**State of West Virginia**
**Department of Environmental Protection**
**Division of Water and Waste Management**
**601 57th Street, SE**
**Charleston, WV 25304-2345**

FACT SHEET, INFORMATION, AND RATIONALE
FOR REISSUANCE OF
WEST VIRGINIA/NPDES
SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS
GENERAL WATER POLLUTION CONTROL PERMIT
NUMBER WV0116025

1. **NAME AND ADDRESS OF APPLICANT**: Owners and operators of small municipal separate storm sewer systems (MS4s) located in the State of West Virginia who have satisfied the registration requirements and who have agreed to be regulated under the terms and conditions of this General WV/NPDES Water Pollution Control Permit to discharge stormwater into waters of the State.

2. **GENERAL WV/NPDES PERMIT NO.:** WV0116025

3. **COUNTY**: Any WV county **RECEIVING STREAM:** Any WV stream

4. **PUBLIC COMMENT PERIOD:** FROM: May 7, 2024 TO: June 21, 2024

The public may participate in the modification process by submitting written comments throughout the public notice period to:

DWWM MSGP
Attention: Sharon Mullins
601 57th ST SE
Charleston, WV 25304
sharon.a.mullins@wv.gov (304) 926-0499 extension 43808
Please title Comments or Requests for Public Hearing: MS4 WV0116025

The Director of the Division of Water and Waste Management (DWWM) shall consider all comments prior to acting on the proposed permit.

Comments should include the name, address, and telephone number of the writer and a concise statement of the nature of the issues raised. Commenters are asked to list the permit number WV0116025 on their comments. Commenters may further participate in the final decision by requesting a public hearing be held for the purpose of addressing the items listed in this fact for change, omission, or addition to the General Permit. The Director shall hold a public hearing whenever a finding is made, on the basis of requests, that there is a significant degree of public interest on issues relevant to the proposed permit.

If information received during the public comment period appears to raise substantial new questions, the Director may reopen the public comment period.

The draft permit and Fact Sheet may be reviewed at: (insert web address), or, may be inspected, by appointment, at the Division of Water and Waste Management Public Information Office, at 601 57th Street SE, Charleston, WV, between 8:30 a.m. and 4:30 p.m. on business days.

Copies of the proposed permit and Fact Sheet or further information may be obtained upon request to Sharon Mullins whose contact information is listed above. Individuals requiring Telecommunication Device (TDD) may contact our agency by calling (304) 926-0493. Calls must be made 8:30 a.m. to 4:30 p.m. Monday through Friday.

## 5. BACKGROUND

Federal regulations issued in 1999 establish a permit requirement for discharges from certain publicly owned and operated storm sewer systems. The WV/NPDES Small Municipal Separate Storm Sewer Systems General Water Pollution Control Permit Number WV0116025 (GP) is intended to cover stormwater discharges to waters of the State from the following storm sewer systems:

a) Those owned or operated by municipalities, counties, transportation facilities, and federal and state-owned facilities, and other public entities that are located within the boundaries of a Bureau of the Census defined "Urbanized Area" (UA) based on the 2020 census,

b) Jurisdictions that are located fully or partially within an urbanized area as determined by the 2020 Census by the Bureau of Census.

c) Areas which may be designated for permit authorization by the Department of Environmental Protection (Department) or the Environmental Protection Agency (EPA) pursuant to (40 CFR) 122.26, 122.32, and 40 CFR 123.35.

d) Entities that may be designated under 40 CFR 122.32(a)(2) by using the following criteria to evaluate and determine if the subject MS4 requires permit coverage:

1) Population greater than 1000,

2) High population density,

3) Contiguity to an urbanized area,

4) High growth or growth potential,

5) Discharge to sensitive waters,

6) Significant contributor of pollutants to waters of the State,

7) Ineffective protection of water quality by other programs

West Virginia issued the original GP Number WV0116025 on March 7, 2003, it was reissued on June 22, 2009, and reissued again on July 11, 2014. The draft permit subject to this Fact Sheet is intended to supersede the 2014 GP.

