



**GENERAL PERMIT FOR DISCHARGES FROM  
SURFACE COAL MINES AND RELATED FACILITIES**

**GENERAL DISCHARGE PERMIT NO. 19-CM**

**NPDES PERMIT NO. MDG85**

**Effective Date: January 1, 2023**

**Expiration Date: December 31, 2027**

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## **PART I. PERMIT APPLICABILITY**

Pursuant to the provisions of Title 9 of the Environmental Article, Annotated Code of Maryland, and the provisions of the Federal Clean Water Act (CWA), 33 U.S.C. §1251 et seq. and implementing regulations in COMAR 26.08.04.09 and 40 CFR Parts 122, 123, 124, and 125, the Maryland Department of the Environment hereinafter referred as “Department”, hereby authorizes operators located in the state of Maryland who have submitted a Notice of Intent (NOI) and received written approval from the Department, to Discharge wastewater from surface coal mines and coal mining-related activities to waters of this State in accordance with the eligibility requirements and other conditions set forth in this permit and consisted with the permittee’s NOI on file with the Department. “You” and “Your” are used in this permit to refer to the permittee or the permit applicant, as the context indicates, and that party’s facility or responsibilities.

### **A. Geographic Coverage**

This permit covers discharges to surface water or groundwater located within the territorial **boundaries of the state of Maryland.**

### **B. Facilities Covered**

The permit covers stormwater discharges from coal mines and coal mining-related facilities to the surface waters of this state as defined by Standard Industrial Classification (SIC) Major Group Code 12. This includes discharges resulting from ground water infiltration and stormwater runoff from active mining areas, coal mine reclamation areas and associated storage and loading areas, and runoff from independent tipples and associated coal preparation areas. Facilities in this group fall under the following categories, all of which require coverage under this permit if discharges of stormwater, have come into contact with any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations:

- Bituminous coal and lignite surface mining (SIC 1221)
- Anthracite mining (SIC 1231)
- Coal mining services (SIC 1241)

The 19CM permit is also required for stormwater discharges from coal-mining associated areas including:

- Haul roads
- Access roads
- Railroad spurs sidings, and internal haulage lines
- Conveyor belts, chutes, and aerial tramway haulage areas
- Coal handling and structures
- Inactive coal mines and related areas

Permit also covers remining for those who choose to obtain coverage under the terms and limits of this general permit rather than a separate individual permit issued in accordance with COMAR 26.08.03.08. More detailed descriptions of the SIC codes can be found at Department of Labor’s - Occupation, Safety and Health Administration (OSHA) website (<http://www.osha.gov/pls/imis/sicsearch.html>).

### **C. Eligible Discharges**

The permit covers the following discharges:

1. Discharges that are not otherwise required to obtain NPDES permit authorization but are mixed with discharges that are authorized under this permit.

2. Discharges subject to any of the national stormwater-specific effluent limitation guidelines listed in Table 1-1.

Table 1-1. Effluent Limitations Guidelines

Regulated Discharge	40 CFR Section
Coal Mining Limitations and Performance Standards	Part 434, Subparts B, C, D, E, F, G, and H

3. Non-stormwater discharges from:
- Emergency/ unplanned fire-fighting activities;
  - Uncontaminated condensate from air conditioners, coolers/chillers, and other compressors and from the outside storage of refrigerated gases or liquids;
  - Irrigation drainage;
  - Landscape watering provided all pesticides, herbicides, and fertilizers have been applied in accordance with the approved labeling;
  - Pavement wash water where no detergents are used and no spills or leaks of toxic or hazardous materials have occurred (unless all spilled material has been removed);
  - Routine external building washdown/ power wash water that does not use detergents or hazardous cleaning products (e.g. those containing bleach, hydrofluoric acid, muriatic acid, sodium hydroxide, and nonylphenols);
  - Uncontaminated ground water or spring water;
  - Foundation or footing drains where flow are not contaminated with process materials;
  - Incidental wind-blowdown mist from cooling towers that collect on rooftops or adjacent portions of your facility, but not intentional discharges from the cooling tower (e.g. “piped” cooling tower blowdown, drains).
4. Additional allowable non-stormwater discharges for earth-disturbing activities:
- Water used to wash vehicles and equipment, provided that there is no discharge of soaps, solvents, or detergents used for such purposes;
  - Water used to control dust; and
  - Dewatering water that has been treated by an appropriate control as per Part VI.B.9;
  - Process water in active mine drainage;
  - Discharges resulting from ground water infiltration;
  - Discharges from post mining areas;
  - Discharges from coal preparation plants and associated areas.
5. Use of Chemical Additives for Sediment Control: Use of any chemical additives (defined in Appendix A) for sediment control requires prior notice, indicating you intent to use them on your NOI and listing the additives and any pertinent associated documentation in your Stormwater Pollution Plan (SWPP). In addition, the use of Cationic Chemical Additives (defined in Appendix A) for sediment control is subject to the Department’s approval. All those seeking to use additives must follow guidelines outlined in the permit language pursuant to Part III.D.1.b.xii as well as the Standards for Use of Chemical Additives for Sediment Control document (<https://mdewwp.page.link/ChemAddStandards>) to gain approval.

#### **D. Limitation on Coverage**

The following activities or discharges are not eligible for coverage under this permit:

- Stormwater discharges that are mixed with non-stormwater discharges, other than those mixed with allowable non-stormwater discharges listed in Part I.C.
- Stormwater discharges associated with construction activity disturbing one acre or more, or that are part of a large common plan or development or sale if the larger common plan will

ultimately disturb one acre or more, are not eligible for coverage under this permit, unless in conjunction with mining activities as specified in this permit.

3. Stormwater discharges associated with industrial activity that are currently covered under an individual NPDES permit or an alternative general permit;
4. Stormwater discharges whose NPDES permit has been or is in process of being denied, terminated or revoked, or those for which the Department requires an individual permit.
5. Discharges from pollutant seeps or underground drainage from inactive coal mines and refuse disposal areas that do not result from precipitation events, and discharges from floor drains in maintenance buildings and other similar drains in mining and preparation plant areas;
6. Discharges from active underground mines;
7. Untreated discharges of acid mine drainage from reclamation areas;
8. Discharges of toxic substances that exceed the state water quality criteria for toxic substances;
9. Discharges that elevate temperature in Use III or Use IV waters as designated in COMAR 26.08.02.03-3.
10. New dischargers to discharging to water quality "impaired waters" as defined in Appendix A, are not eligible for coverage under this permit unless you:
  - a. prevent all exposure to stormwater of the pollutant(s) for which the waterbody is impaired, and retain documentation of procedures taken to prevent exposure onsite with your SWPPP; or
  - b. document that the pollutant(s) for which the waterbody is impaired is not present at your site, and retain documentation of this finding with your SWPPP; or
  - c. in advance of submitting your NOI, provide to the Department data to support a showing that the discharge is not expected to cause or contribute to an exceedance of water quality standard, and retain such data onsite with your SWPPP. To do this, you must provide data and other technical information to the Department sufficient to demonstrate:
    - i.) For discharges to impaired waters without an EPA approved or established TMDL, that the discharge of the pollutant for which the water is impaired will meet in-stream water quality criteria at the point of discharge to the waterbody;
    - ii.) For discharge to impaired waters with an EPA approved or established TMDL, that there are sufficient remaining wasteload allocations in an EPA approved or established TMDL to allow your discharge and that existing discharges to the waterbody are subject to compliance schedules designed to bring the waterbody into attainment with water quality standards.

You are eligible to discharge to impaired waters if you receive an affirmative determination from the Department that your discharge will not contribute to the existing impairment, in which case you must maintain such determination onsite with your SWPPP.

#### ***E. Prohibited Stormwater Discharges***

If you are covered (i.e., authorized to discharge) under this permit, a stormwater discharge to waters of this state that causes or contributes to a violation of a water quality standard is a permit violation and subject to corrective actions (see Part IV).

#### ***F. Contiguous Mines***

Any two or more mines operated by the same permittee that are contiguous or are accessed by the same haul road will be considered as a single mine and will be registered under the general permit as a single mine.

#### ***G. Alternative Permit Coverage***

You must have coverage under either individual permit or general permit to prevent unauthorized discharge. The Department may require you to obtain, or you may also request, an individual permit or coverage under another general permit as described below, even though you may be eligible for coverage under this permit. If the Department requires you to apply for and obtain an alternative permit and you do not apply as required, the Department may terminate your coverage under this permit. This termination is effective at the end of the day that the Department specified for the

application or NOI to be submitted, after which you must cease discharges that were covered by this permit.

1. If the Department determines that a discharge may cause water quality standards to be exceeded in the receiving water, then the Department shall require additional actions which may include the submission of an individual NPDES discharge permit application. The Department may process a NOI for this permit as an application for an individual permit if the information submitted is deemed sufficient and in accordance with Federal Requirements of 40 CFR §122.21 Application for Permit.
2. You may request to be excluded from coverage under this permit by applying for an individual State NPDES discharge permit or submitting a NOI for coverage under another general permit. The Department may grant your request if it is determined that your reasons are adequate. If you are issued an individual NPDES permit, the Department shall terminate your coverage under this permit.
3. If site specific conditions, such as proposed discharge(s) to impaired waters or high-quality waters, do not allow the facility to be covered under the general permit without compromising water quality, an individual permit shall be required.
4. If there is evidence indicating potential or realized impacts on water quality due to any activity covered by this permit, the owner or operator of the discharging facility may be required to obtain an individual State or a State/NPDES discharge permit or coverage under another general permit. Impacts of concern will include impairment of downstream potable water intakes.
5. Related Permits.  
If the Department issues an industry specific general permit addressing stormwater or wastewater discharges from your industrial activity, you may need to apply for coverage under that permit. This may include but is not limited to the following permits:
  - a) Earth disturbance for the purposes of preparation of sites for coal mining are eligible for coverage under this General Permit (Part VI). However, mining sites where construction of structures or other non-mining related development will occur as part of reclamation, or any non-mining earth disturbance following completion of mining reclamation (unless otherwise ineligible for coverage), must obtain coverage under the General Permit for Stormwater Associated With Construction Activity.
  - b) Construction activities which result in a land disturbance of greater than one acre must obtain coverage under the General Permit for Stormwater Associated with Construction Activities (NPDES Permit Number MDRC, State Permit Number 14GP or its successor), which may include authorization to discharge water from uncontaminated construction dewatering. If the proposed dewatering activities are not eligible for coverage under that permit, you may be eligible for coverage under Part VI of this permit or an individual permit.
  - c) Any person or facility which stores 10,000 gallons or more of oil intended to be used as a motor fuel, lubricant, or fuel source in above ground tanks, who stores 1,000 gallons or more of used oil, which transports oil in or out of Maryland or which operates an oil transfer facility must obtain an Oil Operations Permit.

#### ***H. Continuation of an Expired General Permit***

For those who meet the following notification requirements, unless this permit is terminated by the Department, an expired general permit continues in full force and effect, for those covered by the permit prior to its expiration during the period that the Department is drafting a new general permit and until the dates(s) specified under a reissued general permit. If you wish to continue an activity regulated by this permit after the expiration date of this permit, you shall submit a Continuation Registration statement at least 60 days before the expiration date of the existing permit, unless

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permission for a later date has been granted by the Department. Notice of Intent or Continuation of Registration statement submitted later that the expiration date of the existing permit will not be accepted by the Department and permit coverage will not be extended.

## **PART II. AUTHORIZATION UNDER THIS PERMIT**

### ***A. How to Obtain Authorization***

If you are eligible for coverage under this permit, per Part I, to obtain authorization you must:

- Select, design, install, and implement control measures in accordance with Part III to meet numeric and non-numeric effluent limits;
- Submit a complete and accurate NOI or Permit Transfer Request with Permit Fee as indicated below; and
- Develop and submit to the Department a Stormwater Pollution Prevention Plan (SWPPP) according to the requirements in Part II.A.3.

Based on a review of your NOI or Transfer Request, the Department may delay your authorization for further review, notify you that additional effluent limitations are necessary, or deny coverage under this permit and require submission of an application for an individual NPDES permit. In these instances, the Department will notify you in writing of the delay, the need for additional effluent limits, or of the request for submission of an individual NPDES permit application or alternative general permit NOI.

You shall be considered authorized to discharge under this permit upon receipt of a registration letter from the Department. Your authorization is subject to the terms of this permit and any terms specific to your facility which may be included within the registration letter.

#### **1. Notice of Intent (NOI) and Transfer Requests**

##### ***a) NOI***

You must complete all information required on this permit's corresponding NOI form, found on MDE's website at <https://mdewwp.page.link/CMGP> an equivalent electronic form provided by the Department. Detailed instructions are included on the NOI form. If you operate multiple facilities, you must submit an NOI for each noncontiguous site. When submitting electronically, verification that you meet the signature requirements is required. When submitting paper form, send your signed copy of the NOI to the following address:

Maryland Department of the Environment  
Bureau of Mines  
160 South Water Street  
Frostburg, MD 21532  
Phone: 301-689-1440

You are required to provide the following information on the appropriate form:

- Facility Owner or Operator Information including company name, facility contact, mailing address, email address, telephone number, IRS Employer Identification Number (EIN) and Worker's Compensation Insurance carrier and policy number.
  - Facility Information including the facility location, physical address with coordinates in degrees decimal, verification if this is a new discharger or if there is any preexisting NPDES permit number for stormwater coverage, the total acres of property at that address, and whether the facility is currently inactive and unstaffed.
  - Information on the Receiving Waters identifying the receiving water body(s) and 8-digit identifier for your discharges, including whether they qualify as high Tier II waters, and identification of any impairments.
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- Identify who has prepared the Stormwater Pollution Prevention Plan (SWPPP), including email and phone number, along with how you have provided the SWPPP to MDE.
- Document discharge type and flow (expressed as gallons per day) for each outfall, and describe each outfall and monitoring point.
- Clarify which limits apply for each specific outfall and monitoring point (active mining or post mining limits).
- Provide information on any chemical additives (defined in Appendix A) which you intend to use (Part I. C.5) in your SWPPP (Part III.D.1.b.xii) and indicated your intent to use them on the NOI. The use of cationic chemical additives, require approval by the MDE, for which you apply for by filing the Cationic Chemical Additive form along with your NOI, or in a separate letter.
- Selection of either annual payment, or if you are exempt.
- Provide signatory name, title, contact information, and their signature with a date. Provide the NOI preparer information, including phone number and email address.

**b) *Transfer of Authorization***

For transfer of ownership, you must complete the Permit Transfer Request Form for General NPDES Permits found on MDE's website at <https://mdewwp.page.link/CMGP>. Detailed instructions are included with the form. If you operate multiple facilities, you must submit a Transfer Request form for each noncontiguous site. The authorization under this permit is not transferable to any person, except in accordance with this section. Authorization to discharge under this permit may be transferred to another person if:

- The current permittee notifies the Department in writing of the proposed transfer.
- A written agreement, indicating the specific date of the proposed transfer of permit coverage and acknowledging the responsibilities of the current and new permittee for compliance with the terms and conditions of this permit, is submitted to the Department.
- The new permittee either confirms in writing that the type of discharge, number of outfalls, and other information given on the original NOI remain correct or updates this information, in which case the SWPPP must also be updated to reflect the changed site conditions.
- Neither the current permittee nor the new permittee receives notification from the Department, within 30 days of receipt of items above, of intent to terminate coverage under this permit.

**2. Permit Fee**

- a)** Pursuant to COMAR 26.08.04.09-1(D), persons who intend to obtain coverage under this general permit are subject to an initial permit fee (submitted with the NOI) and an annual fee each additional year the permit is held (billed annually by the Department).
- b)** To pay the initial permit fee by check, it must be made payable to the Maryland Department of the Environment and sent with the completed NOI as instructed in Part II.A.1.a of this permit.
- c)** If you pay the fee by a check that does not clear for any reason, you will have 30 calendar days to make proper payment, including any interest and other charges. If payment is not received by the 31st calendar day, your coverage under this permit must be considered void from the outset. You should save the cancelled check, a copy of the completed NOI, and the letter confirming your authorization from the Department. These documents must be provided to the Department upon request.
- d)** A new owner of a facility as a result of a transfer of ownership is responsible for any fees unpaid by the former owner.
- e)** Any changes in operations that may increase fees are required to give notice as described in Part II.F.
- f)** Stormwater runoff volume for use in determining the average discharge volume shall be determined by the following method:
  - i.)** Annual runoff volume



$$(\text{Gallons/day}) = \text{Annual rainfall (ft.)} \times \text{drainage Area (ft.}^2) \times 7.48 \times 0.15$$

ii.) Average daily runoff volume

$$(\text{Gallons/day}) = \frac{\text{Annual stormwater runoff volume}}{365}$$

- iii.) As an alternative to this method, the permittee may submit a report to the Department that contains calculations of the daily average stormwater runoff volume from the permitted facility. The Department shall have the final decision in determining the acceptability of the alternative method.

3. Stormwater Pollution Prevention Plan (SWPPP)

Instructions for the proper formatting and submission of your SWPPP are provided below:

- You should not include any confidential information in your submitted SWPPP, which will be a public document available for review by the public.
- You must submit an electronic copy of the SWPPP to the Department and have a hard copy available onsite. Your electronic copy (PDF, JPEG, or Word) of the SWPPP must be provided to the Department by one of these methods:
  - Including a file on electronic media (CD, DVD, USB drive, or other approved media) along with your mailed copy of the NOI.
  - Emailing the file to [swppp.permit@maryland.gov](mailto:swppp.permit@maryland.gov) at same time you are sending your NOI to the Department. The email cannot exceed 25 MB, so you may need to use more than one email to deliver the entire file. The email subject line should include "19-CM", your previous registration number (if you did have previous coverage under 11-CM), and your facility name.
  - Posting a copy of the SWPPP using your NetDMR account at the same time you are sending your NOI to the Department.
  - Providing the Department a link (URL) to your document on your NOI, which provides access to your SWPPP on a publicly available company website.
  - Other electronic means that you make accessible to the Department, such as a link to DropBox, Google Drive, SkyDrive, etc.

**B. Deadline for Coverage**

If activities at your site require coverage, you will be in violation of state and federal requirements to obtain a permit and subject to enforcement action by the Department if you fail to submit a i) NOI, SWPPP, and fee payment, or a transfer request in a timely manner as provided in the following table. Late NOIs will be accepted, but authorization to discharge will not be retroactive.

Category	Coverage Submittal Deadline
Existing Dischargers – in operation as of the effective date of this permit and previously authorized for coverage under 11-CM.	Within 60 days after the effective date of this permit. Authorization to discharge under 11-CM continues in the interim.
New Dischargers or New Sources.	A minimum of 60 days prior to commencing discharge.
New Owner/Operator of Existing Discharger - transfer of ownership and/or operation of a facility whose discharge is authorized under this permit.	A minimum of 30 days prior to date that the transfer will take place to the new owner/operator.
Other Eligible Dischargers – in operation prior to permit effective date, but not covered under the 11-CM or another NPDES permit.	Immediately, to minimize the time discharges from the facility will continue to be unauthorized.

## C. Required Signatures

### 1. Certification

Any person signing documents in accordance with Parts II.C.2 and II.C.3 below must include the following certification:

*"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."*

### 2. Signatories

All applications, including NOIs, transfer requests, and No Exposure Certifications must be signed by a Signatory as follows:

- a) *For a corporation:* By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:
  - i.) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation; or
  - ii.) the manager of one or more properties belonging to the owner, provided the manager is authorized to make management decisions which govern the operation of the regulated facility having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- b) *For a partnership or sole proprietorship:* By a general partner or the proprietor, respectively; or
- c) *For a municipality, State, Federal, or other public agency:* By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes:
  - i.) the chief executive officer of the agency; or
  - ii.) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of the EPA).

