



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

**General  
National Pollution Discharge Elimination System  
Water Pollution Control Permit**

**Permit No.: WV0116025**

**Issue Date: June 22, 2009**

**Subject: Stormwater Discharges  
From small Municipal Separate  
Storm Sewer Systems**

**Effective Date: July 22, 2009**

**Expiration Date: July 22, 2014**

**Supersedes: WV/NPDES General Water  
Pollution Control Permit No.  
WV0116025, issued March 7, 2003**

**To Whom It May Concern:**

This is to certify that operators of small municipal separate storm sewer systems (MS4s) located in the State of West Virginia who have satisfied the registration requirements and agreeing to be regulated under the terms and conditions of this general permit are hereby granted coverage under the 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 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 information submitted on and with the site registration application, also known as the SWMP, once approved, will hereby 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.

The validity of this permit is contingent upon the payment of the applicable annual permit fee, as required by Chapter 22, Article 11, Section 10 of the Code of West Virginia.

## Part I

### Coverage under this General Permit

#### A. Permit Area

1. This permit covers all areas of the State of West Virginia.

#### B. Eligibility

1. Jurisdictions including, but not limited to; municipalities, counties, transportation facilities, Federal and State owned prison systems, and universities that are located within the boundaries of a Bureau of the Census defined "Urbanized Area" (UA) based on the latest decennial census.
2. Municipalities that are designated by the Division of Water and Waste Management (DWWM) under 40 CFR 122.32(a)(2). Designation criteria are included in Appendix D of this general permit.

#### C. This permit authorizes the following non-stormwater discharges provided they have been determined not to be substantial contributors of pollutants to a particular small MS4 applying for coverage under this permit. However, the DWWM recommends that your stormwater management program include public education and outreach activities directed at reducing these discharges even if they are not substantial contributors of pollutants to your system.

1. Uncontaminated water line flushing
2. Landscape irrigation,
3. Diverted stream flows,
4. Uncontaminated ground water 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. Residual street wash water,
17. Discharges or flows from fire fighting activities, and
18. A discharge authorized by a separate National Pollutant Discharge Elimination System (NPDES) permit.

#### D. 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.

#### E. 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).

F. Continuation of this general permit

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. 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:

- Your authorization for coverage under a reissued general permit or 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; or
- Your submittal of notification that the facility has ceased operations; or issuance or denial of an individual permit for the facility's discharge; or
- A formal permit decision by DWWM not to reissue this general permit, at which time DWWM will identify a reasonable time period of covered dischargers to seek coverage under an alternative general permit or individual permit. Coverage under this permit will cease at the end of this time period.

## **Part II**

### Notice of Intent (NOI) and Stormwater Management Program (SWMP) Applications

#### **A. Applications**

Within thirty (30) days of the effective date of this permit, all operators of small MS4s shall submit a Notice of Intent (NOI) on the form provided in Appendix A of this permit.

Within six months of the effective date of this permit, all operators of regulated small MS4s shall submit on a site registration application their stormwater management program (SWMP) to the DWWM. A SWMP can be submitted on the site registration application form provided by DWWM, or in a prescribed manner acceptable to the DWWM that contains all necessary components.

NOIs and SWMPs shall be submitted to:

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

#### **B. Requirements of SWMP**

1. The permittee must develop a stormwater management program designed to reduce the discharge of pollutants from its small municipal separate storm sewer system to the maximum extent practicable (MEP), to protect water quality, and satisfy the appropriate requirements of the Clean Water Act.
2. The permittee shall, to the maximum extent practicable, use known, available, and

reasonable methods of prevention, control and treatment to prevent and control stormwater pollution from entering waters of the State.

3. In order to meet public notice requirements of NPDES permits, the permittee shall make available to the public, in accordance with Code of State Regulations; Title 47, Series 10, Section 12, the opportunity to comment on MS4 stormwater management programs.
4. The SWMP must include the minimum control measures described in Section C of this part along with measurable goals and milestones appropriate for each measure and justifications for each milestone. Information about developing measurable goals can be found on the USEPAs website: <http://cfpub.epa.gov/npdes/stormwater/measurablegoals/part3.cfm>
5. Subject to the five-year limitation noted below in this paragraph, extension of milestones will be granted for good cause shown. Failure to implement effective best management practices (BMPs) is not good cause to extend milestones.
6. The SWMP must also provide details on how the permittee will implement and enforce the program. The terms and conditions of this permit and the permittees approved SWMP must be fully implemented, except where noted, within five years of the effective date of this permit.
7. The SWMP shall include an ongoing program for gathering, tracking, maintaining, and using information to evaluate the stormwater management program development, implementation and permit compliance.
8. If the permittees 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 BMP's will control the discharge of the pollutants of concern, as described in Part III.D. Permittees discharging to waters with an approved TMDL shall meet the applicable wasteload allocations of that TMDL.
9. An annual report prescribed in Part IV.D of this permit shall be submitted to DWWM each year on the anniversary of the SWMP approval.
10. 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. It is understood that there are some public entities that are not subject to the authority of the MS4.

### **C. Stormwater Management Program for small MS4s**

#### **a. Requirements**

1. Permittees implementing BMPs specific to their current SWMP shall continue to do so until such time as their SWMP with new and updated BMPs is approved. However, permittees should begin implementation of the terms and conditions of this permit as soon as this permit becomes effective, as full implementation is required within five years.
2. a. Coordination among entities covered under the small MS4 general permit may be necessary to comply with certain conditions of the SWMP. The SWMP shall

include, when applicable, coordination mechanisms among entities covered under the small MS4 general permit to encourage coordinated stormwater related policies, programs and projects within adjoining or shared areas. Entities covered under the small MS4 permit include, but are not limited to, municipalities, transportation agencies, universities, colleges, hospitals, prisons, and military bases.

- b. Coordination mechanisms 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.
- c. Coordination mechanisms shall coordinate stormwater management activities for shared water bodies among permittees with the goal of avoiding conflicting plans, policies and regulations.

**b. Minimum Control Measures**

The SWMP shall include all components described in Part II, Sections B and C. In accordance with 40 CFR 122.35(a), a small MS4 may rely on another entity to implement one or more of the components in this section. If the permittee is relying on another entity to implement any component of the SWMP, that entity must be fully disclosed in the SWMP.

**1. Public Education and Outreach**

The SWMP shall include an education program aimed at residents, businesses, industries, elected officials, policy makers, planning staff and other employees of the permittee. The goal of the education program is to reduce or eliminate behaviors and practices that cause or contribute to adverse stormwater impacts. An education program may be developed locally or regionally.