Currently, there are 52 active MS4 registrations, which include municipalities, sanitary boards, stormwater utilities, universities, medical centers, and roadway authorities. A listing of current registrants can be found in Appendix A of the draft.

The 2020 Census did not identify any new automatically designated MS4's in West Virginia. However, WVDEP may still designate new MS4's based on the criteria described above.

## 6.a. EPA's ROLE IN THE NPDES PROGRAM

The National Pollutant Discharge Elimination System (NPDES) program is authorized by the federal Clean Water Act and the EPA has responsibility for oversight of its implementation in states authorized to implement NPDES permits. West Virginia is authorized to administer the NPDES program on behalf of the EPA; therefore, permitting, inspections, and enforcement actions are subject to EPA review.

The draft GP, as written to supersede the 2014 permit, was referred to EPA prior to proceeding to the public notice stage of the issuance process. Input from EPA was received and incorporated into the draft permit. To the extent possible, input from the regulated community is reflected in the draft permit, and significant changes, prompted by EPA or permittee input are described in this Fact Sheet.

Stormwater runoff is generated from rain and snowmelt that flows over land or impervious surfaces, such as paved streets, parking lots, and building rooftops, and does not soak into the

ground. Runoff can pick up and deposit harmful pollutants like trash, chemicals, and dirt/sediment into streams, lakes, and groundwater. Construction sites, lawns, improperly stored hazardous wastes, and illegal dumping are all potential sources of stormwater pollutants.

EPA's NPDES Permitting Program regulates storm water runoff from municipal separate storm sewer systems (MS4s), industrial activities, and construction activities. Certain operators of these types of stormwater sources may be required to obtain an NPDES permit before they can discharge stormwater to surface waters. This permitting mechanism is designed to prevent stormwater runoff from washing harmful pollutants into local surface waters.

## 6.b. NPDES Permitting Process

Beginning in 2011, the Division of Water and Waste Management (DWWM), which is the Division of state government charged with implementation of NPDES stormwater permitting began processing permit applications using an online platform, called the Electronic Submission System (ESS). Several factors served as driving forces for the change from paper to electronic processing, not the least of which was the DWWM's focus on public participation. Through a portal called the Public Query, ESS offers everyone the means for viewing NPDES applications deemed Administratively Complete. Hereinafter, this Fact Sheet will refer to the system utilized by DWWM as *ESS*.

By improving the the ESS system, DWWM is striving toward compliance with the EPA's eRerporting Rule which is discussed in detail at:
Federal Register :: National Pollutant Discharge Elimination System (NPDES) Electronic Reporting Rule.

This GP will expire five years after issuance, which will be past the December 21, 2025 deadline when DWWM must be in full compliance with the Rule. Applicants should therefore consider the fact that the ESS forms might change, based on EPA requirements.

## 6.c. General Permits

DWWM is utilizing a general WV/NPDES permit to authorize stormwater discharges from small MS4s. Under 47CSR10-13.6 of the WV Legislative Rules, a general permit can be used to regulate either separate storm sewer stormwater discharges or a category or other discharges if the sources all:

- Involve the same or substantially similar types of operations;
- Discharge the same types of wastes;
- Require the same effluent limitations or operating conditions;
- Require the same or similar monitoring; and
- In the opinion of the Director, are more appropriately controlled under a general permit than under individual permits.

## 6.d. Waivers from Permit Coverage

The draft GP allows for permit coverage waivers for certain small MS4s. Jurisdictions eligible for permit coverage may apply for a waiver from permit coverage and may retain permit eligibility, provided the waiver is approved, by complying with the terms and conditions of the waiver or waiver order.

There are two options to obtain a waiver from permit coverage:

1. Jurisdictions with storm sewer systems that serve less than 1,000 people in the urbanized area must:

- Demonstrate that its stormwater discharges are not contributing substantially to the pollutant loadings of a physically interconnected regulated MS4,
- Determine if its stormwater discharges to impaired waters, and if so that stormwater controls are not needed for pollutants of concern in the discharges, based on EPA approved or established wasteload allocations, as required by Total Maximum Daily Load (TMDL).

