STATE OF TENNESSEE
Hamilton County

January 5, 2011
DATE (Month, Day, Year)

Hamilton County Board of Commissioners

RESOLUTION

No. 111-7

A RESOLUTION TO REVISE THE RULES AND REGULATIONS FOR THE HAMILTON COUNTY STORM WATER POLLUTION CONTROL PROGRAM.

WHEREAS, Resolution 304-13 approved the Interlocal Agreement to implement Phase II of the Storm Water Pollution Control Program; and,

WHEREAS, Resolution 905-33 approved the Rules and Regulations for the Hamilton County Storm Water Pollution Control Program; and,

WHEREAS, The Storm Water Management Committee has voted to revise the Rules and Regulations; and

WHEREAS, a copy of the proposed revised Rules and Regulations is attached hereto and incorporated herein by reference, as though fully and completely copied verbatim; and

NOW, THEREFORE, BE IT RESOLVED BY THIS LEGISLATIVE BODY IN SESSION ASSEMBLED:

That Hamilton County has accepted the revision to the Storm Water Rules and Regulations for the Phase II Storm Water Pollution Control Program.

BE IT FURTHER RESOLVED THAT THIS RESOLUTION TAKE EFFECT FROM AND AFTER ITS PASSAGE, THE PUBLIC WELFARE REQUIRING IT.

MB: 365
PAGE: 54

Approved: ☑
Rejected: ☐

CERTIFICATION OF ACTION

County Clerk

Approved: ☑
Vetoed: ☐

County Mayor

January 5, 2011
Date

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HAMILTON COUNTY WATER QUALITY PROGRAM RULES AND REGULATIONS

Section 1. General provisions

A. Program Area. These Rules and Regulations are applicable and uniformly enforceable within the Tennessee municipalities of Collegedale, East Ridge, Lakesite, Lookout Mountain, Red Bank, Ridgeside, Soddy-Daisy, designated unincorporated areas within Hamilton County, and other eligible communities which may join the Hamilton County Water Quality Program (hereinafter called the Program) and enact these Rules and Regulations from time to time. All such participating communities are hereinafter collectively identified as "the parties."

B. Authorization. The Program is authorized under an Interlocal Agreement dated April 16, 2004, adopted by all of the parties pursuant to Tennessee Code Annotated (TCA) §5-1-113 and 12-9-101. Said Interlocal Agreement specifies that the Program shall be enforced by Hamilton County under applicable County Rules pursuant to TCA §5-1-121 and 123. Applicable terms and provisions of said Interlocal Agreement and the Standard Operating Procedures for the Hamilton County Water Quality Program, adopted by the parties subsequent to the Interlocal Agreement, are hereby incorporated into and made a part of these Rules and Regulations by reference and shall be as binding as if reprinted in full herein.

C. Purpose. It is the purpose of these Rules and Regulations to:

(1) Protect, maintain, and enhance the environment of the Program Service Area and the health, safety, and general welfare of its citizens by controlling discharges of pollutants to the Program's stormwater system.

(2) Maintain and improve the quality of the receiving waters into which the stormwater outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and ground water.

(3) Enable the parties to comply with the National Pollution Discharge Elimination System (NPDES) permit and applicable regulations (40 CFR §122.26) for stormwater discharges. Compliance shall include the following six minimum stormwater pollution controls as defined by US EPA:

(a) Public education and outreach

(b) Public participation

(c) Illicit discharge detection and elimination

(d) Construction site runoff control for new development and redevelopment

(e) Post-construction runoff control for new development and redevelopment

(f) Pollution prevention/good housekeeping for municipal operations

(4) Allow the parties to exercise the powers granted in TCA §68-221-1105, to:

(a) Exercise general regulation over the planning, location, construction, operation, and maintenance of stormwater facilities in the municipalities, whether or not the facilities are owned and operated by the municipalities.

(b) Adopt any Rules and Regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits.

(c) Establish standards to regulate stormwater contaminants as may be necessary to protect water quality.

(d) Review and approve plans and plats for stormwater management in proposed subdivisions or commercial developments.

(e) Issue permits for stormwater discharges or for the construction, alteration, extension, or repair of stormwater facilities.

(f) Suspend or revoke permits when it is determined that the permittee has violated any applicable rule, regulation, resolution, or condition of the permit.

(g) Regulate and prohibit discharges into stormwater facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated. This regulation and prohibition shall be enforceable on facilities and operations which are in existence at the time of the initial adoption of these Rules and Regulations or which may come into existence after the adoption of these Rules and Regulations.

D. Goals of the Program. The primary goals of the Program include but are not limited to:

(1) Raise public awareness of stormwater issues.

(2) Generate public support for the Program.

(3) Teach good stormwater practices to the public.

(4) Involve the public to provide an extension of the Program's enforcement staff.

(5) Support public stormwater pollution control initiatives.

(6) Increase public use of good stormwater practices.

(7) Detect and eliminate illicit discharges into the Program Service Area.

(8) Reduce pollutants from construction sites.

(9) Treat the "first flush" pollutant load to remove not less than 80 percent total suspended solids (TSS).

(10) Remove oil and grit from industrial/commercial site runoff.

(11) Protect downstream channels from erosion.
(12) Encourage the design of developments that reduce runoff.

(13) Reduce or eliminate pollutants from municipal operations.

(14) Provide a model for good stormwater practices to the public through municipal operations impacting stormwater (i.e., municipalities should "lead by example").

E. Administering entity. The Program Staff shall administer the provisions of these Rules and Regulations under the direction of the Management Committee, composed of representatives of the parties. The operating mechanism for the Program is defined by an Interlocal Agreement among the parties and the Standard Operating Procedures adopted by same. The Management Committee is authorized to enforce these Rules and Regulations and to use its judgment in interpreting the various provisions of these Rules and Regulations, the Interlocal Agreement, and the Standard Operating Procedures to ensure that the Program's goals are accomplished. If any Management Committee member is concerned about the appropriateness of any action of the committee, he should report his concerns to the County Attorney, who shall review the situation and issue an opinion within 90 calendar days. Should the County Attorney find that the committee has, in his judgment, acted inappropriately, but a majority of the committee, after due deliberation, disagree with said finding, the committee shall bring the matter before the County Commission for consideration. The determination of the County Commission with regard to the issue shall be final.

Section 2. Definitions

A. Program-specific terminology. As used herein certain words and abbreviations have specific meanings related to the Program. The definition of some, but not necessarily all, such Program-specific terms are, for the purposes of these Rules and Regulations, to be interpreted as described herein below:

(1) **Best Management Practices (BMPs)** means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of stormwater runoff. BMPs also include treatment requirements, operating procedures, and practices to control runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

(2) **BMP Manual** is a book of reference which includes additional policies, criteria, and information for the proper implementation of the requirements of the Program.

(3) **Development** means the alteration of undeveloped land that disturbs one acre or more, or less than an acre if part of a larger common plan of development.

(4) **First Flush** is defined as the initial stormwater runoff from a contributing drainage area which carries the majority of the contributed pollutants.

(5) **Fully Completed Application** means the completed, signed application form accompanied by the appropriate permit fee and the required items indicated on the application form.

