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

General
National Pollution Discharge Elimination System
Water Pollution Control Permit

Permit No.: WV0116025

Issue Date:

Subject: Stormwater Discharges From small Municipal Separate Storm Sewer Systems

Effective Date:

Expiration Date:

Supersedes: WV/NPDES General Water Pollution Control Permit No. WV0116025, issued July 11, 2014

To Whom It May Concern:

This is to certify that 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 permit are hereby granted coverage under this General WV/NPDES Water Pollution Control Permit to discharge stormwater into waters of the State.

All operators of regulated small municipal separate storm sewer systems are required to apply for and obtain coverage in accordance with this permit, unless waived in accordance with 40 CFR §122.32(a)

This permit is subject to the following terms and conditions:
The information submitted on and with the site registration application form, once approved, will hereby be known as the stormwater management program (SWMP). The SWMP once approved, will be made terms and conditions of the permit with like effect as if all such information were set forth herein, and other conditions set forth in Parts I, II, III, IV, Appendices A through D and the SWMP approval letter.

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Part I

A. Coverage under Permit WV0116025

1. Permit Area

This permit authorizes discharges of stormwater and allowable non-stormwater discharges from regulated Small Municipal Separate Storm Sewer Systems (MS4) in all areas of the State of West Virginia.

2. Eligibility

a) Eligible jurisdictions include but are not limited to municipalities, counties, transportation facilities, and federal and state-owned facilities 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 are eligible for coverage.

c) Areas 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) The Department may designate municipalities 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

e) Permit coverage may be granted to jurisdictions owning or operating a small MS4 within the permit area, provided a Notice of Intent in accordance with Part II of this permit is submitted to the Department.

f) 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.

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

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

(i) Demonstrate that its stormwater discharges are not contributing substantially to the pollutant loadings of a physically interconnected regulated MS4,

(ii) 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).

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

(i) 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

(ii) Show that future discharges from the small MS4 do not have the potential to result in exceedances of water quality standards

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

3) 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.

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

5) Waived jurisdictions must reapply for waiver approval with each permit reissuance.

6) DEP has the duty of reviewing waivers periodically but no less than once every (5) five years.

3. Limitations on Coverage

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).

a) This permit authorizes the following non-stormwater discharges provided they have been determined not to be substantial contributors of pollutants to a small MS4 applying for coverage under this permit.

1) Uncontaminated water line flushing unless documented health or safety emergencies occur,

2) Landscape irrigation,

3) Diverted stream flows,

4) Uncontaminated groundwater infiltration (as defined at 40 CFR 35.2005(20)),

5) Uncontaminated pumped groundwater,

6) Discharges from potable water sources,

7) Foundation drains,

8) Air conditioning condensate,

9) Irrigation water,

10) Springs,

11) Water from crawl space pumps,

12) Footing drains,

13) Lawn watering runoff,

14) Water from individual residential car washing,

15) Flows from riparian habitats and wetlands,

16) Discharges or flows from fire-fighting activities, and

17) A discharge authorized by a separate National Pollutant Discharge Elimination System (NPDES) permit.

a) The Department 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.

4. Continuation of this General Permit

a) If this general permit is not reissued or replaced prior to the expiration date, it will be administratively continued in accordance with 47 CSR 10 and remain in force and effect for those entities that obtained permit coverage prior to the expiration date.

b) If you were authorized to discharge under this general permit prior to the expiration date, any discharges authorized under this permit will automatically remain covered by this general permit until the earliest of:

1) Your authorization for coverage under a reissued general permit,

2) A replacement of this general permit following your timely and appropriate submittal of a complete application requesting authorization to discharge under the new general permit and compliance with the requirements of the new permit,

3) Your submittal of notification that the MS4 municipality or facility has ceased operations or unincorporates,

4) Issuance or denial of an individual permit for the facility's discharge; or

5) A formal permit decision by the Department not to reissue this general permit, at which time the Department will identify a reasonable time period for covered dischargers to seek coverage under an alternative general permit or individual permit.

5. Maximum Extent Practicable (MEP)

a) 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."

b) 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.).

c) This permit shall require the permittee to develop, implement, assess, and enforce a Stormwater Management Program, which is approved by WVDEP as meeting the MEP standard.

6. Authorization to Discharge

This permit authorizes the discharge of stormwater from the MS4, after the director approves the SWMP and notifies the applicant of the approval.

Part II

A. Notice of Intent (NOI) and SWMP Applications

1. Submission Deadline for Existing Owners/Operators

Within sixty (60) days of the effective date of this permit, all existing owners/operators of small MS4s shall submit a Notice of Intent (NOI) via the Electronic Submission System (ESS). Within one hundred eighty (180) days of the effective date of this permit, all existing operators of small MS4's shall submit a Stormwater Management Plan (SWMP) via the Electronic Submission System (ESS).

2. Submission Deadline for New Owners/Operators

Within sixty (60) days of notification from the agency, all new owner/operators of small MS4s shall submit their NOI using the Electronic Submission System. Within one hundred eighty (180) days of notification from the agency, all new owner/operators of small MS4's shall submit a Stormwater Management Plan (SWMP) via the Electronic Submission System (ESS).

3. Co-permittees Under a Single NOI / SWMP

Co-permittees may jointly submit a single NOI provided the SWMP clearly defines individual roles and responsibilities.

4. Where to Submit

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.

Submittals of the paper SRA (SWMP) from the 2014 reissuance shall be submitted to:

WVDEP - Division of Water and Waste Management-MS4 / NPDES Stormwater Permitting
601 57th Street, SE
Charleston, WV 25304

B. Requirements of SWMP

1. Enforceable, Measurable Permit Conditions

Permittees must implement approved stormwater management program components designed to reduce the discharge of pollutants from small MS4s to the maximum extent practicable (MEP), to protect water quality, and satisfy the appropriate requirements of the Clean Water Act.

The WVDEP provides via website the 303(d) listed streams and also TMDLs for stream in each known MS4 area. The Website contains maps showing the streams locations, the TMDL coverage areas, and also gives the percent load reductions for pollutants of concern assigned to each known MS4 entity. The website can be found at
https://dep.wv.gov/WWE/Programs/stormwater/MS4/Pages/default.aspx

For any entities currently not covered by the existing permit, the Director shall provide to each a list of impaired/TMDL waters within and/or directly downstream of the MS4, at the time of notification of designation as being subject to the NPDES MS4 rules. Where the permit refers to pollutants of concern to impaired/TMDL waters, the permittee in such a case shall implement controls for those pollutants.

Minimum Control Measures (MCMs) specified in the permit and contents of the SWMP primarily relate to improving the quality of stormwater discharged to impaired waters or those with approved/established TMDLs (Total Maximum Daily Load). For any permittee whose MS4 does not discharge to an impaired/TMDL water, the SWMP must contain suitable BMPs for maintaining the quality of water in receiving waters.

2. Enforceable, Measurable Goals to meet the MEP

Enforceable measurable goals are required in each MCM and must be approved in the SWMP which is required within one hundred eighty (180) days of the effective date of this permit.. Each will aid permittees in establishing programs capable of reducing pollutants in stormwater discharges to the MEP.

Each entity shall select appropriate Best Management Practices (BMPs) based on an evaluative process which must include the following:

a) Public input and acceptance (e.g. public hearings/meetings, public notice advertisements, periodic mailings, public website, etc.);

b) Consideration of the receiving waters (each MS4 entity is provided with a list of impaired 303(d) listed and also TMDL streams and map showing the stream locations in relation to the MS4's approximated boundaries;

c) Technical feasibility of proposed BMPs; i.e. BMPs that can be implemented in an effective manner;

d) Regulatory compliance, that is, the proposed BMPs satisfy the requirements of this permit;

e) Effectiveness - the selected BMPs reduce pollutants of concern in stormwater discharges;

f) Cost of implementation - projected cost to effectively implement selected BMPs.

3. Public Notice

SWMPs are subject to the Remand Rule under 40 CFR 122.28(d), and must go through the public notice and comment process found in WV 47CSR10-12. An approved SWMP is incorporated as a condition into the permit coverage and is enforceable, as noted in WV 47CSR10-5.

Therefore, the permittee shall make available to the public the opportunity to comment on the MS4 stormwater management program.

4. Minimum Control Measures

The SWMP must contain milestones appropriate for each minimum control measure and justifications for each milestone. Information about developing measurable goals can be found on the USEPAs website at https://www3.epa.gov/npdes/pubs/measureablegoals.pdf

5. Extension of Milestones

Subject to the five-year limitation noted below in paragraph Number 6, extension of milestones will be granted for good cause shown. Failure to implement effective BMPs is not a good cause to extend milestones.

6. Implementation and Enforcement

The SWMP must also provide details on how new permittees will implement and enforce the program. The terms and conditions of this permit and the new permittee's approved SWMP must be fully implemented, except where noted, within five years of the effective date of this permit. In instances where this permit specifies that the MS4 regulate public projects and facilities, the MS4 is expected to only regulate those entities where they have jurisdiction and/or authority. Existing permittees are to follow the schedules in their currently approved SWMP.

7. Evaluation

The permittee shall evaluate the stormwater management program development, implementation and permit compliance by use of the Annual Permit format provided by the Director. The format is designed to identify strengths and weaknesses of the SWMP and the need for changes.

When an evaluation identifies weakness of the SWMP, the permittee shall include a statement in the annual report that addresses all following criteria: the ineffective BMP or issue shall be identified; the mechanisms affecting the timeframe for revision such as a controlling ordinance or other regulatory mechanism; a brief description of the process for revision such as whether public notice of an ordinance revision is needed, and the projected timeframe for effecting the revision.

The Director shall review the annual report including SWMP evaluations and provide feedback to the permittee confirming whether or not a proposed revision constitutes a modification of the approved permit registration. This feedback shall be provided to the permittee within 30 days of the annual report submittal date. When requiring submittal of an application for modification, the Director shall provide guidelines and the due date for submittal.

8. BMPs for Discharges to 303d and TMDL Receiving Waters

If the permittee's small MS4 discharges into waters listed on the Clean Water Act Section 303(d) list of impaired waters or waters with an approved Total Maximum Daily Load (TMDL), the SWMP must document how the proposed BMPs will control the discharge of the pollutants of concern.

9. Wasteload Allocations

Permittees discharging to waters with an approved TMDL shall be considered in compliance with the applicable wasteload allocations of that TMDL for this permit term. as long as the permittee is operating under an approved SWMP and reasonable progress of BMP implementation is occurring as approved by the WV DEP.

10. Annual Report

An annual report shall be submitted to Director via ESS each year on the date designated in the SWMP approval and on that date each year thereafter. NPDES permittees, facilities, and entities subject to this permit must comply with all requirements in this permit and submit the minimum set of NPDES data in the following nationally-consistent manner:

a) ***Timely.*** Submissions of all required data found in the Annual Report form must be timely.

1) Measurement data (including information from discharge monitoring reports (DMR's) and similar self-monitoring data). The electronic submission of DMR data is due when that monitoring information is required to be reported in compliance with statutes, regulations, the NPDES permit, another control mechanism, or an enforcement order.

2) Program report data. The submission of this data is due when that program report data is required to be reported in compliance with statutes, regulations, the NPDES permit, another control mechanism, or an enforcement order.

b) ***Accurate.*** Electronic, or other submissions of the minimum set of NPDES data must be identical to the actual measurements taken by the owner, operator, or their duly authorized representative;

c) ***Complete.*** Electronic, or other submission of the minimum set of NPDES data must include all elements required by this permit and must be submitted in a format acceptable to the Director.

d) ***Consistent.*** Electronic submissions of the minimum set of NPDES data must be compliant with DEP data standards (including measurement units) and be fully compatible with ESS.

C. Stormwater Management Program for Small MS4s

1. Best Management Practices

Permittees shall continue to implement BMPs specific to current SWMPs until revisions are authorized by the Director.

2. Implementation

Permittees shall implement the terms and conditions of this permit in accordance with the approved SWMP, as full implementation is required within one year of the initial permit registration.

3. Coordination Among Permittees

Coordination among permittees may be necessary to comply with certain conditions of the SWMP. The SWMP shall include appropriate coordination mechanisms among permittees to encourage effective stormwater related policies, programs, and projects within adjoining or shared areas.