2. Jurisdictions with storm sewer systems that serve less than 10,000 but greater than 1,000 must:

- Submit an evaluation of receiving waters and show stormwater controls are not needed, based on wasteload allocations that are part of an EPA approved or established TMDL that addresses the pollutant(s) of concern or an equivalent analysis; and
- Show that future discharges from the small MS4 do not have the potential to result in exceedances of water quality standards.

The Director retains the option to waive a portion or portions of the permit requirements.

The Director retains the option to waive permit requirements and instead issue an Order directing the jurisdiction to conduct activities necessary for gathering evidence to support a waiver determination. This option refers to but is not limited to an Order to conduct sampling of MS4 discharges; to test for specified parameters; and to report test results for evaluation prior to a decision on a waiver application.

The Director retains the authority to conduct reviews and terminate waivers at any time during the waived period.

Waived jurisdictions must reapply for waiver approval with each permit reissuance.
DWWM has the duty of reviewing waivers periodically but no less than once every (5) five years.

Attachment 2 of this Fact Sheet contains an MS4 Waiver Request form DWWM intends to use in the ESS system this permit term. Routinely, DWWM issues an order to applicants who do not submit the determinations/evaluations required for waiver approvals. The orders frequently contain a monitoring plan, which if followed, may serve to support the request.

## 7. SECTION BY SECTION RATIONALE

### PART I

Part I of the GP explains the coverage offered to those owners/operators who qualify for the permit and who submit a registration and obtain authorization to discharge. Eligibility for coverage and waivers from coverage are contained in the opening sections. Limitations on coverage are then described. As explained earlier in this Fact Sheet, stormwater discharges are the subject of the permit, however other non-stormwater discharges are also authorized provided it's been determined that they are not substantial contributors of pollutants to the small MS4 applying for coverage. Those include:

Uncontaminated water line flushing unless documented health or safety emergencies occur, Landscape irrigation, Diverted stream flows, Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)), Uncontaminated pumped groundwater, Discharges from potable water sources, Foundation drains, Air conditioning condensate, Irrigation water, Springs, Water from crawl space pumps, Footing drains, Lawn watering runoff, Water from individual residential car washing, Flows from riparian habitats and wetlands, Discharges or flows from fire-fighting activities, and A discharge authorized by a separate National Pollutant Discharge Elimination System (NPDES) permit.

DWWM recommends that stormwater management programs include public education and outreach activities directed at reducing these discharges even if they are not substantial contributors of pollutants to your system.

This permit does not relieve entities that cause illicit discharges, including spills, of oil or hazardous substances, from responsibilities and liabilities under State and Federal law and regulations pertaining to those discharges.

This permit does not authorize a violation of West Virginia State Water Quality Standards (Title 47 CSR Series 2) and West Virginia Ground Water Quality Standards (Title 47 CSR Series 58).

Retaining Coverage - MS4 entities who hold a valid registration at the time the GP expires may retain coverage if the GP is not reissued or replaced prior to the expiration date. If the GP expires and is not reissued in a timely fashion, the administrative extension does not apply to "new" MS4 entities and they must apply for an individual NPDES permit. There are no new registrations allowed under an expired GP.

**Maximum Extent Practicable (MEP)**

The Clean Water Act (CWA §402(p)(3)(B).) states that MS4 permits "shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods."

It is recognized that "pollutant reductions that represent MEP may be different for each small MS4, given the unique local hydrologic and geologic concerns that may exist and the differing possible pollutant control strategies. Therefore, each permittee will determine appropriate BMPs to satisfy each of the six minimum control measures through an evaluative process" (Federal Register, Volume 64, No. 235, page 68754, December 8, 1999.).