### 3. Report Submission

Your SWPPP, including changes to your SWPPP to document any corrective actions taken as required by Part IV, and all reports submitted to the Department, must be signed by a person described in Part II.C.2 above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

- i. the authorization is made in writing by a person described in Part II.C.2;
- ii. the authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of facility manager, operator, superintendent, or a position of equivalent responsibility or an individual or position having overall responsibility for environmental matters for the company (a duly authorized representative may thus be either a named individual or any individual occupying a named position.); and



- iii. the signed and dated written authorization is included in the SWPPP and made available to the Department upon request.
- 4. If an authorization for a representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part II.C.2 must be submitted to the Department prior to submitting or with any reports, information or applications that must be signed by a duly authorized representative.

#### ***D. Failure to Notify***

If you (1) engage in an activity covered under this permit, (2) fail to notify the Department of your intent (Part II.A) to be covered under this permit within the deadlines established in this permit (Part II.B), and (3) discharge to waters of the State without an individual NPDES discharge permit, then you are in violation of the Federal Clean Water Act and of the Environment Article, Annotated Code of Maryland, and may be subject to penalties.

#### ***E. Additional Notification***

##### **1. Wastewater Permits Program**

When directed to contact the Department's Wastewater Permits Program, use the following address and phone number:

Maryland Department of the Environment  
Wastewater Permits Program  
1800 Washington Blvd, Suite 455  
Baltimore, MD 21230  
Phone: 410-537-3323

##### **2. Compliance Program**

When directed to contact the Department's Compliance Program, use the following address and phone number:

Maryland Department of the Environment  
Bureau of Mines – Coal Compliance Section  
160 South Water Street  
Frostburg, MD 21532  
Phone: 301-689-1440

#### ***F. Changes in Permit Coverage***

Certain planned changes in stormwater discharge or termination of permit, both, described below in this section, require notification to the Department's Wastewater Permit Program at this address:

Maryland Department of the Environment  
Wastewater Permits Program  
1800 Washington Boulevard  
Baltimore, MD 21230

##### **1. Planned Changes**

When possible, consider the contours/elevations at a particular site and aim to site new structures on the higher elevation at a site and put parking or other structures that can be flooded at lower elevations, in anticipation of climate change effects. You must give written notice to Department's Wastewater Permits Program as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

- a) The alteration or addition to a permit facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b); or
  - b) 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
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effluent limitations in the permit, nor to notification requirements under 40 CFR 122.42(a)(1); or

- c) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application; or
- d) Anticipated Noncompliance Notification – You shall give advanced notice to the Department of any planned change in the permitted facility or activity which may result in noncompliance with permit requirements.

## 2. Termination of Permit Coverage

### a) Submit a Notice of Termination

To terminate permit coverage, you must submit a complete and accurate Notice of Termination (NOT), found at <https://mdewwp.page.link/GPNOT>, to the Wastewater Permit Program, or an equivalent electronic form provided by the Department. Your authorization to discharge under this permit terminates at midnight of the day that a complete Notice of Termination is processed and acknowledged by the Department. If you submit a Notice of Termination without meeting one or more of the conditions identified in Part II.F.2.b, then your Notice of Termination is not valid. You are responsible for meeting the terms of this permit until your authorization is terminated.

### b) When to Submit a Notice of Termination

You must submit a Notice of Termination within 30 days after one or more of the following conditions have been met:

- i.) All operation at your facility have permanently ceased and there will be no further exposure of stormwater to any industrial activity, process, material or transport at the facility, and you have already implemented necessary sediment and erosion controls, as required by III.D.1b.v ; or
- ii.) You move your operation to a new location (After submitting an NOT you must then apply for coverage at the new location per Part II.); or
- iii.) A new owner or operator has taken over responsibility for the facility; or
- iv.) You have obtained coverage under individual or alternative general permit for all discharges required to be covered by an NPDES permit.

- c) The Department may terminate your coverage under this general permit if the Department finds good cause to do so.

## 3. Notification of the Discharge of a Pollutant Not Limited in This Permit

The permittee shall notify the Department as soon as it is known or suspected that any toxic pollutants which are not specifically limited by this permit have been discharged at levels specified in the 40 CFR § 122.42.

## **G. Wastewater Operator Certification**

Before commencing operation, the permittee's facility shall be operated by industrial wastewater operator duly certified by the Maryland Board of Waterworks and Waste Systems Operators. The certification shall be for the operation of a Class 2 industrial wastewater works (or higher).

## **H. Requirement to Post Sign of your Permit Coverage**

You must post a sign or other notice of your permit coverage at a safe, publicly accessible location in close proximity to your facility and at potentially impacted public access area. You must use font large enough to be readily viewed from a public right-of-way and conduct periodic maintenance of the sign to ensure that it is legible, viable, and factually correct. At minimum, the sign must include:

1. The State and NPDES permit number (i.e. permit tracking number assigned to your NOI);
2. Department's wastewater permit portal URL (<https://mdewwp.page.link/WWPPortal>); and
3. A contact name and phone number for obtaining additional facility information.

## PART III. EFFLUENT LIMITATIONS AND OTHER CONTROL MEASURE REQUIREMENTS

### A. Numeric Limitations

The following numeric limits apply to eligible discharges as specified in Part I.

#### 1. Active Mining Area Discharge Limits

The permittee is authorized to discharge stormwater runoff and ground water seepage from the active mining area; coal remining areas; and, stormwater runoff from coal storage, loading areas, and coal preparation plants and associated areas. Except for discharges from reclamation areas in Part III.A.2, all discharges shall meet the limitations specified below at the point of discharge from the sediment control pond(s):

PARAMETER	QUANTITY OR LOADING		QUALITY OR CONCENTRATION			UNITS	FREQUENCY OF ANALYSIS	SAMPLE TYPE
	MONTHLY AVERAGE	DAILY MAXIMUM	MINIMUM	MONTHLY AVERAGE	DAILY MAX			
Flow	REPORT	REPORT				GPD	2/Month	Estimated
Turbidity (a)				50	100	NTU	2/Month	Grab
Total Iron (a)				3.0	6.0	mg/L	2/Month	Grab
Total Manganese (a, c)				2.0	4.0	mg/L	2/Month	Grab
Total Suspended Solids (a, d)				35	70	mg/L	2/Month	Grab
pH (a, d)			6.0		9.0	s.u.	2/Month	Grab
Settleable Solids (a, d, e, f)					0.5	mL/L	1/quarter	Grab (b)
Temperature(g)					(g)	°F	2/month	i-s
Temperature Difference(g)					0	°F	2/month	i-s
Specific Conductance					REPORT	uS/cm	(h)	Grab
Chloride					REPORT	mg/L	(h)	Grab
Sulfates					REPORT	mg/L	(h)	Grab
Metals (see i)					REPORT	mg/L	1/quarter	Grab
Total Selenium					20	ug/L	(i)	Grab (b)
Bromide					REPORT	mg/l	1/quarter	Grab
Total Dissolved Solids					REPORT	mg/l	1/Quarter	Grab
Polycyclic Hydrocarbons (PAHs)(k)					REPORT	ug/L	2/year	No Thresholds or Baseline Values

#### Notes:

- a. Except during a precipitation event equal to or greater than 4.3 inches of precipitation in a 24-hour period in Garrett County or 4.5 inches in a 24-hour period in Allegany County or 4.8 inches in a 24-hour period in Washington County. The permittee shall indicate on the DMR if such a precipitation event occurred, and the magnitude of the event. During a storm of this magnitude, and for four hours thereafter, the permittee need only meet the above pH limitations. The permittee shall maintain a rain gauge on site and record the precipitation on

the day of wet weather monitoring in a log that shall be made available for inspection by Department personnel, or shall indicate upon submission of the NOI the name and location of a weather station within ten miles of the facility from which s/he shall use the recorded rainfall in every instance. The discharge cannot cause the pH of the receiving stream to fluctuate more than 1.0 standard unit over a 24- hour period.

- b. Sampling must be performed during a storm event that results in an actual discharge from the site ("measurable storm event"). A minimum of one grab sample should be collected within 30 minutes of a measurable storm event. In case of snowmelt, samples must be taken during a period with a measurable discharge.
- c. Monitoring and limitation of manganese is only required when wastewater is acid or ferruginous mine drainage. The permittee shall indicate on each monthly monitoring report if a neutralizing agent is being used to treat acid or ferruginous mine drainage. Unless the report specifically states that no such treatment has been used during that month, and that wastewater is not acid or ferruginous, monitoring for manganese will be required.
- d. Any TMDL limits, anti-degradation restraints, or water quality-based limits assigned to a facility shall supersede any limits identified in this permit, see Part I.E., Part III.D.2.1 and Part III.D.2.2 for details.
- e. Applies to access roads, discharges from preparation plants, and active mining areas.
- f. The limitation for Settleable Solids is an instantaneous maximum
- g. "Temperature Difference" is determined by following steps below until you verify you either demonstrating compliance or noncompliance:
  - i) If the effluent temperature  $\leq 68^{\circ}\text{F}$  (Use III) or  $\leq 75^{\circ}\text{F}$  (Use IV), then report "Temperature Difference" = 0, demonstrating compliance.
  - ii) Calculate "Temperature Difference" = effluent – receiving water temperature upstream of the discharge. If the result is " $\leq 0$ " then report the negative value which is compliant. If it is " $> 0$ " proceed to next step.
  - iii) Calculate "Temperature Difference" = edge of the mixing zone temperature (50 feet downstream of discharge) – [ $68^{\circ}\text{F}$  (Use III) or  $75^{\circ}\text{F}$  (Use IV)]. If the result is " $\leq 0$ " then report the negative value which is compliant. If it is " $> 0$ " proceed to next step.
  - iv) Calculate "Temperature Difference" = edge of the mixing zone temperature (50 feet downstream of discharge) - receiving water temperature upstream of the discharge. If the result is " $\leq 0$ " then report the negative value which is compliant. If it is " $> 0$ " then report the positive value which is a permit violation.

Temperature monitoring is required for all discharges from May 15 through September 30 only. Temperature limits do not apply to discharges to groundwater and/or discharges which do not have a direct flow path to a receiving stream. In these conditions the permittee shall report " $< 0$ " on the discharge monitoring report. For the purpose of temperature monitoring only, the outfall (point of discharge) to a stream is defined as the point that the effluent enters a stream that carries observable flow that is not solely attributable to the discharge.

- h. Sample shall be taken twice per month during each calendar quarter of the year with a measurable discharge (not just those during a major precipitation event).
- i. The Department requires quarterly monitoring for benchmarks consisting of the following toxic substances using Method ICP/MS for arsenic, cadmium, chromium, copper, lead, mercury, nickel, silver, zinc, and aluminum. using Method 1631 for mercury (unless alternate method is approved by the Department). Substances shall be analyzed and reported as both total and dissolved. If average of four quarterly samples exceed applicable water quality benchmark listed in Table 1 (Part IV.A), your facility will be subject to Additional Implementation Measures (AIM) as per Part IV.B. Upon notification by the Department only, the permittee may be required to provide, corresponding to parameters listed in the permit, two sets of in-stream

sampling results upstream and downstream of the facility, one set representative of seasonal flows in warm weather season and the other set representative of cold weather season.

- j. Once per discharge. After the first four samples are taken and analyzed, frequency is reduced to once per year.
- k. Twice per year per discharge during the first and fourth year of the permit. Monitoring is required for the 16 individual PAHs identified at Appendix to 40CFR 423: naphthalene, acenaphthylene, acenaphthene, fluorene, phenanthrene, anthracene, fluoranthene, pyrene, benzo[a]anthracene, chrysene, benzo[b]fluoranthene, benzo[k]fluoranthene, benzo[a]pyrene, benzo[g,h,i]perylene, indeno[1,2,3-C,d]pyrene, and dibenzo[a,h]anthracene.

## 2. Post Mining Reclamation Area Discharge Limits

The following requirements become effective 30 calendar days after the permittee notifies the Department, in writing, that alternate limitations for reclamation areas are appropriate. After Department approval for alternate limitations, the limits apply until bond release. These requirements only apply to outfalls that do not receive any drainage from active mining areas (Section III.A.1, above). All point source discharges from reclamation areas shall be monitored by the permittee and shall meet the effluent limitations specified below:

PARAMETER	QUANTITY OR LOADING		QUALITY OR CONCENTRATION		UNITS	FREQUENCY of ANALYSIS	SAMPLE TYPE
	MONTHLY AVERAGE	DAILY MAXIMUM	MINIMUM	DAILY MAXIMUM			
Flow	REPORT	REPORT			gpd	1/quarter	Estimated
Settleable Solids (a, c, f)				0.5	mL/L	1/quarter	grab <sup>(b)</sup>
Total Iron <sup>(a, g)</sup>			3.0	6.0	mg/L	1/quarter	grab
Manganese <sup>(a, g)</sup>			2.0	4.0	mg/L	1/quarter	grab
TSS <sup>(a, g, d)</sup>			35	70	mg/L	1/quarter	grab
pH (c, d)			6.0	9.0	s.u.	1/quarter	grab <sup>(b)</sup>
Temperature <sup>(e)</sup>				<sup>(e)</sup>	°F	1/month	i-s
Temperature Difference <sup>(e)</sup>			0		°F	1/month	i-s

### Notes:

- a. Except during a precipitation event equivalent to 4.3 inches of precipitation in a 24-hour period in Garrett County or 4.5 inches in a 24-hour period in Allegany County or 4.8 inches in a 24-hour period in Washington County. The permittee shall indicate on the DMR if such a precipitation event occurred, and the magnitude of the event. The permittee shall maintain a rain gauge on site and record the precipitation on the day of wet weather monitoring in a log that shall be made available for inspection by Department personnel, or shall indicate upon submission of the NOI the name and location of a weather station within ten miles of the facility from which s/he shall use the recorded rainfall in every instance. The discharge cannot cause the pH of the receiving stream to fluctuate more than 1.0 standard unit over a 24- hour period.
- b. During a storm of this magnitude, and for four hours thereafter, the permittee need only meet the above pH limitations.
- c. Samples shall be collected when there is a discharge, if possible, during or immediately after a storm event that causes a discharge or an increase in the discharge volume, and at least one week apart.
- d. Any TMDL limits, anti-degradation restraints, or water quality-based limits assigned to a facility

shall supersede any limits identified in this permit, see Part I.E.1, Part III.F and Part III.G for details.

- e. "Temperature Difference" is determined by following steps below until you verify you either demonstrating compliance or noncompliance:
  - i) If the effluent temperature  $\leq 68\text{F}$  (Use III) or  $\leq 75\text{F}$  (Use IV), then report "Temperature Difference" = 0, demonstrating compliance.
  - ii) Calculate "Temperature Difference" = effluent – receiving water temperature upstream of the discharge. If the result is " $\leq 0$ " then report the negative value which is compliant. If it is " $> 0$ " proceed to next step.
  - iii) Calculate "Temperature Difference" = edge of the mixing zone temperature (50 feet downstream of discharge) – [68F (Use III) or 75F (Use IV)]. If the result is " $\leq 0$ " then report the negative value which is compliant. If it is " $> 0$ " proceed to next step.
  - iv) Calculate "Temperature Difference" = edge of the mixing zone temperature (50 feet downstream of discharge) - receiving water temperature upstream of the discharge. If the result is " $\leq 0$ " then report the negative value which is compliant. If it is " $> 0$ " then report the positive value which is a permit violation.

Temperature monitoring is required for all discharges from May 15 through September 30 only. Temperature limits do not apply to discharges to groundwater and/or discharges which do not have a direct flow path to a receiving stream. In these conditions the permittee shall report " $< 0$ " on the discharge monitoring report. For the purpose of temperature monitoring only, the outfall (point of discharge) to a stream is defined as the point that the effluent enters a stream that carries observable flow that is not solely attributable to the discharge.

- f. The limitation for Settleable Solids is an instantaneous maximum
- g. Applies to discharges of underground mine drainage from workings of underground mines until bond release.

## ***B. Ground Water Protection***

The pH of any pool of standing water within the mining permit area which persists for more than 48 hours after the most recent precipitation shall be kept within the range of 6.0 to 9.0 s.u. at all times. As an alternative to maintaining the water within this pH range, the permittee may submit data proving there is a one-foot-thick layer of material with a permeability less than or equal to  $10^{-7}$  cm/sec on the sides and bottom of the pool or a Department approved synthetic liner. The pH requirement is not waived until the Department has received and approved the permeability data.

## ***C. Other Requirements***

1. The permittee is prohibited from using phosphorus or nitrogen compounds to treat wastewater without prior approval from the Department.
2. The permittee is prohibited from using chlorine or chlorine products for the treatment of wastewater that will be discharged from this site.
3. The permittee shall maintain roads accessible by four-wheel-drive vehicles to within 100 feet of each sediment control pond.

## ***D. Stormwater Control Measures and Alternative Effluent Limits***

In the technology-based limits included in Part III.D.1, the term "minimize" means reduce and/or eliminate to the extent achievable using control measures (including best management practices or BMPs) that are technologically available and economically practicable and achievable in light of best industry practice.

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## 1. Control Measures

Considering the control measure selection and design considerations, you must select, design, install, and implement control measures (including best management practices) to meet the non-numeric effluent limits, as described below. The selection, design, installation, and implementation of these control measures must be in accordance with good engineering practices and manufacturer's specifications. Note that you may deviate from such manufacturer's specifications where you provide justification for such deviation and include documentation of your rationale in the part of your SWPPP that describes your control measures. If you find that your control measures are not achieving their intended effect of minimizing pollutant discharges, you must modify these control measures as expeditiously as practicable. Regulated stormwater discharges from your facility include stormwater run-on that commingles with stormwater discharges associated with industrial activity at your facility.

### a) *Control Measure Selection and Design Considerations*

You must consider the following when selecting and designing control measures:

- i.) Preventing stormwater from coming into contact with polluting materials is generally more effective, and less costly, than trying to remove pollutants from stormwater;
- ii.) Using control measures in combination is more effective than using control measures in isolation for minimizing pollutants in your stormwater discharge;
- iii.) Assessing the type and quantity of pollutants, including their potential to impact receiving water quality, is critical to designing effective control measures that will achieve the limits in this permit;
- iv.) Minimizing impervious areas at your facility and infiltrating runoff onsite (including bioretention cells, green roofs, and pervious pavement, among other approaches) can reduce runoff and improve groundwater recharge and stream base flows in local streams, although care must be taken to avoid ground water contamination;
- v.) Attenuating flow using open vegetated swales and natural depressions can reduce in-stream impacts of erosive flows;
- vi.) Conserving and/or restoring riparian buffers will help protect streams from stormwater runoff and improve water quality; and
- vii.) Using treatment interceptors (e.g., swirl separators and sand filters) may be appropriate in some instances to minimize the discharge of pollutants.
- viii.) adapting operations to address climate change impacts by implementing structural improvements, enhanced pollution prevention measures, and other mitigation measures, to minimize impacts from stormwater discharges from major storm events that cause extreme flooding conditions, such as the following:
  - Reinforce materials storage structures to withstand flooding and additional exertion of force;
  - Prevent floating of semi-stationary structures by elevating to the Base Flood Elevation (BFE)<sup>1</sup> level or securing with non-corrosive device;
  - When a delivery of materials is expected, and a storm is anticipated within 48 hours, delay delivery until after the storm or store materials as appropriate (refer to emergency procedures);
  - Temporarily store materials and waste above the BFE level;
  - Temporarily reduce or eliminate outdoor storage;
  - Temporarily relocate any mobile vehicles and equipment to upland areas;
  - Develop scenario-based emergency procedures for major storms that are complementary to regular stormwater pollution prevention planning and identify emergency contacts for staff and contractors; and
  - Conduct staff training for implementing your emergency procedures at regular intervals.

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<sup>1</sup> Base Flood Elevation (BFE) is the computed elevation to which floodwater is anticipated to rise during the base flood. BFEs are shown on the Federal Emergency Management Agency's Flood Maps and on the flood profiles, which can be access through <https://msc.fema.gov/portal/search>.