4. Relying on Others

The SWMP shall include all components described in Part II, Sections B and C. In accordance with 40 CFR 122.35(a), a permittee may rely on another entity to implement one or more of the components in this section, provided that (1) the other entity, in fact, implements the control measure; (2) the control measure is at least as stringent as the corresponding NPDES permit requirement; and (3) the other entity agrees to implement the control measure on the permittee's behalf. The reliance on another entity must be fully disclosed in the SWMP. The permittee remains responsible for compliance with all terms of the permit.

a) The permittee may rely on another entity to satisfy its NPDES permit obligations to implement a minimum control measure if:

1) The other entity, in fact, implements the control measure.

2) The particular control measure, or component thereof, is at least as stringent as the corresponding NPDES permit requirement; and

3) The other entity agrees to implement the control measure on the permittee's behalf. In the reports, the permittee must submit under Part II.B.10, the permittee must also specify that it is relying on another entity to satisfy some of the permit obligations. If the permittee is relying on another governmental entity regulated under WV47CSR10 to satisfy all of the permit obligations, including the obligation to file Annual Reports and DMR's, the permittee must note that fact in its SWMP submittal; but the permittee is not required to file the reports. The permittee remains responsible for compliance with the permit obligations if the other entity fails to implement the control measure (or component thereof). Therefore, DEP encourages the permittee to enter into a legally binding agreement with that entity if the permittee wants to minimize any uncertainty about compliance with the permit.

5. Roles and Responsibilities

Each application for coverage under this permit shall contain an organization chart or other easy-to-read explanation for ascertaining who has ultimate responsibility for permit compliance, such as the Town Council, or other body with authority to enact ordinances or other regulatory mechanisms. Duties assigned to personnel/staff must be spelled out with the phone and other contact information for the personnel responsible for the duties.

Should coordination mechanisms be needed, the MS4 shall specify roles and responsibilities for the control of stormwater and its associated pollutants between physically interconnected MS4s covered by the small MS4 general permit. For example, a memorandum of agreement or memorandum of understanding should be completed between the MS4s and included in the SWMP.

6. Discharges to Common Water Bodies

Coordination mechanisms shall reflect stormwater management for permittees discharging into common water bodies, with the goal of avoiding conflicting plans, policies and regulations.

7. Minimum Control Measures

a) Public Education and Outreach

1) The SWMP shall include an education and outreach program aimed at reducing or eliminating behaviors and practices that cause or contribute to adverse stormwater impacts.

2) The outreach program shall be designed to achieve measurable improvements in the target audience's understanding of stormwater pollution and actions that will reduce its impacts.

a) The measurable, enforceable goal of this measure shall be to document behavioral changes that occurred as a result of the education and outreach program.

i) To demonstrate compliance the permittee may cite public participation in events announced through MS4-sponsored channels such as newsletters, radio ads, and email notifications.

ii) To demonstrate compliance the permit may summarize feedback provided by callers to the hot line and/or pollution/dumping concerns expressed by the public in response to a message the permittee put out concerning pollution/dumping concerns.

iii) To demonstrate compliance the permittee may summarize an outreach message for which there is any documentation the audience understood the message such as questionnaires at public meetings, comments about proposed related policies, quizzes taken by school children.

b) The annual report must include detailed explanations of documented behavioral changes using a) i), ii), or iii) or other methods of documenting change, when the evaluation finds the previous approach was ineffective.

3) The program shall target residents, businesses, industries, elected officials, policy makers, planning staff, and the permittee's staff and employees and contractors. Permittees shall document at least 1 outreach event as described in sections 7,8,9, 10 and 11 annually as the measurable, enforceable goal for this measure. The annual report must contain documentation permittees reached out to each of the target audiences named above.

4) The education program may be developed locally or regionally.

5) Existing permittees shall use the results of effectiveness evaluations done under the 2014 GP to improve upon their previously approved education and outreach programs.

6) Newly permitted MS4s shall establish and begin implementation of education and outreach programs within six months of SWMP approval.

a) New permittees whose MS4 discharges to 303d/TMDL waters shall include educational messages naming the pollutant(s) of concern to audiences located in the affected sewershed. For example, the new permittee shall reach out to the public with pet waste control recommendations or septic tank maintenance guidelines for a receiving water impaired by fecal coliform. This permit component shall serve as a measurable, enforceable goal for new permittees, who shall demonstrate compliance by summarizing the required educational messages in the third year annual report.

7) Education and outreach efforts targeting the general public shall be focused on:

a) General impacts of stormwater flows into surface waters.

b) Impacts from impervious surfaces.

c) Source control BMPs and environmental stewardship actions and opportunities in the areas of pet waste, vehicle maintenance, landscaping, and rainwater reuse.

8) Education and outreach efforts targeting businesses, including home-based and mobile businesses shall focus on pollutants most likely associated with the particular business as well as:

a) BMPs for use and storage of products used in vehicular operation, care, or repair, such as petroleum, cleaning supplies and wastes, car wash soaps, and related materials or wastes,

b) Impacts of illicit discharges and spill reporting procedures

9) Education and outreach efforts targeting homeowners, landscapers and property managers shall focus on:

a) Yard care techniques that protect water quality;

b) BMPs for use and storage of pesticides and fertilizers;

c) BMPs for carpet cleaning and auto repair and maintenance.

d) Runoff reduction techniques, including site design, pervious paving, and retention of forests and mature trees, and

e) Stormwater pond maintenance.

10) Education and outreach efforts targeting engineers, contractors, developers, review staff and land use planners shall address:

a) Technical standards for construction site sediment and erosion control;

b) Runoff reduction techniques, including site design, pervious pavement, alternative parking lot design, retention of forests and mature trees;

c) Stormwater treatment and flow control BMPs;

d) Impacts of increased stormwater flows into receiving water bodies.

11) The permittee shall track and maintain records of public education and outreach activities.

12) The SWMP shall clearly show how the Education and Outreach program will be evaluated for effectiveness.

13) The permittee is expected to use the evaluation to effectively direct future educational resources.

b) Public Involvement and Participation

1) The permittee shall implement a public involvement/participation program that complies with State and local public notice requirements. See WV 47CSR10 and/ or local ordinances.

2) Public participation opportunities shall provide educational and volunteer programs such as streambank stabilization, riparian planting, volunteer monitoring programs, storm drain marking or stream cleanup programs. The measurable enforceable goal shall be documentation in the annual report that the permittee organized at least one participation event each year of the permit term.

3) Permittees shall create opportunities for the public to participate in the decision-making processes for developing, implementing and updating the SWMP.

4) Each new permittee shall develop and implement a process for consideration of public comments on their SWMP. The initial SWMP shall include a brief description of the process the permittee plans to develop and shall provide the timeframe for implementing the newly developed process. The Timeframe shall not exceed ninety (90) days.

5) Existing permittees shall evaluate existing public involvement and participation programs for effectiveness annually. The evaluation process is spelled out in Part IV.A.3. Identified improvements shall be implemented within the following year of being discovered.

6) The SWMP is to list a method of routine communication to notify public groups of upcoming opportunities such as recycling events or stream bank stabilization projects. For

example, the permittee may utilize an electronic notification system such as email or phone text. The permittee may post notices on its stormwater website or may send out a newsletter or may post an announcement in public buildings such as the library or town hall. Once the method is selected the permittee shall maintain it to ensure groups know where to find information. The measurable, enforceable goal for new permittees for Public Involvement and Participation shall be documentation of establishment of a method of routine communication as described herein.

c) Illicit Discharge Detection and Elimination (IDDE)

New permittees shall develop, implement, assess, and enforce a program to prohibit improper disposal, detect and remove illicit connections, and eliminate illicit discharges to the storm sewer system. Within (12) twelve months of approval of the SWMP new permittees shall implement each IDDE component containing each requirement spelled out in this MCM.

1) Existing permittees shall follow the schedule for IDDE program components in the currently approved SWMP until an updated SWMP that meets the criteria of this reissued permit is approved.

2) For both new and existing permittees, the SWMP shall contain a response procedure for spills into the storm sewer system not under the purview of another responding authority.

3) For new permittees, development of a map of the storm sewer system by the end of the first year after SWMP approval shall be a measurable, enforceable goal for the Illicit Discharge Detection and Elimination MCM. Thereafter, storm sewer system maps shall be updated on an annual basis and shall include:

   a) The location of all known storm sewer outfalls;

   b) Known connections authorized since the map was last updated;

   c) Receiving waters;

   d) Structural stormwater BMPs owned, operated, or maintained by the permittee;

   e) The location and type of all other stormwater conveyances located within the boundaries of the MS4 watershed; and

   f) Geographic areas outside the permittee's jurisdiction that discharge stormwater into the MS4.

   g) The permittee may opt to include land use on the map.

4) Existing permittees shall submit a copy of the map in Part II C.7.c)3) with the SWMP.

5) All maps shall have a north arrow, shall be at a legible scale and the scale shall be noted on the map. Additionally, the maps shall contain a legend signifying the meaning of all symbols, color codes, or other representations. Permittees shall label 303(d) and TMDL receiving waters on their maps. The result shall be a map that shows specifically which MS4 areas drain to which impaired or TMDL water.

6) Permittees shall provide a digital boundary of the current MS4 area. These files must be georeferenced. Examples of acceptable boundaries are those used in GIS mapping which include shapefiles, autocad drawings, or other digital boundaries such as KMZ or KML files. This digital file shall be included in the SWMP.

7) New permittees shall develop an IDDE Ordinance or other regulatory mechanism and begin implementation thereof within (12) months of the approved SWMP. Development and implementation of the regulatory mechanism shall constitute a measurable, enforceable goal of this component of the IDDE measure for new permittees.

8) Both new and existing permittees shall review all IDDE ordinances or other regulatory mechanisms at least annually after implementation and update as needed.

9) The regulatory mechanism must prohibit and provide for the expeditious elimination of illicit pollutant sources from entering the MS4.

10) The regulatory mechanism shall prohibit the following categories of non- stormwater discharges unless the stated conditions are met:

    a) Unless de-chlorinated to 0.2 ppm or less, pH adjusted, solids removed, and discharged in a manner that does not cause erosion or sediment to be discharged into the MS4 or receiving waters:

        i) Discharges from potable or non-potable water sources;

        ii) Hyper-chlorinated water line flushing;

        iii) Pipeline hydrostatic test water;

        iv) Chlorinated discharges not associated with drinking water shall be de-chlorinated to 0.1ppm. As example only, swimming pool discharges are to comply with this requirement.

11) The SWMP shall further address any category of discharge above if the discharges are identified as significant sources of pollutants to waters of the State.

12) The new permittee shall develop an enforcement strategy and implement the enforcement provisions of the regulatory mechanism.

13) The regulatory mechanism shall include escalating enforcement procedures.

14) The permittee shall document:

    a) Locations of priority areas likely to have illicit discharges;

    b) Evaluation of land uses associated with business/industrial activities;

        i) The permittee shall develop an inventory of these priority areas.

    c) Previous complaint locations;

    d) Evaluations of the storage of large quantities of materials that could result in spills.

15) The measurable, enforceable goal for existing permittees for this IDDE component is to develop and implement a strategy to maximize reduction of pollutants of concern to 303d or TMDL receiving waters.

    a) Permittees may demonstrate success with this goal by:

        i) Documenting in the annual report the creation and implementation of an inspection strategy coupled with an education/outreach program prioritizing 303d or TMDL pollutants of concern; and by

ii) Creating and implementing an enforcement strategy that prioritizes violations relating to 303d or TMDL pollutants of concern.

16) Field assessment activities are to include:

a) Inspection of priority outfalls identified under Part II C.7.c)14)(a). The permittee shall develop a schedule to inspect all priority outfalls each permit term;

b) Dry weather screening of all stormwater conveyances annually;

c) New permittees shall prioritize receiving waters for visual inspection no later than three years from the effective date of this permit, including a field assessment of at least two water bodies;

d) New permittees shall ensure one field assessment shall be made each year thereafter;

e) Screening for illicit connections shall be conducted consistent with the manual titled " Illicit Discharge Detection and Elimination: A Guidance Manual for Program Development and Technical Assessments, Center for Watershed Protection, October 2004", or another methodology of comparable effectiveness. The permittee may submit alternative screening methods for consideration by the Director in lieu of the manual and use any Director-approved alternative method.

17) For the field assessment activities listed above, the measurable, enforceable goal shall be to evaluate assessment results for both water bodies as required in Part II.C.7.c)14)(c) and Part II.C.7.c)14)(d) in relation to impaired waters/TDML pollutants of concern and to document in the annual report whether the assessments led to pollutant source elimination. Permittees discharging to waters other than 303d/TMDL shall report results by summarizing findings and relating to pollutants found, if any.