The draft permit requires each permittee to develop, implement, assess, and enforce a Stormwater Management Program, which outlines how the permittee intends to comply with the terms and conditions specified in the permit. The SWMP must be approved by DWWM as meeting the MEP standard. Throughout this Fact Sheet, the MEP standard will be discussed to give readers a clearer understanding of the various nuances of compliance.

**PART II - A**

ESS Applications

NOIs and SWMPs must be submitted electronically at: https://apps.dep.wv.gov/eplogin.cfm which can also be found by following these steps: go to dep.wv.gov; Electronic Submission System. Permittees must submit the SWMP electronically once the ESS form is available. Existing permittees may log in and new permittees must sign up for a log in. Permittees may submit a draft SWMP for initial review using the paper SRA (SWMP) from the 2014 reissuance.

With the implementation of new electronic forms it is anticipated that there may be unforeseen technical challenges that arise as permittees work through them. The DEP will modify these forms as these issues are uncovered, or make certain allowances to alleviate these challenges during the permitting process.

Under the proposed GP, existing permittees will have 60 days from the effective date to submit their NOI through the ESS.

Under the proposed GP, existing permittees will have 180 days from the effective date to submit their SWMP through the ESS.

Obtaining Coverage – New MS4s will have 60 days to submit their NOI from the date of receiving notification from DWWM that permit coverage is required.

Obtaining Coverage – New MS4s will have 180 days to submit their SWMP from the date of receiving notification from DWWM that permit coverage is required.

Multiple permittees may apply for coverage under a single application, which should clearly define the roles and responsibilities of each of the co-permittees.

**PART II - B**

This portion of the draft permit contains the requirements for the SWMP. It requires permittees to develop and implement Best Management Practices (BMPs) for six Minimum Control Measures. The EPA's NPDES approach for this type of permit is called the "iterative approach", which means that new permittees would begin building their Stormwater Management Programs shortly after approval, and over time conduct assessments to evaluate the effectiveness of the measures they've initially put in place. Ineffective controls are to be replaced or enhanced.

An important component of any SWMP is public participation. Permittees must engage their area residents/public in planning and development efforts to seek out the most effective measures for their communities for inclusion in the SWMP.

Permittees must have methods for enforcing their regulatory mechanisms/ordinances. Enforcement is a crucial component of the SWMP and permittees are expected to review these mechanisms on a regular basis to identify whether improvements are needed and revise accordingly. Regulatory mechanisms/ordinances that are found to be ineffective must be revised by seeking public input and by following the procedures established in local law. The Annual Report must provide clear descriptions of the procedures and time frames for revision. The DEP will review the annual report and provide feedback as to whether a permit modification is necessary.

DWWM has developed an Annual Report form for permittees to use as an evaluation tool. By completing the form, permittees must examine their original plans and goals and answer whether those were met. If not, changes are appropriate. At the time of public noticing the draft permit, the Annual Report form is not currently available on ESS, however efforts have already started for automation. Permittees will be notified when the electronic Annual Report form is ready for use.

**Part II – C**

This section contains the Minimum Control Measures. Once the draft permit is effective, West Virginia will be in its 4$^{th}$ permit cycle, so existing permittees should already have SWMPs for each measure or be well on their way to developing strong programs.

The six Minimum Control Measures are:

Public Education and Outreach – permittees must identify target audiences and reach out to residents, the public, businesses, industries, elected officials, policy makers and others to educate these audiences about pollution prevention methods.

Public Involvement and Participation – permittees must provide opportunities for the public to take part in stormwater pollution prevention efforts and provide for public notice and comment on aspects of the stormwater program.

Illicit Discharge Detection and Elimination – discharges from MS4s should be composed of stormwater and/or non-polluting allowable non-stormwater discharges (See Section 7 above). Under this measure, permittees develop/update storm sewer system maps, conduct field screening activities, and other research approaches to find and eliminate sources of pollution. Examples are unauthorized sanitary sewer connections and improper dumping such as used oil poured into storm drains.

Controlling Runoff from Construction Sites – Permittees must implement programs to control sediment and other pollutants in stormwater discharges from construction sites when one or more acres of land are disturbed.