(6) **Hot spot** means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. Examples might include operations producing concrete or asphalt, auto repair shops, auto supply shops, large commercial parking areas, and restaurants.

(7) **Inspection and Maintenance Agreement** means a legally recorded document which acts as a property deed restriction and which provides for long-term maintenance of stormwater management practices.

(8) **Land Disturbance Activity** means any land change which may result in increased soil erosion from water and wind and the movement of sediments into community waters or onto lands and roadways within the community, including but not limited to clearing, dredging, grading, excavating, transporting, and filling of land, except that the term shall not include agricultural activities, exempted under the Clean Water Act, and certain other activities as identified in the Program's BMP Manual.

(9) **Management Committee** is a group of people composed of one representative of the County and one representative of each of the cities participating in the Program.

(10) **Municipality** as used herein refers to Hamilton County, Tennessee, a county and political subdivision of the State of Tennessee; the Cities of Collegedale, East Ridge, Lakesite, Red Bank, Ridgeside, and Soddy-Daisy, Tennessee, and the Town of Lookout Mountain, Tennessee, all of which are chartered municipalities of the State of Tennessee; and/or any other participating governmental entity which may join the Program in the future.

(11) **Organization** means a corporation, government, government subdivision or agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(12) **Person** means an individual or organization.

(13) **Program refers to a comprehensive** program to manage the quality of stormwater discharged in or from the Program Area's municipal separate storm sewer system (MS4).

(14) **Program Cost** refers to any monetary cost incurred by the Program in order to fulfill the responsibilities and duties assigned to the Program under these Rules and Regulations. Program costs specifically include costs incurred by any participating municipality for actions performed on behalf of or at the request of the Program.

(15) **Program Manager** is the person assigned to the Office of the Hamilton County Engineer, and designated to supervise the operation of the Program.

(16) **Program Service Area** shall consist of the entire physical area within the corporate limits of each participating city together with the urbanized unincorporated area of the County.

(17) **Program Staff** is a group of people hired to assist the Program Manager in carrying out the duties of the Program.

(18) **Redevelopment** means the alteration of developed land that disturbs one acre or more, or less than an acre if part of a larger common plan of development, and increases the site or building impervious footprint, or offers a new opportunity for stormwater controls. The term is not intended to include such activities as exterior remodeling, which would not be expected to cause adverse stormwater quality impacts.

(19) **Responsible Party** means owners and/or occupants of property within the Program Area who are subject to penalty in case of default.

(20) **Runoff** See stormwater runoff.

(21) **Runoff Quality Objectives** refer to the "performance criteria for runoff management" adopted by the Management Committee in conformance with applicable provisions of Paragraph 4.B.4. hereinafter in accordance with the "goals of the Program" as outlined under Paragraph 1.D. hereinbefore.

(22) **Stormwater** means stormwater runoff, snow melt runoff, and surface runoff and discharge resulting from precipitation.

(23) **Stormwater Manager** See Program Manager.

(24) **Stormwater runoff** means flow on the surface of the ground, resulting from precipitation.

Section 3. Best Management Practices (BMP) Manual

A. Stormwater Design or BMP Manual

(1) The Program will adopt a stormwater design and best management practices (BMP) manual (hereafter referred to as the BMP Manual), which is incorporated by reference in these Rules and Regulations as if fully set out herein.

(2) This manual will include a list of acceptable BMPs including the specific design performance criteria and operation and maintenance requirements for each stormwater practice. The manual may be updated and expanded from time to time at the discretion of the Management Committee upon the recommendation of the Program Staff, based on improvements in engineering, science, monitoring and local maintenance experience. Stormwater facilities that are designed, constructed, and maintained in accordance with these BMP criteria will be presumed to meet the minimum water quality performance standards.

Section 4. Land disturbance permits required

A. Mandatory. A land disturbance permit from the Program will be required in the following cases:

(1) Land disturbing activity that disturbs one (1) or more acres of land;

(2) Land disturbing activity that disturbs less than one (1) acre of land if such activity is part of a larger common plan of development that affects one or more acres of land as determined by the Program Manager.

(3) Land disturbing activity that disturbs less than one (1) acre of land if, in the discretion of the Program Staff, such activity poses a unique threat to the water environment or to public health or safety.

B. Application requirements

(1) Unless specifically excluded by these Rules and Regulations, any landowner or operator desiring a permit for a land disturbance activity shall submit to the Program Staff a permit application on a form provided by the Program. The form shall contain a listing of information required for a complete submittal. The Program Manager shall determine whether an item from the permit application submittals may be omitted.

(2) A permit application is composed of two components:

(a) construction activity

(b) permanent stormwater management

The application form lists information required for both components.

(3) The land disturbance permit application fee shall be as established for the Program under the provisions of the Standard Operating Procedures and shall accompany the application form and supporting documents.

(4) General requirements: All sites are required to satisfy the following criteria as specified in the BMP Manual (whether permitted or not):

(a) All land disturbing activities undertaken within the Program Service Area shall be conducted in a manner that controls the release of sediments and other pollutants to the stormwater collection and transportation system in accordance with the requirements of the Program's BMP Manual.

(b) Through the selection, design, and maintenance of temporary and permanent BMPs, provide pollution control for sources of contaminants and pollutants that could enter stormwater.

(c) Protect the downstream water environment from degradation including specific channel protection criteria and the control of the peak flow rates of stormwater discharge associated with design storms shall be as prescribed in the BMP Manual. Demonstrate that the proposed project will not lead to any of the following conditions downstream: Deterioration of existing culverts, bridges, dams, and other structures; Degradation of biological functions or habitat; Accelerated streambank or streambed erosion or siltation; Increased threat of flood damage to public health, life, or property.

(d) Implement additional performance criteria or utilize certain stormwater management practices to enhance stormwater discharges to critical areas

with sensitive resources (e.g., cold water fisheries, shellfish beds, swimming beaches, recharge areas, water supply reservoirs).

(e) Implement specific stormwater treatment practices (STP) and pollution prevention practices for stormwater discharges from land uses or activities with higher-than-typical potential pollutant loadings, known as "hot spots."

(f) Prepare and implement a stormwater pollution prevention plan (SWPPP) and file a notice of intent (NOI) under the provisions of the NPDES general permit for certain industrial sites which are required to comply with NPDES requirements. The SWPPP requirement applies to both existing and new industrial sites. The owner or developer shall obtain the general permit and shall submit copies to the Program Manager. The SWPPP shall include a maintenance plan for any permanent stormwater management controls.

(g) Prior to or during the site design process, consult with the Program Staff to determine if a planned development is subject to additional stormwater design requirements.

(h) Use the calculation procedures as found in the BMP Manual for determining peak flows to use in sizing all stormwater facilities.

(5) Review and approval of application

(a) The Program Staff will review each application for a land disturbance permit to determine its conformance with the provisions of these Rules and Regulations. The Program Staff shall complete the review of an application within 30 calendar days of the receipt of a complete application submittal, as described on the application form. Should an application be rejected, an additional 30 calendar days will be allowed for staff review of each subsequent submission of a revised application. If the Program Staff fails to act within the time limit established hereinbefore, an application shall be presumed to be approved by default. No development shall commence until the land disturbance permit has been approved by the Program Staff or until the time limit allowed for review has expired.