**b) Non-Numeric Technology-Based Effluent Limits (BPT/BAT/BCT)**

- i.) Minimize Exposure.** You must minimize the exposure of manufacturing, processing, and material storage areas (including loading and unloading, storage, disposal, cleaning, maintenance, and fueling operations) to rain, snow, snowmelt, and runoff by either locating these industrial materials and activities inside or protecting them with storm resistant coverings (although significant enlargement of impervious surface area is not recommended). In minimizing exposure, you should pay particular attention to the following:
- Use grading, berming, or curbing to prevent runoff of contaminated flows and divert run-on away from these areas;
  - Locate materials, equipment, and activities so that leaks are contained in existing containment and diversion systems (confine the storage of leaky or leak-prone vehicles and equipment awaiting maintenance to protected areas);
  - Clean up spills and leaks promptly using dry methods (e.g., absorbents) to prevent the discharge of pollutants;
  - Use drip pans and absorbents under or around leaky vehicles and equipment or store indoors where feasible;
  - Use spill/overflow protection equipment;
  - Drain fluids from equipment and vehicles prior to onsite storage or disposal;
  - Perform all cleaning operations indoors, under cover, or in bermed areas that prevent runoff and run-on and also that capture any overspray; and
  - Ensure that all washwater drains to a proper collection system (i.e., not the stormwater drainage system).

Note: The discharge of wastewater from steam cleaning or cleaning with detergents of vehicle and equipment, including tank cleaning operations, is not authorized by this permit. These wastewaters must be covered under a separate NPDES permit, discharged to a sanitary sewer in accordance with applicable industrial pretreatment requirements, or disposed of otherwise in accordance with applicable law.

Note: Industrial materials do not need to be enclosed or covered if stormwater runoff from affected areas will not be discharged to receiving waters or if discharges are authorized under another NPDES permit.

- ii.) Good Housekeeping.** You must keep clean all exposed areas that are potential sources of pollutants, using such measures as sweeping at regular intervals, keeping materials orderly and labeled, and storing materials in appropriate containers. A good practice for ensuring housekeeping activities are performed at regular intervals would be keeping a schedule for routine grounds maintenance and cleanup. As a part of your good housekeeping program, in order to minimize discharges of pollutants in stormwater, implement control measures such as the following, where determined to be feasible (list not inclusive): using sweepers and covered storage, watering haul roads to minimize dust generation, and conserving vegetation to minimize erosion.
- NOTE: This requirement does not apply for any discharges from earth-disturbing activities conducted prior to active mining.

- iii.) Preventive Maintenance.** You must regularly inspect, test, maintain, and repair all industrial equipment and systems to avoid situations that may result in leaks, spills, and other releases of pollutants in stormwater discharged to receiving waters. You must clean catch basins when the depth of debris reaches two-thirds (2/3) of the sump depth and keep the debris surface at least six inches below the lowest outlet pipe. You must also maintain all control measures that are used to achieve the effluent limits required by this permit in effective operating condition. Particular care should be taken to inspect compaction dumpsters to prevent debris around or under the dumpster as well as prevent hydraulic fluid leakage. Nonstructural control measures must also be diligently maintained (e.g., spill response supplies available, personnel appropriately trained). If you find that your control measures need to be replaced or repaired, you



must make the necessary repairs or modifications as expeditiously as practicable. You must perform inspections or other equivalent measures of storage tanks and pressure lines of fuels, lubricants, hydraulic fluid, and slurry to prevent leaks due to deterioration of faulty connections.

**NOTE:** This requirement does not apply for any discharges from earth-disturbing activities conducted prior to active mining.

**iv.) *Spill Prevention and Response Procedures.*** You must minimize the potential for leaks, spills, and other releases that may be exposed to stormwater, and develop plans for effective response to such spills if or when they occur. These procedures are complementary to and do not replace any requirements of RCRA (42 U.S.C. §6901), the Department's Land Management Administration Oil Control Program, NFPA 30 Flammable and Combustible Liquids Code or the Spill Prevention, Control and Countermeasure (SPCC) Plan (as a requirement of 40 CFR § 112), At a minimum, you must implement:

- Procedures for plainly labeling containers (e.g., "Used Oil," "Spent Solvents," "Fertilizers and Pesticides," etc.) that could be susceptible to spillage or leakage to encourage proper handling and facilitate rapid response if spills or leaks occur;
- Monthly inspection procedures for above ground storage tanks containing oil and quarterly inspection procedures for containers that are susceptible to spillage or leakage (e.g., used oil) to ensure the containment structures have no leaks/cracks, and that the outlets are properly sealed. Check that plugs are properly affixed, that valves are in working condition, and that neither are leaking;
- Procedure for the discharge of any stormwater from a containment structure, requiring that a sample is taken to ensure that no visible or odorous pollutants are discharged. If a sample contains a visible sheen, floating solids, or a noxious smell, then you must discharge the remaining wastewater to a sanitary sewer system or haul it to a recycler or TSDF (Treatment Storage & Disposal Facilities) or disposal facility;
- Preventative measures such as barriers between material storage and traffic areas, secondary containment provisions, and procedures for material storage and handling;
- Procedures for expeditiously stopping, containing, and cleaning up leaks, spills, and other releases. Employees who may cause, detect, or respond to a spill or leak must be trained in these procedures and have necessary spill response equipment available. If possible, one of these individuals should be a member of your stormwater pollution prevention team as described in Part III.E.1; and
- Procedures for notification of appropriate facility personnel, emergency response agencies, and regulatory agencies. Where a leak, spill, or other release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR Part 110, 40 CFR Part 117, or 40 CFR Part 302, occurs during a 24-hour period, you must notify the Department's Emergency Spill Response number at (866) 633-4686 and EPA's National Response Center (NRC) at (800) 424-8802 or, in the Washington, DC, metropolitan area, call (202) 267-2675 in accordance with the requirements of 40 CFR Part 110, 40 CFR Part 117, and 40 CFR Part 302 as soon as you have knowledge of the discharge. Local requirements may necessitate reporting spills or discharges to local emergency response, public health, or drinking water supply agencies. Contact information must be in locations that are readily accessible and available.

**v.) *Erosion and Sediment Controls.*** You must minimize erosion a) consistent with the facility's approved erosion and sediment control (E&SC) plan or b) by stabilizing exposed soils at your facility in order to minimize pollutant discharges and placing flow velocity dissipation devices at discharge locations to minimize channel and streambank erosion and scour in the immediate vicinity of discharge points. These requirements include timeframes for the temporary and permanent stabilization of all

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inactive, disturbed areas; which are either identified on your E&SC plan or if you don't have an approved E&SC, then following the initial disturbance, permanent or temporary stabilization is required within three (3) calendar days as to the surface of all perimeter controls, dikes swales, ditches, perimeter slopes, and all slopes steeper than 3 horizontal to 1 vertical (3:1), and seven (7) calendar days as to all other disturbed areas not under active grading. Identification of interior areas of surface mines exempted from stabilization requirements to prevent contamination of the recoverable resources by the stabilization material is required. You must also use structural and non-structural control measures to minimize the discharge of sediment. In selecting, designing, installing, and implementing appropriate control measures, you are encouraged to consult with the Department's Soil Erosion & Sediment Control resources at <https://mdewwp.page.link/ESCRegs>. Most active coal mining-related areas are subject to sediment and erosion control regulations of the U.S. Office of Surface Mining (OSM) that enforces the Surface Mining Control and Reclamation Act (SMCRA). OSM has granted authority to most-coal producing states to implement SMCRA regulations. All SMCRA requirements regarding Control of Stormwater-related pollutants discharges must be addressed and then documented with the SWPPP (directly or by reference).

- vi.) *Management of Runoff.*** You must divert, infiltrate, reuse, contain, or otherwise reduce stormwater runoff, to minimize pollutants in your discharges. In selecting, designing, installing, and implementing appropriate control measures, you are encouraged to consult with the Department's Design Manual, EPA's internet-based resources relating to runoff management, including the sector-specific Industrial Stormwater Fact Sheet Series.
  - vii.) *Salt Storage Piles or Piles Containing Salt.*** You must enclose or cover storage piles of salt, or piles containing salt, used for deicing or other commercial or industrial purposes, including maintenance of paved surfaces. You must implement appropriate measures (e.g., good housekeeping, diversions, containment) to minimize exposure resulting from adding to or removing materials from the pile. Piles do not need to be enclosed or covered if stormwater runoff from the piles is not discharged or if discharges from the piles are authorized under another NPDES or State discharge permit.
  - viii.) *Employee Training.*** You must train all employees who work in areas where industrial materials or activities are exposed to stormwater, or who are responsible for implementing activities necessary to meet the conditions of this permit (e.g., inspectors, maintenance personnel), including all members of your stormwater pollution prevention team described in Part III.E.1, below. Training must cover the specific control measures used to achieve the effluent limits in this part, and monitoring, inspection, planning, reporting, and documentation requirements in other parts of this permit. As part of the employee training program you must address, at a minimum, the following activities (as applicable): used oil management, spent solvent and paint management, disposal of spent abrasives (e.g., blasting materials, etc.), spill prevention and control, fueling procedures, general good housekeeping practices (e.g., dumpster/debris removal), used battery management, waste recycling (e.g., metals, plastics), used container controls (e.g., re-banding barrels, plugging drums), etc. The Department recommends training be conducted at least annually (or more often if employee turnover is high).
  - ix.) *Non-Stormwater Discharges.*** You must eliminate non-stormwater discharges not authorized by this or other NPDES permit(s). See Part I.C for a list of non-stormwater discharges authorized by this permit.
  - x.) *Waste, Garbage and Floatable Debris.*** You must ensure that waste, garbage, and floatable debris are not discharged to receiving waters by keeping exposed areas free of such materials or by intercepting them before they are discharged. The Department recommends practices including placing garbage or recycling containers at traffic areas, and identifying a schedule for personnel to walk site for trash and litter
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daily/weekly/monthly, etc.

- xii.) Dust Generation and Vehicle Tracking of Industrial Materials.*** You must minimize generation of dust and offsite tracking of raw, final, or waste materials.

NOTE: if you are in compliance with dust control requirements, under state or county air quality permits, you must include (or summarize, as necessary) what the state or county air quality dust control requirements are and how you've achieved compliance with them.

- xii.) Chemical Additives.*** If you are using chemical additives at your site, you must comply with the following minimum requirements:

- Use conventional erosion and sediment controls prior to and after the application of chemical additives. Use conventional erosion and sediment controls prior to (up gradient of) chemical addition to ensure effective treatment. Additives may only be applied where treated stormwater is directed to a sediment control (e.g., sediment basin, perimeter control) prior to discharge.
  - Additives must be selected that are certified under ANSI/NSF Standard 60 for drinking water and only discharged in concentrations that are nontoxic to aquatic life. The additives must be appropriately suited to the types of soils likely to be exposed during construction and discharged, to locations where chemicals will be applied, and to the expected turbidity, pH, and flow rate of stormwater flowing into the chemical treatment system or area.
  - You must minimize discharge from stored chemicals.
  - You must comply with relevant local requirements affecting the use of chemical additives. If requested by the E&SC plan approval authority, provide an SDS with your E&SC plan.
  - You must use chemical additives and chemical treatment systems in accordance with good engineering practices, and with dosing specifications and sediment removal design specifications provided by the provider/supplier of the applicable chemicals, or document specific departures from these practices or specifications and how they reflect good engineering practice.
  - Ensure that all persons who handle and use chemical additives at the site are provided with appropriate, product-specific training. Among other things, the training must cover proper dosing requirements and safe handling practices.
  - If you plan to use cationic chemical additives (as defined in Appendix A), you are ineligible for coverage under this permit unless you notify the Department's Industrial and General Permits Division at least 30 days in advance and the Department authorizes coverage under this permit. To receive authorization under this permit, you must provide appropriate controls and implementation procedures (including where the chemical is applied, description of active treatment systems required, dosing, filtering, pH monitoring, etc.) designed to ensure that your use of cationic additives chemicals will not lead to a violation of water quality standards. You are required to comply with all such requirements if you have been authorized to use cationic chemicals at your site by the Department.
  - Authorization is conditioned on your compliance with additional requirements necessary to ensure that the use of such chemicals will not cause an exceedance of water quality standards. If you use polymers and/or other chemical treatments as part of your controls, you must identify the polymers and/or chemicals used and the purpose in your SWPPP.
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## 2. Water Quality-Based Effluent Limitations

### a. *Water Quality Standards*

Your discharge must be controlled as necessary to meet applicable water quality standards. The Department expects that compliance with numeric limits (Part III.A) and other conditions in this permit will control discharges as necessary to meet applicable water quality standards. There shall be no discharge that causes visible oil sheen, and no discharge of floating solids or persistent foam in other than trace amounts. Persistent foam is foam that does not dissipate within one half-hour of point of discharge.

If at any time you become aware, or the Department determines, that your discharge causes or contributes to an exceedance of applicable water quality standards, then you must (1) take corrective action, (2) document the corrective actions, and (3) report the corrective actions to the Department's Compliance Program (Part II.E.2) as required by Part IV. Additionally, if information in your NOI or required reports or if information from other sources indicates that your discharge is not controlled as necessary to meet applicable water quality standards, the Department may impose additional water quality-based limitations on a site-specific basis or require you to obtain coverage under an individual permit.

### b. *Discharging to Water Quality Impaired Waters:*

If you discharge to an impaired water, the Department will inform you if any additional monitoring, limits or controls are necessary for your discharge to be consistent with the assumptions of any available wasteload allocation in an MDE Approved TMDL as per Part I.D, Part III.D and Part III.E, or if coverage under an individual permit is necessary in accordance with Part I.G. For any additional control requested by the Department you must include a plan to implement BMPs to address the pollutant of concern in your SWPPP. You are considered to discharge to an impaired water if the first water of the U.S. to which you discharge is identified by a MDE as not meeting an applicable water quality standard, and:

- Requires development of a TMDL (pursuant to section 303(d) of the CWA;
- Is addressed by a MDE approved or established TMDL; or
- Is not in either of the above categories but the waterbody is covered by pollution control requirements that meet the requirements of 40 CFR 130.7(b)(1).

**NOTE:** For discharges that enter a separate storm sewer system prior to discharge, the first water of the State to which you discharge is the waterbody that receives the stormwater discharge from the storm sewer system.

Discharges must be controlled as necessary to meet applicable water quality standards in the receiving water body or another water body impacted by the discharge. The Department generally expects that compliance with the other conditions in this permit, including those identified in PART III.A, will control discharges as necessary to meet applicable water quality standards. The Department may impose additional water quality-based limitations on a site-specific basis, or require the permittee to obtain coverage under an individual permit, if information in the NOI, in required reports, or from other sources indicates that, after meeting the water quality-based limitations in PART III.A discharges are not controlled as necessary to meet applicable water quality standards, either in the receiving water body or another water body impacted by the discharge.

### i.) Discharges to Impaired Waters without a MDE-Approved or Established TMDL

If a permittee discharges to an impaired water without an EPA-approved or established TMDL, the permittee is required to comply with the requirements in this Part III.D.2. Note that this provision also applies to situations where the Department determines that discharges are not controlled as necessary to meet water quality standards in another

water body, even if the permittees discharge is to a receiving water that is not specifically identified on a section 303(d) list of impaired waters.

If a permittee discharges to an impaired water which does not have an approved or established TMDL, the permittee shall monitor once per year at each outfall discharging stormwater to the impacted water segment, for the pollutant impairing the water segment (e.g., suspended solids).

**ii.) Discharges to Impaired Waters with a MDE Approved or Established TMDL**

If a permittee discharges to an impaired water with an EPA-approved or Department-established TMDL and the Department informs a permittee that a Waste Load Allocation (WLA) has been established that applies specifically to the permittees discharges or to a specific class of dischargers (i.e. coal mines), such discharges must be consistent with the assumptions and requirements of that WLA. If such a WLA exists, the Department will inform you if any additional limits or controls are necessary for your discharge to be consistent with the assumptions of any available WLA in the TMDL, or whether an individual permit application is necessary in accordance with PART I.G. Note that this provision also applies to situations where the Department determines that a permittee's discharges are covered by the WLA in an EPA approved or established TMDL for another water body, even if the discharge is to a receiving water that is not specifically identified on a section 303(d) list. If an applicable TMDL exists either individually or categorically for a specific facility or a category of facilities the Department will inform the facility owners/operators of specific requirements.

For all discharges to impaired watersheds with an approved TMDL, the NOI will be reviewed at the time of submittal and, based on the permittee's description of the discharge and the TMDL's WLA, the permittee may be subject to any combination of the following actions:

- meeting more stringent effluent limits than identified in this permit;
- eliminating the discharge;
- modifying the discharge;
- obtaining coverage under an individual discharge permit as identified in PART I - Section G; and/or
- denial of application for coverage under this permit.

**c. *Tier II Antidegradation Requirements for New or Increased Dischargers***

If you are a new discharger or are required to notify the Department of a modified discharge (Part II.F.1), and you discharge directly to waters designated by the State as Tier II for antidegradation purposes under 40 CFR 131.12(a), the Department may notify you that additional analyses, control measures, or other permit conditions are necessary to comply with the applicable antidegradation requirements, or notify you that an individual permit application is necessary in accordance with Part I.G.

**d. *Criteria Selection***

Any additional numerical water quality-based limits for any specific discharger under Part III.D.2 of the permit shall be based solely on Maryland's Numeric Water Criteria for Designated Uses in COMAR 26.08.02.03-3 and Maryland's Criteria for Toxic Substances in Surface Waters in COMAR 26.08.02.03-2, applied at end of pipe, or the applicable wasteload allocation in a final approved TMDL. For any additional control requested by the Department you must include a pal to implement BMPs to address the pollutant of concern in your SWPPP.

## **E. Stormwater Pollution Prevention Plan (SWPPP) Requirements**

The SWPPP is intended to document the selection, design, and installation of control measures. The SWPPP does not contain effluent limitations; the limitations are contained in Part III.D. of the Permit.

Your SWPPP must contain all of the following elements, as described below. You must also meet all of this section's additional SWPPP requirements.

### **1. Stormwater Pollution Prevention Team**

You must identify the staff members (by name or title) that comprise the facility's stormwater pollution prevention team as well as their individual responsibilities. Your stormwater pollution prevention team is responsible for assisting the facility manager in developing and revising the facility's SWPPP as well as maintaining control measures and taking corrective actions where required. Each member of the stormwater pollution prevention team must have ready access to either an electronic or paper copy of applicable portions of this permit and your SWPPP.

### **2. Site Description**

Your SWPPP must include the following:

- a. *Activities at the Facility.* Provide a description of the nature of the industrial activities at your facility.
- b. *General location map.* Provide a general location map (e.g., U.S. Geological Survey (USGS) quadrangle map) with enough detail to identify the location of your facility. Ideally this map will extend one-quarter of a mile beyond the property boundaries of the facility and identify any water body where discharge is conveyed. At least one public roadway must be identified on the map.
- c. *Site map.* Provide a map showing:
  - i.) the size of the property in acres;
  - ii.) the location and extent of significant structures and impervious surfaces
  - iii.) directions of stormwater flow (use arrows);
  - iv.) locations of all existing structural control measures or BMPs;
  - v.) locations of all receiving waters in the immediate vicinity of your facility, indicating if any of the waters are impaired and, if so, whether the waters have TMDLs established for them;
  - vi.) locations of all stormwater conveyances including ditches, pipes, and swales;
  - vii.) locations of potential pollutant sources identified under Part III.E.3;
  - viii.) locations where significant spills or leaks identified under Part III.E.3 have occurred;
  - ix.) locations of all stormwater monitoring points;
  - x.) locations of stormwater inlets and outfalls, with a unique identification code for each outfall (e.g., Outfall No. 1, No. 2, etc.), indicating if you are treating one or more outfalls as substantially identical, and an approximate outline of the areas draining to each outfall;
  - xi.) municipal separate storm sewer systems, where your stormwater discharges to them;
  - xii.) locations and descriptions of all non-stormwater discharges identified under Part I.C.4;
  - xiii.) locations of the following activities where such activities are exposed to precipitation:
    - fueling stations;
    - vehicle and equipment maintenance and/or cleaning areas
    - loading/unloading areas
    - locations used for the treatment, storage, or disposal of wastes
    - liquid storage tanks
    - processing and storage areas
    - immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility
    - transfer areas for substances in bulk

- machinery; and
  - manufacturing buildings, and
- xiv.)** locations and sources of run-on to your site from adjacent property that contains significant quantities of pollutants.