18) Within one year of the SWMP approval, permittees shall develop or update and implement in a separate document, procedures for:

a) Characterizing the nature of and potential public or environmental threat posed by illicit discharges found by or reported to the Permittee;

b) Evaluating discharges which must be immediately contained and the steps to contain the discharge;

c) Investigating any information suggesting pollution within fifteen (15) days;

i) The investigation shall be designed to determine the source of the discharge or connection, the nature and volume of discharge through the connection, and the party responsible for the connection.

ii) The permittee shall establish a prioritization system for response and verification of the elimination of illicit connections.

iii) The permittee shall assign a higher priority on illicit connections that pose an imminent threat to water quality.

d) Immediately investigating emergency cases;

e) Referring pollution reports to the Director if imminent water quality impairments are deemed severe or urgent;

f) Detailing the procedures for tracing the source of illicit discharges such as visual inspections, opening manholes, using mobile cameras, collecting and analyzing water samples;

g) Describing the procedures for removing the source of illicit discharges, notifications to appropriate authorities, property owner, business operator and follow up inspections;

h) Detailing escalating enforcement and legal actions the Permittee will follow in an effort to eliminate the illicit discharge;

i) Informing public employees, businesses, and the general public of the hazards associated with illegal discharges and improper disposal of waste.

19) Permittees shall publicly list and publicize a hotline or other local telephone number for public reporting of spills and other illicit discharges.

20) The SWMP shall describe the permittee's recording keeping system for IDDE calls received and follow-up actions taken to eliminate pollution.

21) Permittees shall provide annual training to all municipal field staff who are responsible for identification, investigation, termination, cleanup, and reporting of illicit discharges, including spills, improper disposal and illicit connections.

a) For existing permittees, the measurable enforceable goal for this component is to provide annual follow up training that shall address changes in procedures, techniques, or requirements.

b) Additionally, staff who are not directly responsible for IDDE but who are likely to come into contact with illicit discharges are to be trained to identify and report such discharges to the permittee's group responsible for follow up.

c) The measurable, enforceable goal for this component for new permittees shall consist of the development of a training program for staff whose duties encompass the tasks described in Part II C.7.c)16),17), and 18) where training encompasses the reduction and elimination of pollutants of concern to 303d/TMDL receiving waters. For example, a fecal coliform impairment shall prompt permittees to include training in prevention of the release of wastewater into the storm drain system by sanitary work crews.

22) All permittees shall document and maintain records of the training provided to specific staff and provide this information with the annual report.

23) The permittee shall track, summarize, and report on an annual basis:

a) The number and type of spills or illicit discharges identified during the reporting year;

b) Inspections of priority outfalls;

c) Feedback received from IDDE public education efforts such as 303d/TMDL pollutants of concern; and

d) Program evaluation results.

d) Controlling Runoff from Construction Sites

1) Permittees shall implement, assess, and enforce a program to reduce pollutants in stormwater runoff from construction site activities that result in a land disturbance of one acre or greater or less than an acre if part of a larger common plan of development or sale. The program shall prioritize construction sites located in 303(d)/TMDL areas.

2) Within the first year after SWMP approval, new permittees shall develop, implement, assess, and enforce a program to reduce pollutants in stormwater runoff from construction site activities that result in a land disturbance of one acre or greater or less than an acre if part of a larger common plan of development or sale. Each year thereafter, the ordinances shall be reviewed and updated as necessary.

3) Permittees may opt to include construction sites that are less than one acre.

4) Annually, permittees shall review and if needed, update ordinances or other regulatory mechanisms that address stormwater runoff from construction sites.

5) The measurable, enforceable goal for this measure is to prioritize the review of, through the regulatory mechanism review/update process, construction site applications for sites located in sewersheds draining to 303d/TMDL waters with sediment or sediment-related pollutants of concern.

   a) Permittees shall demonstrate success with this goal by including a plan review checklist for 303d/TMDL sewershed project(s) in the annual report. If no applications are received, the permittee shall submit a blank checklist as verification of intent to conduct the subject review had an application been received.

6) The regulatory mechanism shall authorize the permittee to:

   a) Implement erosion and sediment control BMPs that are consistent with manuals listed in Appendix D,

   b) Require construction site operators to install and maintain adequate erosion and sediment control BMPs to provide protection to receiving waters,

   c) Require construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site,

   d) Demonstrate that registration under the WV/NPDES construction stormwater general permit has been obtained for those sites one acre and greater.

      i) Provided the Department has approved the permittee as a Qualifying Local Program, WV/NPDES construction stormwater permit will be issued by the permittee and not by the Department.

   e) Incorporate consideration of potential water quality impacts and review of individual pre-construction site plans to ensure consistency with local and State sediment and erosion control requirements.

   f) Establish authority for receipt and consideration of comments and information submitted by the public.

   g) Establish authority for site inspections and enforcement of control measures including steps to identify priority sites for inspection and enforcement based on the nature of the

construction activity, topography, and the characteristics of soils and receiving water quality.

7) The permittee shall provide adequate funding for site inspections and enforcement of control measures.

8) The SWMP will describe educational and training measures for construction site operators including how to prepare a stormwater pollution prevention plan for construction sites discharging to the permittee's MS4.

9) The plan review, inspection and enforcement procedures shall address both private sector and public sector construction sites.

   a) New and existing permittees will prioritize inspections of projects located in sewersheds that discharge to 303d/TMDL waters. Evidence of compliance with this MCM shall be a summarization in the annual report outlining the number of projects, locations, and a statement affirming inspections of these sites were actually conducted after storm events to verify erosion and sediment controls worked properly or that the permittee issued directives to repair/maintain controls.

10) The following elements shall be incorporated into the construction site run- off program:

   a) Coordination of plan review within the permittee's various departments,

   b) Procedures for inspecting permitted sites during construction to verify proper installation and maintenance of erosion and sediment controls,

   c) Educational and training measures for construction site operators and the permittee's staff, and

   d) An enforcement strategy to respond to issues of non-compliance.

11) The permittee shall develop an application process whereby the construction site operator will describe the sediment and erosion control measures to be taken on the site.

   a) This application process can include submittal of the stormwater pollution prevention plan that was used to obtain registration under DWWM WV/NPDES construction stormwater permit.

   b) The application shall include a listing of all water bodies into which the construction site will discharge and whether or not those water bodies are on the 303(d) list for impaired waters or have established TMDLs.

   c) The creation and use of an application form designed to show the relationship of the construction project to 303d/TMDL receiving waters shall serve as a measurable, enforceable goal for new permittees. To demonstrate compliance, new permittees shall include a copy of the form in the annual report and summarize the number of projects the form was used with.

12) New permittees will develop a procedure for keeping records of all regulated construction activities, inspection reports, warning letters, and enforcement documentation. Development of a tracking system for all activities and documents described in this section shall serve as the measurable, enforceable goal for new permittees for this measure.

13) A summary of inspection and enforcement activities shall be included in the annual report.

e) Controlling Runoff from New Development and Redevelopment

1) Existing permittees shall continue to implement, assess, and enforce an ongoing program to reduce pollutants in stormwater runoff from new development and redevelopment activities.

2) New permittees shall develop, implement, assess, and enforce an ongoing program to reduce pollutants in stormwater runoff from new development and redevelopment activities within two years of the effective date of this permit.

   a) For all permittees, the program shall ensure that long-term stormwater controls are in place that would prevent or minimize water quality impacts. The SWMP must identify the minimum elements and require the development, implementation, and enforcement of a program to address storm water runoff from new development and redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale, that discharge into the small MS4. The SWMP must ensure that controls are in place that would prevent or minimize water quality impacts. At a minimum, the SWMP must require the permittee to

      i) Develop and implement strategies which include a combination of structural and/or non-structural best management practices (BMPs) appropriate for the community;

      ii) Use an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects to the extent allowable under State, Tribal or local law; and

      iii) Ensure adequate long-term operation and maintenance of BMPs by maintaining an inventory and inspection protocol as further described in this section.

3) The program shall be applied to all sites that disturb a land area one acre or greater, including projects less than one acre that are part of a larger common plan of development or sale.

4) The program shall apply to private sector and public sector development, including roads.

5) The program must ensure that controls are in place that will increase groundwater recharge of stormwater runoff where and when possible and protect water quality and reduce the discharge of pollutants.

6) The following watershed protection elements are to be used to manage the impacts of stormwater on receiving waters that occur because of regional or watershed-scale management decisions and must, except where noted:

   a) Minimize the amount of impervious surfaces (roads, parking lots, roofs, etc.) within each watershed, by minimizing the creation, extension, and widening of parking lots, roads, and associated development and encourage the use of Low Impact Development or green infrastructure practices.

   b) Preserve, protect, create and restore ecologically sensitive areas that provide water quality benefits and serve critical watershed functions. These areas may include, but are not limited to; riparian corridors, headwaters, floodplains and wetlands.

   c) Implement stormwater management practices that prevent or reduce thermal impacts to streams, including requiring vegetated buffers along waterways, and disconnecting discharges to surface waters from impervious surfaces such as parking lots.

d) Seek to avoid or prevent hydromodification of streams and other water bodies caused by development, including roads, highways, and bridges.

e) Implement standards to protect trees, and other vegetation with important evapotranspirative qualities.

f) Implement policies to protect native soils, prevent topsoil stripping, and prevent compaction of soils.

7) The measurable, enforceable goal for new permittees for this Minimum Control Measure is to incorporate watershed protection elements into the subdivision ordinance or equivalent document described in Part IIC.7.e)2)a).

a) The permittee shall incorporate watershed protection elements into all relevant policy and/or planning documents during regular reviews.

b) If a relevant planning document is not scheduled for review during the term of this permit, the permittee must identify the elements that cannot be implemented until that document is revised, and include in the SWMP a schedule for incorporation and implementation that cannot exceed one (1) year from SWMP approval.

c) Planning documents may include comprehensive or master plans, subdivision ordinances, general land use plans, zoning codes, transportation master plans, specific area plans such as sector plans, site area plans, corridor plans, or unified development ordinances.

8) New permittees shall develop quantifiable objectives including a time frame for developing, implementing, assessing, and enforcing each watershed protection element.

a) Short-term objectives shall be identified in the SWMP as those that can be accomplished in less than five years.

b) Long-term objectives shall be identified in the SWMP as those that will take longer than five years to accomplish.

9) Annual reports must include status of implementation of these elements.

a) The report will list which planning documents have incorporated the elements and which have yet to do so.

b) The report will list which elements have been implemented and describe implementation policies.

c) Reports should include proposed time frames for completely incorporating and implementing all elements, changes from previously reported statuses, and modified measurable goals.

10) To manage the impact of stormwater on receiving waters, the program shall include site and neighborhood design elements implemented in tandem with watershed protection elements.

a) The permittee must implement and enforce via ordinance and/or other enforceable mechanisms the following requirements that keep and manage onsite the first 1 inch of rainfall from an average 24-hour storm preceded by 48 hours of no measurable precipitation or that provide equal benefits for quality water.

b) The first 1” of rainfall must be 100% managed with no discharge to surface waters except when the permittee allows an alternative approach as described below:

i) Stormwater is treated before release to surface waters via extended or engineered infiltration. Extended filtration practices that are designed to capture and manage up to one inch of rainfall may discharge through an underdrain system.

ii) The permittee develops and implements a program to collect payment in lieu of on-site retention, provided in-lieu funds are used for stormwater projects only.

iii) The permittee develops and implements an off-site mitigation program.

iv) The permittee develops and obtains approval of an alternative method of managing the first 1" of rainfall. The method must be equally protective of water quality as the methods spelled out in the permit.

c) Run-off volume reduction can be achieved by:

i) Canopy interception,

ii) Soil amendments,

iii) Evaporation,

iv) Evapotranspiration,

v) Rainfall harvesting such as rain tanks and cisterns,

vi) Grass channels and swales,

vii) Reforestation,

viii) Green roofs,

ix) Rooftop disconnections, such as gutter drains,

x) Permeable pavers/pavement,

xi) Porous concrete,

xii) Engineered infiltration including extended infiltration via bioretention cells with eventual release,

xiii) Release to groundwater may require an Underground Injection Control Permit and permittees are required to list projects using this practice in the annual report, or

xiv) Any combination of these methods.

d) In instances where alternatives to complete on-site retention of the first 1 inch of rainfall are allowed, technical justification as to the infeasibility of on-site retention is required, must be documented and approved by WVDEP.

