



## **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. A. Municipalities with populations greater than or equal to 1000 that have been designated by the Environmental Protection Agency (EPA) under Code of Federal Regulations (CFR) 40.122.32 (a)(1); or  
  
B. 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 A of this general permit.
2. This permit authorizes the following non-storm water 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 storm water 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.
  - a) Water line flushing,
  - b) Landscape irrigation,
  - c) Diverted stream flows,
  - d) Rising ground waters,
  - e) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)),
  - f) Uncontaminated pumped groundwater,
  - g) Discharges from potable water sources,
  - h) Foundation drains,
  - i) Air conditioning condensate,
  - j) Irrigation water,
  - k) Springs,
  - l) Water from crawl space pumps,
  - m) Footing drains,
  - n) Lawn watering runoff,
  - o) Water from individual residential car washing,
  - p) Flows from riparian habitats and wetlands,
  - q) Dechlorinated swimming pool discharges,
  - r) Residual street wash water,
  - s) Discharges or flows from fire fighting activities, and
  - t) Dechlorinated water reservoir discharges

## **Part II. Storm Water Management Program (SWMP)**

### **A. Requirements**

Within 12 months of the issuance date of this permit, the permittee must develop and submit a storm water management program (SWMP) designed to reduce the discharge of pollutants from your small municipal separate storm sewer system to the maximum extent practicable (MEP), to protect water quality, and satisfy the appropriate water quality requirements of the Clean Water Act. Each SWMP shall follow the public notice procedures set forth in 47 CSR § 10-12. Your SWMP must include the minimum control measures described in section (B) of this Part along with measurable goals and milestones for each measure and justifications for each milestone. Subject to the five-year limitation noted below in this paragraph, extensions of milestones will be granted for good cause shown. Your SWMP must also provide details on how you will implement and enforce the program. You must fully implement your program within five years of the effective date of this permit.

### **B. Minimum Control Measures**

The six (6) minimum control measures to be included in your SWMP are:

#### **1. Public Education and Outreach on Storm Water Impacts.**

Permittee shall implement a public education program to distribute educational materials to the community or conduct equivalent outreach activities about the impacts of storm water discharges on water bodies and the steps that the public can take to reduce pollutants in storm water runoff. At a minimum, the public education program shall contain information about the impacts of storm water discharges on receiving waters, why controlling these discharges is important and what the public can do to reduce pollutants in storm water runoff.

#### **2. Public Involvement/Participation.**

Permittee shall implement and maintain a public involvement and participation program. The permittee shall at a minimum, comply with State and local public notice requirements when implementing a public involvement/participation program. The permittee shall also comply with public participation and involvement provisions of the CWA, including public availability of all permits and permit applications (including Site Registration Applications (SRAs)) and the right to a public hearing on proposed permits.

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

Permittee shall develop, implement and enforce a program to detect and eliminate illicit discharges (as defined at Section 122.26(b)(2)) into your small MS4.

At a minimum, the permittee must:

- a) Develop, if not already completed, a storm sewer system map, showing the location of all outfalls and the names and location of all waters of the State that receive discharges from those outlets;
- b) To the extent allowable under State or local law, effectively prohibit, through ordinance, or other regulatory mechanism, non-storm water discharges into your storm sewer system and implement appropriate enforcement procedures and actions;
- c) Develop, implement, and adequately fund a plan to detect and address non-storm water discharges, including illegal dumping, to your system;
- d) Inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste; and
- e) Address the following categories of non-storm water discharges or flows (i.e., illicit discharges) only if you identify them as significant contributors of pollutants to your small MS4: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated groundwater infiltration (as defined at 40 CFR 35.2005(20)), uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water (discharges or flows from fire fighting activities are excluded from the effective prohibition against non-storm water and need only be addressed where they are identified as significant sources of pollutants to waters of the United States).
- f) Effectively prohibit non-storm water discharges into the storm sewers.