The minimum performance measures are:

- a. The permittee shall continue to implement their education and outreach program for the area served by the MS4 that was established during the previous permit cycle. The outreach program shall be designed to achieve measurable improvements in the target audience's understanding of stormwater pollution and steps they can take to reduce their impacts. Newly permitted MS4s shall *begin* implementation of the requirements contained in Part II.C.1. within six months of the approval of their SWMP.

Education and outreach efforts shall target the following audiences and subject areas:

- i. General public
  - General impacts of stormwater flows into surface waters.
  - Impacts from impervious surfaces.
  - Source control BMPs and environmental stewardship actions and opportunities in the areas of pet waste, vehicle maintenance, landscaping, and rain water reuse.
- ii. General public, businesses, including home-based and mobile businesses
  - BMPs for use and storage of automotive chemicals, hazardous cleaning supplies, carwash soaps and other hazardous materials.
  - Impacts of illicit discharges and how to report them.

- iii. Homeowners, landscapers and property managers
  - Yard care techniques that protect water quality.
  - BMPs for use and storage of pesticides and fertilizers.
  - BMPs for carpet cleaning and auto repair and maintenance.
  - Runoff reduction techniques, including site design, pervious paving, retention of forests and mature trees.
  - Stormwater pond maintenance.
- iv. Engineers, contractors, developers, review staff and land use planners
  - Technical standards for construction site sediment and erosion control.
  - Runoff reduction techniques, including site design, pervious pavement, alternative parking lot design, retention of forests and mature trees.
  - Stormwater treatment and flow control BMPs.
  - Impacts of increased stormwater flows into receiving water bodies.
- b. Each permittee shall measure the understanding and adoption of the targeted behaviors among the targeted audiences. The resulting measurements shall be used to direct education and outreach resources most effectively, as well as to evaluate changes in adoption of the targeted behaviors.
- c. Each permittee shall track and maintain records of public education and outreach activities.

2. **Public Involvement and Participation**

The SWMP shall include ongoing opportunities for public involvement through advisory councils, watershed associations and/or committees, participation in developing rate structures, stewardship programs, environmental activities or other similar activities. The permittee shall facilitate opportunities for direct action, educational, and volunteer programs such as riparian planting, volunteer monitoring programs, storm drain marking or stream cleanup programs. Each permittee shall comply with any applicable State and local public notice requirements when developing their SWMP.

The minimum performance measures are:

- a. No later than six months from the effective date of this permit, all permittees shall create opportunities for the public to participate in the decision making processes involving the development, implementation and update of the permittees SWMP. Each permittee shall develop and implement a process for consideration of public comments on their SWMP.
- b. No later than six months from the effective date of this permit, all permittees shall establish a method of routine communication to groups such as watershed associations and environmental organizations that are located in the same watershed/s as the permittee, or organizations that conduct environmental stewardship projects located in the same watershed/s or in close proximity to the permittee. This is to make these groups aware of opportunities for their direct involvement and assistance in stormwater activities that are in their watershed.
- c. Each permittee shall make their SWMP and their annual report required under this permit available to the public when requested. The current SWMP and the latest annual report

shall be posted on the permittees website. To comply with the posting requirement, a permittee that does not maintain a website may submit the updated SWMP and annual report in electronic format to the DWWM for electronic distribution when it is requested.

### 3. **Illicit Discharge Detection and Elimination**

The SWMP shall include an ongoing program to detect and remove illicit connections, discharges as defined in 40 CFR 122.26(b)(2), and improper disposal, including any spills not under the purview of another responding authority, into the municipal separate storm sewers owned or operated by the permittee. Newly permitted MS4s shall *begin* implementation of the requirements contained in Part II.C.3 of this permit within one year of the approval of their SWMP.

The minimum performance measures are:

- a. The Permittees existing municipal storm sewer system map/s that were created during the first permit cycle shall be updated on an annual basis and shall include the following information:
  - i. The location of all known storm sewer outfalls, receiving waters and structural stormwater BMPs owned, operated or maintained by the permittee. The location and type of all other stormwater conveyances located within the boundaries of the permittees MS4 watershed. The permittee may opt to include land use on the map also. In the process of updating the map, when stormwater outfalls become known, they are to be added to the permittees map.
  - ii. An update of known connections to the municipal separate storm sewer authorized or allowed by the permittee after the effective date of this permit.
  - iii. Geographic areas that discharge stormwater into the permittees MS4, which may not be located within the municipal boundary.
  - iv. Each permittee shall maintain their storm sewer system map at their local office, and make it available upon request. Any paper maps submitted to DWWM shall be a scale of 1" = 500 ft. and on pages sized 24"x36" or 22"x36" and folded to 8 x 11 inches.
- b. Each permittee shall implement a program or system to review and update their Illicit Discharge Detection and Elimination (IDDE) Ordinance or other regulatory mechanism to effectively prohibit and eliminate non-stormwater, illegal discharges, and/or dumping into the permittees municipal separate storm sewer system to the regulatory extent allowable under State and Local law. The ordinance or other regulatory mechanism shall be reviewed on an annual basis and updated when necessary. The IDDE program shall be adequately funded to fulfill the general permit requirements.
  - i. The regulatory mechanism does not need to prohibit the following categories of non-stormwater discharges, *unless* they are identified to be significant sources of pollutants to waters of the State:
    - Diverted stream flows,
    - Rising ground waters,
    - Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)),
    - Uncontaminated pumped groundwater,

- Foundation drains,
  - Air conditioning condensation,
  - Irrigation water from agricultural sources
  - Springs,
  - Water from crawl space sump pumps,
  - Footing drains,
  - Flows from riparian habitats and wetlands,
  - Non-stormwater discharges covered by another NPDES permit,
  - Discharges or flows from fire fighting activities
- ii. The regulatory mechanism shall prohibit the following categories of non-stormwater discharges *unless* the stated conditions are met:
- Discharges from potable or non-potable water sources, including but not limited to; hyperchlorinated water line flushing, pipeline hydrostatic test water and other water discharges with a potential to violate water quality standards. For planned discharges to the MS4, the discharge shall be dechlorinated to a concentration of 0.1ppm or less, pH adjusted, if necessary, and volumetrically and velocity controlled to prevent resuspension of sediments in the MS4.
  - Discharges from lawn watering and other irrigation runoff. These shall be minimized through; at a minimum, public education activities described in Part II, Section C.1. of this permit.
  - Street, parking lot and sidewalk wash water, water used to control dust, and routine external building wash down, that does not use detergents. The permittee shall reduce these discharges through; at a minimum, public education activities described in Part II, Section C.1. of this permit. To avoid washing pollutants into the MS4, permittees must minimize the amount of street wash and dust control water used. At active construction sites, street sweeping must be performed prior to washing the street.
- iii. The permittees SWMP shall, at a minimum, address each category in ii above in accordance with the conditions stated therein.
- iv. The SWMP shall further address any category of discharges in i or ii above if the discharges are identified as significant sources of pollutants to waters of the State.
- v. The ordinance or other regulatory mechanism shall include escalating enforcement procedures and actions.
- vi. The permittee shall develop an enforcement strategy and implement the enforcement provisions of the ordinance or other regulatory mechanism.
- c. Each permittee shall continue to assess, update and implement their ongoing program to detect and address non-stormwater discharges, spills, illicit connections and illegal dumping into the permittees MS4. New permittees shall develop the aforementioned program. This program shall include:
- i. Procedures for locating priority areas likely to have illicit discharges, including at a minimum, evaluating land uses associated with business/industrial activities



present; areas where complaints have been registered in the past; and areas with storage of large quantities of materials that could result in spills.