11) The program shall require all new and redevelopment projects to control stormwater discharge rates, volumes, velocities, durations and temperatures.

12) When considered at the watershed scale, certain types of development can either reduce existing impervious surfaces, or at least create less 'accessory' impervious surfaces.

a) Incentive standards may be applied to these types of projects.

b) A reduction of 0.2 inches from the one inch runoff reduction standard may be applied to any of the following types of development:

i) Redevelopment,

ii) Brownfield redevelopment

iii) High density (>7 units per acre)

iv) Vertical Density, (Floor to Area Ratio (FAR) of 2 or >18 units per acre)

v) Mixed use and Transit Oriented Development (within 1/2 mile of transit)

13) Existing permittees shall continue to implement, assess, and enforce site and neighborhood design elements in accordance with the approved SWMP schedule.

14) The permittee shall designate projects with reasonable potential for pollutant loadings as Hot Spots. Water quality treatment practices shall be provided prior to infiltration or discharge and shall be designed for the specific pollutant and source, for example only, petroleum hydrocarbons at a vehicle fueling island.

a) A project that is a potential hotspot with reasonable potential for pollutant loading(s) that cannot implement adequate preventive or water quality treatment measures to ensure compliance with groundwater and/or surface water quality standards, must properly convey stormwater to a NPDES-permitted wastewater treatment facility or via a licensed waste hauler to a permitted treatment and disposal facility.

b) A project that discharges or proposes to discharge to any surface water or ground water that is used as a source of drinking water must comply with all applicable requirements relating to source water protection.

15) For projects that cannot meet 100% of the runoff reduction requirement on site, the permittee may allow an alternative approach for off-site mitigation, payment in lieu, or for another approved method of capturing or treating the subject first 1" stormwater.

a) Prior to allowing an alternative, the permittee must develop, implement, assess, and enforce criteria that can be consistently applied.

b) The permittee's SWMP must be modified and approved by the Director and the governing body to allow for approval of alternative approaches.

c) The permittee must develop and apply criteria for determining the circumstances under which these alternatives will be approved.

d) A determination to allow an alternative to on-site stormwater retention and treatment may be based on the difficulty or cost of implementing measures. For example only:

i) Too small a lot outside of the building footprint to create the necessary infiltrative capacity even with amended soils.

ii) Soil instability as documented by a thorough geotechnical analysis.

iii) A site use that is inconsistent with capture and reuse of stormwater.

iv) Too much shade or other physical conditions that preclude adequate use of plants.

e) When allowing either alternative, the permittee must require technical justification as to the infeasibility of on-site management of the first 1" of rainfall.

f) If, as demonstrated to the permittee, it is technically infeasible to manage on site a portion or all of the subject 1" of rainfall, off site mitigation, payment in lieu, or another approved alternative approach will be applied at a 1:1 ratio for that portion.

g) For any of these options to be available, the permittee must create an inventory of appropriate mitigation projects and develop appropriate institutional standards and management systems to value, evaluate, and track transactions.

i) For new permittees, the measurable, enforceable goal for this measure shall be documentation of the municipality's decision to implement or not implement off-site mitigation procedures. Documentation shall be included in the third year annual report.

ii) For existing permittees who opt to develop an off-site mitigation program, the measurable, enforceable goal shall be the prioritization of projects located in sewersheds that drain to 303d/TMDL waters. Documentation of development shall be included in the first year annual report.

h) Off-site mitigation projects runoff reduction practices may be implemented at another location approved by the permittee; however, emphasis shall be on improving locations draining to 303d/TMDL waters. Such emphasis shall be the measurable, enforceable goal for existing permittees for this component.

i) The permittee shall identify priority areas within the sewersheds - watersheds in which mitigation projects can be completed.

ii) Mitigation must be for retrofit or redevelopment projects and cannot be applied to new development.

iii) The permittee shall determine who will be responsible for long term maintenance on mitigation projects. The SWMP shall contain a detailed description of the system the permittee intends to use to track responsible parties of mitigation projects.

iv) For payment in lieu projects, payment may be made to the permittee, who must apply the funds to a public stormwater project.

i) Permittees shall maintain a publicly accessible inventory of approved in-lieu projects which fully details all monetary transactions associated with the projects. This information shall also be submitted with the annual report.

16) Runoff reduction practices shall be applied to redevelopment projects for existing public streets or parking lots that are greater than 5000 square feet in size unless otherwise justified.

a) These requirements apply only to projects begun after the effective date of this permit.

b) The permittee shall document the reasons why a project of this type is not to be included in run-off reduction efforts, to include right-of-way restrictions such as interference with buried utilities, safety concerns such as fire equipment access, traffic control, or other major obstacles.

c) The permittee will report on any such project in the annual report and include the justification for those without runoff reduction practices applied.

17) To ensure that all new development and redevelopment projects conform to the long- term stormwater control standards, new permittees shall develop project review, approval and enforcement procedures.

18) To ensure that all new development and redevelopment projects conform to the long- term stormwater control standards, existing permittees shall continue to implement previously developed project review, approval and enforcement procedures.

19) The review, approval and enforcement procedures listed below shall apply to all new development and redevelopment disturbances greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale.

a) Requirements to submit for review and approval a pre-application concept plan that describes how the performance standards will be met.

b) A pre-application meeting attended by a project land owner or developer, the project design engineer, and municipal planning staff to discuss conceptual designs may also meet this requirement,

c) Development of procedures for the site plan review and approval to include interdepartmental consultations, as needed, and a required re-approval process when changes to an approved plan are desired,

d) A requirement for submittal of 'as-built' certifications within 90 days of completion of a project,

e) A post-construction verification process to ensure that stormwater standards are being met, that includes enforceable procedures for bringing noncompliant projects into compliance, and

f) A description of a program to educate both internal staff and external project proponents of the requirements of long-term stormwater controls.

20) The permittee shall require that all developments subject to long-term stormwater controls develop a maintenance agreement and maintenance plan for approved stormwater management practices.

21) The permittee shall require that property owners or operators provide verification of maintenance for the approved stormwater management practices.

22) Verification shall include one or more of the following as applicable:

a) The owner/developer's signed statement accepting responsibility for maintenance until the maintenance responsibility is legally transferred to another party; and/or

b) Written conditions in the sales or lease agreement that require the recipient to assume responsibility for maintenance; and/or

c) Written conditions in project conditions, covenants and restrictions for residential properties assigning maintenance responsibilities to a homeowner’s association or other

appropriate group for maintenance of structural and treatment control stormwater management practices; and/or

d) Any other legally enforceable agreement that assigns permanent responsibility for maintenance of structural or treatment control stormwater management practices.

e) These agreements shall allow the permittee, or designee, to conduct inspections of the stormwater management practices,

f) The agreement shall account for transfer of responsibility in appropriate legal documents.

23) When privately-owned stormwater structures are not properly maintained, the Ordinance or other regulatory mechanism shall clearly state, that the permittee shall take one of the following actions when the necessary maintenance has not been performed within 30 (thirty) days of notification by the permittee:

a) The permittee may enter onto the property, conduct maintenance corrective actions on stormwater structures, and recoup associated costs,

b) The permittee may take enforcement actions against the party responsible for maintaining stormwater structures, to include fines or penalties authorized by the regulatory mechanism, or

c) The permittee may carry out a legal action against the responsible party in a court having jurisdiction over matters of this type.

24) The permittee shall utilize a system to track stormwater management practices at new development and redevelopment projects.

a) Tracking of stormwater management practices shall begin during the plan review and approval process with a database or geographic information system (GIS), or other approved system.

b) The database or tracking system shall include information on both public and private sector projects that are within the permittee's jurisdiction.

c) In addition to the standard information collected for all projects (such as project name, owner, location, start/end date, etc.), the tracking system shall also include:

i) Source control stormwater management practices (type, number, design or performance specifications)

ii) Treatment control stormwater management practices (type, number, design or performance specifications)

iii) Latitude and longitude coordinates of stormwater BMP controls using a global positioning system.

iv) Digital photographs of stormwater management practice controls

v) Maintenance requirements of stormwater management practices (frequency of required maintenance and inspections)

vi) Inspection information (date, findings, follow up activities, compliance status)

25) The permittee shall inspect Stormwater BMPs to determine proper operation and maintenance on the part of the owner/operator.

a) The permittee is to develop an inspection calendar for all stormwater BMPs to be inspected at least once during the permit cycle.
b) Complete inspection reports shall include:
    i) Facility type,
    ii) Inspection date,
    iii) Name and signature of inspector,
    iv) GIS location and nearest street address,
    v) Management practice ownership information (name, address, phone number, fax, and email),
    vi) A description of the stormwater BMP condition including the quality of: vegetation and soils; inlet and outlet channels and structures; embankments, slopes, and safety benches; spillways, weirs, and other control structures; and sediment and debris accumulation in storage and forebay areas as well as in and around inlet and outlet structures,
    vii) Photographic documentation of all critical stormwater BMP components, and
    viii) Specific maintenance items or violations that need to be corrected by the owner/operator along with deadlines and reinspection dates.

26) The permittee shall develop an enforcement and response plan to ensure stormwater BMPs are properly maintained, to include:
    a) Prompt notification to the stormwater BMP owner or operator of any deficiencies discovered during a maintenance inspection.
    b) Compliance with the enforcement response plan to ensure that management practices are maintained.
    c) Subsequent inspection procedures/policies to ensure completion of all required repairs.
    d) Procedures to enforce correction orders and a contingency plan if correction orders are not followed through by the responsible party.

27) The permittee shall demonstrate compliance with the requirements for post construction controls by summarizing the following in the Annual Report:
    a) A description of how the permittee's legal authority addresses the watershed protection elements.
    b) A summary of the number and types of projects that the permittee reviewed for new and redevelopment considerations.
    c) A summary of the number and types of stormwater BMPs approved in new and redevelopment projects, including the number of approved projects that qualified for incentives and or alternatives authorized by this permit,
    d) A summary of the number and types of maintenance agreements approved,
    e) A summary of stormwater BMP maintenance inspections conducted by the permittee, including a summary of the number requiring maintenance or repair, the number brought into compliance and the number of enforcement actions taken,

f) A summary of any evaluation data collected for long-term stormwater controls, including water quality information, stormwater BMP performance, and model results.

28) New permittees shall conduct an assessment of current street design guidelines and parking requirements that affect the creation of impervious cover with the third year annual report.
   a) The assessment shall include recommendations and proposed schedules for incorporating policies and standards into relevant documents and procedures to maximize vegetation and to minimize impervious cover attributable to parking and street designs.
   b) The local planning commission and the local transportation commission should be involved in the assessment.

29) Existing permittees shall include in each annual report the status of achieving the schedules in the assessment that was reported in the third annual report under the previous permit term.

f) Pollution Prevention & Good Housekeeping for Municipal Operations

1) Each existing permittee shall continue to implement good housekeeping and operation and maintenance programs at municipal facilities, including but not limited to wastewater treatment facilities, potable drinking water facilities, municipal fleet operations, maintenance garages, parks and recreation areas, street and infrastructure maintenance, and grounds maintenance operations.

2) New permittees have 1 (one) year from the approval date of the SWMP to develop and begin implementation of good housekeeping and operation and maintenance programs at municipal facilities.

3) The goal of these programs shall be to prevent or reduce polluted runoff from municipal operations.

4) Each permittee shall develop and establish maintenance standards at all municipal facilities listed above that will help protect the physical, chemical and biological integrity of receiving waters. reduce the discharge of pollutants from these facilities to the MS4 to the maximum extent practicable.

5) The permittee shall establish a schedule of no less than once per calendar year for performing inspections of good housekeeping and maintenance programs at municipal facilities to determine if maintenance standards are being met. The purpose of the inspection is to verify proper storage of materials such as road salts; proper disposal of used materials such as waste oils; and proper maintenance of equipment to ensure repairs are achieved promptly to avoid oil, antifreeze or similar leaks.

6) Each permittee shall track inspections and keep records of those inspections for those municipal facilities identified in the SWMP.