### 3. Summary of Potential Pollutant Sources

You must document areas at your facility where industrial materials or activities are exposed to stormwater and from which allowable non-stormwater discharges are released. Industrial materials or activities include, but are not limited to: material handling equipment or activities; industrial machinery; raw materials; industrial production and processes; and intermediate products, by-products, final products, and waste products. Material handling activities include, but are not limited to: the storage, loading and unloading, transportation, disposal, or conveyance of any raw material, intermediate product, final product or waste product. For each area identified, the description must include:

- a. *Activities in the area.*** A list of the industrial activities exposed to stormwater (e.g., material storage; equipment fueling, maintenance, and cleaning).
- b. *Pollutants.*** A list of the pollutant(s) or pollutant constituents (e.g., crankcase oil, zinc, sulfuric acid, and cleaning solvents) associated with each identified activity. The pollutant list must include all significant materials that have been handled, treated, stored, or disposed, and that have been exposed to stormwater in the 3 years prior to the date you prepare or amend your SWPPP.
- c. *Spills and Leaks.*** You must document where potential spills and leaks could occur that could contribute pollutants to stormwater discharges, and the corresponding outfall(s) that would be affected by such spills and leaks. You must document all significant spills and leaks of oil or toxic or hazardous pollutants that actually occurred at exposed areas, or that drained to a stormwater conveyance, in the 3 years prior to the date you prepare or amend your SWPPP. The plan may refer to applicable portions of other existing plans, such as Spill Prevention, Control, and Countermeasure (SPCC) plans required under 40 CFR Part 112. Discharges of precipitation from containment areas containing used oil must also be in accordance with applicable sections of 40 CFR Part 112.

Note: Significant spills and leaks include, but are not limited to, releases of oil or hazardous substances in excess of quantities that are reportable under CWA Section 311 (see 40 CFR 110.6 and 40 CFR 117.21) or Section 102 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 USC §9602. This permit does not relieve you of the reporting requirements of 40 CFR 110, 40 CFR 117, and 40 CFR 302 relating to spills or other releases of oils or hazardous substances.

- d. *Non-Stormwater Discharges.*** You must document that you have evaluated for the presence of non-stormwater discharges and that all unauthorized discharges have been eliminated. Documentation of your evaluation must include:
  - i.)** The date of any evaluation;
  - ii.)** A description of the evaluation criteria used;
  - iii.)** A list of the outfalls or onsite drainage points that were directly observed during the evaluation;
  - iv.)** The different types of non-stormwater discharge(s) and source locations; and
  - v.)** The action(s) taken, such as a list of control measures used to eliminate unauthorized discharge(s), if any were identified. For example, a floor drain was sealed, a sink drain was re-routed to sanitary, wash water is collected and hauled away, or an NPDES permit application was submitted for an unauthorized cooling water discharge.
- e. *Salt Storage.*** You must document the location of any storage piles containing salt used for deicing or other commercial or industrial purposes.
- f. *Monitoring History.*** You must summarize what you have observed as potential problems from stormwater or process water during the previous permit term.
- g. *Facilities Subject to SARA Title III, Section 313 Requirements.*** If you are subject to SARA Title III, Section 313 (42 U.S.C. 11023) reporting requirements, in your SWPPP you must, in

addition to the requirements of this Part, provide additional narrative on the preventive measures used to eliminate the exposure of these chemicals to stormwater run-on or run-off. To identify if your facility is subject to this requirement, visit the Maryland Department of the Environment's Community Right-to-Know website (<http://www.mde.state.md.us>). A list of the Section 313 chemicals can be found at the EPA's LIST OF LISTS Consolidated List of Chemicals Subject to the Emergency Planning and Community Right-To-Know Act (EPCRA) and Section 112(r) of the Clean Air Act (<http://www.epa.gov/>). Additionally, SARA Title III, Section 313 water priority chemicals are Aluminum often identified on Material Data Safety Sheets (MSDS).

#### 4. Description of Control Measures

You must document the location and type of control measures you have installed and implemented at your site to achieve the non-numeric effluent limits in Part III.D.1.b, and the water quality-based effluent limits in Part III.D.2, and describe how you are addressing the control measure selection and design considerations. This documentation must describe how the control measures at your site address both the pollutant sources identified in Part III.E.3 and any stormwater run-on that commingles with any discharges covered under this permit. All SMCRA requirements regarding Control of Stormwater-related pollutants discharges must be addressed and then documented with the SWPPP (directly or by reference).

#### 5. Schedules and Procedures

- a. Pertaining to Control Measures Used to Comply with the Effluent Limits in Part III.D. The following must be documented in your SWPPP:
    - i.) *Good Housekeeping (See Part III.D.1.b.ii)* – A schedule for regular pickup and disposal of waste materials, along with routine inspections for leaks and conditions of drums, tanks and containers;
    - ii.) *Maintenance (See Part III.D.1.b.iii)* – Preventative maintenance procedures, including regular inspections, testing, maintenance, and repair of all industrial equipment and systems, and control measures, to avoid situations that may result in leaks, spills, and other releases, and any back-up practices in place should a runoff event occur while a control measure is off-line;
    - iii.) *Spill Prevention and Response Procedures (See Part III.D.1.b.iv)* – Procedures for preventing and responding to spills and leaks. You may reference the existence of other plans for Spill Prevention Control and Countermeasure (SPCC) developed for the facility under Section 311 of the CWA or BMP programs otherwise required by a NPDES permit for the facility, provided that you keep a copy of that other plan onsite and make it available for review consistent with Part III.E.8; and
    - iv.) *Employee Training (See Part III.D.1.b.viii)* – The SWPPP must identify how often training will take place. All training must be held at least once per calendar year (or more often if employee turnover is high).
  - b. *Pertaining to Inspection and Monitoring*
    - i.) You must document in your SWPPP your procedures for performing, as appropriate, the two types of inspections specified by this permit, including:
      - Routine facility inspections (see Part V.A.1); and
      - Comprehensive annual site inspections (see Part V.A.2).
    - ii.) For each type of inspection performed, your SWPPP must identify:
      - Person(s) or positions of person(s) responsible for inspection; and
      - Specific items to be covered by the inspection, including schedules for specific outfalls.
    - iii.) You must document the following in your SWPPP if you plan to use the substantially identical outfall exception for your benchmark monitoring, as specified in Part V.C.
      - Location of each of the substantially identical outfalls;
      - Description of the general industrial activities conducted in the drainage area of each outfall;
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- Description of the control measures implemented in the drainage area of each outfall;
  - Description of the exposed materials located in the drainage area of each outfall that are likely to be significant contributors of pollutants to stormwater discharges;
  - An estimate of the runoff coefficient of the drainage areas (low = under 40%; medium = 40 to 65%; high = above 65%); and
  - Why the outfalls are expected to discharge substantially identical effluents.
- iv.)** If you are invoking the exception for inactive and unstaffed sites relating to routine facility inspections, you must include in your SWPPP the information to support this claim as required by Parts V.A.3. If you are invoking the exception for inactive and unstaffed sites relating to benchmark monitoring, you must include in your SWPPP the information to support this claim as required by Parts V.B.5.
- v.)** If numeric or benchmark monitoring is required for your industry your SWPPP must document:
- Locations where samples are collected, including any determination that two or more outfalls are substantially identical;
  - Parameters for sampling and the frequency of sampling for each parameter;
  - Schedules for monitoring at your facility;
  - Schedules and procedures for periodic calibration and maintenance of any monitoring and analytical instrumentation to insure accuracy of measurements;
  - Any numeric control values (Benchmark, TMDL-related requirements, or other requirements) applicable to discharges from each outfall; and
  - Procedures (e.g., responsible staff, logistics, laboratory to be used, etc.) for gathering storm event data, as specified in Part V.C.

## **6. Signature Requirements**

You must sign and date your SWPPP in accordance with Part II.C, including the date of signature.

## **7. Required SWPPP Modification**

You must modify your SWPPP whenever necessary to address any of the triggering conditions for corrective action in Part IV and to ensure that they do not reoccur, or to reflect changes implemented when a review following the triggering conditions in Part IV.B indicates that changes to your control measures are necessary to meet the effluent limits in this permit. Changes to your SWPPP document must be made in accordance with the corrective action deadlines in Parts IV.C, and must be signed and dated in accordance with Part II.C.

## **8. Documentation Requirements**

You must retain a copy of the current SWPPP required by this permit at your facility, and it must be immediately available to the Department. The Department encourages you to post your SWPPP online and provide the website address on your NOI. You are required to keep the following inspection, monitoring, and certification records with your SWPPP that together keep your records complete and up-to-date, and demonstrate your full compliance with the conditions of this permit:

- a.** A copy of the NOI submitted to the Department along with any correspondence exchanged between you and the Department specific to coverage under this permit;
  - b.** A copy of this permit (an electronic copy easily available to SWPPP personnel is also acceptable);
  - c.** A copy of the relevant portion of any other facility document referred to in your SWPPP, such as a Spill Prevention, Control and Countermeasure (SPCC) Plan;
  - d.** Descriptions and dates of any incidences of significant spills, leaks, or other releases that resulted in discharges of pollutants to waters of this State, through stormwater or otherwise;
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the circumstances leading to the release and actions taken in response to the release; and measures taken to prevent the recurrence of such releases (see Part III.D.1.b.iv);

- e. Records of employee training, including date training received (see Part III.D.1.b.viii);
- f. Documentation of maintenance and repairs of control measures, including the date(s) of regular maintenance, date(s) of discovery of areas in need of repair/replacement, and for repairs, date(s) that the control measure(s) returned to full function, and the justification for any extended maintenance/repair schedules (see Part III.D.1.b.iii);
- g. All inspection reports, including the Routine Facility Inspection documentation (see Part V.A.1), and the Comprehensive Annual Site Inspection reports (see Part V.A.2);
- h. Description of any deviations from the monitoring, and the reason for the deviations (e.g., adverse weather or it was impracticable to collect samples within the first 30 minutes of a measurable storm event) (see Parts V.C.5);
- i. Description of any corrective action taken at your site, including triggering event and dates when problems were discovered and modifications occurred;
- j. Documentation of any benchmark exceedances and how they were responded to, including either (1) corrective action taken, (2) a finding that the exceedance was due to natural background pollutant levels, or (3) a finding that no further pollutant reductions were technologically available and economically practicable and achievable in light of best industry practice consistent with Part V.B.3;
- k. Documentation to support any determination that pollutants of concern are not expected to be present above natural background levels if you discharge directly to impaired waters, and that such pollutants were not detected in your discharge or were solely attributable to natural background sources.

If during the term of this permit, your site becomes inactive, you must contact the Department immediately and provide, in writing, the date of inactivity, the facility contact phone number and the location of the SWPPP and additional documentation. These must be made available during normal working hours. Note inactivity does not refer to seasonal closures.

#### 9. BMPs For Land Transportation and Warehousing Activities

These requirements apply to stormwater discharges associated with industrial activity from land Transportation as identified by the SIC 4212-4231 (except 4221-4226).

Prohibited Discharges (see also Part I.E). This permit does not authorize the discharges of vehicle/equipment/surface washwater, including tank cleaning operations. Such discharges must be authorized under a separate NPDES permit, discharged to a sanitary sewer in accordance with applicable industrial pretreatment requirements, or recycled on-site.

*Good Housekeeping Measures.* In addition to the Good Housekeeping requirements in Part III.D.1b.ii, you must implement the following control measures at your site:

- *Vehicle and Equipment Storage Areas.* Minimize the potential for stormwater exposure to leaky or leak-prone vehicles/equipment awaiting maintenance. Consider the following (or other equivalent control measures): use of drip pans under vehicle/equipment, indoor storage of vehicle and equipment, installation of berms or dikes, use of absorbents, roofing or covering storage areas, and cleaning pavement surfaces to remove and grease.
  - *Fueling Areas.* Minimize contamination of stormwater runoff from fueling areas. Consider the following (or other equivalent measures): Covering the fueling area, using spill/overflow protection and cleanup equipment, minimizing stormwater run-on/runoff to the fueling area; using dry cleanup methods, and treating and/or recycling collected stormwater runoff.
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- **Material Storage Areas.** Maintain all material storage vessels (e.g. for used oil/oil filters, spent solvents, paint wastes, hydraulic fluids) to prevent contamination of stormwater and plainly label them (e.g., “Used Oil”, “Spent Solvents”, etc.). Consider the following (or other equivalent control measures): storing the materials indoors; installing berms/dikes around the areas; minimizing runoff of stormwater to areas; using dry cleanup methods; and treating and/or recycling collected stormwater runoff.
- **Vehicle and Equipment Cleaning Areas.** Minimize contamination of stormwater runoff from all areas used for vehicle/equipment cleaning. Consider the following (or other equivalent control measures): performing all cleaning operations indoors; covering the cleaning operations, ensuring that all washwater drains to proper collection system (i.e., not stormwater drainage system); treating and/or recycling collected washwater, or other equivalent measures.
- **Vehicle and Equipment Maintenance Areas.** Minimize contamination of stormwater runoff from all areas used for vehicle/equipment maintenance. Consider the following (or other equivalent control measures): performing maintenance activities indoors, using drip pans, keeping an organized inventory of materials used in the shop, draining all parts of fluid prior to disposal, prohibiting wet cleanup practices if these practices would result in the drainage of pollutants to stormwater drainage systems, using dry cleanup methods, treating and/or recycling collected stormwater runoff, minimizing run on/runoff or stormwater to maintenance areas.
- **Locomotive Sanding (Loading Sand for Traction) Areas.** Consider the following (or other equivalent control measures): covering sanding areas, minimizing stormwater run on/runoff, or appropriate sediment removal practices to minimize the off-site transport of sanding materials by stormwater.

**Employee Training.** (see also Part III.D 1.b.viii). Train personnel at least once a year and address the following activities, as applicable: used oil and spent solvent management, fueling procedures, general good housekeeping practices, proper painting procedures, and used battery management.

**Drainage Area Site Map.** (See also Part III.E.2.C). Document in the SWPPP the following areas of the facility and indicate whether activities occurring there may be exposed to precipitation/surface runoff: haul and access roads; railroad spurs, sliding, and internal hauling lines; conveyor belts, chutes, and aerial tramways; equipment storage and maintenance yards; coal handling buildings and structures; and inactive mines and related areas; acidic spoil, refuse, or un-reclaimed disturbed areas; and liquid storage tanks containing pollutants such as caustics, hydraulic fluids, and lubricants, fueling stations, vehicle/equipment maintenance or cleaning areas, storage for vehicle/equipment with actual or potential fluid leaks, loading/unloading areas, areas where treatment or storage or disposal of wastes occur, liquid storage tanks, processing areas, and storage areas.

**Potential Pollutant Sources.** (See also Part III.E.3) Document in your SWPPP the following sources and activities that have potential pollutants associated with them: truck traffic on haul roads and resulting generation of sediment subject to runoff and dust generation; fuel or other liquid storage; pressure lines containing slurry, hydraulic fluid, or other potential harmful liquids; loading or temporary storage of acidic refuse or spoil, onsite waste storage or disposal, dirt/gravel parking areas for vehicles awaiting maintenance, illicit plumbing connection between shop floor drains and the stormwater conveyance system(s), and fueling areas.

**Description of Good House Keeping Measures.** You must document in your SWPPP the good housekeeping you implemented consistent with Part III.D.b.1.ii

*Vehicle and Equipment Washwater Requirements.* If applicable, attach to or reference in your SWPPP, a copy of the NPDES permit issued for vehicle/equipment washwater or if an NPDES permit has not been issued, a copy of pending application. These permit documents may alternatively be kept in an Environmental Management System (EMS) that is accessible by site personnel. If an industrial user permit is issued under a local pretreatment program, attach a copy of your SWPPP. In any case, implement all non-stormwater discharge permit condition or pretreatment conditions in your SWPPP. If washwater is handled in another manner (e.g., hauled offsite), describe the disposal method and attach all pertinent documentation/information (e.g., frequency, volume, destination, etc.) in the plan.

*Additional Inspection Requirements.* Inspect all the following areas/activities: storage areas for vehicle/equipment awaiting maintenance, fueling areas, indoor and outdoor vehicle/equipment awaiting maintenance, fueling areas, indoor and outdoor vehicle/equipment maintenance areas, material storage areas, vehicle/equipment cleaning areas and loading/unloading areas.

## **PART IV. CORRECTIVE ACTIONS AND ADDITIONAL IMPLEMENTATION MEASURES (AIM)**

### **A. Corrective Action**

#### **1. Conditions Requiring SWPPP Review and Revision to Ensure Effluent Limits are Met.**

When any of the following conditions occur, or are detected during an inspection, monitoring or other means, or the Department informs you that any of the following conditions have occurred, you must revise, as appropriate, your SWPPP (e.g., sources of pollution; spill and leak procedures; non-stormwater discharges; the selection, design, installation, and implementation of your control measures) so that this permit's effluent limits are met and pollutant discharges are minimized:

- a. an unauthorized release or discharge (e.g., spill, leak, or discharge of non-stormwater not authorized by this or another NPDES permit) occurs at your facility;
  - b. a discharge violates a numeric effluent limit;
  - c. your control measures are not stringent enough for the discharge to meet applicable water quality standards or the non-numeric effluent limits in this permit;
  - d. a required control measure was never installed, was installed incorrectly, or not in accordance with Parts III.D, or is not being properly operated and maintained;
  - e. you find in your routine facility inspection (Part V.A.1) or comprehensive site inspection (Part V.A.2) that your control measures are not being properly operated and maintained;
  - f. If the annual average of quarterly samples for any toxic parameter (Table 1) is over the applicable benchmark threshold (daily maximum), or one single quarterly sampling event is over 4 times the applicable benchmark threshold, your facility will be subject to Additional Implementation Measures (AIM) as specified in Part IV.B.
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**Table 1. Toxic Substances Benchmarks**

PARAMETER	DAILY MAXIMUM	UNITS	FREQUENCY OF ANALYSIS	SAMPLE TYPE
Arsenic	0.34	mg/L	1/Quarter	Grab
Cadmium	0.002	mg/L	1/Quarter	Grab
Chromium	0.57	mg/L	1/Quarter	Grab
Copper	0.013	mg/L	1/Quarter	Grab
Lead	0.065	mg/L	1/Quarter	Grab
Mercury	0.0014	mg/L	1/Quarter	Grab
Nickel	0.47	mg/L	1/Quarter	Grab
Silver	0.0032	mg/L	1/Quarter	Grab
Zinc	0.12	mg/L	1/Quarter	Grab
Aluminum	1.10	mg/L	1/Quarter	Grab

## 2. Corrective Action Deadlines

- a. Immediate Actions. You must immediately take all reasonable steps to minimize or prevent the discharge of pollutants until you can implement a permanent solution, including cleaning up any contaminated surfaces so that the material will not discharge in subsequent storm events. In Part IV, the term “immediately” means that the day you find a condition requiring corrective action, you must take all reasonable steps to minimize or prevent the discharge of pollutants until you can implement a permanent solution. However, if you identify a problem too late in the work day to initiate corrective action, you must perform the corrective action the following work day morning. The term “all reasonable steps” means you must respond to the conditions triggering the corrective action, such as cleaning up any exposed materials that may be discharged in a storm event (e.g., through sweeping, vacuuming) or making arrangements (i.e., scheduling) for a new Stormwater Control to be installed.
- b. Subsequent Actions. If additional actions are necessary beyond those implemented pursuant to Part IV.A.2.a, you must complete the corrective actions (e.g., install a new or modified control and make it operational, complete the repair) before the next storm event if possible or within no more than 14 calendar days from the time of discovery that the condition in IV.A.1 is not met. If it is infeasible to complete the corrective action within 14 calendar days, you must document why it is infeasible to complete the corrective action within the 14-day timeframe. You must also identify your schedule for initiating the work and complete the corrective action identified as soon as practicable after the 14-day timeframe but no longer than 45 days after discovery. If the completion of corrective action will exceed the 45-day timeframe, you may take the minimum additional time necessary to complete the corrective action, provided that you notify the Department Compliance program of your intention to exceed 45 days, your rationale for an extension, and a completion date, which you must also include in your corrective action documentation (see Part IV.C). Where your corrective actions result in changes to any of the controls or procedures documented in your SWPPP, you must modify your SWPPP accordingly within 14 calendar days of completing corrective action work. These time intervals are not grace periods, but are schedules considered reasonable for documenting your findings and for making repairs and improvements. They are included in this permit to ensure that the conditions prompting the need for these repairs and improvements are not allowed to persist indefinitely.