- ii. Field assessment activities, including visual inspection of priority outfalls identified in i, above, during dry weather and for the purposes of verifying outfall locations, identifying previously unknown outfalls, and detecting illicit discharges.
- Receiving waters shall be prioritized 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. At a minimum, one field assessment shall be made each year thereafter.
  - Screening for illicit connections shall be conducted consistent with: 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.

- iii. Procedures for characterizing the nature of, and potential public or environmental threat posed by, any illicit discharges found by or reported to the Permittee. Procedures shall include detailed instructions for evaluating whether the discharge must be immediately contained and steps to contain the discharge.

Compliance with this provision shall be achieved by investigating within fifteen (15) days, any complaints, reports or monitoring information that indicates a potential illicit discharge, spill, or illegal dumping, and immediately investigating problems and violations determined to be emergencies or otherwise judged to be urgent or severe. In some instances, when imminent water quality impairments are deemed severe or urgent, the incident should be referred to WVDEP.

- iv. Procedures for tracing the source of an illicit discharge; including visual inspections, and when necessary, opening manholes, using mobile cameras, collecting and analyzing water samples, and/or other detailed inspection procedures.
- v. Procedures for removing the source of the discharge; including notification of appropriate authorities; notification of the property owner; follow up inspections, and if necessary; escalating enforcement and legal actions if the discharge is not eliminated.

Compliance with this provision shall be achieved by initiating an investigation within fifteen (15) days of a report or discovery of a suspected illicit connection to determine the source of the connection, the nature and volume of discharge through the connection, and the party responsible for the connection. The permittee shall establish a system to prioritize responding to and verifying elimination of illicit connections. The permittee shall assign a higher priority on illicit connections that pose an imminent threat to water quality.

- d. Permittees shall inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste.

- i. Distribute appropriate information to target audiences pursuant to Part II, Section C.1. of this permit.
  - ii. Publicly list and publicize a hotline or other local telephone number for public reporting of spills and other illicit discharges. Keep a record of calls received and follow-up actions taken in accordance with Part II, Section C.3. of this permit; include a summary in the annual report.
- e. Permittees shall adopt and implement procedures for program evaluation and assessment, including tracking the number and type of spills or illicit discharges identified, inspections made; and any feedback received from public education efforts. A summary of this information shall be included in the Permittees annual report.
- f. Each permittee shall provide appropriate training for municipal staff on the identification and reporting of illicit discharges into MS4s.
- i. Permittees shall ensure that all municipal field staff who are responsible for identification, investigation, termination, cleanup, and reporting illicit discharges, including spills, improper disposal and illicit connections are trained to conduct these activities. Follow up training shall be provided on an annual basis to address changes in procedures, techniques or requirements. Permittees shall document and maintain records of the training provided and the staff trained.
  - ii. Permittees shall develop and implement an ongoing training program for all municipal staff, which, as part of their normal job responsibilities, might come into contact with or otherwise observe an illicit discharge or illicit connection to the storm sewer system. Employees shall be trained on the identification of an illicit discharge/connection, and on the proper procedures for reporting and responding to the illicit discharge/connection. Follow up training shall be provided on an annual basis to strengthen knowledge of illicit discharges/connections and to address changes in procedures, techniques or requirements. Permittees shall document and maintain records of the training provided and the staff trained.

#### **4. Controlling Runoff from Construction Sites**

The SWMP shall include an ongoing program to assess, implement, and enforce the existing program to reduce pollutants in stormwater runoff to your small MS4 from construction site activities that result in a land disturbance of one acre or greater. Reduction of stormwater discharges from construction activity disturbing less than one acre must be included in your program if that construction activity is part of a larger common plan of development or sale that will disturb one acre or more. Permittee may opt to include in this program construction sites that are less than one acre. Newly permitted MS4s shall *begin* implementation of the requirements contained in Part II.C.4 of this permit within one year of the approval of their SWMP.

The minimum performance measures are:

- a. Permittees shall implement a program or system to review and update their ordinance or other regulatory mechanism that addresses stormwater runoff from construction sites one acre or greater. Newly permitted MS4s that do not yet have an ordinance in place shall begin development an ordinance or other regulatory mechanism within twelve months of the effective date of this permit. The ordinance or other enforceable mechanism shall include, at a minimum:

- i. Implementation of erosion and sediment control BMPs at regulated construction sites. Sediment and erosion control BMPs shall be consistent with the BMPs contained in West Virginia's Erosion and Sediment Control Best Management Practices Manual and/or other State manuals, as appropriate, listed in Appendix E.
  - ii. Requirements for construction site operators to implement appropriate erosion and sediment control BMPs. More stringent requirements may be used, and certain requirements may be tailored to local circumstances through the use of basin or watershed plans or other similar water quality and quantity planning efforts. Such local requirements shall provide equal protection of receiving waters and equal levels of pollutant control to those provided by DWWM WV/NPDES stormwater permits.
  - iii. Requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality.
  - iv. Requirements for demonstration that registration under the WV/NPDES construction stormwater general permit has been obtained for those sites one acre and greater. Provided that the DWWM has not approved the permittee as a 'Qualifying Local Program' in which coverage under WV/NPDES construction stormwater permit will be issued by the permittee and not by the DWWM.
  - v. Establishment of authority for site plan review, which 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.
  - vi. Establishment of authority for receipt and consideration of comments and information submitted by the public.
  - vii. Establishment of 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.
  - viii. Adequate funding for site inspections and enforcement of control measures.
  - ix. Measures to provide educational and training measures for construction site operators, including requiring a stormwater pollution prevention plan for construction sites within your jurisdiction.
- b. The program shall include a permitting and/or approval process with plan review, inspection and enforcement capability, for both private sector and public sector construction sites. At a minimum, the construction site runoff program shall be applied to all sites that disturb a land area of one acre or greater, including projects less than one acre that are part of a larger common plan of development. For newly permitted MS4s the permitting and/or approval process shall be in place no later than two years from the

approval date of their SWMP. In addition to an Ordinance described in Part II, Section C.4.a, the following elements shall be incorporated into this program:

- i. Procedures to incorporate plan review of new and redevelopment projects with the planning and approval process of these same projects with other municipal departments within the permittees MS4.
- ii. Procedures for routine inspections of permitted construction sites during construction to verify proper installation and maintenance of required erosion and sediment controls. Enforcement shall be conducted as necessary based on the inspection.
- iii. Development of an enforcement strategy to respond to issues of non-compliance.
- iv. Procedures for providing educational and training measures for construction site operators and the permittees inspectors.
- v. Development of an application process whereby the construction site operator will describe the sediment and erosion control measures to be taken on the site. 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. The application shall include a listing of all water bodies into which the construction site will discharge and whether or not they are on the 303(d) list for impaired waters.
- vi. Development of procedures for keeping records of all regulated construction activities within your MS4, inspection reports, warning letters, and any other enforcement documentation. A summary of inspection and enforcement activities that are conducted shall be included in the annual report.

## 5. **Controlling Runoff from New Development and Redevelopment**

The SWMP shall include an ongoing program to develop, assess, implement, and enforce their program to reduce pollutants in stormwater runoff to your small MS4 from new development and redevelopment activities. This 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. The program shall apply to private sector and public sector development, including roads. The program must ensure that controls are in place that will increase groundwater recharge of stormwater runoff where and when possible, and would protect water quality and reduce the discharge of pollutants. Except where otherwise stated, newly permitted MS4s shall *begin* implementation of the requirements contained in Part II.C.5 of this permit within two years after the approval date of their SWMP.

The program shall include the following measures:

### a. **Long-term Stormwater Controls**

The permittee shall protect the physical, chemical and biological integrity of receiving waters, and their designated uses, from the impacts of stormwater discharges through the implementation of watershed protection elements and site and neighborhood design elements. The purpose of *watershed protection* elements is to manage the impacts of

stormwater on receiving waters that occur because of regional or watershed-scale management decisions. The primary purpose of *site and neighborhood design* elements is to manage the impacts of stormwater on receiving waters that occur because of site and neighborhood design management decisions. The technical principles of these management practices have many complementary similarities, and must be implemented in tandem.

All elements and standards are required, and must be described in the stormwater management program plan.

**i. Watershed Protection**

The permittee shall incorporate watershed protection elements into the subdivision ordinance or equivalent document. In addition, the permittee shall incorporate watershed protection elements into all relevant policy and/or planning documents as they come up for regular review. 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 provide the DWWM a schedule for incorporation and implementation that cannot exceed seven years from the effective date of this permit. Planning documents 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.

A. *Watershed protection elements.* As relevant, policy and/or planning documents must include the following, except where noted:

- (1) 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.
- (2) 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.
- (3) 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.
- (4) Seek to avoid or prevent hydromodification of streams and other water bodies caused by development, including roads, highways, and bridges.
- (5) Implement standards to protect trees, and other vegetation with important evapotranspirative qualities.
- (6) Implement policies to protect native soils, prevent topsoil stripping, and prevent compaction of soils.

B. *Measurable Goals.* For each of the six watershed elements in i.A, the permittee shall develop quantifiable objectives that include a time frame for achieving them. Short-term

objectives (less than five years) and long-term objectives (greater than five years) are appropriate for many of these elements.

- C. *Reporting.* Annual reports must include status of implementation of these elements with respect to incorporation into relevant documents and implementation via relevant policies. Reports should include proposed time frames, changes and measurable goals.

**ii. Site and Neighborhood Design**

The permittee shall develop a program to protect water resources by requiring all new and redevelopment projects to control stormwater discharge rates, volumes, velocities, durations and temperatures. These standards shall apply at a minimum to all new development and redevelopment disturbing one acre or greater, including projects less than one acre that are part of a larger common plan of development or sale. The permittee shall *begin* implementation of the requirements contained in Part II.C.5.a.ii [other than Part II.C.5.a.ii.A(3) and Part II.C.5.a.ii.A.(4)] within four years after the approval of the SWMP.

- A. *Performance Standards.* The permittee must implement and enforce via ordinance and/or other enforceable mechanism(s) the following requirements for new and redevelopment:

1. Site design standards for all new and redevelopment that require, in combination or alone, management measures that keep and manage on site the first one inch of rainfall from a 24-hour storm preceded by 48 hours of no measurable precipitation. Runoff volume reduction can be achieved by canopy interception, soil amendments, evaporation, rainfall harvesting, engineered infiltration, extended filtration and/or evapotranspiration and any combination of the aforementioned practices. This first one inch of rainfall must be 100% managed with no discharge to surface waters, except when the permittee chooses to implement the conditions in paragraph 4 below. This can be achieved through on site utilization of practices to include dry swales, bioretention, rain tanks and cisterns, soil amendments, roof top disconnections, permeable pavement, porous concrete, permeable pavers, reforestation, grass channels, green roofs and other practices that alone or combined will capture the first one inch of rainfall runoff volume. Extended filtration practices that are designed to capture and retain up to one inch of rainfall may discharge volume in excess of the first inch through an under drain system. An Underground Injection Control permit may be required when certain conditions are met.

2. The following additional water quality requirements, as applicable:

- i. A project that is a potential hot spot with reasonable potential for pollutant loading(s) must provide water quality treatment for associated pollutants (e.g., petroleum hydrocarbons at a vehicle fueling facility) before infiltration.
- ii. A project that is a potential hot spot 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.

- iii. 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.
3. When considered at the watershed scale, certain types of development can either reduce existing impervious surfaces, or at least create less ‘accessory’ impervious surfaces. Incentive standards may be applied to these types of projects. A reduction of 0.2 inches from the one inch runoff reduction standard may be applied to any of the following types of development. Reductions are additive up to a maximum reduction of 0.75 inches for a project that meets four or more criteria. The permittee may choose to be more restrictive and allow a reduction of less than 0.75 inches if they choose. In no case will the reduction be greater than 0.75 inches.
  - a) Redevelopment
  - b) Brownfield redevelopment
  - c) High density (>7 units per acre)
  - d) Vertical Density, (Floor to Area Ratio (FAR) of 2 or >18 units per acre)
  - e) Mixed use and Transit Oriented Development (within ½ mile of transit)
4. For projects that cannot meet 100% of the runoff reduction requirement on site, two alternatives are available: off-site mitigation and payment in lieu. If these alternatives are chosen, then the permittee must develop and fairly apply criteria for determining the circumstances under which these alternatives will be available. A determination that standards cannot be met on site may not be based solely on the difficulty or cost of implementing measures, but must include multiple criteria that would rule out an adequate combination of the practices set forth in section 1, above, such as: too small a lot outside of the building footprint to create the necessary infiltrative capacity even with amended soils; soil instability as documented by a thorough geotechnical analysis; a site use that is inconsistent with capture and reuse of stormwater; too much shade or other physical conditions that preclude adequate use of plants. In instances where alternatives to complete on site management of the first inch of rainfall are chosen, technical justification as to the infeasibility of on site management is required to be documented.