7) The SWMP shall describe policies and procedures the permittee will utilize to reduce the discharge of pollutants in stormwater runoff to the MS4 from the following: all lands owned or maintained by the permittee and subject to this permit, including but not limited to: parks, open space, road right-of-way, maintenance yards, water/sewer infrastructure.

   a) These policies and procedures shall include, but not be limited to, the following topics:

      i) Storage and application of fertilizer, pesticides, and herbicides including the development of nutrient management and integrated pest management plans, - The

SWMP must include storage facility inspection protocol and inspection frequency, and must address initial and annual training for proper application to minimize nutrient enrichment in stormwater water;

ii) Sediment and erosion control, - The SWMP must include initial and annual training in sediment and erosion controls for MS4 crews or contractors whose work may involve removal of vegetated cover such as heavy equipment operators, must require field supervisors over field crews to regularly check work areas for barren areas and to provide controls to limit sediment laden runoff from entering the MS4 and waters of the state;

iii) Landscape maintenance and vegetation disposal, - To reduce storm sewer system clogging or malfunctions, the permittee shall include in the SWMP a plan for preventing leaves, lawn and bush trimming, and other related debris from being disposed of into storm drains or from being placed and left by homeowners, work crews, etc., in areas where stormwater may wash the debris into the storm drain system;

iv) Trash management, - The SWMP shall contain a procedure for reducing pollution related to trash and litter. For permittees who do not operate trash pickup services, an explanation must be provided for enforcing trash containment and removal for those households or businesses that do not opt for commercial pickup. Permittees who do operate pickup services, must provide the frequency and also describe any special disposal opportunities.

v) Building exterior cleaning and maintenance, - MS4 crews or contractors, who engage in building, parking lot, and street washing must follow practices that minimize pollution to the MS4. The SWMP must explain how this shall be done

vi) Chemical and material storage and use, - Permittees shall provide initial and annual training for MS4 personnel or contractors whose duties involve storing and use of chemicals or other materials that may cause pollution in stormwater. This includes fuel, oils, grease, strippers, and additional products for operation and maintenance of equipment and of buildings, streets, and MS4 systems.

vii) Street sweeping and inlet/catch basin cleaning, - On an annual basis, the SWMP shall detail the frequency or the miles of street to be swept each year; the frequency or number of catch basins to be cleaned; the underground pipe or system to be inspected; and the procedure for clearing clogged drains. The SWMP must detail how the permittee will reduce pollutants from entering waters of the state during maintenance, including when using high pressure equipment to clear blocked storm drain systems. For MS4s that consist of open channels, the SWMP shall provide the frequency of inspections for bank erosion, failure of splash-grouted banks, of retaining walls, or other system types.

b) The permittee shall record and maintain records of the above activities for three (3) years from the date of the activity.

8) The program shall include a training component intended to reduce the discharge of pollutants to the MS4 from municipal operations including, as appropriate:

a) Street/sewer and right-of-way construction and maintenance,

b) Water and sewer departments,

c) Parks and recreation department,

d) Municipal water treatment and waste water treatment,

e) Fleet maintenance garage and mechanic crew,

f) Fire departments,

g) Building maintenance and janitorial,

h) Contractors and subcontractors who may be contracted to work in the above described areas,

i) Personnel responsible for answering questions about the permittees stormwater program, this includes persons who may respond to the public about the program,

j) Any other department of the permittee that may impact stormwater run-off.

9) Training materials are available from WVDEP, USEPA, or other organizations for use by permittees.

10) For employees whose construction, operations, or maintenance job functions may impact water quality, the training program shall address:

a) The importance of protecting water quality, The requirements of this general permit,

b) The requirements of this general permit,

c) Operation and maintenance standards,

c) Inspection procedures,

d) Selecting appropriate BMPs,

e) Proper task procedures for preventing or minimizing impacts to water quality,

f) Procedures for reporting water quality concerns such as potential illicit discharges,

g) Shall include any changes in procedures, techniques or requirements.

11) Follow-up and refresher training shall be provided at a minimum of once every twelve months.

12) The measurable enforceable goal for existing permittees shall be to document training of new employees whose construction, operations, or maintenance job functions may impact water quality within (3) months of the date the employee starts work in the position of concern

13) The measurable enforceable goal for new permittees shall be to identify all positions of employees whose construction, operations, or maintenance job functions have potential to impact water quality within (6) months of SWMP approval and to develop and follow training protocol within (12) months.

14) Permittees shall maintain training records and keep them for 3 years.

15) The SWMP shall identify industrial facilities owned or operated by the permittee to include the location, type of activity, individual WV/NPDES permit number, or registration number if under WV/NPDES Multi-Sector General Water Pollution Control Permit.

16) For Industrial facilities not covered under another WV/NPDES permit, the SWMP shall fully disclose the location type of activity, and potential pollutant sources that may be discharged from the facility to the MS4.

17) The SWMP shall contain a benchmark monitoring plan for stormwater discharged from facilities or locations of municipal industrial activities unless addressed under other permits.

a) Pollutant concentrations above the benchmark could be detrimental to water quality or may adversely affect human health from ingestion of water or fish.

b) Pollutant concentrations below the benchmark are to be viewed by the Permittee as indicating little potential for water quality concern.

c) Levels above the benchmark shall trigger a review of the SWMP by the permittee to determine if alternative, more effective BMPs can be implemented. Reviews must be conducted within 30 days of the permittee's receipt of the laboratory or field results of stormwater analysis.

d) The following parameters should be considered and incorporated as appropriate for municipal industrial activities:

Parameter	Cut-off Concentration	Measurement
BOD-5	30 mg/l	Once/Six months
COD	120 mg/1	Once/Six months
TSS	100 mg/1	Once/Six months
Ammonia Nitrogen	4 mg/1	Once/Six months
Oil & Grease	15 mg/1	Once/Six months
pH	6.0 — 9.00 s.u.	Once/Six months

e) Permittees that receive stormwater discharges into their small MS4 from their sewage treatment plant property must, in addition to the above listed monitoring requirements, also meet the following monitoring requirements for those discharges:

Parameter	Cut-off Concentration	Measurement
Fecal Coliform, General	400 counts/100 ml	Once/Six months

This requirement does not apply to permittees with individual or general NPDES wastewater permit coverage that addresses stormwater discharges from the plant property.

f) Permittees that receive discharges into their small MS4 from their facilities that store less than 50,000 tons of salt shall monitor for the following:

Parameter	Cut-off Concentration	Measurement
TSS	100 mg/1	Once/Six months
Chloride	860 mg/1	Once/Six months
Cyanide	Monitor & Report	Once/Six months
Total Iron	1.0 mg/1	Once/Six months

g) The permittee's semi-annual discharge monitoring report start date is determined by the date coverage under this permit was issued and/or reissued.

i) Registrations issued/reissued on the first through the fifteenth of a month will use that month to determine the semi-annual reporting date.

ii) Registrations issued after the fifteenth of each month will use the next month to determine the reporting start date.

iii) For permittees whose monitoring is initiated as a result of a modification, the approval date of the modification will be used to determine the discharge monitoring reporting start date, instead of the registration issued date.

iv) All discharge monitoring reporting will require mandatory electronic submission via the Department's eDMR system. The technical requirements for the eDMR process will be an internet connection, an email account, and internet browser software.

v) Permittees that do not have the above requirements and/or are unable to participate in the eDMR process must submit a written explanation to the Department explaining why the process cannot be used.

vi) The Department will review explanations and notify permittees in writing that exemptions are approved or denied.

18) Permittees may submit low concentration waivers when the average concentration pollutant calculated from all monitoring data with a minimum of four consecutive samples is less than the corresponding cut-off concentration, additional monitoring for that pollutant is not required.

a) The annual report must contain a certification that there has not been a significant change in the industrial activity or the BMPs in the area that drains to the outlet for which sampling was waived.

b) Low concentration waivers are for discharges from industrial facilities or activities only and are not to be utilized for discharges at representative outfalls.

19) Stormwater samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previous measurable storm event (greater than 0.1 in rainfall).

a) Where semi-annual sampling is required, the samples for each six month period shall be collected at least three months apart.

b) The grab sample shall be taken during the first thirty minutes of the discharge.

c) If the collection of a grab sample during the first thirty minutes is impractical, a sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first thirty minutes was impractical.

d) Stormwater samples may be collected during routine work hours and on routine work days of the permittee's staff responsible for collection.

Part III. Special Conditions

A. Sharing Responsibility

1) In accordance with Part II.C.4, permittees may rely on one another to satisfy one or more permit obligations, provided the SWMP contains a clear description of the parties' agreement(s) which must be as stringent as the corresponding permit requirement(s). However, the permittee remains responsible for compliance with all terms of the permit.

   a) Each party must confirm the terms of the agreement(s) in writing and retain copies of the agreement(s) for the duration of this permit, including any automatic extensions of the permit term.

B. Compliance of Discharge with Water Quality Standards

1) The permittee shall develop, implement, assess, and enforce a SWMP designed to reduce the discharge of pollutants to the maximum extent practicable to protect water quality and to satisfy the appropriate requirements of the Clean Water Act.

2) If stormwater discharges have a reasonable potential to cause or contribute to violations of water quality standards in the receiving water, additional controls are required.

3) Full implementation of selected BMPs using known, available, and reasonable methods of prevention, control, and treatment to prevent and control stormwater pollution from entering waters of the State of West Virginia and implementation of the conditions in this permit is considered an acceptable effort to reduce pollutants from the municipal storm drain system to the maximum extent practicable for this permit term.

C. Requiring an Individual Permit

1) The Department retains the right to require any person authorized by this general permit to instead apply for and obtain an individual WV/NPDES permit, if appropriate.

2) An explanation will be provided to the applicant/permittee, along with the proper application form and due date for submittal of the individual permit application.

D. Discharge to Impaired Waters

1. 303(d) Listed Waters

a) This permit does not authorize new sources or new discharges of pollutants of concern to impaired waters unless consistent with applicable state law.

b) Impaired waters are those that do not meet applicable water quality standards. Impaired waters are identified on the West Virginia, Section 303(d) list until a TMDL is developed and approved by USEPA.

c) Pollutants of concern are those pollutants for which the water body is listed as impaired. A current list of impaired water bodies for each MS4 entity known on the effective date of this permit is provided on the WVDEP website at the following URL: https://dep.wv.gov/WWE/Programs/stormwater/MS4/Pages/default.aspx. and can also be found in the West Virginia Integrated Water Quality Monitoring and Assessment Report (Integrated Report), which is updated every other year and available for review on the Department's

website.The Website contains maps showing approximate MS4 boundaries along with 303(d) receiving streams. The maps are not the result of surveys.

i) Each permittee is required to examine the relevant map from the website and make a determination if the boundaries are sufficiently accurate for the WDEP to capture the applicable 303(d) data on a watershed scale. If the provided mapping is deemed insufficient by the MS4 entity, the MS4 shall notify the director and provide updated boundaries.

d) The Director shall provide the 303(d) list to new MS4 entities when sending notification that the entity is subject to the rules under which this permit is issued. The same conditions apply related to map corrections as given in D.1.c)i).

e) The Director shall notify affected permittees when additional streams are listed.

f) Permittees with MS4 discharges to 303d listed waters shall select BMPs to reduce the discharge of pollutants of concern.

g) The SWMP shall outline strategies for developing and implementing BMPs. The strategies must accommodate public input and provide for implementation within the first year of coverage under this permit.

h) Permittees with MS4 discharges to impaired waterbodies shall prepare a map in accordance with Part II C.7.c)3).

a) Permittees whose MS4 discharges to multiple watersheds shall implement BMPs for each pollutant of concern for each different receiving waterbody.

i) The permittee shall label its stormwater test outfall locations on the map required by Part II C.7.c)3).

j) The permittee shall map portions of watersheds outside the jurisdiction as a means of showing drainage that passes through the MS4 but which originates outside the permittee's jurisdiction. Surveying of areas outside the permittee's jurisdiction is not required. Maps showing those areas may be prepared utilizing desktop tools. On the map, the permittee shall label known portion(s) of the jurisdiction where storm sewer systems are entirely separated from sanitary lines; areas with combined sewers; and sections of sanitary sewers with known stormwater infiltration/overflows.

k) Measurable, enforceable goals for permitees who discharge to 303d waters includes:

a) Public Education BMPs shall apply to all pollutant types including impairments for Can Not Attain Water Quality for which the permittee must design a general Public Education program in the sewershed/impaired watershed.

b) IDDE BMPs shall apply to all pollutant types and may consist of the assessments required by Part II C.7.c)15)b) for Dry Weather Screenings.

l) The permittee shall summarize impairment pollutant-reduction activities completed during the year in the annual report.

a) New permittees shall develop and implement BMPs for areas within the MS4 that drain to impaired waters and describe the BMPs in the annual report.