Controlling Runoff from New Development and Redevelopment – When areas are redeveloped and new ones developed, pollution control measures are required after construction. This measure spells out the practices permittees should use to accomplish reductions. Permittees are required to ensure long-term maintenance of post-construction BMPs by maintaining an ordinance or other regulatory mechanism and verifying that inspections and any necessary repairs of BMPs are being performed.

Pollution Prevention & Good Housekeeping for Municipal Operations – for permittees with activities and facilities with the potential for pollution, this measure requires good housekeeping practices such as inspections, operating procedures such as proper storage of oils, salt, or other materials, and clean-up of areas that may pollute stormwater such as streets or maintenance facilities. Employees must receive initial and annual training in pollution reduction procedures, especially for facilities or activities with the potential to pollute stormwater. Monitoring may be appropriate for discharges from certain activities. When monitoring indicates there are no or very low pollutant concentrations in the discharges, permittees may apply for a Low Concentration Waiver. If approved, the permittee would then be expected to submit (within the annual report) a certification there hasn't been any significant changes in the activity or the BMPs in the area that drains to the outlet with waived sampling.

**PART III - A**

Permittees may partner to meet all or any component of their permit requirements. DWWM encourages nearby or regional permittees to explore avenues to work together.

Discharge Compliance with Water Quality Standards

Full compliance with all the terms and conditions of this permit is considered an acceptable effort to reduce stormwater pollutants from the small MS4 to the maximum extent practicable. The Clean Water Act 301(b)(1)(C) provides that all NPDES permittees must achieve water quality standards. If a discharge has the reasonable potential to cause or contribute to a violation of water quality standards in the receiving water, additional controls are required. In 1987 Congress added the following

provision in § 402(p)(3)(B) requiring State permitting authorities to require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and systems, design and engineering methods, and such other provisions as the Administrator or State determines appropriate for the control of such pollutants. Therefore, in addition to the six MCMs, this permit requires permittees to address discharges to impaired waters and/or waters subject to state or federal TMDLs. The Phase II Final Rule, published in the Federal Register on December 8, 1999, 64 F.R. 68722, required NPDES permit coverage for stormwater discharges from both small MS4s and smaller construction sites.

**SIGNIFICANT CHANGES**

**PART I**

**Continuing Coverage**

Continuing coverage under an expired general permit extends to permittees who are properly registered at the time of expiration only. DWWM wants to clarify in this Fact Sheet that new MS4 entities seeking authorization to discharge during the time period when the general permit is expired, but administratively extended, are not eligible for coverage under the GP. Those entities must obtain an individual permit. Though this is not a change, the draft GP explains unequivocally who has coverage and that includes only existing permittees who have not let their registration lapse at the time the GP expires.

**Maximum Extent Practicable (MEP Standard)**

Permittees meet the MEP standard when in full compliance with all terms and conditions of the draft permit . Within each MCM, the permit contains specific goals/activities and the permittees must develop a SWMP which outlines the BMPs that will be used to satisfy the term(s) or condition(s) of the permit. This SWMP is subject to review and approval by DEP. Throughout the permit term, permittees take action to implement the BMPs described in the SWMP. Permittees must then report on their implementation progress in each annual report, and also evaluate BMP effectiveness and replace or enhance ineffective BMPs and update schedules in the following year.

The SWMP is a living document. Though the SWMP is approved near the beginning of the permit term, it is not expected that it will remain static for five years, except in the case where the evaluation finds that all BMPs are effective at pollution reduction. Through the MS4 iterative process, permittees continually adapt their program (including the SWMP) to meet water quality objectives and achieve measurable goals.

**PART II**

**Remand Rule**

The federal rule, 40 CFR 122.28(d), allows WV to pick one of two options for ensuring the GP meets federal requirements.

Under the comprehensive approach, the GP document itself would include all required permit terms and conditions.