These alternatives are available, in combination or alone, for up to 0.6 inches of the original obligation at a 1:1.5 ratio, i.e., mitigation or payment in lieu must be for 1.5 times the amount of stormwater not managed on site. If, as demonstrated to the permittee, it is technically infeasible to manage on site a portion of all of the remaining 0.4 inches, off site mitigation or payment in lieu will be applied at a 1:2 ratio for that portion. 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. *Off-site mitigation.* Runoff reduction practices may be implemented at another location in the same sewershed/watershed as the original project, approved by the permittee. The permittee shall identify priority areas within the sewershed/watershed in which mitigation projects can be completed. Mitigation must be for retrofit or redevelopment projects, and cannot be applied to new development. The permittee shall determine who will be responsible for long term maintenance on mitigation projects.

- ii. *Payment in lieu.* Payment in lieu may be made to the permittee, who will apply the funds to a public stormwater project. MS4s shall maintain a publicly accessible database of approved in lieu projects.
  - 5. When public (local or otherwise) streets or parking lots, that are greater than 5000 square feet but less than one acre, are modified or reconstructed runoff reduction practices shall be included in the design work. These requirements apply only to projects begun after the effective date of this permit.
- B. *Plan Review, Approval and Enforcement.* To ensure that all new development and redevelopment projects conform to the standards stipulated in Part II, Section C.5.ii, the permittee shall develop project review, approval and enforcement procedures. The review, approval and enforcement procedures shall apply at a minimum to all new development and redevelopment disturbing 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, and shall include:
- (1) Requirements to submit for review and approval a pre-application concept plan that describes how the performance standards will be met. 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.
  - (2) Development of procedures for the site plan review and approval process(es) that include inter-departmental consultations, as needed, and a required re-approval process when changes to an approved plan are desired.
  - (3) A requirement for submittal of ‘as-built’ certifications within 90 days of completion of a project.
  - (4) A post-construction verification process to ensure that stormwater standards are being met, that includes enforceable procedures for bringing noncompliant projects into compliance.
  - (5) A description of a program to educate both internal staff and external project proponents of the requirements of Part II, Section C.5 of this permit.
- C. *Maintenance Agreements.* The permittee shall require that all development subject to the requirements of Part II, Section C.5.ii. of this permit develop a maintenance agreement and maintenance plan for approved stormwater management practices. The permittee shall require that property owners or operators provide verification of maintenance for the approved stormwater management practices. These agreements shall allow the permittee, or its designee, to conduct inspections of the stormwater management practices and also account for transfer of responsibility in leases and/or deed transfers. The agreement shall also allow the permittee, or its designee, to perform necessary maintenance or corrective actions neglected by the property owner/operator, and bill or recoup costs from the property owner/operator when the owner/operator has not performed the necessary maintenance within thirty (30) days of notification by the permittee or its designee. Verification shall include one or more of the following as applicable:



- (1) The owner/developer's signed statement accepting responsibility for maintenance until the maintenance responsibility is legally transferred to another party; and/or
- (2) Written conditions in the sales or lease agreement that require the recipient to assume responsibility for maintenance; and/or
- (3) Written conditions in project conditions, covenants and restrictions for residential properties assigning maintenance responsibilities to a home owner's association, or other appropriate group, for maintenance of structural and treatment control stormwater management practices; and/or
- (4) Any other legally enforceable agreement that assigns permanent responsibility for maintenance of structural or treatment control stormwater management practices.

*D. Inventory and Tracking of Management Practices.* The permittee shall develop a system designed to track stormwater management practices deployed at new development and redevelopment projects. Tracking of stormwater management practices shall begin during the plan review and approval process with a database or geographic information system (GIS). The database or tracking system shall include information on both public and private sector projects that are within the jurisdiction of the permittee. 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:

1. Source control stormwater management practices (type, number, design or performance specifications)
2. Treatment control stormwater management practices (type, number, design or performance specifications)
3. Latitude and longitude coordinates of stormwater BMP controls using a global positioning system
4. Digital photographs of stormwater management practice controls
5. Maintenance requirements of stormwater management practices (frequency of required maintenance and inspections)
6. Inspection information (date, findings, follow up activities, compliance status)

*E. Stormwater BMP Inspections.* In order to ensure that all stormwater BMPs are operating correctly and are properly maintained, the permittee shall, at a minimum:

1. Develop an inspection calendar for stormwater BMPs. Inspections should be performed so that all stormwater BMP's are inspected at least once during the permit cycle.
2. 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 stormwater BMP owner along with deadlines and reinspection dates.

3. Develop an enforcement and response plan to ensure that stormwater BMPs are properly maintained. This plan shall include procedures to enforce correction orders and include a contingency plan if correction orders are not followed through by the responsible party. The permittee shall promptly notify the stormwater BMP owner or operator of any deficiencies discovered during a maintenance inspection. The permittee shall follow its enforcement response plan to ensure that management practices are maintained. The permittee must conduct a subsequent inspection to ensure completion of all required repairs.

*F. Reporting.* The permittee shall demonstrate compliance with the requirements for post-construction controls by summarizing the following in the Annual Report:

- (1) A description of how the permittees legal authority addresses the watershed protection elements in Part II, Section C.5.
- (2) A summary of the number and types of projects that the permittee reviewed for new and development considerations.
- (3) 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 each of the incentives described in Part II, Section C.5.a.ii.A.3, and that qualified for each of the alternatives described in Part II, Section C.5.a.ii.A.4.
- (4) A summary of the number and types of maintenance agreements approved.
- (5) 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.
- (6) A summary of any evaluation data collected for long-term stormwater controls, including water quality information, stormwater BMP performance, and model results.

**b. Assessments**

The permittee shall conduct the following assessment to provide a foundation for program improvements to be implemented during the next permit term.