2. Implementation Plans for MS4s Discharging into Waters with Approved State and Federal TMDLs

a) The WVDEP website, at the following URL: https://dep.wv.gov/WWE/Programs/stormwater/MS4/Pages/default.aspx contains state TMDL lists and maps for MS4 entities known at the time this permit was issued. The maps are not of surveyed MS4 boundaries, and are provided as a means of supplying the presumed areas of the MS4 that discharge to TMDL waters.

i) Each permittee is required to examine the relevant map from the website and make a determination if the boundaries are sufficiently accurate for the WDEP to capture the applicable TMDL data on a watershed scale. If the provided mapping is deemed insufficient by the MS4 entity, the MS4 shall notify the director and provide updated boundaries.

b) Each discharger to a TMDL water shall propose BMPs to reduce pollutants of concern to the TMDL in the NOI/SWMP.

i) Upon approval of the SWMP, permittees shall implement BMPs and each year thereafter, evaluate BMP effectiveness. The Annual Report shall contain the evaluation, along with proposed new BMPs to replace ineffective ones.

c) Within six (6) months of notification from the Director of the approval of a new state or federal TMDL for which the permittee is identified as a stressor, permittees must develop and implement BMPs targeting the pollutant of concern and must the effectiveness of selected BMPs in making progress toward achieving wasteload allocations.

d) The SWMP must include a monitoring component for the pollutant of concern. Monitoring may consist of stormwater discharge sampling or in-stream monitoring . For more information, see the USEPA/State guidance titled: Evaluating the effectiveness of municipal stormwater programs and Understanding Impaired Waters and Total Maximum Daily Load (TMDL) Requirements for Municipal Stormwater Programs. Both Guidance Documents can be found on the Department's website.

i) The permittee shall provide outlet markers at storm-water sampling or near in-stream monitoring locations.

ii) Stormwater samples shall be collected from the discharge point or up and down stream of the discharge point when the discharge results from a storm event that is greater than 0.1 inches in magnitude and occurs at least 72 hours from the previous measurable storm event (greater than 0.1 in rainfall).

1) Semi-annual sampling is required and the samples for each six month period shall be collected at least three months apart.

2) The grab sample shall be taken during the first thirty minutes of the discharge.

3) If the collection of a grab sample during the first thirty minutes is impractical, a sample may be taken during the first hour of the discharge, and the permittee shall submit with the monitoring report a description of why a grab sample during the first thirty minutes was impractical.

e) Monitoring results shall be used to determine if selected BMPs need to be revised to better comply with wasteload allocations.

i) The permittee shall review monitoring results for the presence and concentrations of pollutants of concern to the TMDL.

ii) For permittees whose monitoring finds no indication of the TMDL pollutant of concern, BMPs shall be considered sufficient for demonstrating compliance with the wasteload allocation.

iii) For permittees whose monitoring finds trace indications of the TMDL pollutant of concern, permittees shall include in all education and outreach initiatives, informational messages calling special attention to potential sources of the pollutant of concern.

1) Permittees shall provide at least two (2) additional messages to the public about ways to reduce the pollutant in stormwater discharges, and

2) At least two (2) additional public participation events, designed to reduce the pollutant of concern shall be offered by the permittee.

3) Additional inspections shall be done in areas draining to outfalls with test results showing some minor indication of the pollutant of concern. For fecal coliform and chloride TMDLs, two additional IDDE inspections shall be conducted and for sediment, iron, and other metals, if any, two additional inspections of construction sites shall be done. For areas with no active construction projects, permittees shall conduct at least two inspections in the subject area to look for eroded stream banks or other sources of erosion. Permittees shall follow up to resolve adverse inspection findings.

4) The permittee shall report the above activities in the annual report.

f) When monitoring indicates there is a source of the pollutant of concern entering the MS4, permittees shall prioritize field assessments, inspections, and enforcement actions authorized by the IDDE, Construction Site Runoff, and Controlling Runoff from New Development and Redevelopment minimum control measures. This heightened approach to searching for and eliminating pollutant sources will demonstrate compliance with the wasteload allocation for this permit term, provided the permittee follows the stormwater sampling or in-stream monitoring plan in the approved SWMP.

Prioritization for this purpose means that permittees shall concentrate inspection and enforcement resources in the areas draining to the outfalls with high test results, in an effort to locate and eliminate pollutant sources.

3. Pollution Reduction Plans – MS4's Discharging into Chesapeake Bay Drainage

West Virginia's plan for the Chesapeake Bay TMDL is to reduce or maintain pollutant levels in stormwater discharges from MS4s.

a) Permittees with stormwater discharges in the Chesapeake Bay drainage area must develop and submit a TMDL Pollution Reduction Plan (PRP) as a separate document from the SWMP. The PRP must be submitted within twelve (12) months of the effective date of this permit.

   i) The Director shall notify new MS4 entities that drain to the Chesapeake Bay of the TMDL requirements at the time of designating the entity as a regulated MS4.

b) Results of monitoring required by Part III.D.2.d) shall be used to establish a baseline for reducing or maintaining pollutant levels. The results of at least four (4) semi-annual sampling events shall be averaged to establish the baseline for Total Nitrogen and Total Phosphorus.

c) The PRP shall identify BMPs the permittee intends to develop and implement to reduce or maintain pollutant levels.

   i) BMPs required for the PRP include ordinances for construction site operators to utilize effective sediment controls; minimize total area disturbance; phase construction to minimize disturbance at any one time; stockpile and reuse topsoil; compaction control measures; timely re-vegetation; and post-construction stormwater management controls and enforceable maintenance agreements. Ordinances must address the proper application of fertilizers and must provide for measures that reduce the washing of fertilizers off the site during storm events. Also, for areas of reforestation, the PRP must encourage using native species.

   ii) The PRP must address reduction of impervious surfaces. Whether approving construction plans or replacing parking lots owned by the municipality, the permittee must require non-pervious surfaces and/or permanent stormwater management systems that reduce sediment from all development or redevelopment activity covered by this permit.

   iii) Required BMPs include ordinances for illicit connections to the storm sewer system. The permittee must inspect the drainage system to look for unauthorized connections and illegal dumping of materials into or near the system, where storm events may wash related pollutants into the system.

   iv) The ordinance must address leaching from poorly-managed on-site sewage systems and must require owners of such systems to make timely repairs.

   v) The ordinance must address leaking from sanitary sewer lines into the MS4 system, even when the MS4 permittee is also the owner or operator of the sewage collection system.

   vi) The ordinance must require pet owners and owners of other domestic animals to keep waste from washing into the storm drain system. This may be done by requiring dog owners to pick up pet waste or by designating geographical areas unsuitable for keeping domestic animals, or by requiring owners to install systems or barriers to keep waste from the storm drain system. The permittee shall work with the West Virginia Department of Agriculture for guidance when developing this ordinance, if questions arise about the definition of "agriculture" to ensure compliance with NPDES exemptions.

vii) The PRP shall describe a systematic approach for disconnecting roof-drains from the storm drain system. To address potential flooding, the permittee shall consult with the local floodplain managers and other MS4 entities such as the WV Division of Highways prior to implementing this BMP.

d) The PRP shall contain an enforcement strategy that clearly explains how inspections, violations, corrective actions, and penalties are to be implemented for all required ordinances.

e) The PRP shall contain a maintenance plan and schedule for the MS4. Open ditch systems shall be inspected and eroded banks stabilized. Streets shall be swept or otherwise cleaned of litter, debris, and sediment, Splash grout and/or concrete systems shall be inspected and repairs made to damaged systems. Buried pipes shall be inspected, clogged pipes cleared, catch basins cleaned of debris. The maintenance schedule shall prioritize areas known by MS4 work crews to be problem areas.

f) The PRP shall include a long-term plan for effectively routing stormwater from developing and redeveloping areas without increasing pollutant loading.

g) The PRP shall include a source control plan. New businesses seeking authorization to operate in an area draining to the MS4 must be evaluated by the permittee for its potential to pollute. Restaurants must be required to effectively manage trash and grease. Auto repair shops must manage oil, grease, and other materials to prevent spills and leaks into the system. Other businesses must be similarly evaluated. Procedures and/or structural controls must be approved by the permittee and the controls must be inspected by the business operator on a routine basis, as well as by the permittee on a frequency established in the PRP.

h) The PRP shall contain milestones showing full compliance with the TMDL requirements contained in this permit by no later than December 31, 2025.

i) Annual Reporting of the PRP's BMP implementation and effectiveness is required. The permittee shall summarize PRP status in the first report required by the Director. Each subsequent year, a detailed description of the progress made during the year under the PRP shall be submitted with the annual report. The progress report shall detail BMPs developed and implemented, shall clearly state whether due dates established in the PRP have been met, and the progress report shall measure BMP effectiveness by enumerating measures such as construction acres developed under phasing approach, the distance (feet) of piping inspected, and so forth. Another measure of effectiveness shall be the monitoring results. During the first year's two monitoring events, the permittee shall establish and report the results as "baseline". Subsequently, the results shall be used to measure BMP pollutant reduction effectiveness.

E. Endangered and Threatened Species

1) To comply with the Federal Endangered Species Act, the permittee will document that the US Fish and Wildlife Service (USFWS) was informed of selected BMPs for discharges to affected waters.

2) The permittee is required to expedite SWMP modification upon notice from USFWS for improved BMPs

Part IV

A. Monitoring, Recordkeeping, Evaluation, Reporting and Program Review

1. Stormwater Monitoring

a) The permittee shall monitor stormwater from a minimum of one outfall twice per year.

b) If the permittee opts to monitor at just one location, an outfall located in the most densely populated section of the MS4 shall be selected as the representative outfall.

c) The permittee shall monitor at least one outfall for the following parameters:

Parameter	EPA Method No.	Method Detection Limit (mg/1)
Total Kjeldahl Nitrogen	351.2	0.03
Nitrate Nitrogen	300.0	0.002
Nitrite Nitrogen	300.0	0.004
Total Phosphorous	365.4	0.01

d) At the time this permit is issued, the USEPA has not approved a method to directly test for Total Nitrogen. The Total Nitrogen value to be reported shall be the sum of the test results for Total Kjeldahl Nitrogen, Nitrate, and Nitrite.

e) If all three constituents of total nitrogen are not detected at its method detection limit (MDL), the permittee shall sum the actual MDLs for each constituent and report the result as less than the calculation.

f) When calculating the sum of the constituents for total nitrogen, the permittee shall use actual analytical results when these results are greater than or equal to the MDL for a particular constituent and should use zero (0) for a constituent if one or two of the constituents are less than the MDL.

g) The methods and detection levels in the table above are recommended to be used unless the permittee desires to use an EPA approved method with a detection level equal to or lower than those specified above.

h) Registrations issued/reissued on the first through the fifteenth of a month will use the issued month to determine the semi-annual reporting date.

i) Registrations issued after the fifteenth of each month will use the next month after the issued month to determine the reporting start date.

j) For permittees whose monitoring is initiated as a result of a modification, the approval date of the modification will be used to determine the discharge monitoring reporting start date, instead of the registration issued date.

k) All discharge monitoring reporting will require mandatory electronic submission via the Department's electronic Discharge Monitoring Report (eDMR) system. The technical requirements for the eDMR process will be an internet connection, an email account, and internet browser software.

l) Permittees that do not have the above requirements and/or are unable to participate in the eDMR process must submit a written explanation to the Department explaining why the process cannot be used.

m) The Department will review explanations and notify permittees in writing that exemptions are approved or denied.

n) Stormwater samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previous measurable storm event (greater than 0.1 in rainfall).

i) Where semi-annual sampling is required, the samples for each six month period shall be collected at least three months apart.

ii) The grab sample shall be taken during the first thirty minutes of the discharge.

iii) If the collection of a grab sample during the first thirty minutes is impractical, a sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first thirty minutes was impractical.

iv) Stormwater samples may be collected during routine work hours and on routine work days of the permittee's staff responsible for collection.

2. Recordkeeping and Public Availability of SWMP and Annual Report

a) The permittee shall keep records to verify compliance with this permit for at least three years beyond the permit expiration date and any continuance as described in Part 1.4.

b) Records shall be submitted to the Department upon request and released to the public in accordance with the Freedom of Information Act.

c) The permittee shall make the SWMP and annual report available to the public at reasonable times during regular business hours.

d) Additionally, the SWMP and annual report shall be posted on the permittees website, or

e) A permittee without a website may submit the SWMP and annual report in electronic format to the Department for distribution, if requested.

