Maryland
Department of the Environment

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# GENERAL PERMIT FOR DISCHARGES FROM MINERAL MINES, QUARRIES, BORROW PITS AND CONCRETE AND ASPHALT PLANTS

**GENERAL DISCHARGE PERMIT NO. 26MM** **NPDES PERMIT NO. MDG49**

## DRAFT FINAL

**Effective Date:** _ **Expiration Date:**

**PART I. PERMIT APPLICABILITY ..... 2**

A. Geographic Coverage ..... 3
B. Facilities Covered ..... 3
C. Eligible Discharges ..... 3
D. Limitations on Coverage ..... 4
E. No Exposure Certification ..... 5
F. Alternative Permit Coverage ..... 5
G. Continuation of an Expired General Permit ..... 5

**PART II. AUTHORIZATION UNDER THIS PERMIT ..... 6**

A. How to Obtain Authorization ..... 6
B. Deadlines for Coverage ..... 8
C. Required Signatures ..... 9
D. Failure to Notify ..... 10
E. Additional Notification ..... 10
F. Changes in Permit Coverage ..... 11
G. Requirement to Post a Sign of your Permit Coverage. ..... 11

**PART III. CONTROL MEASURES AND EFFLUENT LIMITS ..... 12**

A. Control Measures ..... 12
**1.** Control Measure Selection and Design Considerations ..... 12
**2.** Control Measures and Non-Numeric Technology-Based Effluent Limits ..... 13
**a.** Minimize Exposure ..... 13
**b.** Good Housekeeping. ..... 13
**c.** Maintenance. ..... 14
**d.** Spill Prevention and Response Procedures. ..... 15
**e.** Erosion and Sediment Controls ..... 15
**f.** Management of Stormwater. ..... 17
**g.** Salt Storage Piles or Piles Containing Salt. ..... 17
**h.** Sector Specific Numeric Effluent Limits. ..... 17
**i.** Employee Training. ..... 17
**j.** Non-Stormwater Discharges. ..... 18
**k.** Dust Generation and Vehicle Tracking of Industrial Materials. ..... 18
B. Water Quality-Based Effluent Limitations ..... 18
**1.** Site-Specific Water Quality-Based Actions. ..... 18
**2.** Discharges to Water Quality Impaired Waters ..... 19
**3.** Tier II Antidegradation Requirements for New or Increased Dischargers ..... 19
**4.** Criteria Selection ..... 19
C. Stormwater Pollution Prevention Plan (SWPPP) Requirements ..... 19

**PART IV. CORRECTIVE ACTIONS AND ADDITIONAL IMPLEMENTATION MEASURES (AIM).....24**

A. Corrective Action.....24
**1.** Conditions Requiring SWPPP Review, Revision and Implementation to Ensure Effluent Limits are Met.....24
**2.** Conditions Requiring SWPPP Review to Determine if Modifications Are Necessary.25
**3.** Corrective Action Deadlines.....25
**4.** Effect of Corrective Action.....26
**5.** Substantially Identical Discharge Points (SIDPs) Consideration.....26
B. Additional Implementation Measures (AIM).....26
**1.** AIM Benchmark Action Level 1:.....26
**2.** AIM Benchmark Action Level 2:.....27
**3.** AIM Benchmark Action Level 3+:.....27
**4.** AIM Exceptions.....28
C. Corrective Action and AIM Documentation.....29
**1.** Documentation within 24 Hours.....29
**2.** Documentation within 14 Days.....29

**PART V. INSPECTIONS, MONITORING, AND REPORTING.....30**

A. Site Inspections and Evaluations.....30
**1.** Routine Facility Inspection.....30
**2.** Quarterly Visual Assessment of Stormwater Discharges.....32
B. Monitoring and Numeric Limit Requirements.....33
**1.** Applicability of Monitoring and Numeric Limits.....33
**2.** Benchmark Monitoring.....34
**3.** Impaired Waters Monitoring.....34
**4.** Benchmark Exception for Inactive and Unstaffed Sites.....35
**5.** Substantially Identical Discharge Points (SIDP).....36
**6.** Exception for Discharges to Groundwater.....36
**7.** Flow Monitoring.....36
C. Monitoring Sampling and Analysis Procedures.....36
**1.** Monitored Discharge points.....36
**2.** Commingled Discharges.....37
**3.** Measurable Storm Events.....37
**4.** Sample Type.....37
**5.** Adverse Weather Conditions.....37
**6.** Monitoring Periods.....38

**PART VI. STANDARD PERMIT CONDITIONS.....38**

**PART VII. AUTHORITY TO ISSUE GENERAL NPDES PERMITS.....455**

**Appendix A - Industry Specific Sectors**
**Appendix B - Quarterly Visual Assessment Form**
**Appendix D - Sector-Specific Requirements for Industrial Activity**
**Appendix E – Definitions & Acronyms**

## PART I. PERMIT APPLICABILITY

By this National Pollutant Discharge Elimination System (NPDES) permit and the appendixes herein incorporated, the Maryland Department of the Environment (the Department or MDE) authorizes the discharge of stormwater and certain wastewater to waters of this State. This authorization is only for facilities covered (Part I.B) located in the state of Maryland (Part I.A), who have submitted a notice of intent (NOI) and received written approval from the Department to discharge in accordance with the eligibility requirements and other conditions in this permit and consistent with your NOI, as on file with the Department (Part II). This authorization is pursuant to the provisions of Title 9 of the Environment 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. "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 applies to facilities operating within the state of Maryland.