**1. Street/Parking Design Assessment.**

Permittee shall submit to DWWM a report assessing current street design guidelines and parking requirements that affect the creation of impervious cover, with the third year annual report. 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. The local planning commission and the local transportation commission should be involved in the assessment.

6. **Pollution Prevention & Good Housekeeping for Municipal Operations**

Each permittee shall continue to implement their operations and maintenance (O&M) program that includes a training component and has the ultimate goal of preventing or reducing polluted runoff from municipal operations. Newly permitted MS4s shall have one year from the approval date of their SWMP to *begin* implementation of the requirements contained in Part II.C.6 of this permit.

The minimum performance measures are:

- a. Develop and implement an operation and maintenance program that incorporates good housekeeping components at all municipal facilities, including but not limited to; municipal waste water treatment facility, potable drinking water facility, municipal fleet operations, maintenance garages, parks and recreation, street and infrastructure maintenance, and grounds maintenance operations.
  - i. Each permittee shall develop and establish maintenance standards at all municipal facilities that will help protect the physical, chemical and biological integrity of receiving waters.
  - ii. Each permittee shall establish an inspection schedule in which to perform inspections to determine if maintenance standards are being met. Inspections shall be performed no less than once per calendar year.
  - iii. Each permittee shall develop procedures for record keeping and tracking inspections and maintenance at all municipal facilities.
- b. Establish and implement policies and procedures to reduce the discharge of pollutants in stormwater runoff from 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 and stormwater treatment and flow practices. These policies and procedures shall address, but are not limited to:
  - i. Application of fertilizer, pesticides, and herbicides including the development of nutrient management and integrated pest management plans.
  - ii. Sediment and erosion control.
  - iii. Landscape maintenance and vegetation disposal.
  - iv. Trash management.
  - v. Building exterior cleaning and maintenance.
  - vi. Chemical and material storage.

vii. Street sweeping and inlet/catch basin cleaning.

c. Using training materials that are available from WVDEP, USEPA or other organizations, develop and implement an on-going training program for employees of the permittee whose construction, operations or maintenance job functions may impact stormwater quality. The training program shall include, but is not limited to, employees who work in the following areas:

- Street/sewer and right-of-way construction and maintenance,
- Water and sewer departments,
- Parks and recreation department,
- Municipal water treatment and waste water treatment,
- Fleet maintenance,
- Fire departments,
- Building maintenance and janitorial,
- Garage and mechanic crew,
- Contractors and subcontractors who may be contracted to work in the above described areas,
- Personnel responsible for answering questions about the permittees stormwater program, this includes persons who may take phone calls about the program,
- Any other department of the permittee that may impact stormwater runoff

i. The training program shall address the importance of protecting water quality, the requirements of this permit, operation and maintenance standards, inspection procedures, selecting appropriate BMPs, ways to perform their job activities to prevent or minimize impacts to water quality, and procedures for reporting water quality concerns, including potential illicit discharges. Follow-up and refresher training shall be provided at a minimum of once every twelve months, and shall include any changes in procedures, techniques or requirements. Permittees shall document and maintain records of training provided.

d. **Industrial Stormwater coverage for Municipal Operations**

Each permittee that owns or operates a publicly owned treatment works, including sanitary boards, maintenance garages and/or any other industrial activity must obtain coverage for their stormwater discharges, unless coverage is already granted under DWWM WV/NPDES General Permit for Storm Water Discharges associated with Industrial activity, or an individual WV/NPDES permit.

The following monitoring requirements apply:

<u>Pollutants of Concern</u>	<u>Cut-off Concentration</u>	<u>Measurement Frequency</u>
BOD-5	30 mg/l	Once/Six months
COD	120 mg/l	Once/Six months
TSS	100 mg/l	Once/Six months
Ammonia Nitrogen	4 mg/l	Once/Six months
Oil & Grease	15 mg/l	Once/Six months
pH	6.0 – 9.00 s.u.	Once/Six months

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

<u>Pollutants of Concern</u>	<u>Cut-off Concentration</u>	<u>Measurement Frequency</u>
Fecal Coliform, General	400 counts/100 ml	Once/Six months

Samples shall be collected once every six months, during the spring and fall seasons. Monitoring results shall be submitted to the DWWM with the annual report.

Stormwater samples shall be collected during the “first flush” of rainfall runoff, at least twenty minutes, but not more than fifty minutes after rainfall of at least 0.5 inches has begun, preceded by a period of dry weather of at least 48 hours.

### **Part III. Special Conditions**

#### **A. Sharing Responsibility**

If you are relying on another MS4 regulated under the stormwater regulations to satisfy one or more of your permit obligations, you must note that fact in your stormwater management program. This other entity must, in fact, implement the control measure(s); the measure of component thereof, must be at least as stringent as the corresponding WV/NPDES permit requirement; and the other entity must agree to implement the control measure on your behalf. This agreement between the two or more parties must be documented in writing in the stormwater management plan and be retained by the permittee for the duration of this permit, including any automatic extensions of the permit term.

#### **B. Discharge Compliance with Water Quality Standards**

This general permit requires, at a minimum, that permittees develop, implement and enforce a stormwater management program designed to reduce the discharge of pollutants to the maximum extent practicable, to protect water quality, and satisfy the appropriate requirements of the Clean Water Act. 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. 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 is considered an acceptable effort to reduce pollutants from the municipal storm drain system to the maximum extent practicable.

#### **C. Requiring an Individual Permit**

The DWWM may require any person authorized by this permit to apply for and/or obtain an individual WV/NPDES permit. Where the DWWM requires application for an individual WV/NPDES permit, the DWWM will notify the permittee in writing that a permit application is required. This notification shall include a brief statement of the reasons for this decision, an application form and a statement setting a deadline for the permittee to file the application.

#### **D. Discharge to Impaired Waters**

##### **1. 303(d) Listed Waters:**

This permit does not authorize new sources or new discharges of pollutants of concern to impaired waters unless consistent with an approved Total Maximum Daily Load (TMDL) and applicable state law. 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. Pollutants of concern are those pollutants for which the water body is listed as impaired. A list of impaired water bodies in West Virginia can be found at: <http://www.wvdep.org/item.cfm?ssid=11&ssid=720>

- a. MS4s that discharge into a receiving water which has been listed on the West Virginia Section 303(d) list of impaired waters, and with discharges that contain the pollutant(s) for which the water body is impaired, must document in the SWMP how the BMPs will control the discharge of the pollutant(s) of concern, and must demonstrate that there will be no increase of the pollutants of concern.
- b. If a TMDL is approved during this permit cycle by USEPA for any waterbody into which an MS4 discharges, the MS4 must review the applicable TMDL to see if it includes requirements for control of stormwater discharges. Within six (6) months of the TMDL approval, the MS4 must modify its stormwater management program to include best management practices specifically targeted to achieve the wasteload allocations prescribed by the TMDL. The MS4 must include a monitoring component in the SWMP to assess the effectiveness of the BMPs in achieving the wasteload allocations. Monitoring shall be specifically for the pollutants of concern and be of sufficient frequency to determine if the stormwater BMPs are adequate to meet wasteload allocations. Monitoring can entail a number of activities including but not limited to; outfall monitoring to in-stream monitoring to modeling. 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 of these guidance documents can be found on WVDEP's website: [http://www2.wvdep.org/dwwm/stormwater/MS4\\_docs.htm](http://www2.wvdep.org/dwwm/stormwater/MS4_docs.htm)

After monitoring results are carefully considered, the permittee shall ascertain if the SWMP and the mix of BMPs need to be modified to comply with wasteload allocations.