3. Program Evaluation

a) The permittee shall evaluate the effectiveness of selected BMPs in the approved SWMP to determine compliance with this general permit.

b) The permittee shall evaluate the effectiveness of the SWMP by use of the annual report designated by the Director.

c) Evaluations must include public input.

1) To prepare the evaluation for presentation to the public, the permittee shall:

a) List all BMPs contained in the approved SWMP.

b) Notate whether each BMP was implemented.

i) For BMPs that were completed, provide dates the actions were performed such as when dry weather field assessments were completed, or dates of public meetings, etc. Records detailing the actions such as results of assessments, attendance at meetings and topics discussed should be summarized in the evaluation.

ii) For BMPs that were not implemented, provide the reason why. Permittees must substitute activities throughout the year for those that can't be completed. For example, if a public participation event was planned for planting vegetation along an eroded stream bank, but couldn't be completed due to landowner permission to access being withdrawn, another event should be organized and carried out. Trash pickup, storm drain stenciling, etc., are effective pollution reduction activities to consider.

c) Describe the BMPs impact on water quality.

d) Summarize permit/inspection/enforcement information about construction sites and discuss whether the controls prevented sediment from being washed into and from the storm drain system.

e) Notate whether each BMP was implemented.

f) Describe IDDE efforts and results.

i) Provide the results of stormwater management maintenance agreement inspections.

g) Report whether areas the public cleaned up remained that way, or if enforcement is needed to keep the area litter-free.

h) Summarize other BMPs that were approved in the SWMP and their impact on stormwater discharges.

i) Give a brief review of public comments gathered throughout the year about the BMPs offered for public participation and whether the public seems satisfied with the opportunities to date.

d) Present the information required by Item 3.c) of this subsection to the public for comment.

1) The presentation and request for comment may be done during a public meeting. This setting requires careful notation of comments unless a recorder is present. Written comments should be reviewed during the meeting, when possible to verify the intent is clear.

2) The information may be presented to the public on the permittee's website, provided the site is configured to accept comments. Online presentation must be accompanied by an announcement using another medium. The announcement may be made at public meetings; by placing a public service announcement in an area newspaper; or by posting notices in public places, such as the Town bulletin board. Receive and report on the public's opinion of the effectiveness of each BMP.

3) The permittee shall summarize the overall effectiveness of each BMP, including those the public ranked the highest and lowest for reducing pollution in stormwater.

4) Results of the evaluation shall be submitted in the annual report.

Permittees can find additional information about evaluations in the USEPAIStates guidance document titled: Evaluating the Effectiveness of Municipal Stormwater Programs, which can be found on the Department's website.

4. Annual Report

Annually, the permittee shall submit the Annual Report form supplied by the Director. This form contains, but is not limited to the following:

1) Activities undertaken for each of the minimum control measures,

2) The results of BMP evaluations,

3) The status of compliance with each selected BMP,

4) An overall assessment of the progress toward achieving the identified measurable goals for each of the minimum control measures,

5) Any change to identified goals,

6) A summary of training including types of training and who was trained,

7) Results of information collected and analyzed, including monitoring data, during the annual reporting period which has not been reported through the eDMR process,

8) Any revision to the approved SWMP schedule,

9) A description of the status of the street and parking design assessment;

10) A description of the coordination efforts with other permittees or public entities regarding the implementation of the minimum control measures including the status of any agreement(s) undertaken in accordance with "Sharing Responsibility".

11) A summary of construction site inspections and enforcement activities.

12) A summary of post construction controls approved by the permittee and installed on newly developed sites or redeveloped sites.

13) A description of specific BMPs that were implemented in order to reduce pollutants of concern in impaired receiving waters and waters in which a TMDL has been developed, and,

14) A fiscal analysis of capital and operating expenditures to implement the minimum control measures.

15) The fiscal analysis shall include only those expenditures by the permittee and not those for minimum control measures implemented by other entities.

16) Permittees in the Chesapeake Bay TMDL drainage area shall summarize activities conducted over the year to reduce pollutants of concern in stormwater discharged from the MS4.

5. Program Review

a) The Department will assess the effectiveness of the SWMP for eliminating non-storm water discharges and reducing the discharge of pollutants to the MEP, by reviewing program implementation through review of the annual report which is designed to elicit strengths and weaknesses of the SWMP, and through inspections, at minimum once each permit term.

b) Additional periodic evaluations may be conducted to determine compliance with permit conditions.

The permittee must comply with all terms and conditions of this permit. Permit noncompliance constitutes a violation of the federal Clean Water Act (CWA) and State Act, Chapter 22, Article 11 & Article 12 and is grounds for enforcement action; for permit modification, suspension or revocation.

Failure to comply with the terms and conditions of this permit, with the plans and specifications submitted with the site registration application, the most currently approved SWMP, and the appropriate appendices shall constitute grounds for the revocation or suspension of this permit and for the invocation of all the enforcement procedures set forth in Chapter 22, Article 11 of the Code of West Virginia.

BY: _____

Jeremy W. Bandy

Director

Appendix A

Current west Virginia MS4 Permittees	Registration Number
Barboursville	WVR030011
Beckley	WVR030009
Belle	WVR030015
Benwood	WVR030026
Berkeley County	WVR030019
Bethlehem	WVR030025
Bluefield	WVR030008
Ceredo	WVR030014
Charleston	WVR030006
Chesapeake	WVR030040
Clarksburg	WVR030034
Clendenin	WVR030054
Dunbar	WVR030031
Eleanor	WVR030053
Fairmont	WVR030038
Fairmont State University	WVR030045
Fayetteville	WVR030050
Follansbee	WVR030018
Glen Dale	WVR030024
Huntington	WVR030033
Hurricane	WVR030010
Kenova	WVR030039
Mabscott	WVR030059
Marmet	WVR030037
Marshall University	WVR030043
Martinsburg	WVR030017
McMechen	WVR030036
Milton	WVR030003
Montgomery	WVR030007
Moundsville	WVR030013
Mount Hope	WVR030055
Nitro	WVR030027
Oak Hill	WVR030049
Parkersburg	WVR030029
Poca	WVR030035
South Charleston	WVR030001
Sophia	WVR030051
Saint Albans	WVR030005
Star City	WVR030023
VA Beckley	WVR030048
Vienna	WVR030032
Weirton	WVR030021
Wellsburg	WVR030028

Westover	WVR030022
Wheeling	WVR030016
Williamstown	WVR030020
Winfield	WVR030052
WV Dept of Transportation	WVR030004
WV Parkways Authority	WVR030041
West Virginia State University	WVR030044
West Virginia University	WVR030042

Appendix B

Definitions

Accessory Impervious Surfaces means those additional impervious surfaces that are created to service new development; including roads, shopping centers, office parks and parking lots.

Best Management Practices (BMP's) means schedules of activities, prohibitions of practices, maintenance procedures, policies, and other management practices to prevent or reduce the pollution of waters of the State of West Virginia. BMP's also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, waste disposal or drainage from material storage. BMP's can include structural as well as non-structural practices.

Bioretention is the water quality and water quantity stormwater management practice using the chemical, biological and physical properties of plants, microbes and soils for the removal of pollution from stormwater runoff.

Canopy Interception is the interception of precipitation, by leaves and branches of trees and vegetation that does not reach the soil.

Clean Water Act (CWA) means Public Law 92-500, as amended by Public Law 95-217, Public Law 97-117 and Public Law 95-576; U.S.C. 1251 et seq.

Common Plan of Development is a contiguous construction project where multiple separate and distinct construction activities may be taking place at different times on different schedules but under one plan. The "plan" is broadly defined as any announcement or piece of documentation or physical demarcation indicating construction activities may occur on a specific plot; included in this definition are most subdivisions and industrial parks.

Cut off concentration is a concentration at which stormwater could potentially impair, or contribute to impairing water quality.

Director means the Director of the Division of Water and Waste Management, West Virginia Department of Environmental Protection, or his/her designated representative.

Dry Weather Screenings are on-site inspections of storm water outfalls during dry periods for the purpose of locating and evaluating the quality of discharges in an effort to reduce or eliminate pollution.

Engineered Infiltration is an underground device or system designed to accept stormwater and slowly exfiltrates it into the underlying soil. This device or system is designed based on soil tests that define the infiltration rate.

Evaporation means rainfall that is changed or converted into a vapor.

Evapotranspiration means the sum of evaporation and transpiration of water from the earth's surface to the atmosphere. It includes evaporation of liquid or solid water plus the transpiration from plants.

Existing Permittee is a permittee who held permit coverage prior to permit reissuance. New Permittees are no longer considered new one year after obtaining approval of their registration.

Extended Filtration is a structural stormwater practice which filters stormwater runoff through vegetation and engineered soil media. A portion of the stormwater runoff drains into an underdrain system which slowly releases it after the storm is over.

Hot Spot A project is a potential hot spot with reasonable potential for pollutant loading must provide water quality treatment for associated pollutants before infiltration. For example, spillages from a vehicle fueling station might contaminate stormwater and should therefore be directed to an oil/water separator before infiltration. Man-made structures that convey stormwater underground may require an Underground Injection Control Permit.

Hydromodification means the alteration of the natural flow of water through a landscape, and often takes the form of channel straightening, widening, deepening, or relocating existing, natural stream channels. It can also involve excavation of borrow pits or canals, building of levees, streambank erosion, or other conditions or practices that change the depth, width or location of waterways. Hydromodification usually results in water quality and habitat impacts.

The U.S. Environmental Protection Agency (EPA) has defined hydromodification as the "alteration of the hydrologic characteristics of coastal and non-coastal waters, which in turn could cause degradation of water resources."1-11

Illicit Discharge means any non-permitted discharge to a regulated small MS4 or to waters of the State of West Virginia that does not consist entirely of stormwater or authorized non-stormwater discharges covered under a NPDES permit.

Infiltration is the process by which stormwater penetrates into soil.

Land Use means the way in which land is used, especially in farming and municipal planning.

Maintenance Agreement means a formal agreement or contract between a local government and a property owner designed to guarantee that specific maintenance functions are performed.

Municipal Field Staff means employees of the municipality and its departments that spend a portion of their employment in the marketplace, outside of the company office.

Municipal Separate Storm Sewer System (MS4) means conveyances for stormwater, including, but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human made channels or storm drains owned or operated by any municipality, sewer or sewage board, State agency or Federal agency or other public entity that discharges directly to surface waters of the State of West Virginia.

Municipal Staff means employees of the municipality and its departments.

New Permittee is a permittee who holds permit coverage for the first year after registration approval under a current permit.

Notice of Intent (NOI) means a notification of intent to seek coverage under this general permit, to discharge stormwater into waters of the State of West Virginia.

NPDES means National Pollutant Discharge Elimination System, a provision of the Clean Water Act which prohibits the discharge of pollutants into waters of the United States. This federally mandated permit program is used for regulating point source discharges.

Outfall means the point source where the MS4 discharges from a pipe, ditch or other discreet conveyance directly or indirectly to water of the State of West Virginia, or to another MS4.

Planning Documents are documents a municipality or jurisdiction uses for planning. They include, but are not limited to; comprehensive or master plans, subdivision ordinances, general land use plan, zoning

code, transportation master plan, specific area plans, such as sector plan, site area plans, corridor plans, or unified development ordinances.

Pollutants of Concern are those pollutants which cause a water body to be placed on the Section 303(d) list of impaired waters.

Qualifying Local Program means a WV DEP formally recognized state, municipal or county program that meets or exceeds the provisions of WV DEP stormwater construction program in accordance with 40 CFR 122.44(s).

Rainfall and Rainwater Harvesting is the collection, conveyance, and storage of rainwater. The scope, method, technologies, system complexity, purpose, and end uses vary from rain barrels for garden irrigation in urban areas, to large-scale collection of rainwater for all domestic uses.

Receiving waters or receiving water means the 'water resources' that receive the discharge from the permittee.

Redevelopment means new construction requiring land disturbance that alters the footprint of an existing developed site

Runoff Reduction practices and/or techniques are the collective assortment of stormwater practices that reduce the volume of stormwater from discharging off site. These include stormwater practices that infiltrate, evapotranspirate and reuse stormwater on site.

Secretary means the Secretary of the West Virginia Department of Environmental Protection, or his/her designated representative.