(b) Each land disturbance permit shall be issued for a specific project and shall expire 12 months after its issuance. If work is to continue after the expiration of the permit, the permit holder must submit a written request for renewal of the permit to the Program Manager. If work is complete at the time of permit expiration, the permit holder must submit a Request for Termination to the program as outlined below.

(c) Inspection and Maintenance responsibilities for any permanent stormwater management device and facility will be addressed in the Lifetime Inspection and Maintenance Agreement for the project and have no expiration.

C. <u>Transfer of a permit</u>

(1) Land disturbance permits are transferable from the initial applicant to another party. A

written notice of transfer, on a form acceptable to the Program and signed by both the original applicant and the subsequent applicant, shall be filed with the Program Staff. Such transfer shall not automatically extend the life of the existing permit or in any other way alter the provisions of the existing permit.

(2) The Program Staff will acknowledge the transfer from the initial applicant in writing to both the initial and subsequent applicants.

D. Renewal of a permit

(1) The applicant is solely responsible for submitting a written request for renewal to the Program Manager, if work is to continue after the expiration of the permit.

(2) Renewal of the permit will require payment of an additional land disturbance permit fee in the same amount as the initial fee.

E. Amendment of a permit

(1) A land disturbing permit may be amended when significant changes from the initial permit occur as follows:

(a) Project changes resulting in an increased or decreased amount of disturbed land from what was indicated in the initial permit application; or

(b) Changes resulting in different permanent runoff characteristics from those that were permitted in the initial permit.

(2) Amendments to a permit must be submitted in writing to the Program Manager, and shall include documentation of the changes requiring the amendment. Such documentation may include, but is not limited to, site drawings, amended SWPPP, hydrology reports and permanent stormwater management plans.

(3) Additional fees may be required for an amended permit.

F. Notices of Termination

(1) Land disturbance permits shall remain in effect as stated in Section 4.B.5.b until a Request for Termination (RFT) is submitted to the Program and the request is processed and approved by the Program. The RFT applies only to the construction component of the permit. The permanent stormwater management component(s) (Inspection and Maintenance Agreement and related documentation) of the permit shall have no expiration.

(2) Supporting documents required for the submittal of the Request for Termination shall be outlined on the Request for Termination form and provided to the applicant at permit issuance.

(3) Failure to submit the RFT and supporting documentation and receive approval of Termination of a permit shall result in the Program Manager's request to withhold the issuance of a Certificate of Occupancy or approval of a final plat.

(4) Permit holders will be notified in writing when their permit has been terminated. Termination of the land disturbance component of the permit does not relieve responsibility for proper operation and maintenance of the permanent stormwater management devices and facilities as described in the Inspection and Maintenance Agreement.

Section 5. Non-stormwater discharge permits

A. Commercial and industrial facilities.

Commercial and industrial facilities located within the Program Service Area may in certain situations be allowed to discharge nonpolluting non-stormwater into the stormwater collection system. As allowed by Tennessee Department of Environment and Conservation (TDEC) regulations, certain non-stormwater discharges may be released without a permit. A listing of such allowed discharges in included in Section 9 Section 8 which follows. Except for these discharges, a permit for all nonpolluting non-stormwater discharges shall be required in addition to any permits required by the State of Tennessee for stormwater discharges associated with industrial or construction activity.

B. New Facilities.

The permit application for a new facility requesting non-stormwater discharges shall include the following:

(1) If the facilities are to be covered under the TDEC General NPDES Permit for Stormwater Discharges Associated with Industrial Activity, a General NPDES Permit for Stormwater Discharges Associated with Construction Activity, or an individual NPDES permit, the owner or developer shall timely obtain such permits or file the NOI and shall submit copies to the Program.

(2) Any application for the issuance of a non-stormwater discharge under this article shall include the specific items listed in the Program's BMP Manual.

(3) Each application for a non-stormwater discharge permit shall be accompanied by payment of a non-stormwater discharge permit fee as described in Appendix A to these Rules and Regulations. Said fee shall be established under the provisions of the Standard Operating Procedures for the Program.

C. Review and approval of application

(1) The Program Staff will review each application for a non-stormwater discharge permit to determine its conformance with the provisions of these Rules and Regulations. Within 30 calendar days after receiving an application, the Program Staff shall provide one of the following responses in writing:

(a) Approval of the permit application;

(b) Approval of the permit application, subject to such reasonable conditions as may be necessary to secure substantially the objectives of these Rules and

Regulations, and issuance of the permit subject to these conditions; or

(c) Denial of the permit application, indicating the reason(s) for the denial.

C. Permit duration.

Every non-stormwater discharge permit shall expire within three (3) years of issuance subject to immediate revocation if it is determined that the permittee has violated any of the terms of the permit or if applicable regulations are revised to no longer allow the specific non-stormwater discharge covered by the permit.

Section 6. Program remedies for permittee's failure to perform

A. Failure to properly install or maintain sediment and erosion control measures

(1) If a responsible party fails to properly install or maintain sediment and/or erosion control measures as shown on a sediment and erosion control plan used to secure a land disturbance permit under the Program, the Program Staff is authorized to act to correct the deficiency or deficiencies.

(2) The Program Manager is hereby authorized to issue a "Stop Work Order" to the responsible party in any situation where the Program Manager believes that continued work at a site will result in an increased risk to the public safety or welfare or the downstream water environment. Upon receipt of such a "Stop Work Order," the responsible party shall immediately cease all operations at the site except those specifically directed toward correcting the deficiency or deficiencies in the sediment and/or erosion control measures.

(3) Where the deficiency or deficiencies described hereinbefore do not, in the opinion of the Program Manager, pose an imminent threat to the public safety or welfare or the downstream water environment, the Program Staff shall notify in writing the responsible party of the deficiency or deficiencies. The responsible party shall then have 48 hours to correct the deficiency or deficiencies, unless exigent or other unusual circumstances dictate a longer time. In the event that corrective action is not completed within that time, the Program Staff may take necessary corrective action.

(4) Where, in the opinion of the Program Manager, the deficiency or deficiencies described hereinbefore do pose an imminent threat to the public safety or welfare or the downstream water environment, the Program Staff may immediately act to correct the deficiency or deficiencies by performing or having a third party perform all work necessary to restore the proper function of the sediment and erosion control system. The responsible party will be informed, in writing, as to the actions of the Program Staff as soon as practicable following implementation of the corrective action. The Program Staff may request assistance from the staff of any community participating in the Program to perform the "third party" corrective work described in this paragraph.

(5) The cost of any action to the Program incurred under this section shall be charged to the responsible party. In addition, the responsible party's failure to properly install and/or maintain sediment and erosion control measures in accordance with a land disturbance permit may subject the responsible party to a civil penalty from the

Program as described in a subsequent section of these Rules and Regulations.

B. Failure to meet or maintain design or maintenance standards for permanent stormwater management devices or facilities.