## 2. **Discharging into Waters with Approved TMDLs**

If a MS4 discharges into a water body with an approved TMDL, and the TMDL contains requirements for control of pollutants from the MS4 stormwater discharges, then the SWMP must include BMPs specifically targeted to achieve the wasteload allocations prescribed by the TMDL. A monitoring component to assess the effectiveness of the BMPs in achieving the wasteload allocations must also be included in the SWMP. Monitoring shall be specifically for the pollutants of concern and be of sufficient frequency to determine if the stormwater BMPs are adequate to meet wasteload allocations. Monitoring can entail a number of activities including but not limited to; outfall monitoring to in-stream monitoring to modeling. 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 of these guidance documents can be found on WVDEP's website: [http://www2.wvdep.org/dwwm/stormwater/MS4\\_docs.htm](http://www2.wvdep.org/dwwm/stormwater/MS4_docs.htm)

After monitoring results are carefully considered, the permittee shall ascertain if the SWMP and the mix of BMPs need to be modified to comply with wasteload allocations.

## E. Endangered and Threatened Species

If a MS4 discharges to a stream where federally endangered or threatened species or its habitat are present, the applicant shall contact the US Fish and Wildlife Service to insure that requirements of the Federal Endangered Species Act are met.

## Part IV. Monitoring, Recordkeeping, Reporting and Program Review

### A. Evaluating the Stormwater Management Program

MS4s shall evaluate the effectiveness of their stormwater management programs and BMPs implemented to comply with this general permit. The permittee shall use a sufficient number of known, available, and reasonable methods necessary to evaluate the effectiveness of the SWMP. This information shall be submitted in the annual report in accordance with Part IV, Section D. For more information about evaluating your stormwater management program see the USEPA/States guidance titled: *Evaluating the effectiveness of municipal stormwater programs*. This guidance document can be found on WVDEP's website: [http://www2.wvdep.org/dwmm/stormwater/MS4\\_docs.htm](http://www2.wvdep.org/dwmm/stormwater/MS4_docs.htm)

### B. Stormwater Monitoring

The permittee shall monitor stormwater from a minimum of one outfall that is representative of the stormwater discharge from the MS4. A representative outfall is one located in the most densely populated section of the MS4. The permittee shall, at a minimum, monitor one outfall for the following parameters:

<u>Parameter</u>	<u>EPA Method No.</u>	<u>Method Detection Limit (mg/l)</u>
Total Kjeldahl Nitrogen	351.4	0.03
Nitrate Nitrogen	300.0	0.002
Nitrite Nitrogen	300.0	0.004
Total Phosphorous	365.4	0.01

The DWWM recognizes there is not an EPA approved method to directly test for Total Nitrogen. The Total Nitrogen value to be reported on the permittees Discharge Monitoring Reports' (DMRs) shall be the sum of the following parameters; Total Kjeldahl Nitrogen, Nitrate, and Nitrite.

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.

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.

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.

Stormwater samples shall be collected once every six months, during the spring and fall seasons.

Stormwater samples shall be collected during the “first flush” of rainfall runoff, at least twenty minutes, but not more than fifty minutes after rainfall of at least 0.5 inches has begun, preceded by a period of dry weather of at least 48 hours.

### **C. Recordkeeping and Public Availability of SWMP and Annual Report**

The permittee shall keep records under this general permit for at least three years after termination of this general permit. Records shall be submitted to the DWWM only when permittees are specifically asked to do so.

The permittee shall make their SWMP and their annual report available to the public at reasonable times during regular business hours. In addition, the SWMP and the annual report shall be posted on the permittees website. If the permittee does not maintain or utilize a website, an electronic copy of the SWMP and annual report shall be submitted to DWWM for distribution when it is requested.

### **D. Reporting**

Annually, the permittee shall submit a report to the DWWM. The report shall include:

1. A description of the activities undertaken and implemented for each of the minimum control measures;
2. An explanation of how the permittee measured the effectiveness of each of the activities implemented;
3. The status of compliance with each of the BMPs that were specified in the permittees stormwater management program;
4. An assessment of the progress toward achieving the identified measurable goals for each of the minimum control measures;
5. Results of information collected and analyzed, including monitoring data, during the annual reporting period;
6. A summary of the stormwater activities the permittee plans to undertake during the next annual reporting period;
7. A change in any identified measurable goals that apply to the minimum control measures;
8. A description of the status of the street and parking design assessment;
9. A description of the coordination efforts with other MS4's, County Governments, colleges, universities, correctional facilities, prisons, and any other entity regarding the implementation of the minimum control measures including the status of any memorandum of understanding (MOU) or other agreement executed between the permittee/s and any other entity;
10. A summary of construction site inspections and enforcement activities as described in Part II, Section C.4.b.vi.;



11. A summary of post construction controls as described in Part II, Section C.5.a.ii.F., and Part II, Section C.5.a.i.C.,
12. 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
13. A fiscal analysis of capital and operating expenditures to implement the minimum control measures. The fiscal analysis shall include only those expenditures by the locality seeking coverage under this general permit and not those for minimum control measures implemented by other entities.

**E. Program Review**

In order to assess the effectiveness of the permittees NPDES program for eliminating non-storm water discharges and reducing the discharge of pollutants to the maximum extent possible, the DWWM will review program implementation and annual reports. Additional periodic evaluations may be conducted to determine compliance with permit conditions.

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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.