Soil Amendments are components added to in situ or native soils to increase the spacing between soil particles so that the soil can absorb and hold more moisture. The amendment of soils changes various other physical, chemical and biological characteristics so that the soils become more effective in maintaining water quality.

Source control stormwater management means practices that control stormwater before pollutants have been introduced into stormwater.

Stormwater Hotspots are commercial, industrial, institutional, municipal, or transportation related operations that may produce higher levels of stormwater pollutants, and/or present a higher potential risk for spills, leaks, or illicit discharges. Hotspots may include: gas stations, petroleum wholesalers, vehicle maintenance and repair, auto recyclers, recycling centers and scrap yards, landfills, solid waste facilities, wastewater treatment plants, airports, railroad stations and associated maintenance facilities, and highway maintenance facilities.

Stormwater Management Program (SWMP) means the description of the program designed to comply with the terms and conditions of this permit.

Stormwater Management Practice means practices that manage stormwater, including structural and vegetative components of a stormwater system.

Total Maximum Daily Load (TMDL): A calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards. A TMDL is the sum of individual wasteload allocations for point sources (WLA), load allocations for nonpoint sources and natural background (LA), and must consider seasonal variation and include a margin of safety. The TMDL comes in the form of a technical document or plan. (40 CFR 130.2 and 130.7)

Treatment Control Stormwater Management means practices that 'treat' stormwater after pollutants have been incorporated into the stormwater.

Wasteload allocation (WLA): The portion of a receiving water's loading capacity that is allocated to one of its existing or future point sources of pollution. WLAs constitute a type of water quality-based effluent limitation (40 CFR 130.2(h)).

Water Quality Treatment means any passive or active process that removes pollutants from stormwater, and/or prevents pollutants from encountering stormwater.

Water Resources, 'Water' or 'Waters' means any and all water on or beneath the surface of the ground, whether percolating, standing, diffused or flowing, wholly or partially within this state, or bordering this state and within its jurisdiction, and includes, without limiting the generality of the foregoing, natural or artificial lakes, rivers, streams, creeks, branches, brooks, ponds (except farm ponds, industrial settling basins and ponds and water treatment facilities), impounding reservoirs, springs, wells, watercourses and wetlands.

Appendix C

MANAGEMENT CONDITIONS:

1. Duty to Comply

a) The permittee must comply with all conditions of this permit. Permit noncompliance constitutes a violation of the CWA and State Act and is grounds for enforcement action; for permit modification, revocation and reissuance, suspension or revocation; or for denial of a permit renewal application.

b) The permittee shall comply with all effluent standards or prohibitions established under Section 307(a) of the CWA for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

2. Duty to Mitigate

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

3. Permit Actions

This permit may be modified, revoked and reissued, suspended, or revoked for cause. The filing of a request by the permittee for permit modification, revocation and reissuance, or revocation, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

4. Property Rights

This permit does not convey any property rights of any sort or any exclusive privilege.

5. Signatory Requirements

All applications, reports, or information submitted to the Director shall be signed and certified as required in Title 47, Series **10,** Section 4.6 of the West Virginia Legislative Rules.

6. Transfers

This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary.

7. Duty to Provide Information

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

8. Other Information

Where the permittee becomes aware that it failed to submit any relevant facts in a permit application or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.

9. Inspection and Entry

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

a) Enter upon the permittee's premises in which an effluent source or activity is located, or where records must be kept under the conditions of this permit;

b) Have access to and copy at reasonable times, any records that must be kept under the conditions of this permit;

c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the State Act, any substances or parameters at any location.

10. Permit Modification

This permit may be modified, suspended, or revoked in whole or in part during its term in accordance with the provisions of Chapter 22- 11-12 of the Code of West Virginia.

11. Water Quality

The effluent or effluents covered by this permit are to be of such quality so as not to cause violation of applicable water quality standards adopted by the DWWM.

12. Outlet Markers

A permanent marker shall be posted as close as practicable to the discharge location of the representative outfall or other outfalls contained in the approved SWMP in accordance with Title 47, Series 11, Section 9 of the West Virginia Legislative Rules.

13. Liabilities

a) Any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Clean Water Act is subject to a civil penalty not to exceed $10,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing sections 301, 302, 306, 307, or 308 of the Clean Water Act is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

b) Any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

c) Any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

d) Nothing in 1.14 a), b), and c) shall be construed to limit or prohibit any other authority the Director may have under the State Water Pollution Control Act, Chapter 22, Article 11.

OPERATION AND MAINTENANCE:

1. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also include adequate laboratory controls, and appropriate quality assurance procedures. Unless otherwise required by Federal or State law, this provision requires the operation of back-up auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of the permit. For domestic waste treatment facilities, waste treatment operators- as classified by the WV Bureau of Public Health Laws, W. Va. Code Chapter 16-1, will be required except that in circumstances where the domestic waste treatment facility is receiving any type of industrial waste, the Director may require a more highly skilled operator.

2. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

3. Bypass

a) Definitions

(1) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility; and

(2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

b) Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of II.3.c) and II.3.d) of this permit.

c) (1) If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible, at least ten (10) days before the date of the bypass;

(2) If the permittee does not know in advance of the need for bypass, notice shall be submitted as required in IV.2.b) of this permit.

d) Prohibition of bypass

(1) Bypass is permitted only under the following conditions, and the Director may take enforcement action against a permittee for a bypass, unless;

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of engineer equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

(C) The permittee submitted notices as required under II.3.c) of this permit.

(2) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed in 11.3.d.(1) of this permit.

4. Upset

a) Definition. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

b) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitation if the requirements of II.4.c) are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

c) Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred, and that the permittee can identify the cause(s) of the upset;

(2) The permitted facility was at the time being properly operated;

(3) The permittee submitted notice of the upset as required in IV.2.b) of this permit;

(4) The permittee complied with any remedial measures required under 1.3. of this permit.

d) Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

5. Removed Substances

Where removed substances are not otherwise covered by the terms and conditions of this permit or other existing permit by the Director, any solids, sludges, filter backwash or other pollutants (removed in the course of treatment or control of wastewaters) and which are intended for disposal within the State, shall be disposed of only in a manner and at a site subject to the approval by the Director. If such substances are intended for disposal outside the State or for reuse, i.e., as a material used for making another product, which in turn has another use, the permittee shall notify the Director in writing of the proposed disposal or use of such substances, the identity of the prospective disposer or users, and the intended place of disposal or use, as appropriate.

III. MONITORING AND REPORTING

1. Representative Sampling

Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

2. Reporting

a) Permittee shall submit, according to the enclosed format, a Discharge Monitoring Report (DMR) indicating in terms of concentration, and/or quantities, the values of the constituents listed in Part A analytically determined to be in the plant effluent(s). DMR submissions shall be made in accordance with the terms contained in Section C of this permit.

b) Enter reported average and maximum values under "Quantity" and "Concentration" in the units specified for each parameter, as appropriate.

c) Specify the number of analyzed samples that exceed the allowable permit conditions in the columns labeled "N.E." (i.e., number exceeding).

d) Specify frequency of analysis for each parameter as number of analyses/specified period (e.g.,3/month is equivalent to 3 analyses performed every calendar month). If continuous, enter "Cont.". The frequency listed on format is the minimum required.

3. Test Procedures

Samples shall be taken, preserved and analyzed in accordance with the latest edition of 40 CFR Part 136, unless other test procedures have been specified elsewhere in this permit.

4. Recording of Results

For each measurement or sample taken pursuant to the permit, the permittee shall record the following information.

a) The date, exact place, and time of sampling or measurement;

b) The date(s) analyses were performed;

c) The individual(s) who performed the sampling or measurement;

d) The individual(s) who performed the analyses; if a commercial laboratory is used, the name and address of the laboratory;

e) The analytical techniques or methods used. and

f) The results of such analyses. Information not required by the DMR form is not to be submitted to this agency but is to be retained as required in 111.6.

5. Additional Monitoring by Permittee

If the permittee monitors any pollutant at any monitoring point specified in this permit more frequently than required by this permit, using approved test procedures or others as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report Form. Such increased frequency shall also be indicated. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in the permit.

6. Records Retention

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

IV. OTHER REPORTING

1. Reporting Spills and Accidental Discharges

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities or penalties established pursuant to Title 47, Series 11, Section 2 of the West Virginia Legislative Rules promulgated pursuant to Chapter 22, Article 11.

Attached is a copy of the West Virginia Spill Alert System for use in complying with Title 47, Series 11, Section 2 of the Legislative rules as they pertain to the reporting of spills and accidental discharges.

2. Immediate Reporting

a) The permittee shall report any noncompliance which may endanger health or the environment immediately after becoming aware of the circumstances by using the Agency's designated spill alert telephone number. A written submission shall be provided within five (5) days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

b) The following shall also be reported immediately:

(1 Any unanticipated bypass which exceeds any effluent limitation in the permit;

(2 Any upset which exceeds any effluent limitation in the permit; and

(3 Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in the permit to be reported immediately. This list shall include any toxic pollutant or hazardous substance, or any pollutant specifically identified as the method to control a toxic pollutant or hazardous substance.

c) The Director may waive the written report on a case-by-case basis if the oral report has been received in accordance with the above.

d) Compliance with the requirements of IV.2 of this section shall not relieve a person of compliance with Title 47, Series 11, Section 2.

3. Reporting Requirements

a) Planned chances. The permittee shall give notice to the Director of any planned physical alterations or additions to the permitted facility which may affect the nature or quantity of the discharge. Notice is required when:

(1) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in Section 13.7.b of Series 10, Title 47; or

(2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under IV.2 of this section.

b) Anticipated noncompliance. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

c) In addition to the above reporting requirements, all existing manufacturing, commercial, and silvicultural discharges must notify the Director in writing as soon as they know or have reason to believe:

(1) That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, or any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

(A)One hundred micrograms per liter (100 ug/1;

(B)Two hundred micrograms per liter (200 ugh') for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitro phenol; and for 2-methyl 4,6-dinitrophenol; and one milligram per liter (1 mg/1) for antimony;

(C)Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with Section 4.4.b.9 of Series 10, Title 47.

(D)The level established by the Director in accordance with Section 6.3.g of Series 10, Title 47

(2) That any activity has occurred or will occur which would result in any discharge (on a non-routine or infrequent basis) of a toxic which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

(A) Five hundred micrograms per liter (500 ug/l);

(B) One milligram per liter (1 mg/1) for antimony;

(C) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with Section 4.4.b.7 of Series 10, Title 47;

(D) The level established by the Director in accordance with Section 6.3.g of Series 10, Title 47.

(3) That they have begun or expect to begin to use or manufacture as an intermediate or final product or by-product of any toxic pollutant which was not reported in the permit application under Section 4.4.b.9 of Series **10,** Title 47 and which will result in the discharge on a routine or frequent basis of that toxic pollutant at levels which exceed five times the detection limit for that pollutant under approved analytical procedure.

(4) That they have begun or expect to begin to use or manufacture as an intermediate or final product or by-product of any toxic pollutant which was not reported in the permit application under Section 4.4.b.9 of Series 10, Title 47 and which will result in the discharge on a non-routine or infrequent basis of that toxic pollutant at levels which exceed ten times the detection limit for that pollutant under approved analytical procedure.

4. Other Noncompliance

The permittee shall report all instances of noncompliance not reported under the above paragraphs at the time monitoring reports are submitted. The reports shall contain the information listed in IV.2.a). Should other applicable noncompliance reporting be required, these terms and conditions will be found in Section C of this permit.

Appendix D

Sediment and Erosion Control BMP manuals:

1. Erosion and Sediment Control BMP manual — WV DEP

https://dep.wv.gov/WWE/Programs/stormwater/csw/Pages/ESC_BMP.aspx

2. Maryland Soil Erosion and Sediment Control BMP manual;

https://mde.maryland.gov/programs/water/stormwatermanagementprogram/pages/stormwater_design.aspx

3. Virginia Erosion and Sediment Control Handbook;

https://assets.vbt.io/public/files/6975/VA_Resources_Construction/Virginia_DEQ_Erosion_and_Sediment_Control_Handbook.pdf

4. USEPA has a listing of available stormwater manuals on its website.

https://search.epa.gov/epasearch/?querytext=stormwater+manuals&areaname=&areacontacts=&areasearchurl=&typeofsearch=epa&result template=2col.ftl#/

5. West Virginia Department of Transportation, Division of Highways, Erosion and Sediment Control Manual, March 1, 2003

https://transportation.wv.gov/highways/engineering/files/Erosion/Erosion2003.pdf