(1) If a responsible party fails or refuses to meet the design or maintenance standards required for permanent stormwater management devices or facilities under these Rules and Regulations, the Program Staff, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the device or facility in proper working condition.

(2) In the event that the permanent stormwater management device or facility is determined to be improperly operated or maintained, the Program Staff shall notify in writing the party responsible for maintenance of the permanent stormwater management device or facility. Upon receipt of that notice, the responsible party shall have 14 days to effect maintenance and repair of the device or facility in an approved manner. In the event that corrective action is not undertaken within that time, the Program Staff may take necessary corrective action.

(3) The cost of any action to the Program incurred under this section shall be charged to the responsible party. In addition, the responsible party's failure to meet the design or maintenance standards of an approved runoff management plan may subject the responsible party to a civil penalty from the Program as described in a subsequent section of these Rules and Regulations.

Section 7. Existing locations and developments

A. Requirements for all existing locations and developments. Requirements applying to all locations and developments at which land disturbing activities occurred prior to the enactment of these Rules and Regulations are described in the BMP Manual.

B. Inspection of existing facilities. The Program may, to the extent authorized by state and federal law, establish inspection programs to verify that all permanent stormwater management devices or facilities, including those built both before and after the adoption of these Rules and Regulations, are functioning within design limits as established within the Program BMP Manual. These inspection programs may include, but are not limited to, routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as sources of increased sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with increased discharges of contaminants or pollutants or with discharges of a type more likely than the typical discharge to cause violations of the municipality's NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include but are not limited to reviewing maintenance and repair records; sampling discharges, surface water, ground water, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMPs.

D. Requirements for existing problem locations.

(1) The Program shall provide written notification to the owners of existing locations and developments of specific drainage, erosion, or sediment problems originating from

such locations and developments and the specific actions required to correct those problems.

(2) The notice shall also specify a reasonable time for compliance.

(3) Should the property owner fail to act within the time established for compliance, the Program may act directly to implement the required corrective actions.

(4) The cost of any action to the Program incurred under this section shall be charged to the responsible party. In addition, the responsible party shall be responsible for the proper maintenance and operation of any device, facility or facilities installed as a part of the corrective action. Failure of the responsible party to properly install, operate, and/or maintain the device, facility or facilities installed as part of the corrective action may subject the responsible party to a civil penalty from the Program as described in a subsequent section of these Rules and Regulations.

E. Corrections of problems subject to appeal.

Corrective measures imposed by the stormwater utility under this section are subject to appeal under Section 12 of these Rules and Regulations.

Section 8. Illicit discharges

A. Scope.

This section shall apply to all water generated on developed or undeveloped land entering any separate storm sewer system within the Program service area.

B. Prohibition of illicit discharges.

No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of stormwater except as permitted under Section 5 of these Rules and Regulations or allowed as described below. The commencement, conduct, or continuance of any non-stormwater discharge to the municipal separate storm sewer system is prohibited except as described as follows:

(1) Uncontaminated discharges from the following sources:
- (a) Water line flushing
- (b) Landscape irrigation
- (c) Diverted stream flows
- (d) Rising ground water
- (e) Uncontaminated ground water
- (f) Uncontaminated pumped ground water
- (g) Discharges from potable water sources
- (h) Foundation drains
- (i) Air conditioning condensate
- (j) Irrigation water
- (k) Springs
- (l) Water from crawl space pumps
- (m) Footing drains

(n) Lawn watering
(o) Individual residential car washing
(p) Flows from riparian habitats and wetlands
(q) Dechlorinated swimming pool discharges
(r) Street washwater.
(s) Discharges or flows from fire fighting activities are excluded from the effective prohibition against non-stormwater and need only be addressed where they are identified as significant sources of pollutants to waters of the state.

(2) Discharges specified in writing by the Program as being necessary to protect public health and safety.

(3) Dye testing, if the Program has so specified in writing.

C. Prohibition of illicit connections

(1) The construction, use, maintenance, or continued existence of illicit connections to the separate municipal storm sewer system is prohibited.

(2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

D. Reduction of stormwater pollutants by the use of BMPs.

Any person or party responsible for the source of an illicit discharge may be required to implement, at the person's or party's expense, the BMPs necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

E. Notification of spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information on any known or suspected release which has resulted, or may result, in illicit discharges of non-allowed pollutants into the stormwater conveyances of the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event that such a release involves hazardous materials, the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, the person shall notify the Program Staff in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the Program Staff within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

F. Enforcement.

(1) Enforcement authority. The Program Manager or his designees shall have the authority to issue notices of violation and citations and to impose the civil penalties provided in this section.

(2) Notification of violation

(a) Written notice. Whenever the Program Manager finds that any permittee or any other person discharging non-stormwater has violated or is violating these Rules and Regulations or a permit or order issued hereunder, the Program Manager may serve upon such person written notice of the violation. A copy of any such notice shall be sent to the Management Committee member representing the municipality in which the discharger is located and other administrative official as designated by each participating community. Within ten (10) days of this notice, an explanation of the violation and a plan for the correction and prevention thereof, to include specific required actions, shall be prepared by the discharger and submitted to the Program Manager. Submission of this plan and/or acceptance of the plan by the Program Staff in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.

(b) Consent orders. The Program Manager is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to paragraphs (d) and (e) below.

(c) Show cause hearing. The Program Manager may order any person who violates these Rules and Regulations or permit or order issued hereunder to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the violator show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing.

(d) Compliance order. When the Program Manager finds that any person has violated or continues to violate these Rules and Regulations or a permit or order issued there under, he may issue an order to the violator directing that, following a specific time period, adequate structures and devices be installed or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.

(e) Cease and desist orders. When the Program Manager finds that any person has violated or continues to violate these Rules and Regulations or any permit or order issued hereunder, the Program Manager may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

1) Comply forthwith; or

2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

(2) Civil Penalties

(a) Assessment of penalties: In addition to the authority granted to the Program Manager in the preceding paragraphs to address illicit discharge violations, the Program Manager may, in accordance with the provisions of Section 11 of these Rules and Regulations, impose a civil penalty on the party responsible for an illicit discharge.

(b) Appeals: All penalties assessed under this section may be appealed in accordance with the provisions of Section 12 of these Rules and Regulations.

Section 9. Conflicting standards

A. Conflicting standards. Whenever there is a conflict between any standard contained in these Rules and Regulations, any BMP Manual adopted by the Program under these Rules and Regulations, or any applicable state or federal regulation, the strictest standard shall prevail.

Section 10. Program fees

A. Annual Program fees. The Program shall be financed primarily through an annual fee charged to all residential, commercial, and industrial stormwater dischargers located within the Program Service Area.

(1) Initial annual Program fees

(a) Residential Properties: A single residential annual fee of $9.00 shall be adopted initially for all households in the Program Service Area. Property used for agricultural or residential purposes and shown with a structure or structures of some positive value on the records of the Hamilton County Assessor of Property shall be charged a residential annual Program fee as described above. Multi-family residential complexes shall be charged one residential annual Program fee for each unit in the complex regardless of the actual occupancy of a given unit. Manufactured home parks and developments shall be charged one residential annual Program fee for each space in the development regardless of the actual occupancy of a given space.