This permit is issued in accordance with the provisions of Chapter 22, Article 11 of the Code of West Virginia



BY: \_\_\_\_\_  
Scott G. Mandirola  
Acting Director

# Appendix A

## WV/NPDES GENERAL PERMIT NUMBER WV0116025

### SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS

#### NOTICE OF INTENT (NOI)

**1. MS4 Operator Information:**

Name of city, county, or other jurisdiction that operates a Phase II MS4:

\_\_\_\_\_

Contact Person: \_\_\_\_\_ Telephone: \_\_\_\_\_

E-mail address of contact person: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

2. Receiving stream(s): \_\_\_\_\_

3. Fee - \$17.50 per acre of area served by the MS4. Maximum fee is \$1750.00

Amount enclosed: \_\_\_\_\_

**NOTE:**

The Notice of Intent provides MS4 entities initial coverage under the WV/NPDES MS4 General Permit. This permit requires the permittee to submit their Stormwater Management Program within six months of the issuance date of the General Permit.

I CERTIFY UNDER PENALTY OF LAW THAT I HAVE PERSONALLY EXAMINED AND AM FAMILIAR WITH THE INFORMATION SUBMITTED ON THIS FORM. I AM ALSO AWARE THAT THE STORMWATER MANAGEMENT PROGRAM/SITE REGISTRATION APPLICATION MUST BE SUBMITTED WITHIN SIX MONTHS OF THE ISSUANCE DATE OF THE GENERAL PERMIT NO. WV0116025.

I AM AWARE THAT THERE ARE SIGNIFICANT PENALTIES FOR SUBMITTING FALSE INFORMATION, INCLUDING THE POSSIBILITY OF FINE AND IMPRISONMENT.

OFFICIAL SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

PRINT NAME \_\_\_\_\_

Return To: WVDEP - DWWM  
MS4/NPDES  
601 57<sup>th</sup> Street, SE  
Charleston, WV 25304

## 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.

**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.

**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.

**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.

**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.

**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.

**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, evapotranspire and reuse stormwater on site.

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

**Site Registration Application** means the forms designed by the Director for the purpose of obtaining coverage under the small MS4 general permit. The information contained on the site registration application once approved becomes the “stormwater management program” for the permittee.

**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 Pollution Prevention Plan (SWPPP)** means the erosion and sediment control plan for a construction site.

**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

## I. 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 Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for a new permit at least 180 days prior to expiration of the permit.

### 3. 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.

### 4. 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.

### 5. Property Rights

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

### 6. Signatory Requirements

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

### 7. Transfers

This permit is not transferable to any person except after notice to the Chief. The Chief 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.

### 8. Duty to Provide Information

The permittee shall furnish to the Chief, within a reasonable specified time, any information which the Chief 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 Chief, upon request, copies of records required to be kept by this permit.

### 9. 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 Chief, it shall promptly submit such facts or information.

### 10. Inspection and Entry

The permittee shall allow the Chief, or an authorized 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.

### 11. 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.

### 12. 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 Environmental Quality Board.

### 13. Outlet Markers

A permanent marker at the establishment shall be posted in accordance with Title 47, Series 11, Section 9 of the West Virginia Legislative Rules.

### 14. 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 I.14 a), b), and c) shall be construed to limit or prohibit any other authority the Chief may have under the State Water Pollution Control Act, Chapter 22, Article 11.



## II. 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 includes 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 Chief 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 Chief 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 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 Chief may approve an anticipated bypass, after considering its adverse effects, if the Chief determines that it will meet the three conditions listed in II.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 I.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 Chief, 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 Chief. 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 Chief 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 III.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 Chief at any time.

#### 7. Definitions

- a) "Daily discharge" means the discharge of a pollutant measured during a calendar day or within any specified period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.
- b) "Average monthly discharge limitation" means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.
- c) "Maximum daily discharge limitation" means the highest allowable daily discharge.
- d) "Composite Sample" is a combination of individual samples obtained at regular intervals over a time period. Either the volume of each individual sample is proportional to discharge flow rates or the sampling interval (for constant volume samples) is proportional to the flow rates over the time period used to produce the composite. The maximum time period between individual samples shall be two hours.
- e) "Grab Sample" is an individual sample collected in less than 15 minutes.
- f) "is" = immersion stabilization - a calibrated device is immersed in the effluent stream until the reading is stabilized.
- g) The "daily average temperature" means the arithmetic average of temperature measurements made on an hourly basis, or the mean value plot of the record of a continuous automated temperature recording instrument, either during a calendar month, or during the operating month if flows are of shorter duration.
- h) The "daily maximum temperature" means the highest arithmetic average of the temperatures observed for any two (2) consecutive hours during a 24 hour day, or during the operating day if flows are of shorter duration.
- i) The "daily average fecal coliform" bacteria is the geometric average of all samples collected during the month.
- j) "Measured Flow" means any method of liquid volume measurement, the accuracy of which has been previously demonstrated in engineering practice, or which a relationship to absolute volume has been obtained.
- k) "Estimate" means to be based on a technical evaluation of the sources contributing to the discharge including, but not limited to pump capabilities, water meters and batch discharge volumes.
- l) "Non-contact cooling water" means the water that is contained in a leak-free system, i.e., no contact with any gas, liquid, or solid other than the container for transport; the water shall have no net poundage addition of any pollutant over intake water levels, exclusive of approved anti-fouling agents.

## 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 Chief 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 Chief 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 changes. The permittee shall give notice to the Chief 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 Chief 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 Chief 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/l);
    - (B) Two hundred micrograms per liter (200 ug/l) 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/l) 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 Chief 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/l) 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 Chief 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**

Designation Criteria for small MS4s with a population greater than 1,000.

The DWWM will use the following designation criteria to evaluate and determine if the subject MS4s require permit coverage:

1. Discharge to sensitive waters
2. High growth or growth potential
3. High population density
4. Contiguity to an urbanized area
5. Significant contributor of pollutants to waters of the State
6. Ineffective protection of water quality by other programs

## Appendix E

Sediment and Erosion Control BMP manuals:

1. West Virginia BMP manual; <http://www.wvdep.org/dwvm/stormwater/BMP/index.html>
2. Maryland Soil Erosion and Sediment Control BMP manual; <http://www.mde.state.md.us/Programs/WaterPrograms/SedimentandStormwater/erosionsedimentcontrol/standards.asp>
3. Virginia Erosion and Sediment Control Handbook; [http://www.dcr.virginia.gov/soil\\_&\\_water/e&s-ftp.shtml](http://www.dcr.virginia.gov/soil_&_water/e&s-ftp.shtml)
4. USEPA has a listing of available state stormwater manuals here; <http://yosemite.epa.gov/R10/WATER.NSF/0/17090627a929f2a488256bdc007d8dee?OpenDocument>
5. West Virginia Department of Transportation, Division of Highways, Erosion and Sediment Control Manual, March 1, 2003. [http://www.wvdot.com/engineering/TOC\\_engineering.htm](http://www.wvdot.com/engineering/TOC_engineering.htm)