relieve the party(ies) responsible of any statutory or regulatory requirements or liability for the spill. As further described in Section 16, Legal Authority, TxDOT has little, if any, authority to regulate discharges occurring off the ROW and flowing into state maintained drainage systems.

TxDOT's *Occupational Safety Manual* details procedural guidance on spill response and the handling of suspected toxic/hazardous materials. The program procedures are as follows:

- a. In accordance with TxDOT policy, TxDOT staff is prohibited from handling, cleaning up, or otherwise coming into contact with toxic hazardous materials or unknown substances on TxDOT roads and Right-of-Way.
- b. If a known spill of petroleum product is of less than 25 gallons, TxDOT representatives can initiate efforts to clean-up the spill.
- c. If the spill occurs on TxDOT property or from a TxDOT vehicle and TxDOT is deemed to be the "responsible party", then the TxDOT District HazMat Coordinator

will be notified. He will make appropriate notification to the regulatory agencies, and may participate in discussions involving spill cleanup.

- d. When a TxDOT representative is the First Responder to a spill on a TxDOT road, they are to notify the City Fire Department. TxDOT will assist in helping to respond to a spill in the following manner:
 1. Provide assistance in directing traffic;
 2. Provide barriers to limit traffic flow on portions of roads or exit and entrance ramps; and
 3. Provide sand to limit migration of the spill.
- e. Where the spill cannot be handled by TxDOT personnel (petroleum product of more than 25 gallons), TxDOT staff are to follow the recommendations of the District's HazMat Coordinator, appropriate regulatory agencies at the site, which may include city, TCEQ or other spill response experts.
- f. When wastes or unidentified chemicals appear on the TxDOT highways or Right-of-Ways, TxDOT personnel will notify the District HazMat Coordinator who will work closely with other responders to the spills, but will defer to TCEQ first responders, as appropriate.
- g. When the responsible party is identifiable, they will be contacted and asked to participate in the removal or clean-up of the waste.
- h. When the responsible party cannot be immediately identified, the District HazMat Coordinator is notified who will notify TCEQ and or local authority Spill Response Team. If appropriate, a contractor is brought to the scene to begin removal action. TxDOT representatives are prohibited from removing any wastes or spill materials unless they meet the conditions of (b) above.