4. Construction Site Storm water Runoff Control.

Permittee shall develop, implement, and enforce a program to reduce pollutants to the MEP in any storm water runoff to its small MS4 from construction activities that result in a land disturbance of greater than or equal to one acre. Reduction of storm water 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 would disturb one acre or more or has been designated by DEP.

The program must include the development and implementation of, at a minimum:

- (a) An ordinance or other regulatory mechanism to require erosion and sediment controls, as well as sanctions to ensure compliance, to the extent allowable under State or local law;
- (b) Requirements for construction site operators to implement appropriate erosion and sediment control best management practices;
- (c) 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;
- (d) Procedures 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 sediment and erosion control requirements;
- (e) Procedures for receipt and consideration of information submitted by the public; and
- (f) Procedures and adequate funding for site inspection and enforcement of control measures.
- (g) Include procedures 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; and
- (h) Provide educational and training measures for construction site operators, including requiring a stormwater pollution prevention plan for construction sites within your jurisdiction.

5. Post-Construction Storm Water Management In New Development and Redevelopment.

The permittee shall develop, implement, and enforce a program to address post-construction storm water runoff from new development and redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale or that have been designated to protect water quality, that discharge into its small MS4. The program must ensure that controls are in place that will increase groundwater recharge of storm water runoff where and when possible, and would protect water quality and reduce the discharge of pollutants. The permittee shall also develop and implement strategies that include a list of structural best management

practices (BMPs) designed for maximizing groundwater recharge.

The program shall include, at a minimum:

- a) Develop and implement strategies which include a combination of structural and/or non-structural BMPs appropriate for your community that will reduce the discharge of pollutants to the maximum extent practicable and a list of structural BMPs designed for maximizing groundwater recharge; and
- b) Use an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects to the extent allowable under State or local law; and
- c) Ensure adequate long-term operation and maintenance of BMPs, including monitoring to determine whether the BMPs are reducing the discharge of pollutants to the maximum extent practicable; and
- d) Develop, implement, and provide adequate resources for a program to inspect development and re-development sites and to enforce and penalize violators.

6. Pollution Prevention/Good Housekeeping For Municipal Operations.

Permittee shall implement and maintain pollution prevention and good housekeeping techniques and procedures to reduce pollutants from municipal operations.

This program shall include, at a minimum:

- a) Develop and implement an operation and maintenance program that includes a training component and is designed to reduce the discharge of pollutants to the maximum extent practicable; and
- b) Using training materials that are available from EPA, your State, Tribe, or other organizations, the program must include employee training to prevent and reduce storm water pollution from activities such as park and open space maintenance, fleet and building maintenance, new construction and land disturbances, and stormwater system maintenance.
- c) Industrial Storm Water Coverage for Municipal Operations

Permittees desiring coverage for storm water associated with industrial activity discharging from their municipal operations must also meet the following monitoring requirements for those discharges:

<u>Pollutants of Concern</u>	<u>Cut-off Concentration</u>	<u>Measurement Frequency</u>
BOD-5	30 mg/l	1/6 months
COD	120 mg/l	1/6 months
TSS	100 mg/l	1/6 months
Ammonia Nitrogen	4 mg/l	1/6 months
Oil & Grease	15 mg/l	1/6 months
pH	6.0-9.0 s.u.	1/6 months

Permittees desiring coverage for storm water associated with industrial activity discharging from their sewage treatment works must, in addition to the above listed monitoring requirements, also meet the following monitoring requirement for those discharges:

<u>Pollutants of Concern</u>	<u>Cut-off Concentration</u>	<u>Measurement Frequency</u>
Fecal Coliform, General	400 counts/100 ml	1/6 months

When the average concentration for a pollutant calculated from all monitoring data, with a minimum of four (4) consecutive samples, is less than the corresponding listed cut-off concentration for that pollutant, additional monitoring for that is not required. The facility must submit each year, to the DWWM, in lieu of the monitoring data, a certification (form provided) that there has not been a significant change in the industrial activity or the pollution prevention measures in the area of facility that drains to the outlet for which sampling was waived.