(b) Commercial and Industrial Properties: Property used for commercial or industrial purposes within the Program Service Area and shown with a structure or structures of some positive value on the records of the Hamilton County Assessor of Property shall initially be charged an annual fee of $108 per impervious acre of development on the property but not less than the annual residential Program fee. Annual stormwater fees for commercial and Industrial properties shall be rounded to the nearest dollar. Such rounding shall be applied to all annual stormwater program fees collected by the County Trustee and shall be accomplished by rounding amounts ending in $0.01 to $0.49 down to the nearest dollar and amounts ending in $0.50 to $0.99 up to the nearest dollar. Such rounding only applies to the base stormwater fee, and not to any interest or penalty added to delinquent fee.

(c) Governmental, institutional, other tax-exempt properties, state tax-relief recipient properties, and properties exempted by statute or action of the Management Committee shall not be charged an annual Program fee.

(2) Annual fee revision procedures:

The annual Program fee shall only be changed through the following multi-step procedure:

(a) During the first quarter of each calendar year, the Program Manager shall perform a review of the Program's financial condition, including an estimate of probable income and expenses for the upcoming year. Should the annual review indicate that the Program will experience a significant budget imbalance in the coming year, the Program Manager shall present to the Management Committee a request to revise the annual fee structure to correct the imbalance.

(b) The Management Committee shall, at the next meeting following the receipt of the Program Manager's recommendation, examine the annual financial review and the Program Manager's recommendation for the adjustment in the annual fees. If no regular meeting of the Management Committee is scheduled within 30 calendar days of the issuance of the Program Manager's recommendation, the Chair of the committee shall call a special meeting. The Management Committee shall be free to adjust the proposed revisions, if any, in the amounts of the annual fees to any amounts which are supported by three-fourths of the members of the Management Committee.

(c) Once the Management Committee adopts an annual fee revision recommendation, the Program Manager shall prepare a draft resolution incorporating the recommendation for action by the Hamilton County Commission. The Program Manager shall submit the draft resolution for consideration at an upcoming meeting of the County Commission, as allowed by the rules and procedures of the County Commission. The County Commission may adopt the recommendation, reject the recommendation, or adopt a different annual fee revision based on their own assessment of the Program's financial situation, subject to the limitations described in the Interlocal Agreement establishing the Program. The action of the County

Commission shall be final.

(3) Annual Fee Incorporation in Municipal Stormwater Fee:

Nothing contained herein shall prohibit or restrict any participating municipality from enacting and collecting an annual stormwater fee within its own jurisdictional boundaries which is higher than the Program's annual fee. The Program's annual fee shall be incorporated in the municipality's annual fee. The municipality may collect and utilize the excess funds derived from a higher annual stormwater fee to address stormwater issues within its boundaries as the municipality judges to be in its own best interest.

(4) Collection of Delinquent Annual Fee Payments:

When any owner of any property subject to the annual Program fee, fails to pay the annual Program fee on or before the date when such Program fee is required to be paid, interest and penalty shall be added to the amount of the Program fee due, at the same rate and in the same amount as that set by State Law for delinquent property tax. (See T.C.A. §67-1-801). Should the owner of any property subject to the annual Program fee fail to remit payment for said fee within the time period adopted by the Management Committee for such payments, the Program is authorized to take any and all actions which the Management Committee deems appropriate to try to collect the delinquent fee.

B. Special Program fees.

The Program shall be allowed to charge special Program fees to individuals and organizations for specific activities which require input from the Program Staff. Because of the service-related nature of the special Program fees, they shall be applicable to all stormwater dischargers located within the Program Service Area, including dischargers who may be exempt from the annual Program fee. Special Program fees shall comply with the following provisions:

(1) Types: Special Program fees may be charged for the following types of services:

(a) Development Plans Review: Any person or organization with planned construction that will disturb one acre or more shall submit development plans to the Program Staff which describe in detail the planned construction's conformance with Program requirements for stormwater pollution control at the site of the development. "Disturb" as used in this section shall identify any activity which covers, removes, or otherwise reduces the area of existing vegetation at a site, even on a temporary basis.

(b) Erosion Control Plans Review: Any person or organization with planned construction that will disturb one acre or more shall submit erosion control plans to the Program Staff which describe in detail the planned construction's conformance with Program requirements for erosion control at construction sites. It is understood that the Erosion Control Plans Review fee shall include on-site inspections by qualified member(s) of the Program Staff of the installed erosion control measures as defined by the approved erosion

control plans.

(c) Erosion Control Non-Compliance Re-Inspection: Should any on-site inspection of installed erosion control measures reveal that the measures have been improperly installed, prematurely removed, damaged, or have otherwise failed and that such deficiency does not pose an imminent threat to the public safety or welfare or the downstream water environment, the Program shall inform the responsible party of the deficiency, the responsible party's obligation to bring the installation into compliance with the approved plan, and the assessment of a re-inspection fee. The re-inspection fee shall reimburse the Program for the costs associated with an inspector's returning to a specific site out of the normal inspection sequence.

(d) Non-Stormwater Discharge Permit Review: Commercial and industrial facilities located within the Program Service Area may be allowed to discharge non-polluting wastewater into the stormwater collection system. All such discharges, unless covered by a permit issued directly by TDEC or successor agency, must be covered by a discharge permit issued by the Program Staff and renewed annually. Fees charged by the Program for such Non-Stormwater Discharge Permits will include the costs of the periodic sampling and testing of the discharge, determination of the amount of the discharge, and any costs associated with reviewing and issuing the permit and maintaining necessary records pertaining to the permit.

(e) Residential Development Retention/Detention Basin Lifetime Operation Inspection and Maintenance Fee. The developer of the residential development shall pay an Inspection Lifetime Operation and Maintenance Fee to the Program for each retention/detention basin. All such fees received by the Program shall be deposited in an investment account and the earnings of the account shall be used for the maintenance, repair, and operation of the retention/detention basins should maintenance not be properly performed by the owner (s) after due notice and the Program orders the work performed.

(f) Other: The Management Committee may from time to time identify other specific activities which warrant a Special Program Fee. No such fee shall be enacted unless it is endorsed by the County Mayor and approved by the County Commission. Procedures for establishing a Special Program Fee other than those identified above shall generally comply with the procedures for making revisions to the Annual Program Fee as described in the preceding section.

(2) Initial Special Program Fees: The initial amounts of the various Special Program Fees shall be as noted in Appendix A to these Rules and Regulations.

(3) Special Program Fee revision procedures: Special Program Fees shall be changed only through the following multi-step procedure:

(a) The Program Manager shall review the special Program fees during the annual Program financial review required under the "Annual Fee Revision

Procedures" described in a previous section. The Program Manager shall determine the financial viability of each special Program fee and present to the Management Committee requests for revision of those fees, if any, which the Program Manager believes should be adjusted.

(b) Once the Program Manager has submitted his or her recommendations, revisions of the special Program fees shall comply with the procedures for Management Committee review and County Commission action identified under the "Annual Fee Revision Procedures" described hereinbefore.