Under a two-step approach, the GP is issued, then the permittees submit their Stormwater Management Programs to the permitting authority, which if approved, become conditions of the permit.

WV's draft permit requires the application of a SWMP. This general permit is subject to public notice and public comment. The SWMP will also be public noticed and subject to public comment, therefore, WV follows the two-step approach.

**Evaluation**

In keeping with the iterative nature of the NPDES MS4 requirements, permittees must develop programs, then assess and evaluate their programs and practices to identify areas of improvement, which are to be amended, as necessary. To provide consistency to all the WV MS4 permittees, DWWM proposes in the draft GP to require this evaluation within the scope of the annual report. This approach is also in keeping with other proposals that will reduce burdens on MS4 permittees by placing more responsibility on the DWWM itself. There are over 150 questions to guide the permittee toward a comprehensive report of the previous year's activities. The annual report will require permittees to identify their BMPs and will elicit responses from the permittees as to whether or not their chosen BMPs were effective. Any negative responses shall guide permittees to modify the SWMP and replace the ineffective BMPs.

DWWM has developed an online Annual Report form for permittees to use as an evaluation tool. By completing the form, permittees must examine their original plans and goals outlined in the SWMP and answer whether those were met. If goals and milestones were not met, changes are required. Though the report will be submitted through ESS, a copy is attached to this Fact Sheet for review and comment.

**Illicit Discharge Detection and Elimination (IDDE)**

The 2014 GP contains a requirement to adequately fund the IDDE MCM. No other MCM contains this requirement. All MS4s have a duty to implement all permit components, therefore the specific IDDE funding requirement has been removed in the draft GP.

Some WV permittees are able to create electronic maps of their MS4s, so the draft GP changes the language about maps.

The 2014 GP required permittees to identify and inspect priority outfalls but did not contain a frequency. To resolve that oversight while considering the fact that many WV MS4s have severe financial restrictions, the draft GP proposes that permittees inspect priority outfalls once each permit term.

The 2014 GP was prepared during a crisis. A leak of an unknown chemical into the Elk River, the source of drinking water for thousands of West Virginians, focused the state legislature on the cause and source of the leak. The focus resulted in passage of the state's first Aboveground Storage Tank (AST) statute. Sections of the 2014 GP were later considered inappropriate when DWWM was identified as the proper regulatory authority for the statute and provided with a funding mechanism to enforce the statute. However, on the heels of enacting the statute, the legislature struck many aspects of the law. DWWM proposes to remove requirements related to AST from the GP in light of DWWM's own authority and as being overly burdensome on MS4 permittees.

In previous iterations of the GP, permittees were considered new for the entire permit term. EPA pointed out this time around that ordinances should be reviewed by all permittees and updated when appropriate. In light of information received from permittees who explained that ordinance updates can be similar to regulatory updates, difficult, controversial, and overly burdensome, and, considering the draft GP proposes updates only when needed, the new permit will require the reviews once each permit term rather than on an annual basis. This approach gives the permittees time to evaluate the strengths and weaknesses of ordinances and also time to work with their attorneys and administrations in the preparation of replacement regulatory mechanisms.

While reviewing the draft GP's IDDE MCM, EPA questioned the relevancy of No Exposure section within an MS4 permit, since this is an industrial stormwater permit requirement. The No Exposure option is not found in federal MS4 permits, therefore it has been removed from the draft GP.

**303(d) Impaired Water and TMDLs**

When DWWM investigates and finds that a water body is polluted or impaired, a process takes place for listing the water body under section 303(d) of the Clean Water Act. Permittees are expected to reduce pollution in an effort to improve the health of the water body but sometimes a cleanup plan is needed and designed, with public input. The cleanup plan is called Total Maximum Daily Load or TMDL. The TMDL identifies pollutant sources or stressors for the water body and may also contain obligations for the sources or stressors. Obligations to reduce pollution are called waste load allocations WLAs or load allocations Las. Sometimes an MS4 is named as a stressor and given a specific pollution reduction obligation in the form of a WLA.