### 3. Effect of Corrective Action

If the event triggering the review is a permit violation (e.g., non-compliance with an effluent limit), correcting it does not remove the original violation. Additionally, failing to take corrective action in accordance with this section is an additional permit violation. The Department may consider the appropriateness and promptness of corrective action in determining enforcement responses to permit violations.

### 4. Substantially Identical Outfalls

If the event triggering corrective action is linked to an outfall that represents other substantially identical outfalls, your review must assess the need for corrective action for each outfall represented by the outfall that triggered the review. Any necessary changes to control measures that affects these other outfalls must also be made before the next storm event if possible, or as soon as practicable following that storm event. Any corrective actions must be conducted within the timeframes set forth in Part IV.A.2.

## ***B. Additional Implementation Measures (AIM)***

If any of the following events in Parts IV.B.1, IV.B.2, or IV.B.3 occur, you must follow the response procedures described in those parts, called “additional implementation measures” or “AIM.” There are multiple AIM levels: AIM Benchmark Action Level 1 through Benchmark Action Level 3. You are required to respond to different AIM levels which prescribe increasingly robust responses depending on the nature, duration, and magnitude of the benchmark exceedance. In the context of the following parts “year you are subject to benchmarks” means 4 quarters of monitoring.

If any toxic parameter listed in Table 1 does not exceed the benchmark threshold as per Parts IV.B.1, IV.B.2, or IV.B.3, the operator has fulfilled the sector-specific benchmark monitoring requirements for that parameter for the permit term and can apply for discontinuation of benchmark monitoring subject to MDE approval.

See Part IV.B.4 for AIM exceptions.

### 1. Benchmark Action Level 1 (AIM Level 1):

- a. AIM Level 1 Triggering Events. If, during the first year you are subject to benchmarks, (Year 1) any of the following events occur, you are in AIM Level 1. You must follow the AIM Level 1 responses (Part IV.B.1.b) and deadlines (Part IV.B.1.c).

- i.) One Annual Average Over the Benchmark Threshold. If one annual average for a parameter is over the benchmark threshold during Year 1, you are in AIM Level 1. An annual average exceedance can occur from the average of four quarterly samples for a parameter, or from less than four samples with results such that an exceedance is mathematically certain (i.e., if the sum of quarterly sample results to date is already more than 4 times the benchmark threshold).
- ii.) One Single Sampling Event Over 4 Times the Benchmark Threshold. If one single sampling event during Year 1 for a parameter is over 4 times the benchmark threshold, you are in AIM Level 1.

- b. AIM Level 1 Responses. Except as provided in Part IV.B.4 (AIM Exceptions) if any of the triggering events in Part IV.B.1.a occur, you must:

- i.) Review Stormwater Control Measures. Immediately review the selection, design,

- installation, and implementation of your control measures to determine if modifications are necessary to meet the benchmark threshold for the applicable parameter (Examples include: review sources of pollution, spill and leak procedures, and/or non-stormwater discharges; conducting a single comprehensive clean-up, making a change in subcontractor, implementing a new control measure, and/or increasing inspections.) and
- ii.)* Implement Additional Measures. After reviewing your control measures, you must implement additional implementation measures to ensure the effectiveness of your control measures to bring your exceedances below the parameter's benchmark threshold; or if you determine nothing further needs to be done with your control measures, you must document per Part IV.C and include in your annual report why you expect your existing control measures to bring your exceedances below the parameter's benchmark threshold; and
  - iii.)* Continue Quarterly Benchmark Monitoring. After compliance with (i) and (ii) in this Part, you must continue quarterly benchmark monitoring into the next year. You must also attach your updated Comprehensive Annual Report to your next DMR.

- c. AIM Level 1 Deadlines: If any modifications related to control measures are necessary, you must implement those actions or modifications within 14 days of the occurrence of the triggering event under Part IV.B.1.a, unless doing so within 14 days is infeasible. If doing so within 14 days is infeasible, you must document per Part IV.C why it is infeasible and implement such modifications within 45 days.

**Exception:** You do not have to implement any modifications if, with the Department agreement, you determine and document in your SWPPP that the exceedance is solely attributable to natural background sources or run-on sources, consistent with part IV.B.4 (AIM Exceptions).

## 2. Benchmark Action Level 2: (AIM Level 2):

- a. AIM Level 2 Triggering Events. If, during the second year you are subject to benchmarks, (Year 2) any of the following events occur, you are in AIM Level 2. You must follow the AIM Level 2 responses (Part IV.B.2.b) and deadlines (Part IV.B.2.c).
    - i.)* The second Annual Average Over the Benchmark Threshold. If your second annual average for a parameter is over the benchmark threshold during Year 2, you are in AIM Level 2. An annual average exceedance can occur from the average of four quarterly samples for a parameter, or from less than four samples with results such that an exceedance is mathematically certain (i.e., the sum of quarterly sample results to date is already more than four times the benchmark threshold).
    - ii.)* One Single Sampling Event Over 4 Times the Benchmark Threshold. If one single sampling event during Year 2 for a parameter is over 4 times the benchmark threshold, you are in AIM Level 2.
  - b. AIM Level 2 Responses. Except as provided in Part IV.B.4 (AIM Exceptions) if any of the triggering events in Part IV.B.2.a occur, you must:
    - i.)* Install Permanent Controls. Install structural source controls (e.g. permanent controls such as permanent cover, berms, and secondary containment), and/or treatment controls (e.g. sand filters, hydrodynamic separators, oil-water separators, retention ponds, the use of Chemical Additives (Part I.C.5), and infiltration structures), except as provided in Part IV.B.4 (AIM Exceptions). The treatment technologies or treatment train you install must be appropriate for the pollutants that triggered AIM Tier 2 and must be more rigorous than the pollution prevention-type measures employed under AIM Level in Part IV.B.1. You must select controls with pollutants removal efficiencies that are sufficient to bring your exceedances below the benchmark threshold. You must have a
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professional engineer, stormwater professional or geologist assist with the installation of such controls for the discharge point in question and for substantially similar discharge points, unless you individually monitor those substantially similar discharge points and demonstrate that AIM Level 2 requirements are not triggered at those discharge points; and/or

*i.)* Alternative Option: As an alternative or adjunct to structural source controls and/or treatment controls, you may increase impervious surfaces for your industrial stormwater, if such an approach is appropriate and feasible for your site-specific conditions. If this approach is feasible, the execution must be compliant with regulations for ground water protection and underground injection control (UIC). The analysis that shows infiltration/retention is appropriate for your site-specific conditions must be provided to the Department BEFORE you can choose this option and the Department must concur with your conclusions; and

*ii.)* Continue Quarterly Benchmark Monitoring. After compliance with (i) and/or (ii) (if Department approves) in this Part, you must continue quarterly benchmark monitoring into the next year. You must also attach your updated Comprehensive Annual Report to your next DMR.

- c. AIM Level 2 Deadlines:** You must install the appropriate structural source and/or implement all feasible SCMs within 30 days of the occurrence of the triggering event under Part IV.B.2.a, and document per Part IV.C the location and type of control measures you have installed and implemented at your site to achieve the non-numeric effluent limits in Part III.D.1.b, and explain how the measures will achieve benchmark thresholds. If it is not feasible within 30 days, you may take up to 90 days to install such measures, documenting in your SWPPP why it is infeasible to install the measure within 30 days. The Department may also grant you an extension beyond 90 days, based on an appropriate demonstration by you, the operator.

**Exception:** You do not have to implement any modifications if, with the Department agreement, you determine and document in your SWPPP that the exceedance is solely attributable to natural background sources or run-on sources, consistent with part IV.B.4 (AIM Exceptions).

### **3. Benchmark Action Level 3: (AIM Level 3)**

- a. AIM Level 3 Triggering Events.** If during the third or subsequent year you are subject to benchmarks, (Year 3+) any of the following events occur, you are in AIM Level 3. You must follow the AIM Level 3 responses (Part IV.B.3.b) and deadlines (Part IV.B.3.c).
- i.)* The third Annual Average Over the Benchmark Threshold. If your third annual average for a parameter is over the benchmark threshold during Year 3, you are in AIM Level 3. An annual average exceedance can occur from the average of four quarterly samples for a parameter, or from less than four samples with results such that an exceedance is mathematically certain (i.e., the sum of quarterly sample results to date is already more than four times the benchmark threshold).
- ii.)* One Single Sampling Event Over 4 Times the Benchmark Threshold. If one single sampling event during your third year of coverage for a parameter is over 4 times the benchmark threshold, you are in AIM Level 3.
- b. AIM Level 3 Responses.** Except as provided in Part IV.B.4 (AIM Exceptions), if any of the triggering events in IV.B.3.a occur, you must:
- i.)* Consult a professional engineer, stormwater professional or geologist to prepare an action plan. You may take up to 30 days to select a professional or geologist to prepare
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an action plan. You may take up to 30 days to select the professional, and an additional 30 days to prepare the action plan for the Department, which must include milestone dates and either option below:

- installing additional structural source controls (see Part IV.B.2.b.i), enhancing existing structural source controls, enclosing operations in storm resistant shelters (see Part III.D.1.a.i) and/or addition of treatment controls or
- an adequate demonstration to the Department that your discharge does not result in any exceedance of water quality standards and the Department approves such demonstration within 60 days of receipt (the Department may take up to 180 days upon notice to you before the 60th day that the Department needs such extra time). The demonstration to the Department, which shall be made publicly available, must include the following minimum elements in order to be considered for approval by the Department:
  - the water quality standards applicable to the receiving water;
  - the flow rate of the stormwater discharge;
  - the instream flow rates of the receiving water immediately upstream and downstream of the discharge point;
  - the ambient concentration of the parameters of concern in the receiving water immediately upstream and downstream of the discharge point demonstrated by full-storm composite sampling;
  - the concentration of the parameter(s) of concern in the stormwater discharge demonstrated by full-storm, flow-weighted composite sampling;
  - any relevant dilution factors applicable to the discharge; and
  - the hardness of the receiving water.

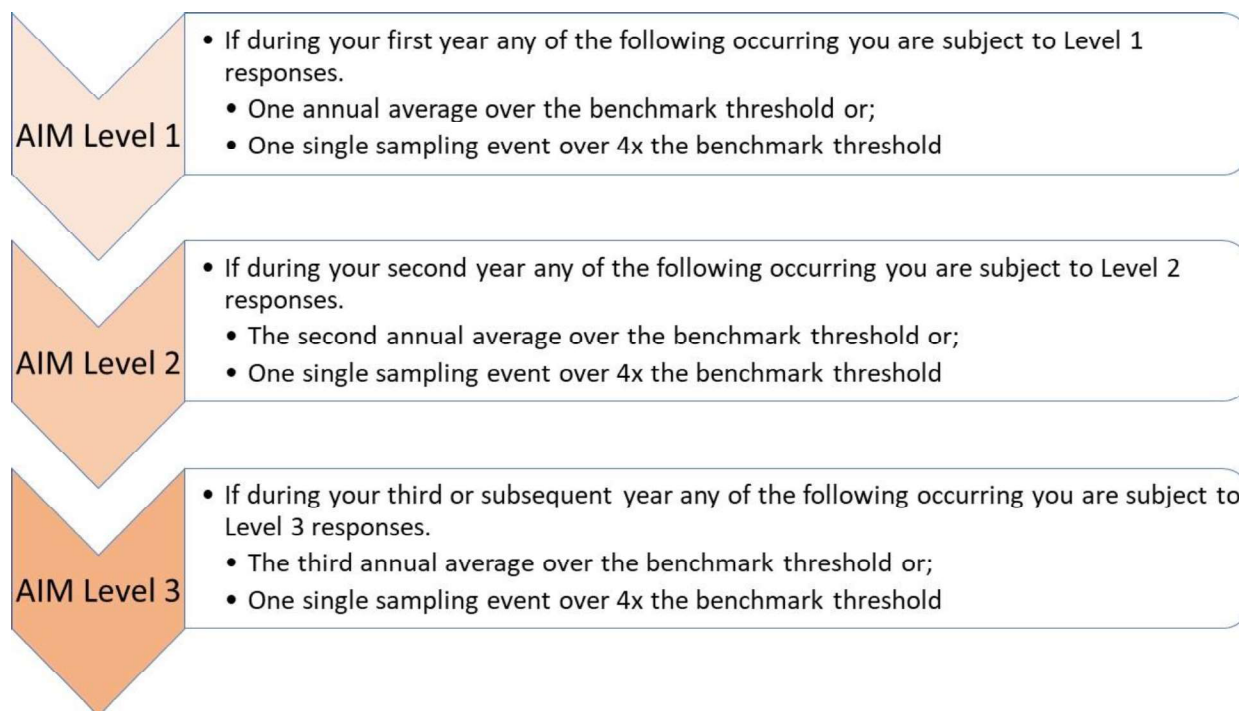
If the Department disapproves such demonstration within 60 days (or 180 days if the Department notifies you that it needs more than 60 days), you must install structural source controls and/or treatment controls within 30 days of such disapproval (or 60 days if you document in your SWPPP why it is infeasible within 30 days; the Department may also grant an extension beyond 60 days based on an appropriate demonstration by you, the operator). It is recommended that you work with the Department well in advance of the required demonstration and prepare to install controls if the demonstration cannot be approved. If the Department does not reject the plan within the required 60 days or does not provide for an extension, you are obligated to proceed with plan implementation. However, the Department may impose additional requirements.

- ii.)* If you continue to exceed the quarterly benchmark threshold for the same parameter and cannot demonstrate at least a 20% reduction from the previous year performance, even after installation of structural source controls or treatment controls as required in Part IV.B.3.b.i, the Department will revoke coverage under this permit through the development of an individual permit to address site specific water quality limits, or a final determination to deny permit coverage, unless you are under a consent order; and
- iii.)* Continue Quarterly Benchmark Monitoring. After compliance with (i) and/or (ii) (if the Department approves) in this Part, you must continue quarterly benchmark monitoring into the next year. You must also attach your updated Comprehensive Annual Report to your next DMR.

- c. AIM Level 3 Deadlines. You must install the appropriate structural source and/or treatment control measures within 90 days of the occurrence of the triggering event under Part IV.B.3.a. If it is not feasible within 90 days, you may take up to an additional 30 days to install such measures, documenting in your SWPPP why it is infeasible to install the measure within 90 days. The Department may also grant you an extension beyond 120

days, based on an appropriate demonstration by you, the operator. Exception: You do not have to install structural source controls or treatment controls if, with the Department agreement, you determine and document in your SWPPP that the exceedance is solely attributable to natural background sources or run-on sources, consistent with Part IV.B.4 (AIM Exceptions).

The image below shows a simplified view of how a site would progress through the AIM levels.



The image below shows the actions a site is required to take as they progress through the aim levels. Refer to IV.B for the detailed requirements.

Response Level 1	Response Level 2	Response Level 3
i. Review stormwater control measures	i. Install Permanent Controls	i. Consult professional engineer, stormwater professional or geologist to prepare an action plan
ii. Implement additional measures	ii. Or may increase impervious surface for your industrial stormwater (the analysis that shows infiltration/ retention is appropriate for your site-specific condition must be approved by the Department	ii. If the benchmark threshold for the same benchmark is repeatedly exceeded the Department will revoke the general permit and you must obtain an individual permit
iii. Continue Quarterly Monitoring	iii. Continue Quarterly Monitoring	iii. Continue Quarterly Monitoring

#### 4. AIM Exceptions.

At any point or Benchmark Action Level of AIM, the below exceptions from AIM requirements and additional benchmark monitoring below may apply. You must still review your stormwater control measures, SWPPP, and other on-site activities to determine if actions or modifications are necessary or appropriate.

- a. Natural Background Pollutant Levels: You are not required to perform AIM or additional benchmark monitoring for any parameters for which you can demonstrate with Department agreement that the benchmark exceedance is attributable solely to the presence of that pollutant in the natural background (i.e. you would not have exceeded the benchmark if it were not for the contribution of that natural background pollutant). You are not required to perform corrective action or additional benchmark monitoring provided that all the following conditions are met, and you submit your analysis and documentation to the Department's Permitting Program:
  - i.) The four-quarter average concentration of your benchmark monitoring minus the concentration of that pollutant in the natural background is less than or equal to the benchmark threshold; and
  - ii.) You document and maintain with the SWPPP as required in Part III.E, your supporting rationale for concluding that benchmark exceedances are in fact attributable solely to natural background pollutant levels. You must include in your supporting rationale any data previously collected by you or others (including literature studies) that describe the levels of natural background pollutants in your stormwater discharge; and
  - iii.) You notify the Department's Permitting Program and get concurrence, and include the concurrence on your final quarterly benchmark monitoring report that the benchmark exceedances are attributable due to natural background pollutant levels. The Department will take into consideration any impairments for that pollutant, potential impacts to receiving waters, in addition to the methodologies and information provided (refer to Part III.D.2).

Natural background pollutants are those substances that are naturally occurring in soils or groundwater. Natural background pollutants do not include legacy pollutants from earlier activity on your site, or pollutants in run-on from neighboring sources which are not naturally occurring, such as other industrial facilities or roadways.

- b. Run-On: You are not required to perform AIM or additional benchmark monitoring for any parameters for which you can demonstrate and obtain the Department's agreement that run-on from a neighboring source (e.g., a source external to your facility) is the cause of the exceedance, provided that all the following conditions are met and you submit your analysis and documentation to the Department for concurrence:
  - i.) After reviewing and revising your SWPPP, as appropriate, you should notify the other facility or entity contributing run-on to your discharges and request that they abate their pollutant contribution.
  - ii.) If the other facility or entity fails to take action to address their discharges or sources of pollutants, you should contact the Department's Compliance Program.
- c. Due to an abnormal event: You must immediately document per Part IV.C that the AIM triggering event was abnormal, a description explaining what caused the abnormal event, and how any measures taken within 14 days of such event will prevent a reoccurrence of the exceedance. You must also collect a sample during the next measurable storm event to demonstrate that the result is less than the benchmark threshold, in which case you do not trigger any AIM requirements based on the abnormal event. You must report the result of this sample in NetDMR in lieu of the result from the sample that caused the AIM triggering

event. You may avail yourself of the "abnormal" demonstration opportunity at any AIM Level, one time per parameter, and one time per discharge point, which shall include substantially identical discharge points (SIDP), provided you qualify for the exception.