Section 11. Penalties

A. Violations.

Any person who shall commit any act declared unlawful under these Rules and Regulations, who violates any provision of these Rules and Regulations, who violates the provisions of any permit issued pursuant to these Rules and Regulations, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action required by the Program, shall be guilty of a civil offense.

B. Penalties.

Under the authority provided in TCA §68-221-1106, the Program declares that any person violating the provisions of these Rules and Regulations may be assessed a civil penalty by the Program of not less than fifty dollars ($50.00) and not more than five thousand dollars ($5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation. Applicable penalties for some specific violations are outlined in the Enforcement Response Plan described in Appendix B of these Rules and Regulations.

C. Measuring civil penalties.

In assessing a civil penalty, the Program Manager may consider:

(1) The harm done to the public health or the environment;

(2) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

(3) The economic benefit gained by the violator;

(4) The amount of effort put forth by the violator to remedy this violation;

(5) Any unusual or extraordinary remedial or enforcement costs incurred by the Program or any participating municipality;

(6) The amount of penalty established by ordinance or resolution for specific categories of violations; and

(7) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

D. Recovery of damages and costs.

In addition to the civil penalty in subsection (B) above, the Program may recover:

(1) All damages proximately caused by the violator, which may include any reasonable expenses incurred in investigating violations of and enforcing compliance with these Rules and Regulations, or any other actual damages caused by the violation.

(2) The costs of maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by these Rules and Regulations.

E. Other remedies.

The Program or any participating municipality may bring legal action to enjoin the continuing violation of these Rules and Regulations, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.

F. Remedies cumulative.

The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted.

Section 12. Appeals

All actions of the Program Staff, except for possible criminal violations which the staff has reported to the appropriate enforcement agency, shall be subject to an appeals process under the initial jurisdiction of the Management Committee. Appealable staff actions specifically include the assessment of civil penalties. Written appeals of staff actions must be filed with the Program Manager within thirty (30) days of the actions issuance (TCA § 68-221-1106). Following receipt of a written "Notice of Appeal" from an appellant, the appeals process shall function as follows:

A. Administrative review.

An administrative review of all appeals and/or requests for review shall initially be conducted by the Program Manager. The Program_Manager shall review the record of the situation and, if the Program Manager is not satisfied that both of the following conditions have been met, the Program Manager shall notify the appellant of the finding and grant the relief or a portion of the relief, as determined by the Program Manager, sought by the appellant:

(1) The matter under dispute has been handled correctly by the Program Staff under the applicable rules and procedures of the Program.

(2) The matter under dispute has been handled fairly by the Program Staff and the appellant has not, in any way, been treated differently than other dischargers with similar circumstances.

If the Program Manager determines that both items (1) and (2) immediately above have been satisfied, the Program Manager shall notify the appellant in writing that no relief can be

granted at the Program Staff level and that the appellant is free to pursue the appeal with the Management Committee. Such notification shall include instructions as to the proper procedure for bringing the matter before the committee. Notification shall be made by hand-delivery; verifiable facsimile transmission; or certified mail, return receipt requested. A copy of the notification shall be provided to the Management Committee member representing the municipality in which the discharger is located and other administrative official as designated by each participating community. The Program Manager shall complete the review and issue a decision within 20 calendar days of the receipt of the appeal.

B. Committee hearing. Appeals rejected by the Program Manager, in accordance with the procedure outlined immediately above, may be brought before the Management Committee if filed in writing with the Program within 30 days of the Program Manager's prior decision (TCA § 68-221-1106). Within 30 calendar days of receipt of a notification of an appeal, the committee shall determine if the appeal is to be heard by the committee as a whole, if the matter is to be referred to a standing subcommittee, or if a new subcommittee is to be appointed specifically to hear the appeal. If a special committee is appointed, the officer presiding at the meeting of the Management Committee at which the special subcommittee is appointed shall name a chair and vice chair for said subcommittee. Once the appropriate forum for the appeal is decided, a date and time for hearing the appeal shall be set. Such date and time shall be within 15 calendar days following the date of the Management Committee's initial considerations regarding the appeal.

C. Hearing procedures. Appeal hearings shall be conducted in a formal and orderly manner. However, the hearing is not a "court of law" and the rules of evidence, testimony, and procedures for such courts shall not apply. The Program Manager or his designee shall first brief the committee or subcommittee on the history of the situation, including the actions of the Program Staff leading up to the appeal. The appellant shall then present his or her arguments as to why the relief sought should be granted. The Program Manager or his designee shall then have the opportunity to rebut or refute the appellant's arguments. The committee or subcommittee shall then conduct deliberations concerning the appeal in an open session. During such deliberations, the members may ask questions of and/or seek additional input from the appellant or the Program Staff to clarify the situation. At the close of these deliberations the committee or subcommittee shall vote to accept or reject the appeal or to adopt a modified position regarding the matter in question. The outcome of this vote shall be considered the final action of the Program with regard to the appeal. The chair of the committee or subcommittee hearing the appeal shall sign a written order reflecting the committee's or subcommittee's determination regarding the appeal. A tape recording, minutes, or other record of the hearing shall be made and maintained by the Program Staff. The Management Committee member from whose jurisdiction the appeal is being heard shall recuse himself from the hearing of that matter.

D. Appealing decisions of the Management Committee. Any appellant dissatisfied with the decision of the Management Committee, as described in the preceding paragraph, may appeal the Management Committee's decision by filing an appropriate request for judicial review to the Chancery Court of Hamilton County within 30 days of the Management Committee's decision.

Section 13. Permit Authority

Discharge permit. The Program is authorized under National Pollutant Discharge Elimination

System (NPDES) issued by the Tennessee Department of Environment and Conservation (TDEC), Division of Water Pollution Control. It is anticipated that subsequent permits will be issued to the Program under the same permitting authority. All applicable provisions of the current or any subsequent permit shall be enforceable by the Program as if fully spelled out herein. Implementation of certain aspects of the Program shall comply with the specific schedule included in the permit.

Section 14. Overlapping Jurisdiction

The State of Tennessee, working through the Tennessee Department of Environment and Conservation (TDEC), is or may be required by federal regulations to address stormwater pollution issues in ways which appear to overlap the goals and requirements of the Program described by these Rules and Regulations. Where such overlaps occur and where TDEC's regulations and determinations are more restrictive, the TDEC regulations and determinations shall control.

A requirement to comply with TDEC regulations and determinations shall not, in any way, relieve any party from complying with the provisions of these Rules and Regulations.

APPENDIX A
SPECIAL PROGRAM FEES

1. **Each application for a Land Disturbance Permit** shall be accompanied by a minimum nonrefundable fee of $100 plus an additional $5 per each additional disturbed acre, or part thereof, in excess of one (1) acre.

2. If an inspector returns to a specific site out of the normal inspection sequence, an **Erosion Control Non-Compliance Re-inspection Fee** of $50 will be assessed for each inspection visit prompted by erosion control measures found to be out of compliance with permit requirements.

3. Each application for a **Non-Stormwater Discharge Permit** shall be accompanied by a minimum nonrefundable fee of $150 per facility.