EPA found the 2014 permit to be over burdensome on permittees because it instructed them to research and find out whether their stormwater outfalls discharged to 303(d) listed or TMDL waters. In addition to being burdensome, EPA found leaving it to the permittee to search for the information could lead to inconsistent and sometimes inaccurate information.

For this permit term, a list of  list of 303(d) and TMDL waters in the area of each existing permittee is provided for them on the WDEP website. For the convenience of the permittees and the public, maps of the approximate MS4 boundaries are overlaid on 303(d) / TMDL maps. These maps are not intended to represent the MS4 legal boundary. The draft permit requires the submittal of a MS4 boundary in a digital format, certified by a Licensed Land Surveyor or Professional Engineer. When a stream is listed as impaired in the future or when a TMDL is developed, DWWM will notify the affected permittee who must implement appropriate BMPs to reduce the pollutant of concern. The Annual Report must summarize the permittee's activities for the previous year and outline the coming year's plans for full

implementation of pollution reduction plans for newly assigned 303(d) listings and/or TMDLs. The BMPs must be in place six months from the notification date.

New permittees in the Chesapeake Bay drainage area would monitor at their representative outfall to establish a baseline, then meet the same requirements as City of Martinsburg.

PRP plans must include milestones and the permittee must report on their progress towards meeting the 2025 deadline.

At the time DWWM notifies potential new permittees of their designation as new MS4s, the 303(d)/TMDL lists, if any, shall be provided and any new listings will be furnished to new permittees just like existing permittees. The same implementation schedule applies to new and existing permittees, with full implementation within six months of notification.

EPA also found that the 2014 permit did not include the appropriate regulatory standard for discharges to impaired/TMDLs waters. The permit applied the MEP standard to permittees' efforts to control pollution in these discharges. The correct standard is actually the WLA.

DWWM proposes to continue the requirement for identification and implementation of BMPs for discharges to 303(d) waters and a combination of BMPs and monitoring for discharges to TMDL waters. The actual change proposed is to remove the MEP standard and replace it with the obligations found in TMDLs, if any.

For dischargers in the Chesapeake Bay drainage area, the permittees must submit and gain approval for a Pollution Reduction Plan (PRP), which is a separate document from the SWMP. The PRP must be implemented and the permittee must reduce or maintain current pollutant levels in its stormwater discharges. A critical aspect of the requirements for the Chesapeake Bay TMDL is the deadline of 2025 when permittees must meet their pollution reduction goals. Under the 2014 GP, the City of Martinsburg was required to sample at its representative outfall for Total Nitrogen and Total Phosphorus. Under the the proposed permit, the results of the City's sampling could serve as a baseline level of pollution concentration in the stormwater discharge. The City's new SWMP must contain BMP's specifically designed to reduce or maintain the levels.

**Appendix B – Definitions**

The definition for a New Permittee has changed to be that of a permittee during the first year of coverage after registration approval. The MS4 program is aging and WV has not documented significant pollution reductions in state waters receiving MS4 discharges. In the past, permittees, new and existing, needed a generous amount of time to write SWMPs. In certain cases, it took years for DWWM receive an approvable SWMP. The ESS eases the burden of writing a SWMP from scratch and the draft GP proposes a shorter timeframe for registering and submitting the SWMP, thereby giving more time during the permit term for actual implementation of BMPs and pollution reduction efforts.

Also, the definition of "daily discharge" has been removed since the general permit requires semi-annual monitoring only.

**Appendix C – Management Conditions**

Certain existing NPDES "boilerplate language" has been removed from the draft permit. EPA pointed out that WV's boilerplate contains the duty to reapply for permit reissuance 180 days prior to expiration. This is inappropriate for a GP which contains the application deadlines for registrants. In this case, existing permittees must reapply via submittal of an NOI within 60 days of the new permit's effective date.

**Appendix D – Reference Manuals**

The appendix has been expanded to include references for manuals in neighboring states within the EPA region as recommended references for WV permittees to utilize as aids for developing their own SWMPs.