Permittee shall review its SWMP each year and revise the plan, if this average concentration for any indicator pollutant in the previous year's sampling was greater than the corresponding cut-off value for that pollutant.

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

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

If you are relying on another MS4 regulated under the storm water regulations to satisfy one or more of your permit obligations, you must note that fact in your SRA. 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 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 storm water 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 municipalities develop, implement and enforce a storm water management program designed to reduce the discharge of pollutants to the maximum extent practicable. Implementing BMPs as required under the six minimum control measures in Part II above 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 NPDES permit. Where the DWWM requires you to apply for an individual NPDES permit, the DWWM will notify you 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 you to file the application.

## D. Discharge to Impaired Waters

This permit does not authorize new sources or new discharges of constituents of concern to impaired waters unless consistent with the approved Total Maximum Daily Load (TMDL) and applicable state law. Impaired waters are those that do not meet applicable water quality standards and are listed on the Clean Water Act Section 303(d) list. Pollutants of concern are those constituents for which the water body is listed as impaired. Discharges of pollutants of concern to impaired water bodies for which there is an approved TMDL are not eligible for coverage under this permit unless they are consistent with the approved TMDL. Within six months of the TMDL approval, permittees must incorporate any limitations, conditions, or requirements applicable to their discharges necessary for compliance with the TMDL, including any monitoring or reporting required by DWWM rules, into their Storm Water Management Program in order to be eligible for coverage under this general permit.

Sites that discharge into a receiving water which has been listed on the Clean Water Act 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.

## E. Endangered and Threatened Species

If a site discharges to a stream where a 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. Monitoring**

A permittee covered by this general permit or another responsible entity shall use any means thought to be necessary to evaluate the effectiveness of the programs and BMPs implemented to comply with this general permit. Careful consideration must be given to the information, BMPs and measurable goals specified in the SRA submitted to the DWWM. This information shall be submitted in annual reports.

### **B. Recordkeeping**

The permittee shall keep records under this general permit for at least three (3) 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 its records and its storm water management program information available to the public at reasonable times during regular business hours.

### **C. Reporting**

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

1. The status of compliance with permit conditions, an assessment of the appropriateness of the identified BMPs and the progress toward achieving the identified measurable goals for each of the minimum control measures;
2. Results of information collected and analyzed, including monitoring data, if any, during the annual reporting period;
3. A summary of the storm water activities the permittee plans to undertake during the next annual reporting period;
4. A change in any identified measurable goals that apply to the minimum control measures;
5. A description of the coordination efforts with its respective County(ies) regarding the implementation of the minimum control measures including the status of any MOU or other agreement executed between the permittee and another entity; and
6. 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.

#### D. Program Review

In order to assess the effectiveness of the permittee's 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.

## Part V

### 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 Director 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 transferrable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary.

#### 8. Duty to Provide Information

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

#### 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 Director, it shall promptly submit such facts or information.

#### 10. Inspection and Entry

The permittee shall allow the Director, 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

Subject to 47 WV CSR 10.3.4.a, 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 \$25,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing sections 301, 302, 306, 307, 308 or 405 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 2 years, 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 2 years, or by both.

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

The herein described activity is to be operated, used and maintained strictly in accordance with the terms and conditions of this permit; with all plans and specifications previously submitted with the individual site registration application form or individual permit application; with a plan of maintenance and method of operation thereof; and with any applicable rules and regulations promulgated by the State Environmental Quality Board.

Failure to comply with the terms and conditions of this permit, with the plans and specifications previously submitted with the individual site registration application form or individual permit application, and with a plan of maintenance and method of operation thereof 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: \_\_\_\_\_  
Director

## Appendix A

### **Designation Criteria for Small MS4s Located Outside of an Urbanized Area With a Population Greater than or Equal to 10,000 AND a Population Density Greater than or Equal to 1000 per Square Mile**

The following designation criteria will be evaluated to determine if the subject MS4s require general 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