4. Residential developments containing a common retention/detention facility shall be charged an **Inspection and Maintenance Fee** based on total pond volume computed from the design water level associated with a 25-year storm event:

   a. Dry detention basin: $2,500 per acre-foot of pond volume devoted to runoff control with a maximum fee of $2,500.

   b. Retention (wet)/detention basin: $5,000 per acre-foot of pond volume devoted to runoff control with a maximum fee of $5000. Under this fee neither Hamilton County nor the Program accepts responsibility for the upkeep, maintenance, and/or operation of the basin or basin amenities such as retaining walls, shoreline treatments, walkways, boardwalks, docks, fountains, mechanical aeration devices, lighting, landscaping (not associated with functionality), and other aesthetic enhancements. Provisions for the inspection, maintenance and operation of the basin and such amenities must be included in the facility's Inspection and Maintenance Agreement and Runoff Management Plan.

APPENDIX B
STORMWATER MANAGEMENT
ENFORCEMENT RESPONSE PLAN

The following Enforcement Response Plan (ERP) shall be employed in enforcement of these Rules and Regulations, subject to the authority of the Management Committee to make reasonable adjustments to the civil penalties mandated hereinafter to reflect the specifics of each enforcement action.

At any time, a show cause hearing may be ordered if the ERP is unclear or inadequate to address specific violations of the ordinance. The ERP does not in any way deter the Program Manager from entering into a consent order to eliminate illicit discharges in lieu of other enforcement actions.

The ERP may be adjusted and amended from time to time by action of the Management Committee and approval by the Hamilton County Commission.

1. **Land Disturbing Activities Without Obtaining Necessary Land Disturbing Permit**

   (a) First Offense (Property Owner and Contractor) - Cease and desist order; notice of violation; obtain required permit including payment of associated fee; civil penalty equal to cost of permit.

   (b) Second Offense (Property Owner and Contractor) - Cease and desist order; notice of violation; obtain required permit including payment of associated fee; issuance of civil penalty of $500.00 plus damages consisting of cost of permit and costs to the Program associated with the enforcement of article.

   (c) Each Additional Offense (Property Owner and Contractor) - Cease and desist order; notice of violation; obtain required permit including payment of associated fee; issuance of civil penalty of $1,000.00 plus damages consisting of cost of permit and three times the costs to the Program associated with the enforcement of article.

   (d) Failure to Properly Transfer Land Disturbing Permit - Cost of new permit.

   Note: Enforcement under this guidance is contractor- and property owner-specific, not site-specific. For instance, if Contractor A receives a notice of violation for a first offense, a civil penalty is to be issued against Contractor A for the second offense occurring within three (3) years of the previous notice of an offense, regardless of the property owner or location.

2. **Failure to Comply with Required Sediment and Erosion Control Procedures (These provisions are enforceable on all land disturbance sites, including sites which are not required to obtain a Land Disturbance Permit).**

   (a) Failure to Install, Maintain, or Use Proper Construction Entrance (Tracking Mud on Street)

      (1) First Offense - Notice of violation issued to permit applicant (or responsible

party, if no permit is required) including a directive to remove mud, debris, or construction materials deposited in a public roadway. If the Program Manager determines that the deposited materials represent an immediate danger to the public health or welfare, the Program will have said materials removed as quickly as practical without notice to any party. Costs for such removal by the Program will be assessed against the permit applicant or responsible party as deemed appropriate by the Program Manager.

(2) Second Offense - Issuance of civil penalty against permit applicant (or responsible party, if no permit is required) of $100.00 per day; issuance of a directive to remove mud, debris, or construction materials deposited in a public roadway. If the Program Manager determines that the deposited materials represent an immediate danger to the public health or welfare, the Program will have said materials removed as quickly as practical without notice to any party. Costs for such removal by the Program will be assessed against the permit applicant or responsible party as deemed appropriate by the Program Manager.

(3) Each Additional Offense - Issuance of civil penalty against permit applicant (or responsible party, if no permit is required) of $250.00 per day; issuance of a directive to remove mud, debris, or construction materials deposited in a public roadway. If the Program Manager determines that the deposited materials represent an immediate danger to the public health or welfare, the Program will have said materials removed as quickly as practical without notice to any party. Costs for such removal by the Program, including any costs sustained by the affected municipality, will be assessed against the permit applicant or responsible party as deemed appropriate by the Program Manager. The Program Manager may, at his discretion, issue a cease and desist order to the project effective until the deficiencies with the construction entrance are rectified.

Note: Failure to Act as Directed - Failure of the permit applicant (or responsible party, if no permit is required) to remove any mud, debris, or construction material that is deposited in a public roadway, within the time period specified in the directive included in the notice of violation, will lead to an additional civil penalty of $250.00 per incident plus three times the cost of the Program's expenses to have the material removed to protect the safety of the public.

(b) Failure to Install, Maintain, or Use Proper Structural Erosion or Sediment Controls During the Conduct of a Land Disturbance Activity (Sediment Discharge)

(1) First Offense - Notice of violation issued to permit applicant (or responsible party, if no permit required). Notice of violation will require the immediate clean-up of sediment discharged into streets, rights-of-way, or stormwater structures. Notice of violation will also require the correction of all erosion and sediment control deficiencies within a specified time frame. If the Program Manager determines that the discharged sediments or the deficient

erosion and sediment controls represent an immediate danger to the public health or welfare or an imminent threat to the water environment, the Program will have the sediments removed and/or the required controls installed as quickly as practical without notice to the responsible party. Costs for such actions by the Program will be assessed against the permit applicant or responsible party as deemed appropriate by the Program Manager.

(2) Second Offense - Notice of Violation issued to land disturbing permit applicant (or responsible party, if no permit is required); "stop work order" enforced until necessary erosion and sedimentation controls are installed or maintained. Formerly permit-exempt projects will be required to obtain land disturbing permit. Notice of Violation will require the immediate clean-up of sediment discharged into streets, rights-of-way, or stormwater structures or conveyances. Notice of violation will also require the correction of all erosion and sediment control deficiencies within a specified time frame. If the Program Manager determines that the discharged sediments or the deficient erosion and sediment controls represent an immediate danger to the public health or welfare or an imminent threat to the water environment, the Program will have the sediments removed and/or the required controls installed as quickly as practical without notice to any party. Costs for such actions by the Program will be assessed against the permit applicant or responsible party as deemed appropriate by the Program Manager.

(3) Each Additional Offense - Issuance of civil penalty of $500.00 per discharge point per discharge to permit applicant; notice of violation issued to land disturbing permit applicant; "stop work order" enforced until necessary erosion and sedimentation controls are installed or maintained. Notice of violation will require the immediate clean-up of sediment discharged into streets, rights-of-way, or stormwater structures or conveyances. Notice of violation will also require the correction of all erosion and sediment control deficiencies within a specified time frame. If the Program Manager determines that the discharged sediments and/or the deficient erosion and sediment controls represent an immediate danger to the public health or welfare or an imminent threat to the water environment, the Program will have the sediments removed and/or the required controls installed as quickly as practical without notice to any party. Costs for such actions by the Program will be assessed against the permit applicant.