- d. For Aluminum and Copper benchmark parameters only: Demonstrated to not result in an exceedance of your facility-specific value using the national recommended water quality criteria in-lieu of the applicable benchmark threshold: To be eligible for the exception, you must demonstrate to the Department that your stormwater discharge(s) that exceeded the applicable benchmark threshold would not result in an exceedance of a derived facility-specific value. The demonstration to the Department, which will be made publicly available, must meet the minimum elements below in order to be considered for and approved by the Department. If you exceed the benchmark threshold for aluminum or copper, you must still comply with any applicable AIM requirements and additional benchmark monitoring until the demonstration is made to and approved by the Department. In this case, the Department suggests that samples collected for any continued benchmark monitoring also be analyzed for the required input parameters for each model for efficiency. If you are an existing operator and you anticipate an exceedance of the benchmark(s) based on previous monitoring data and expect to utilize this exception(s), the Department recommends you begin the required data collection in your first year of permit coverage.

i.) Aluminum (only for discharges to freshwater):

Conditions for this exception are:

- Use of EPA's 2018 National Recommended Aluminum Aquatic Life Criteria: <https://www.epa.gov/wqc/aquatic-life-criteria-aluminum>;
- In-stream waterbody sampling for the three water quality input parameters for the recommended criteria model: pH, total hardness, and dissolved organic carbon (DOC); and
- Completion of sampling events sufficient to capture spatial and temporal variability. Sampling events must adequately represent each applicable season at the facility's location, which would likely be over the course of at least one year. An equal number of ambient waterbody samples must be collected at a single upstream and downstream location from the operator's discharge point(s) to the receiving Waters of this State. Where there exists no ambient source water upstream of the operator's discharge point(s) to the receiving waters of this State, samples of the ambient downstream waterbody conditions are sufficient.

The demonstration provided for aluminum to the Department must include, at minimum:

- A description of the sampling, analysis, and quality assurance procedures that were followed for data collection, following the guidance in Section 3 of EPA's Industrial Stormwater Monitoring and Sampling Guide. [https://mde.maryland.gov/programs/Permits/WaterManagementPermits/Documents/GDP%20Stormwater/EPA%20Industrial%20Stormwater%20Guidance/EPA\\_Monitoring\\_Guide.pdf](https://mde.maryland.gov/programs/Permits/WaterManagementPermits/Documents/GDP%20Stormwater/EPA%20Industrial%20Stormwater%20Guidance/EPA_Monitoring_Guide.pdf) ;
- The input parameters and export of results from the Aluminum Criteria Calculator, available at: <https://mdewwp.page.link/ISWGuidance>; and,
- A narrative summary of results.

ii.) Copper (only for discharges to freshwater):

Conditions for this exception are:

- Use of EPA's 2007 National Recommended Freshwater Copper Aquatic Life Criteria: <https://www.epa.gov/wqc/aquatic-life-criteria-copper>;
- In-stream waterbody sampling for the 10 water quality input parameters to the BLM for copper: pH; dissolved organic carbon (DOC); alkalinity; temperature; major cations (calcium, magnesium, sodium, and potassium); and major anions (sulfate,

- chloride);
- The water quality input parameters, with the exception of temperature, must fall within the range of conditions recommended for use in the Biotic Ligand Model (BLM), found in Table 1-1 of the Data Requirements document: <https://www.epa.gov/sites/production/files/2015-11/documents/copperdata-requirements-training.pdf>; and
- Completion of sampling events sufficient to capture spatial and temporal variability. Because some of the BLM input parameters are known to vary seasonally, the Department suggests a possible starting point of at least one sampling event per season. Sampling events must adequately represent each applicable season at the facility's location, which would likely be over the course of at least one year. An equal number of ambient waterbody samples must be collected at a single upstream and downstream location from the operator's discharge point(s) to the receiving Waters of this State. Where there exists no ambient source water upstream of the operator's discharge point(s) to the receiving Waters of this State, samples of the ambient downstream waterbody conditions are sufficient.

The demonstration provided for copper to the Department must include, at minimum:

- A description of the sampling, analysis, and quality assurance procedures that were followed for data collection, following the guidance in Section 3 of EPA's Industrial Stormwater Monitoring and Sampling Guide. [https://mde.maryland.gov/programs/Permits/WaterManagementPermits/Documents/GDP%20Stormwater/EPA%20Industrial%20Stormwater%20Guidance/EPA\\_Monitoring\\_Guide.pdf](https://mde.maryland.gov/programs/Permits/WaterManagementPermits/Documents/GDP%20Stormwater/EPA%20Industrial%20Stormwater%20Guidance/EPA_Monitoring_Guide.pdf);
- A discussion of how the data collected reflects the site-specific characteristics and how the operator considered special circumstances that may affect copper toxicity throughout the expected range of receiving water conditions;
- The input file and export of the results from the BLM software, which can be requested at: <https://www.epa.gov/wqs-tech/copper-biotic-ligandmodel>; and
- A narrative summary of results.

### **C. Corrective Action and AIM Documentation**

#### **1. Documentation within 24 Hours.**

You must document the existence of any of the conditions listed in Parts IV.A.1, IV.B.1.a, IV.B.2.a, IV.B.3.a and/or IV.B.4.a within 24 hours of becoming aware of such condition. You are not required to submit this documentation to the Department, unless specifically required or requested to do so. However, you must summarize your findings in the annual report per Part V.A.2. Include the following information in your documentation:

- a. Description of the condition or event triggering the need for corrective action review and/or AIM response. For any spills or leaks, include the following information: a description of the incident including material, date/time, amount, location, and reason for spill, and any leaks, spills or other releases that resulted in discharges of pollutants to Waters of this state, through stormwater or otherwise;
  - b. Date the condition/triggering event was identified;
  - c. Description of immediate actions taken pursuant to Part IV.A.2.a to minimize or prevent the discharge of pollutants. For any spills or leaks, include response actions, the date/time clean-up completed, notifications made, and staff involved. Also include any measures taken to prevent the reoccurrence of such releases (see Part III.D.1.b.iv); and
  - d. A statement, signed and certified in accordance with Part II.C.
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## 2. Documentation within 14 Days.

You must also document the corrective actions and/or AIM responses you took or will take as a result of the conditions listed in IV.A.1, IV.B.1.a, IV.B.2.a, and/or IV.B.3.a within 14 days from the time of discovery of any of those conditions/triggering events. Provide the dates when you initiated and completed (or expect to complete) each corrective action and/or AIM response. If infeasible to complete the necessary corrective actions and/or AIM responses within the specified timeframe, per Parts IV.A.2, IV.B.1.c, IV.B.2.c, and/or IV.B.3.c, you must document your rationale and schedule for installing the controls and making them operational as soon as practicable after the specified timeframe. If you notified the Department regarding an allowed extension of the specified timeframe, you must document your rationale for an extension, and attach your documented rationale to your next discharge monitoring report through NetDMR. Include any additional information and/or rationale that is required and/or applicable to the specified corrective action and/or AIM response in Part IV. You are not required to otherwise submit this documentation to the Department, unless specifically required or requested to do so. In addition, you must summarize your corrective actions and/or AIM responses in the annual report required in Part V.A.2.

# PART V. INSPECTIONS, MONITORING AND REPORTING

## A. *Site Inspections and Evaluations*

You must conduct the following inspections or evaluations at your facility in accordance with the monitoring procedures outlined in Part V.C. You must keep a copy of the documentation from all inspections and evaluations with your SWPPP per Part III.E.8.g.

### 1. Routine Facility Inspection

At least quarterly, you must conduct a site assessment that will review the effectiveness of the SWPPP. At least once each calendar year, the routine facility inspection must be conducted during a period when a stormwater discharge is happening. The facility inspections must be documented with a checklist (refer to Part V.A.2.a.i – Pat V.A.2.a.ix for a minimum of what to include) or other summary signed in accordance with Part II.C.2. of this permit, by qualifying personnel, with at least one member of your stormwater pollution prevention team participating. The checklist must include a certification that the site is in compliance with the SWPPP and this permit, or a record of the deficiencies and necessary follow up actions. Refer to Part IV.C Corrective Action and AIM Documentation and Part IV.A.2 Corrective Action Deadlines for appropriate time frames, when applicable.

### 2. Comprehensive Site Compliance Evaluation

You must conduct comprehensive site compliance evaluations once a year. The evaluations must be performed by qualified personnel who possess the knowledge and skills to assess conditions and activities that could impact stormwater quality at the facility and who can evaluate the effectiveness of all existing BMPs. The personnel conducting the evaluations may be either facility employees (such as pollution prevention team members) or contractors you hire. If a scheduled compliance evaluation overlaps with a routine facility inspection, the annual compliance evaluation may be used as one of the four routine facility inspections.

a. Evaluations must include all areas where industrial materials or activities are exposed to stormwater, at a minimum:

- i.) industrial materials, residue, or trash that may have or could come into contact with stormwater;
- ii.) leaks or spills from industrial equipment, drums, barrels, tanks, or other containers that have occurred within the past three years;
- iii.) offsite tracking of industrial or waste materials or sediment where vehicles enter or exit the site;
- iv.) tracking or blowing of raw, final, or waste materials from areas of no exposure to

- exposed areas;
  - v.)** evidence of, or the potential for, pollutants entering the drainage system;
  - vi.)** evidence of pollutants discharging to surface waters at all facility outfalls;
  - vii.)** the condition of and around any outfall, including flow dissipation measures to prevent scouring;
  - viii.)** training performed, inspections completed, maintenance performed, and effective operation of BMPs; and
  - ix.)** analytical monitoring results from the past year.
- b.** A report must be written summarizing the scope of the evaluation, name(s) of personnel performing the evaluation, the date of the evaluation, and all observations relating to the implementation of the SWPPP. Based on the results of the evaluation, the SWPPP must be modified as necessary. Include a summary of any incomplete actions remaining related to Corrective Actions triggered under Part IV, and include the AIM Documentation, if applicable, as required under Part IV.C.

### **3. Inactive and Unstaffed Sites Exceptions to Routine Facility Inspections**

The requirement to conduct routine facility inspections on a quarterly basis does not apply at a facility that is inactive and unstaffed, as long as there are no industrial materials or activities exposed to stormwater. Such a facility is only required to conduct an annual comprehensive site inspection in accordance with the requirements of Part V.A.2. To invoke this exception, you must maintain a statement in your SWPPP pursuant to Part III.E.5.b.iv indicating that the site is inactive and unstaffed, and that there are no industrial materials or activities exposed to precipitation, in accordance with the substantive requirements in 40 CFR 122.26(g)(4)(iii). The statement must be signed and certified in accordance with Part II.C. If circumstances change and industrial materials or activities become exposed to stormwater or your facility becomes active and/or staffed, this exception no longer applies and you must immediately resume quarterly facility inspections. If you are not qualified for this exception at the time you are authorized under this permit, but during the permit term you become qualified because your facility is inactive and unstaffed, and there are no industrial materials or activities that are exposed to stormwater, then you must include the same signed and certified statement as above and retain it with your records pursuant to Part III.E.5.b.iv.

### **4. Inspections of Active Mining-Related Areas**

Except for earth-disturbing activities conducted prior to active mining activities as defined in Appendix A, which are subject to Part VI.D, perform routine inspections of active mining areas covered by this permit, corresponding with the inspections as performed by SMCRA inspectors, of all mining-related areas required by SMCRA. Also maintain the records of the SMCRA authority representative. See Part V.A.3 for inspection requirements for inactive and unstaffed sites.

### **5. Impaired Waters Monitoring**

For purposes of this permit, your facility is considered to discharge to an impaired water if the first Waters of This State to which you discharge is identified by the State or EPA pursuant to section 303(d) of the CWA as not meeting an applicable water quality standard, or has been removed from the 303(d) list either because the impairments are addressed by an EPA-approved or established TMDL or is covered by pollution control requirements that meet the requirements of 40 CFR 130.7(b)(1). For discharges that enter a separate storm sewer system prior to discharge, the first Waters of this State to which you discharge is the waterbody that receives the stormwater discharge from the separate storm sewer system.

#### **a. Facilities Required to Monitor Discharges to Impaired Waters.**

- i.)** Discharges to impaired waters without an EPA-approved or established TMDL: Beginning in the first full quarter following [date 90 days after permit effective date] or your date of discharge authorization, whichever date comes later, you must monitor



once per year at each discharge point (except substantially identical discharge points) discharging stormwater to impaired waters without an EPA-approved or established TMDL, as follows:

Compare the list of industrial pollutants identified in Part III.E.3 to the list of pollutants for which the waterbody is impaired and for which a standard analytical method exists (see 40 CFR Part 136). You must monitor for pollutants that appear on those lists, including “indicator” or surrogate pollutants that clearly overlap those lists. Note: If the pollutants of concern for the impaired waterbody is suspended solids, turbidity of sediment/sedimentation, you must monitor for Total Suspended Solids (TSS). If a pollutant of concern is expressed in the form of an indicator or surrogate pollutant, you must monitor for that indicator or surrogate pollutant. No monitoring is required when a waterbody’s biological communities are impaired but no pollutant, including indicator or surrogate pollutants, is specified as causing the impairment, or when a waterbody’s impairment is related to hydrologic modifications, impaired hydrology, or other non-pollutant. Operators should consult the Department for any available guidance regarding required monitoring parameters under this part.

If the monitored pollutant is not detected in your discharge for three consecutive years, or it is detected by you have determined that its presence is caused solely by natural background sources, you may discontinue monitoring for that pollutant. To support a determination that the pollutant’s presence is caused solely by natural background sources, you must document that and maintain with your SWPPP, as required by Part III.E.8:

- An explanation of why you believe that the presence of the pollutant of concern in your discharge is not related to the activities or materials at your facility; and
- Data and/or studies that tie the presence of the pollutant of concern in your discharge to natural background sources in the watershed.

Natural background pollutants include those that occur naturally as a result of native soils, and vegetation, wildlife, or groundwater. Natural background pollutants do not include legacy pollutants from earlier activity on your site, or pollutants in run-on from neighboring sources that are not naturally occurring. However, you may be eligible to discontinue annual monitoring for pollutants that occur solely from these sources and should consult the Department’s Compliance Program for related guidance.

If the monitored pollutant is not detected in your discharge for here consecutive years, or it is detected but you have determined that its presence is caused solely by natural background sources, you may discontinue monitoring for that pollutant only after submitting a request to the Department’s Permitting Program with the appropriate justification and receiving verification that the request was granted.

- ii.) Discharges to impaired waters with an EPA-approved or established TMDL: For stormwater discharges to waters for which there is an EPA-approved or established TMDL, you are not required to monitor for the pollutant(s) for which the TMDL was written unless the Department informs you, upon examination of the applicable TMDL and its wasteload allocation, that you are subject to such a requirement consistent with the assumptions and requirements of the applicable TMDL and its wasteload allocation. The Department’s notice will include specifications on monitoring parameters and frequency. If there are questions, you may consult the Department’s Compliance Program for guidance regarding required monitoring under this Part.



**b. Impaired Water Exception for Inactive and Unstaffed Sites**

The requirements for impaired waters monitoring does not apply at a facility that is inactive and unstaffed, as long as there are no industrial materials or activities exposed to stormwater. To invoke this exception, you must do the following:

- i.)* Maintain a statement with your SWPPP stating that the site is inactive and unstaffed, and that there are no industrial materials or activities exposed to stormwater in accordance with the substantive requirements in 40 CFR 122.26(g) and sign and certify the statement in accordance with Part II.C.
- ii.)* If circumstances change and industrial materials or activities become exposed to stormwater or your facility becomes active and/or staffed, this exception no longer applies and you must immediately begin complying with the applicable impaired waters monitoring requirements under Part V.A.5 as if you were in your first year of permit coverage. You must submit an NOI indicating this change in operations, now that your facility has materials or activities exposed to stormwater or has become active and/or staffed.
- iii.)* If you are not qualified for this exception at the time you are authorized under this permit, but during the permit term you become qualified because your facility is inactive and unstaffed, and there are no industrial materials or activities that are exposed to stormwater, then you must submit an NOI indicating this change in operations. You may discontinue impaired waters monitoring once you have submitted the NOI, and prepared and signed the certification statement described above concerning your facility's qualification for this special exception.

**B. Required Numeric Monitoring**

This permit specifies various numeric criteria for your operations. This includes numeric limits and water quality benchmarks.

- The numeric limits are for discharges resulting from ground water infiltration and stormwater runoff from active mining areas, coal mine reclamation areas and associated storage and loading areas, and runoff from independent tipplles and associated coal preparation areas.
- This permit also stipulates water quality benchmarks that may be applicable to your discharge. You must conduct benchmark monitoring quarterly for four (4) full quarters, starting the first full monitoring period (found in Part V.C.8) that occurs after registering under this permit. For example, if you obtain permit coverage in June, then your first monitoring period is July 1 - September 30. The benchmark concentrations are not effluent limitations; a benchmark exceedance, therefore, is not a permit violation. Benchmark monitoring data are primarily for your use to determine the overall effectiveness of your control measures and to assist you in knowing when additional corrective action(s) may be necessary to comply with the effluent limitations in Part III.D, and applicable water quality limits.

Samples and measurements taken for the purpose of monitoring must be representative of the volume and nature of the monitored activity.

**1. Applicability of Monitoring**

You must monitor for any numeric or toxic benchmark parameters specified in the permit. Samples must be analyzed consistent with 40 CFR Part 136 analytical methods and using test procedures with quantitative limits at or below concentrations specified for all monitored parameters for which you are required to sample.

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## 2. Monitoring Schedule

Your stormwater monitoring will start no later than 7 days following the initial earth disturbance activity prior to active mining and follow the monitoring requirements outlined in This Part. Your active mine monitoring will start first full quarter (Part V.C.7) after registering under this permit. If your facility is subject to hardness-dependent benchmark, you are required to submit to the Department with your first discharge monitoring report (Part V.B.4) a hardness value, which is representative of your receiving water. Samples must be analyzed consistent with 40 CFR Part 136 analytical methods and using test procedures with quantitation limits at or below concentrations specified for all monitored parameters for which you are required to sample

## 3. Required Responses to Benchmark Monitoring Results

If you are a new discharger, you will be required to monitor for the benchmarks for toxic substances in the first year as required. After required samples taken, if the average of the samples is below the applicable benchmark levels (Table 1, Part IV.A.1), you may petition the Department to discontinue the benchmark monitoring. If the average of the samples taken exceeds the applicable benchmark level, you will be subject to Additional Implementation Measures (AIM) as specified in Part IV.B. See Part IV.B.5 for AIM exceptions.

## 4. Submitting Discharge Monitoring Reports (DMRs)

You must summarize and submit monitoring information electronically using NetDMR once you are granted access to this tool, unless you demonstrate a reasonable basis that precludes the use of NetDMR. Specific requirements regarding submittal of data and reports in hard copy form and for submittal using NetDMR are described below:

- a. NetDMR is a U.S. EPA tool allowing regulated Clean Water Act permittees to submit monitoring reports electronically via a secure Internet application. You must apply for access to NetDMR at <https://mdewwp.page.link/MDNetDMR> and register for a NetDMR Webinar. Before you can submit official DMRs using NetDMR you must attend a training Webinar and successfully set-up and submit test monitoring results electronically. You must complete all requirements to gain access to NetDMR within one (1) month of authorization under this permit.
- b. The permittee may be eligible for a temporary waiver by MDE from NPDES electronic reporting requirements if the permittee has no current internet access and is physically located in a geographic area (i.e., zip code) that is identified as under-served for broadband internet access in the most recent National Broadband Map from the Federal Communications Commission (FCC); or if the permittee can demonstrate that such electronic reporting of the monitoring data and reports would pose an unreasonable burden or expense to the NPDES-permitted facility. Waiver requests must be submitted in writing to the Department for written approval at least 120 days prior to the date the permittee would be required under this permit to begin using NetDMR. This demonstration shall be valid for one (1) year from the date of the Department approval and shall thereupon expire. At such time, DMRs and reports shall be submitted electronically to the Department unless the permittee submits a renewed waiver request and such request is approved by the Department. The application form for a waiver from electronic reporting requirements can be found at <http://bit.ly/NetDMR-Waiver>. All subsequent hardcopy DMRs shall be sent to the following address:

Attention: DMRs  
Maryland Department of the Environment  
WSA – Compliance Program  
1800 Washington Blvd., Suite 425  
Baltimore, MD 21230-1708

- c. If you are required to perform benchmark or other numeric discharge monitoring for specific

pollutants you must report the data at least quarterly, no later than 28 days following the Monitoring Period (Part V.C.7), and according to the other Monitoring Procedures (Part V.C).