Note: Failure to Act as Directed - Failure of the permit applicant or responsible party (if no permit is required) to remove any discharged sediments and/or install erosion and sediment control measures within the time period specified in the directive included in the notice of violation will lead to an additional civil penalty of $250.00 per incident plus three times the cost of the Program's expenses to have the material removed and/or install the required measures.

(b) Failure to Install, Maintain, or Use Proper Structural Erosion or Sediment Controls

Following Completion of a Land Disturbance Activity (Sediment Discharge)

(1) Site Requiring a Land Disturbance Permit - Issuance against property owner of notice of violation for the release of unacceptable amounts of sediments from the site following the submission to the Program of a "Notice of Termination" of temporary site erosion and sediment controls. Notice of violation will require the immediate clean-up of sediment discharged into streets, rights-of-way, or stormwater structures and conveyances. Notice of violation will also require the correction of all erosion and sediment control deficiencies within a specified time frame. Mandatory correction measures may include the installation of temporary erosion and sediment controls. If the Program Manager determines that the discharged sediments represent an immediate danger to the public health or welfare or an imminent threat to the water environment, the Program will have the sediments removed as quickly as practical without notice to the property owner. Costs for such actions by the Program will be assessed against the property owner.

(2) Site Not Requiring a Land Disturbance Permit - Issuance of notice of violation requiring the immediate clean-up of sediment discharged into streets, rights-of-way, or stormwater structures or conveyances. Notice of violation will also require the correction of all erosion and sediment control deficiencies within a specified time frame. Mandatory correction measures may include the installation of temporary erosion and sediment controls. If the Program Manager determines that the discharged sediments represent an immediate danger to the public health or welfare or an imminent threat to the water environment, the Program will have the sediments removed as quickly as practical without notice to the property owner. Costs for such actions by the Program will be assessed against the property owner.

Note: Failure to Act as Directed - Failure of the property owner to remove any discharged sediments and/or install erosion and sediment control measures within the time period specified in the directive included in the notice of violation will lead to an additional civil penalty of $250.00 per incident plus three times the cost of the Program's expenses to have the material removed and/or install the required measures.

3. Failure to Comply with Approved Runoff Management Plan

(a) Upon Discovery of Variation with Approved Plan - Written notification to the permit applicant that construction does not match approved plans and that if modifications are to be accepted, revised plans must be submitted for review and approval. Submittal of revised plans shall require payment of an additional permit review fee.

(b) Failure to Conform with Approved Plan - Program Inspectors shall not authorize issuance of a "Certificate of Occupancy" or "Final Plat Approval" until runoff management measures complying with an approved plan are fully operational.

4. Failure to Satisfy Minimum Runoff Quality Objectives (Permitted and/or Previously

Occupied Sites)

(a) Upon Discovery of Runoff Quality Violation - A notice of violation and compliance order shall be issued to the property owner giving a minimum of 14 calendar days up to a maximum of 60 calendar days, at the discretion of the Program Manager, to submit a remedial Runoff Management Plan describing the measures proposed to bring the site into compliance with runoff quality objectives. Conformance with a previously approved Runoff Management Plan shall not relieve a site from the requirement to meet runoff quality objectives. Submittal of the remedial plan shall require payment of a permit review fee.

(b) Resubmittal of Remedial Runoff Management Plans - The remedial plan may be rejected or contingently approved with additions, deletions, and/or revisions mandated by the Program Staff. The property owner shall have 14 calendar days to revise and resubmit a rejected or contingently approved remedial plan. Failure to resubmit an acceptable plan within this time limit shall constitute a violation of the compliance order.

(c) Upon Approval of the Remedial Runoff Management Plan - Concurrently with the approval of a remedial Runoff Management Plan, a compliance order shall be issued to the property owner giving a maximum of 120 calendar days to install the improvements required to bring the site into compliance with runoff quality objectives. If the Program Manager determines that the site poses an imminent threat to the water environment, the time allowed in the compliance order to install the runoff management measures will be reduced, but said time limit shall not be less than 14 calendar days.

Note: Failure to Meet Compliance Order Dates - Issuance of civil penalty against the property owner of $100.00 per day for each day compliance directives are not met. Should the compliance date be exceeded by more than 60 calendar days, the Program Manager may increase the civil penalty to $1,000.00 per day for each day compliance directives are not met. After 120 calendar days, the Program Manager may increase the civil penalty to $5,000.00 per day for each day compliance directives are not met.

5. **Failure to Properly Operate and/or Maintain a Permanent Stormwater Management Device or Facility Constructed as Part of an Accepted Runoff Management Plan**

(a) Notice of Violation and Compliance Order - A notice of violation and compliance order shall be issued to the property owner giving a maximum of 30 days to restore a permanent stormwater management device or facility to an acceptable level of maintenance and/or effective operation.

(b) Failure to Meet Compliance Order Date - Issuance of a civil penalty against the property owner of $1,000.00 per occurrence for each day during which stormwater is discharged from the permanent stormwater management device or facility between the expiration of the restoration period allowed by the compliance order and the date of completion of the restoration of the permanent stormwater management device or facility as determined by the Program Manager.

6. **Illicit Discharges (Non-residential, Non-accidental)**

(a) First Offense - Notice of violation issued to responsible party for non-stormwater discharge. A copy of the notice of violation will be sent to the Tennessee Department of Environment and Conservation (TDEC) for separate civil and/or criminal enforcement action.

(b) Second Offense - Issuance of notice of violation and civil penalty against responsible party of $1,000.00. A copy of the notice of violation will be sent to the TDEC for separate civil and/or criminal enforcement action. The amount of the civil penalty assessed by the Program will be reduced by the amount of any penalty imposed by TDEC up to the full amount of the Program's civil penalty.

(c) Each Additional Offense - Issuance of notice of violation and civil penalty against responsible party of $2,500.00. A copy of the notice of violation will be sent to TDEC for separate civil and/or criminal enforcement action. The amount of the civil penalty assessed by the Program will be reduced by the amount of any penalty imposed by TDEC up to the full amount of the Program's civil penalty.

(d) Additional Damages - Additional damages consisting of Program expenses to clean up illicit discharge will be passed on to violator starting with the first offense. Additional damages may include other items such as the costs avoided by not properly using the sanitary sewer system or other disposal method.

7. **Illicit Discharges (Non-residential, Accidental)**

(a) Accidental Illicit Discharges - An accidental illicit discharge, properly reported as such to the Program not later than 4:00 p.m. of the business day immediately following the incident, will not subject to enforcement as an illicit discharge. However, the responsible party may be held liable for clean-up costs and other damages to the Program. Failure to report an accidental discharge as described above shall subject such discharge to the enforcement actions described hereinbefore for non-accidental illicit discharges. The Program Staff will notify TDEC of all reported accidental discharges.

8. **Illicit Discharges (Residential Other than Wastewater Discharge)**

(a) Each Offense - Enforcement action based on individual action. Examples: Deliberate dumping of pesticide, used motor oil, or other hazardous or dangerous chemical into storm drainage system would result in issuance of civil penalty including damages. The amount of the assessed civil penalty shall be not less than $50.00 or more than $500.00 as determined by the Program Manager. The Program Staff will notify TDEC of all illicit discharges.