#### 5. Exception for Inactive and Unstaffed Sites

The requirement for benchmark monitoring does not apply at facility that is inactive and unstaffed, as long as there are no industrial materials or activities exposed to stormwater. To invoke this exception, you must do the following:

- Maintain a statement onsite with your SWPPP stating that the site is inactive and unstaffed, and that there are no industrial materials or activities exposed to stormwater in accordance with the substantive requirements in 40 CFR 122.26(g) and sign and certify the statement in accordance with Part II.C; and
- If circumstances change and industrial materials or activities become exposed to stormwater or your facility becomes active and/or staffed, this exception no longer applies and you must immediately begin complying with the applicable benchmark monitoring requirements under Part V.B as if you were in your first year of permit coverage. You must indicate in your first benchmark monitoring report that your facility has materials or activities exposed to stormwater or has become active and/or staffed.
- If you are not qualified for this exception at the time you are authorized under this permit, but during the permit term you become qualified because your facility is inactive and unstaffed, and there are no industrial materials or activities that are exposed to stormwater, then you must provide written notification to the Department's Compliance Program (Part II.E.2) of this change in your next benchmark monitoring report. You may discontinue benchmark monitoring once you have notified the Department, and prepared and signed the certification statement described above concerning your facility's qualification for this special exception.

#### 6. Substantially Identical Outfalls

If your facility has two or more outfalls that you believe discharge substantially identical effluent, as documented in Part III.E.5.b, you may perform benchmark monitoring of the discharge at just one of the outfalls and report that the results also apply to the substantially identical outfall(s) provided that you perform benchmark on rotating basis of each substantially identical outfall throughout the period you are required to monitor under this permit. If stormwater contamination is identified through benchmark monitoring performed at a substantially identical outfall, you must assess and modify your control measures as appropriate for each outfall represented by the monitored outfall. The substantially identical outfall monitoring provisions are not available for numeric effluent limits monitoring.

#### 7. Exceptions for Discharges to Groundwater

For discharges to groundwater via treatment, holding, or separate facilities that are designed with no means for overflow, the associated surface water discharge monitoring and limits (Part V.B) are waived.

#### 8. Flow Monitoring

Reporting of measured flow may be required for your facility. In lieu of providing measured flow, the permittee may estimate flows and submit the following information with the NOI, and with the discharge monitoring report in the first quarter of each calendar year:

- a. A description of the methodology used to estimate flow at each outfall where flow measurement equipment is not present.
  - b. Documentation appropriate to the methodology utilized which provides information necessary to support the validity of the reported flow estimate. If actual measurements or observations are made, a description of typical sampling times, location, and persons performing the measurements/ observation should also be provided.
  - c. A description of the factors (e.g. batch discharges, intermittent operation, etc.) which cause flow at the outfall to fluctuate significantly from the estimate provided.
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### **C. Monitoring Procedures**

You must collect and analyze discharges associated with process water monitoring, as well as quarterly stormwater benchmark samples (if applicable) and document monitoring activities for the monitoring consistently with the procedures described in this section.

#### **1. Monitored Outfalls**

You must conduct monitoring as required by this permit at each outfall authorized by this permit, except benchmark monitoring for an outfall exempt from monitoring as a substantially identical outfall. In case of benchmark monitoring, if your facility has two or more outfalls that you believe discharge substantially identical effluents, based on the similarities of activities performed at outfalls and control measures, exposed materials that may significantly contribute pollutants to stormwater, and runoff coefficients of their drainage areas, you may monitor the effluent of just one of the outfalls and reported result may also apply to the substantially identical outfall(s). You must conduct monitoring as required by this permit at each outfall authorized by this permit. As required in Part III.E.5, your SWPPP must identify each outfall authorized by this permit.

#### **2. Commingled Discharges**

If discharges authorized by this permit commingle with discharges not authorized under this permit, any required sampling of the authorized discharges must be performed at a point before they mix with other waste streams, to the extent practicable. The following are some examples of mixed water source situations that should not be sampled.

- a. A common ditch that carries stormwater from properties upstream. In this case, the stormwater from the permitted facility is mixed with other water. You should find a location or locations where your facility's stormwater alone can be sampled.
- b. A partially submerged storm sewer pipe where it discharges into the receiving water body. In this case, this final discharge point should not be used as a sampling point because the stormwater flow is mixed with the receiving water.
- c. A manhole that carries stormwater not only from the permitted facility but from other stormwater sources as well. If taking a grab sample from a manhole, you should make sure that the flow in that pipe is entirely from your facility.

#### **3. Measurable Storm Events**

All required stormwater related monitoring must be performed on a storm event that results in an actual discharge from your site ("measurable storm event") that follows the preceding measurable storm event by at least 72 hours (3-days). The 72-hour (3-days) storm interval does not apply if you are able to document that less than a 72-hour (3-days) interval is representative for local storm events during the sampling period. In the case of snowmelt, the monitoring must be performed at a time when a measurable discharge occurs at your site.

For each monitoring event, except snowmelt monitoring, you must identify the date and duration (in hours) of the rainfall event, rainfall total (in inches) for that rainfall event, and time (in days) since the previous measurable storm event. For snowmelt monitoring, you must identify the date of the sampling event.

#### **4. Sample Type**

You must take a minimum of one grab sample from a discharge resulting from a measurable storm event as described above. Samples must be collected within the first 30 minutes of a measurable storm event. However, the Department does not advocate impractical or potentially unsafe sampling methods during periods of adverse weather conditions. Therefore, if it is not possible to collect the sample within the first 30 minutes of a measurable storm event, the sample must be collected as soon as practicable after the first 30 minutes and documentation must be kept with the SWPPP explaining why it was not possible to take samples within the first

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30 minutes. In the case of snowmelt, samples must be taken during a period with a measurable discharge.

For benchmark monitoring, you may use a composite sampling method instead of taking grab samples as described above. This composite method may be either flow-weighted or time weighted. Flow-Weighted composite sample means a composite sample consisting of a mixture of aliquots collected at a constant time interval, where the volume of each aliquot is proportional to the flow rate of the discharge. Composite samples must be initiated during the first 30 minutes of the same storm event. If it is not possible to initiate composite sampling within the first 30 minutes of a measurable storm event, you must initiate composite sampling as soon as possible after the first 30 minutes and keep documentation with the SWPPP explaining why it was not possible to initiate composite sampling within the first 30 minutes. Composite sampling may not be used to measure parameters that have a short holding time for processing or that degrade or transform quickly such as pH, temperature, and oil and grease (O&G).

If you monitor any pollutant more frequently than required by the permit using test procedures approved under 40 CFR Part 136, or another method required for an industry-specific waste stream under 40 CFR subchapters N or O, the results of such monitoring shall be included in the calculation and reporting of the data submitted in the DMR. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Department.

#### 5. Use of Sufficiently Sensitive Test Methods

In accordance with the 40 CFR. § 122.44(j)(1)(iv), the permittee shall use sufficiently sensitive test procedure (i.e., methods) approved under 40 CFR Part 136 or required under 40 CFR Chapter I, Subchapter N or O, for the analysis of pollutants or pollutant parameters limited in this permit. A method is considered "sufficiently sensitive" when either: (1) the method minimum level (ML) is at or below the level of the effluent limit established in this permit for the measured pollutants or pollutant parameter; or (2) the method has the lowest ML of the analytical method approved under 40 CFR Part 136 or required under 40 CFR Chapter I, Subchapter N or O for the measured pollutant or pollutant parameter. The ML is not the minimum level of detection, but rather the lowest level at which the test equipment produces a recognizable signal and acceptable calibration point for a pollutant or pollutant parameter, representative of the lowest concentration at which a pollutant or pollutant parameter can be measured with known level of confidence. For the purposes of this permit, the detection limit is the lowest concentration that can be reliably measured within specified limits of precision and accuracy for a specific laboratory analytical method during routine laboratory operating conditions (i.e. the level above which an actual value is reported for an analyte, and the level below which an analyte is reported as non-detect).

#### 6. Adverse Weather Conditions

When adverse weather conditions prevent the collection of samples according to the relevant monitoring schedule, you must take a substitute sample during the next qualifying storm event. You must keep a record with your SWPPP of any failure to monitor as specified, indicating the basis for not sampling during the usual reporting period.

#### 7. Representative Sampling

You must take all required samples and measurements at times to be representative of the quantity and quality of the discharges during the specified monitoring periods. At a minimum, samples must be taken once every quarter unless otherwise specified.

The sampling and analytical methods used must conform to procedures for the analysis of pollutants as identified in 40 CFR 136 - "Guidelines Establishing Test Procedures for the Analysis of Pollutants".

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## 8. Monitoring Periods

- a. Process generated wastewater water monitoring are required either monthly or quarterly and are based on specific requirements. Quarterly monitoring follows these 3-month intervals:
  - i.) January 1 – March 31;
  - ii.) April 1 – June 30;
  - iii.) July 1 – September 30; and
  - iv.) October 1 – December 31.

## 9. Data Recording Requirements

If you are required to perform monitoring, you must record the following information for each sample:

- a. the exact place, date, and time of sampling or measurement;
- b. the person who performed the sampling or measurement;
- c. the dates and times the analyses were performed;
- d. the person(s) who performed the analyses;
- e. the analytical techniques or methods used; and
- f. the results of all required analyses.

## ***D. Records Retention***

You must retain all records and information resulting from the monitoring activities required by this permit, including all records of analyses performed, calibration and maintenance of instrumentation, and original recordings from continuous monitoring instrumentation, for a minimum of five (5) years. This period shall be extended automatically during the course of litigation, or when requested by the Department.

# **PART VI. EARTH-DISTURBING ACTIVITIES CONDUCTED PRIOR TO ACTIVE MINING**

Stormwater discharges from earth-disturbing activities conducted prior to active mining activities (defined in Appendix A) are covered under this permit. For such earth-disturbing activities, you must comply with all applicable requirements in Parts I - VIII of this Permit except for the technology-based effluent limits in Part III.D.1.b (excluding Part III.D.1.b.xii), the inspection requirements in Part V.A.1, and the monitoring requirements in Part V.C.

Authorized Discharged from area where earth-disturbing activities have ceased and stabilization as specified in Part VI.A.9 or VI.B.11 where appropriate, has been completed (stabilization is not required for areas where active mining activities will occur), are no longer subject to Part VI requirements.

## ***A. Technology-Based Effluent Limits Applicable to All Earth- Disturbing Activities Conducted Prior to Active Mining***

The following technology-based effluent limits apply to authorized discharges from all earth-disturbing activities conducted prior to active mining activities (as defined in Appendix A).

### 1. Erosion and Sediment Control Installation Requirements

- By the time land disturbing activities commence, install and make operational down gradient sediment controls, unless this timeframe is infeasible. If infeasible you must install and make such controls operational as soon as practicable or as soon as site conditions permit.
  - All other stormwater controls described in the SWPPP must be installed and made operational no later than fourteen (14) days on each portion of the site.
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## 2. Erosion and Sediment Control Maintenance Requirements.

You must:

- Ensure that all erosion and sediment controls remain in effective operating condition.
- Wherever you determine that a stormwater control needs maintenance to continue operating effectively, initiate effort to fix the problem immediately after its discovery, and complete such work by the end of the next work day.
- When a stormwater control must be replaced or significantly repaired, complete the work within 7 days, unless infeasible. If 7 days is infeasible, you must complete the installation or repair as soon practicable.

## 3. Parameter control.

You must:

- Install sediment controls along those perimeter areas of your disturbed area that will receive stormwater, except where site conditions prevent the use of such controls (e.g. sediment basins, traps, sand bag barriers, gabions, fiber rolls, etc.).
- Remove sediment before it accumulates to one-half of the above-ground height of any perimeter control.

## 4. Sediment track-out.

For construction vehicles and equipment exiting the site directly onto paved roads, you must:

- Use appropriate stabilization techniques to minimize sediment track-out from vehicles and equipment prior to exit.
- Use additional controls to remove to remove sediment from vehicles and equipment tires prior to exit, where necessary.
- Remove sediment that is tracked out onto paved roads by end of the work day.

**NOTE:** MDE recognized that some fine grains may remain visible on the surfaces of off-site streets, other paved areas, and sidewalks eve after you have implemented sediment removal practice. Such “staining” is not a violation of Par VI.A.4

## 5. Soil or sediment stockpiles.

You must:

- Minimize erosion of stockpiles from stormwater and wind via temporary cover, if feasible.
- Prevent up-slope stormwater flows from causing erosion of stockpiles (e.g. by diverting flows around the stockpile).
- Minimize sediment from stormwater that runs off of stockpiles, using sediment controls (e.g., a sediment barrier or downslope sediment control).

## 6. Sediment basins.

If you intend to install a sediment basin to treat stormwater from your earth-disturbing activities, you must:

- Provide storage for either (1) the 2-year, 24-hour storm, or (2) 3,600 cubic feet per acre drained.
- Prevent erosion of (1) basin embankments using stabilization controls (e.g. erosion control blankets), and (2) the inlet and outlet points of the basin using erosion controls and velocity dissipation devices.

## 7. Minimize dust.

You must minimize the generation of dust through the appropriate application of water of their dust suspension techniques that minimize pollutants being discharged into surface waters.

## 8. Restrictions on use of treatment chemicals.

If you intend to use sediment treatment chemicals at your site, you are subject to the following minimum requirements:

- Use conventional erosion and sediment control prior to and after application of chemicals.
- Select chemicals suited to soil type, and expected turbidity, pH, flow rate.
- Minimize the discharge risk from stored chemicals.
- Comply with state/local requirements.
- Use chemicals in accordance with good engineering practices and specifications of chemical supplier.
- Ensure proper training'
- Provide proper SWPPP documentation.

**NOTE:** Use of Chemical Additives (defined in Appendix A) requires prior notice, indicating your intent to use them on your NOI and listing the additives in your SWPPP. In addition, the use of any cationic chemical additives that might become part of the effluent discharged, is prohibited without prior approval pursuant to Part III.D.1.b.xii. Any substances not approved by the Department are prohibited.

9. Site stabilization requirements for earth disturbing activities performed for purposes of mine site preparation (as defined in Appendix A, not applicable to construction of staging areas for structures and access roads).

You must comply with the following stabilization requirements except where the intended function of the site accounts for such disturbed earth (e.g. the earth disturbance will become actively mined, or the controls implemented at the active mining area effectively control the disturbance).

- *Temporary stabilization of disturbed areas.* Stabilization measures must be initiated immediately in portions of the site where earth-disturbing activities performed for purposes of mine site preparation have temporarily ceased, but in no case more than 14 days after such activities have temporarily ceased. In arid, semi-arid, and drought-stricken areas, or in areas subject to snow or freezing conditions, where initiating perennial vegetative stabilization measures is not possible within 14 days after earth-disturbing activities performed for purposes of mine site preparation has temporarily ceased, temporary vegetative stabilization measures must be initiated as soon as practicable. Until temporary vegetative stabilization is achieved, interim measures such as erosion control blankets with an appropriate seed base and tackifiers must be employed. In areas of the site where earth-disturbing activities performed for purposes of mine site preparation have permanently cease prior to active mining, temporary stabilization measures must be implemented to minimize mobilization of sediment or other pollution until active mining activities commence.
- *Final stabilization of disturbed areas.* Stabilization measures must be initiated immediately where earth-disturbing activities performed for purposes of mine site preparation have permanently ceased, but in no case more than 14 days after the earth-disturbing activities have permanently ceased. In arid, semi-arid, and drought-stricken areas, or in areas subject to snow or freezing conditions, where initiating perennial vegetative stabilization measures is not possible within 14 days after earth-disturbing activities have permanently ceased, final vegetative stabilization measures must be initiated as soon as possible. Until final stabilization is achieved, temporary stabilization measures, such as erosion control blankets with an appropriate seed base and tackifiers, must be used. The permittee must notify MDE when final vegetative stabilization cannot be initiated.

**B. Additional Technology-Based Effluent Limits Applicable Only to the Construction Staging Areas for Structures and Access Roads**

1. Area of disturbance.

You must minimize the amount of soil exposed during construction activities.

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## 2. Erosion and sediment control design requirements.

You must:

- Design, install and maintain effective erosion and sediment control to minimize the discharge of pollutants from construction activities. Account for the following factors in designing your erosion and sediment controls:
  - The expected amount of, frequency, intensity, and duration of precipitation.
  - The nature of stormwater runoff and run-on at the site, including factors such as impervious surfaces, slopes and site drainage features.
  - The range of soil particle sizes expected to be present on the site.
- Direct discharge from your stormwater controls to vegetated areas of your site to increase sediment removal and maximize stormwater infiltration, including any natural buffers, unless infeasible. Use velocity dissipation devices if necessary to prevent erosion when directing stormwater to vegetated areas.
- If any stormwater flow becomes or will be channelized at your site, you must design erosion and sediment controls to control both peak flowrates and total stormwater volume to minimize channel and streambank erosion and scour in the immediate vicinity of discharge points.
- If you install stormwater conveyance channels, they must be designed to avoid unstabilized areas on the site and to reduce erosion, unless infeasible. In addition, you must minimize erosion of channels and their embankments, outlets, adjacent streambanks, slopes, and downstream waters during discharge conditions through the use of erosion controls and velocity dissipation devices within and along the length of any constructed stormwater conveyance channel, and at any outlet to provide a non-erosive flow velocity.

## 3. Natural Buffers.

For any stormwater discharges from construction activities within 50 feet of a water of this State, you must comply with one of the following compliance alternatives:

- a) Provide a 50-foot undisturbed natural buffer between construction activities and the Waters of this State; or
- b) Provide an undisturbed natural buffer that is less than 50 feet supplemented by additional erosion and sediment controls, which in combination, achieve a sediment load reduction that is equivalent to a 50-foot undisturbed natural buffer; or
- c) If it is infeasible to provide an undisturbed natural buffer of any size, implement erosion and sediment controls that achieve a sediment load reduction that is equivalent to a 50-foot undisturbed natural buffer.

There are exceptions when buffer requirements do not apply:

- There is no stormwater discharge from construction disturbances to a Waters of this State;
- The natural buffer has already been eliminated by preexisting development disturbances;
- The disturbance is for the construction of a water-dependent structure or construction approved under a CWA section 404 permit;

For linear construction projects, you are not required to comply with the requirements if there are site constraints provided that, to the extent feasible, you limit disturbances within 50 feet of a water of the U.S. and/or you provide supplemental erosion and sediment controls to treat stormwater discharges from any disturbances within 50 feet of a Water of this State.

## 4. Soil and sediment stockpiles.

In addition to the requirements in Part VI.A.5, you must locate any piles outside of any natural buffers established under Part VI.B.3.

## 5. Sediment basins.

In addition to the requirements in Part VI.A.6 you must locate sediment basins outside of any

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surface waters and any natural buffers established under part VI.B.3, and you must utilize outlet structures that withdraw water from the surface, unless infeasible.

If infeasible, the permittee will notify MDE within 14 days of the determination that locating a sediment pond outside any surface waters and natural buffers is infeasible. The Permittee must obtain and comply with all necessary permits if a sediment basin must be located in any surface waters or natural buffers.

6. Native topsoil preservation.

You must preserve native topsoil removed during clearing, grading, or excavation, unless infeasible. Store topsoil in a manner that will maximize its use in reclamation of final vegetative stabilization (e.g. by keeping the topsoil stabilized with seed or similar measures). This requirement does not apply if the intended function of the disturbed area dictates that topsoil be disturbed or removed.

7. Steep slopes.

You must minimize the disturbance of steep slopes. The permit does not prevent or prohibit disturbance on steep slopes. Depending on site conditions and needs, disturbance on steep slopes may be necessary (e.g., a road cut in mountainous terrain, for grading steep slopes prior to erecting the mine office). Where steep slopes disturbances are necessary, you can minimize the disturbances to steep slopes through the implementation of a number of standard erosion and sediment control practices, such as by phasing disturbances in these areas and using stabilization practices specifically for steep grades.

8. Soil compaction.

Where final vegetative stabilization will occur or where infiltration practices will be installed, you must either restrict vehicle/ equipment use in these areas to avoid soil compaction or use soil conditioning techniques to support vegetative growth. Minimizing soil compaction is not required where compacted soil is integral to the functionality of the site.

9. Dewatering Practices.

You are prohibited from discharging ground water or accumulated stormwater that is removed from excavation, trenches, foundations, vaults or other similar points of accumulation, unless such waters are first effectively managed by appropriate controls (e.g. sediment basins or sediment traps, sediment socks, dewatering tanks, tube settlers, weir tanks, or filtration systems). Uncontaminated, non-turbid dewatering water can be discharged without being routed to a control. You must also meet the following requirements for dewatering activities:

- Discharge requirements:
    - No discharging visible floating solids or foam;
    - Remove oil, grease and other pollutants from dewatering water via an oil-water separator or suitable filtration device (such as a cartridge filter);
    - Utilize vegetated upland areas of the site, to the extent feasible, to infiltrate dewatering water before discharge. IN no case shall waters of this State be considered part of the treatment area;
    - Implement velocity dissipation devices at all points where dewatering water is discharged;
    - Haul backwash water away for disposal or return it to the beginning of the treatment process; and
    - Clean or replace the filter media used in dewatering devices when the pressure differential equals or exceeds the manufacturer's specifications.
  - Treatment chemical restriction: If you use polymers, flocculants or other chemicals to treat dewatering water, you must comply with the requirements in Parts VI.A.8.
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#### 10. Pollution prevention requirements.

- Prohibited discharges (this non-exhaustive list of non-stormwater discharges is included here as a reminder that only the only allowable non-stormwater discharges are those enumerated in Part I.C.4):
  - Wastewater from washout of concrete;
  - Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials;
  - Fuels, oils, or other pollutants used for operation and maintenance of vehicle or equipment;
  - Soaps, solvents, or detergents use in vehicle or equipment washing;
  - Toxic or hazardous substance from a spill or other release.
- Design and location requirements: Minimize the discharge of pollutants from pollutant source by:
  - Minimize exposure;
  - Using secondary containment, spill kits, or other equivalent measures;
  - Location pollution sources away from surface waters, storm sewer inlets, and drainageways;
  - Cleaning up spills immediately (do not clean by housing area down).
- Pollution prevention requirements for wash waters: Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediments basin or alternative control that provides equivalent or better treatment prior to discharge;
- Pollution prevention requirements for the storage, handling, and disposal of construction products, materials, and wastes: Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary wastes, and other materials present on the site to stormwater. Minimization of exposure is not required in cases where the exposure to stormwater will not result in a discharge of pollutants, or where exposure of a specific material or products poses little risk or stormwater contamination (such as final products and materials intended for outdoor use).

#### 11. Site Stabilization requirements for the construction of staging areas for structures and access roads (as defined in Appendix A under "Earth-disturbing activities conducted prior to active mining activities" but not applicable to earth-disturbing activities performed for purposes of mine site preparation).

You must comply with the following stabilization requirements, except where the intended functions of the site accounts for such disturbed earth (e.g., the area of construction will become actively mined, or the controls implemented at the active mining area effectively control the disturbance):

- By no later than the end of the next work day after construction work in an area has stopped permanently or temporarily ("temporarily" means the land will be idle for a period of 14 days or more but earth-disturbing activities will resume in the future", immediately initiate stabilization measures;
- If using vegetative measures, by no later than 14 days after initiating stabilization:
  - Seed or plant the area, and provide temporary cover to protect the planted area;
  - Once established, vegetation must be uniform, perennial (if final stabilization), and cover at least 70% of stabilized area based on density of native vegetation.
- If using non-vegetative stabilization, by no later than 14 days after initial stabilization:
  - Install or apply all non-vegetative measures;
  - Cover all areas of exposed soil.

**NOTE:** For the purposes of the permit, the Department will consider any of the following types of activities to constitute the initiation of stabilization: 1. Prepping the soil for vegetative or non-vegetative stabilization; 2. Applying mulch or other non-vegetative product to the exposed area; 3. Seeding or planting the exposed area; 4. Starting any of the activities in # 1-3 on a portion of the area to be stabilized, but not on the entire area; and 5. Finalizing arrangements to have

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stabilization product fully installed in compliance with the applicable deadline for completing stabilization.

**Exceptions:**

- Arid, semi-arid (if construction occurs during seasonably dry period), or drought-stricken areas:
  - Within 14 days of stopping construction work in an area, install any necessary non-vegetative stabilization measures;
  - Initiate vegetative stabilization measures;
  - Initiate vegetative stabilization as soon as conditions on the site allow;
  - Document the schedule that will be followed for initiating and completing vegetative stabilization;
  - Plan the area so that within 3 years the 70% cover requirement is met.
- Sites affected by severe storm event or other unforeseen circumstances:
  - Initiate vegetative stabilization as soon conditions on the site allow;
  - Document the schedule that will be followed for initiating and completing vegetative stabilization;
  - Plant the area so that so that within 3 years the 70% cover requirement is met.

**C. Water Quality-Based Requirements Applicable for Earth-Disturbing Activities Conducted Prior to Active Mining Activities**

The following water quality-based limits apply to earth-disturbing activities conducted prior to active mining activities defined in Appendix A, in addition to the water quality-based limits in Part III.D.2.

Stricter requirements apply if your site will discharge to an impaired water or a water that is identified by your state as Tier II water for antidegradation purposes:

- More rapid stabilization of exposed areas: Complete initial stabilization activities within 7 days of stopping earth-disturbing work.
- More frequent site inspections: Once every 7 days and within 24 hours of a storm event of 0.25 inches or greater.

**D. Inspection Requirements Applicable to Earth-Disturbing Activities Conducted Prior to Active Mining Activities.**

The following requirements supersede the inspection requirement in Part V:

**1. Inspection Frequency.**

- At least once every 7 calendar days, or
- Once every 14 calendar days and within 24 hours of a storm event of 0.25 inches or greater.

**NOTE:**

- Inspections only required during working hours;
- Inspections not required during unsafe conditions; and
- If you choose to inspect once every 14 days, you must have a method for measuring rainfall amount on site (either rain gauge or representative weather station).

**NOTE:** To determine if a storm event of 0.25 inches or greater has occurred on your site, you must either keep a properly maintained rain gauge on your site, or obtain the storm event information from a weather station that is representative of your location. For any day of rainfall during normal business hours that measures 0.25 inches or greater, you must record the total rainfall measured for that.

**NOTE:** You are required to specify in your SWPPP which schedule you will be following.

**NOTE:** "Within 24 hours of the occurrence of a storm event" means that you are required to conduct an inspection within 24 hours once a storm event has produced 0.25 inches, even if the storm event is still continuing. If you have elected to inspect bi-weekly in and there is a storm event at your site that continues for multiple days, and each day of the storm produces 0.25 inches or more of rain, you are required to conduct an inspection within 24 hours of the first day of the storm and within 24 hours after the end of the storm.

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## 2. Reduction in Inspection Frequency.

- Stabilized areas: You may reduce the frequency of inspection to once per month in any area of your site where stabilization has occurred pursuant to Part VI.A.9 or VI.B.11.
- Arid, semi-arid drought-stricken areas: If earth disturbing activities are occurring during the seasonably dry period or during a period in which drought is predicted to occur, you may reduce inspections to once per month and within 24 hours of a 0.25-inch storm event.
- Frozen conditions: You may temporarily suspend or reduce inspection to once per month until thawing conditions occur if frozen conditions are continuous and disturbed areas have been stabilized. For extreme conditions in remote areas, e.g. where transit to the site is perilous/ restricted or temperatures are routinely below freezing, you may suspend inspections until the conditions are conducive to safe access, and more frequent inspections can resume.

## 3. Areas to be Inspected

You must at minimum inspect the following area:

- Disturbed areas;
- Stormwater controls and pollution prevention measures;
- Location where stabilization measures have been implemented;
- Material, waste, borrow, or equipment storage and maintenance areas;
- Areas where stormwater flows;
- Points of discharge.

## 4. What to Check for During Inspection

At a minimum you must check:

- Whether all stormwater controls are installed, operational and working as intended;
- Whether any new or modified stormwater controls are needed;
- For conditions that could lead to a spill or leak;
- For visual signs of erosion/ sedimentation at points of discharge;
- Whether controls are operated effectively.

## 5. Inspection Report.

Within 24 hour of an inspection, complete a report that includes:

- Inspection date;
- Name and title of inspector(s);
- Summary of inspection findings;
- Rainfall amount that triggered the inspection (of applicable);
- If it was unsafe to inspect a portion of the site, include documentation of the reason and location(s);
- Earth inspection report must be signed;
- Keep a current copy of all report at the site or at an easily accessible location.

## ***E. Cessation of Requirements Applicable to Earth-Disturbing Activities Conducted Prior to Active Mining Activities.***

The requirements in Part VI no longer apply for any earth-disturbing activities conducted prior to active mining activities as defined in Appendix A, where:

1. Earth-disturbing activities have ceased; and
  2. Stabilization has been met consistent with Part VI.A.9 and Part VI.B.11 (not required for areas where active mining activities will occur).
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## PART VII. STANDARD PERMIT CONDITIONS

### A. ***Compliance with this General Permit and Water Pollution Abatement Statutes***

You must comply at all times with the terms and conditions of this permit, the provisions of the Environment Article, Title 7, Subtitle 2 and Title 9, Subtitles 2 and 3 of the Annotated Code of Maryland, and the Clean Water Act, 33 U.S.C. § 1251 et seq. Any noncompliance with any of the requirements of this permit constitutes a violation of the Clean Water Act. As detailed in Part IV (Corrective Actions) of this permit, failure to take any required corrective actions constitute an independent, additional violation of this permit and the Clean Water Act. As such, any actions and time periods specified for remedying noncompliance do not absolve parties of the initial underlying noncompliance. However, where corrective action is triggered by an event that does not itself constitute permit noncompliance, such as an exceedance of an applicable benchmark, there is no permit violation provided you take the required corrective action within the relevant deadlines established in Part III.D.

### B. ***Submitting Additional or Corrected Information***

When you become aware that you failed to submit any relevant facts or submitted incorrect information in the NOI or in any other report to the Department, you must submit the facts or information to the Department within 30 days.

### C. ***Water Construction and Obstruction***

This permit does not authorize you to construct or place physical structures, facilities, or debris or undertake related activities in any Waters of the State. Operation within the floodplain may require additional permit coverage and may justify flood insurance in those flood prone areas, especially due to climate change effects on increased frequency of flooding.

### D. ***Adverse Impact***

The permittee shall take all reasonable steps to minimize or prevent any adverse impact to waters of the State or to human health resulting from noncompliance with any effluent limitations specified in this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

### E. ***Bypass***

Any bypass of treatment facilities necessary to maintain compliance with the terms and conditions of this permit is prohibited unless:

1. the bypass is unavoidable to prevent a loss of life, personal injury or substantial physical damage to property, damage to the treatment facilities which would cause them to become inoperable, or substantial and permanent loss of natural resources;
2. there are no feasible alternatives;
3. notification is received by the Department within 24 hours (if orally notified, then followed by a written submission within five calendar days of the permittee's becoming aware of the bypass). Where the need for a bypass is known (or should have been known) in advance, this notification shall be submitted to the Department for approval at least ten calendar days before the date of bypass or at the earliest possible date if the period of advance knowledge is less than ten calendar days; and
4. the bypass is allowed under conditions determined by the Department to be necessary to minimize adverse effects.

### F. ***Conditions Necessary for Demonstration of an Upset***

An upset shall constitute an affirmative defense to an action brought for noncompliance with technology-based effluent limitations only if the permittee demonstrates, through properly signed, contemporaneous operating logs, or other relevant evidence, that:

1. an upset occurred and that the permittee can identify the specific cause(s) of the upset;

2. the permitted facility was at the time being operated in a prudent and workman-like manner and in compliance with proper operation and maintenance procedures;
3. the permittee submitted a 24-hour notification of upset in accordance with the reporting requirements of Corrective Actions above;
4. the permittee submitted, within five (5) calendar days of becoming aware of the upset, documentation to support and justify the upset; and
5. the permittee complied with any remedial measures required to minimize adverse impact.

#### **G. *Removed Substances***

Wastes such as solids, sludges, or other pollutants removed from or resulting from treatment or control of wastewaters or facility operations, must be disposed of in a manner to prevent any wastes or runoff from wastes from contacting waters of the State.

#### **H. *Right of Entry***

You must permit the Secretary of the Department, the Regional Administrator for the EPA, or their authorized representatives, upon the presentation of credentials, to:

1. enter upon your premises where a discharges' source is located or where any records are required to be kept under the terms and conditions of this permit;
2. access and copy, at reasonable times, any records required to be kept under the terms and conditions of this permit;
3. inspect, at reasonable times, any monitoring equipment or monitoring method required in this permit;
4. inspect, at reasonable times, any collection, treatment, pollution management, or discharge facilities required under this permit;
5. sample, at reasonable times, any discharge of pollutants; and
6. take photographs (which may require direction for reasons of national security).

#### **I. *Availability of Reports***

Except for data determined to be confidential under the Maryland Public Information Act and/or Section 308 of the Clean Water Act, 33 U.S.C. § 1318, all submitted data must be available for public inspection at the offices of the Department and the Regional Administrator of the Environmental Protection Agency.

#### **J. *Permit Modification***

The Department may revoke this permit or modify this permit to include different limitations and requirements, in accordance with the procedures contained in COMAR 26.08.04.10 and 40 C.F.R. §§ 122.62, 122.63, 122.64 and 124.5.

#### **K. *Total Maximum Daily Load (TMDL)***

The permit may be reopened in accordance with Maryland's Administrative Procedures Act to incorporate future Total Maximum Daily Load requirements.

#### **L. *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 this general permit.

#### **M. *Toxic Pollutants***

You must comply with effluent standards or prohibitions for toxic pollutants established under the Federal Clean Water Act, or under Section 9-314 and Sections 9-322 to 9-328 of the Environment Article, Annotated Code of Maryland. You must be in compliance within the time provided in the regulations that establish these standards or prohibitions, even if this permit has not yet been modified to incorporate the requirement.

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**N. Oil and Hazardous Substances Prohibited**

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve you from any responsibility, liability, or penalties to which the permittee may be subject under Section 311 of the Clean Water Act (33 U.S.C. § 1321), or under the Annotated Code of Maryland.

**O. Duty to Mitigate**

The permittee shall take all reasonable steps to minimize or prevent any adverse impact to waters of the State or to human health resulting from noncompliance with any effluent limitations specified in this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

**P. Permit Actions**

Authorization under this permit may be modified, revoked and reissued, or terminated for cause. At any time at the discretion of MDE or the U.S. Environmental Protection Agency, or if there is evidence indicating that stormwater discharges authorized by this permit cause, have the reasonable potential to cause or contribute to an excursion above any applicable water quality standard, MDE may require the owner or operator of such discharge to obtain an individual permit or alternative general permit coverage. A request by the permittee for a modification, revocation or reissuance, termination, or a notification of planned changes or anticipated noncompliance does not suspend the permittee's obligation to comply with all permit conditions.

**Q. Civil and Criminal Liability**

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 to which the permittee is or may be subject under section 309 of the CWA, with Title 9 of the Environment Article, Annotated Code of Maryland, any applicable State or Federal law, or regulation under authority preserved by section 510 of the CWA.

**R. Property Rights/Compliance with Other Requirements**

The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

**S. Severability**

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.

**T. Water Construction and Obstruction**

This permit does not authorize you to construct or place physical structures, facilities, or debris or undertake related activities in any waters of the State.

**U. Action on Violations**

The issuance or reissuance of this permit does not constitute a decision by the State not to proceed in an administrative, civil, or criminal action for any violations of State law or regulations occurring before the issuance or re-issuance of this permit, nor a waiver of the State's right to do so.

**V. Civil Penalties for Violations of Permit Conditions**

In addition to civil penalties for violations of State water pollution control laws set forth in Section 9-342 of the Environment Article, Annotated Code of Maryland, the Clean Water Act provides that any person who violates Section 301, 302, 306, 307, 308, 318, or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under Section 402 of the Act or in a permit issued under Section 404 of the Act, is subject to a civil penalty not to exceed \$37,500 per

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day for each violation. Statutory penalties of the CWA are subject to the Civil Monetary Penalty Inflation Adjustment Rule (40 CFR 19.4).

#### **W. Criminal Penalties for Violations of Permit Conditions**

In addition to criminal penalties for violations of State water pollution control laws set forth in Section 9-343 of the Environment Article, Annotated Code of Maryland, the Clean Water Act provides that:

1. Any person who negligently violates Section 301, 302, 306, 307, 308, 318, or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under Section 402 of the Act, or in a permit issued under Section 404 of the 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 one (1) year, or by both.
2. Any person who knowingly violates Section 301, 302, 306, 307, 308, 318, or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under Section 402 of the Act, or in a permit issued under Section 404 of the Act, is subject to a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than three (3) years, or by both.
3. Any person who knowingly violates Section 301, 302, 306, 307, 308, 318, or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under Section 402 of the Act, or in a permit issued under Section 404 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, is subject to a fine of not more than \$250,000 or imprisonment of not more than fifteen (15) years, or both. A person that is a corporation, must, upon conviction, be subject to a penalty of not more than \$1,000,000.
4. Any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with or renders inaccurate any monitoring device or method required to be maintained under the Act, is subject to a fine of not more than \$10,000 or by imprisonment for not more than two (2) years, or by both.

#### **X. Duty to Provide Information**

You must provide within a reasonable time, any information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit to the Department. You must also provide copies of records required to be kept by this permit to the Department, upon request.

#### **Y. Administrative Penalties for Violations of Permit Conditions.**

In addition to administrative penalties for violations of State water pollution control laws set forth in Section 9-342 of the Environment Article, Annotated Code of Maryland, the Clean Water Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to an administrative penalty, as follows:

1. Class I Penalty. Not to exceed the maximum amounts authorized by Section 309(g)(2)(A) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently \$16,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed \$37,500).
2. Class II Penalty. Not to exceed the maximum amounts authorized by Section 309(g)(2)(B) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently \$16,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed \$187,500).

#### **Z. Proper Operation and Maintenance.**

The permittee shall at all times properly operate and maintain all systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance

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with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance requires the installation and operation of backup, auxiliary, or similar systems or controls, by a permittee when necessary to achieve compliance with the conditions of the permit.

#### **AA. Reopener Clause for Permits**

This permit must be modified, or alternatively, revoked and reissued, to comply with any applicable effluent standard or limitation issued or approved under Sections 301, 304, and 307 of the Clean Water Act [33 USCS §§ 1311, 1314, 1317] if the effluent standard or limitation issued or approved:

1. contains different conditions or is otherwise more stringent than any effluent limitation in this permit; or
2. controls any pollutant not limited in this permit. This permit, as modified or reissued under this section, must also contain any other requirements of the Act then applicable.

## **Part VIII. AUTHORITY TO ISSUE GENERAL NPDES PERMITS**

On September 5, 1974, the Administrator of the EPA approved the proposal submitted by the State of Maryland for the operation of a permit program for discharges into navigable waters under Section §402 of the federal Clean Water Act, 33 U.S.C. §Section 1342. On September 30, 1991, the Administrator of the EPA approved the proposal submitted by the State of Maryland for the operation of a general permit program. Under the approvals described above, this general discharge permit is both a State of Maryland general discharge permit and an NPDES general discharge permit.

*D. Lee Currey*

D. Lee Currey (Nov 12, 2022 13:16 EST)

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D. Lee Currey, Director  
Water and Science Administration