## B. *Facilities Covered*

This permit is for operators whose primary industrial activity is found in Appendix A, and who either (1) have been covered under previous permit 15-MM or (2) have a stormwater discharge associated with industrial activity, as defined in Appendix E, and/or a process water discharge to surface and/or groundwater.

## C. *Eligible Discharges*

The following discharges may be covered under this permit:

1. Stormwater discharges associated with industrial activity for any primary industrial activities and co-located industrial activities if that activity is listed in Appendix A, or discharges previously covered under permit 15-MM;
2. Discharges subject to any of the following effluent limitations guidelines (ELGs) listed in Table 1-1;

Table 1-1. 26MM Applicable Effluent Limitations Guidelines (ELGs)

| **Regulated Discharge** | **40 CFR Section** | **26-MM Sector** |
|---|---|---|
| Discharges resulting from spray down or intentional wetting of logs at wet deck storage areas | Part 429, Subpart I | A (Appendix D Part A.7) |
| Runoff from asphalt emulsion facilities | Part 443, Subpart A | D (Appendix D Part D.5) |
| Runoff from material storage piles at cement manufacturing facilities | Part 411, Subpart C | E (Appendix D Part E.5) |
| Mine dewatering discharges at crushed stone, construction sand and gravel, or industrial sand mining facilities | Part 436, Subparts B, C, and D | J (Appendix D Part J.9) |

3. Non-stormwater discharges from:
   - **a.** water used to fight active fires (not from fire system cleaning or testing),
   - **b.** pavement wash waters provided that detergents or hazardous cleaning products are not used (e.g., bleach, hydrofluoric acid, muriatic acid, sodium hydroxide, nonylphenols), and the wash waters do not come into contact with oil and grease deposits, sources of pollutants associated with industrial activities (see Part III.C.3), or any other toxic or hazardous materials, unless residues are first cleaned up using dry clean-up methods (e.g., applying absorbent materials and sweeping, using hydrophobic mops/rags) and you have implemented appropriate control measures to minimize discharges of mobilized solids and other pollutants (e.g., filtration, detention, settlement);
   - **c.** landscape watering, only if all pesticides, herbicides, and fertilizer have been applied in accordance with the approved labeling;
   - **d.** routine external building wash down that does not use detergents or hazardous cleaning products and any dislodged paint chips are filtered;
   - **e.** uncontaminated condensate from air conditioners, coolers, and other compressors and from the outside storage of refrigerated gases or liquids;
   - **f.** irrigation drainage;
   - **g.** uncontaminated ground water or spring water;
   - **h.** foundation or footing drains where flows are not contaminated with process materials;
   - **i.** incidental windblown mist from cooling towers that collects on rooftops or adjacent portions of your facility, but not intentional discharges from the cooling tower (e.g.,

"piped" cooling tower blowdown or drains);

**j.** waste wash water at concrete plant operations from vehicle wash, and rinsing concrete mixer trucks, mixing equipment, and moulds or forms, to surface or groundwaters (Appendix D Part E.6);

**k.** miscellaneous wastewater from spillage at ready-mix plants and concrete manufacturing plants to surface or groundwaters;

**l.** discharges for earth-disturbing activities conducted prior to active mining activities (Appendix D Part J.4), as defined in Appendix D Part J.3.2.

**m.** process generated wastewater from mining operations (Appendix D Part J.9);

**n.** vehicle washwater from mining operations (Appendix D Part J.10); and

**o.** process generated wastewater from hydrodemolition operations to groundwaters (Appendix D Part AD.c).

**4.** Use of chemical additives (defined in Appendix E) requires prior notice, indicating your intent to use them on your NOI and listing the additives and any pertinent associated documentation in your Stormwater Pollution Prevention Plan (SWPPP). In addition, the use of Cationic Chemical Additives (defined in Appendix E) for sediment control is subject to the Department's approval policy as outlined in Erosion and Sediment Controls requirements (Part III.A.2.e) of this permit. Any substances not approved by the Department are prohibited.

**5.** Discharges that are not otherwise required to obtain NPDES permit authorization but are commingled with discharges that are authorized under this permit.

## D. *Limitations on Coverage*

The following discharges are not eligible for coverage under this permit. Additional limitations on coverage for each sector covered under this permit are listed in Appendix D.

**1.** Stormwater discharges associated with construction activity, as defined in Appendix E, are not eligible for coverage under this permit, unless in conjunction with the allowable mining activities as specified in Appendix D Part J.3.2.a;

**2.** Discharges subject to effluent limitations guidelines (ELGs), as defined in Appendix E, other than those listed in Part I.C.2;

**3.** Stormwater discharges that are mixed with non-stormwater, other than those non-stormwater discharges listed in Part I.C.3 or Part I.C.4;

**4.** Stormwater discharges for which a NPDES permit has been terminated (other than at your request) or denied, or those for which the Department requires an individual permit to address stormwater discharges or an alternative general permit (Part I.F.3);

**5.** The discharge of wastewater from steam cleaning or cleaning with detergents of vehicle and equipment, including tank cleaning operations;

**6.** A new discharger discharging to water quality "impaired waters," as defined in Appendix E, 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 documentation to support that the discharge will not cause or contribute to a violation of water quality standards. Documentation is to include data or technical information demonstrating:

***i.)*** For discharges to waters without a EPA approved or established TMDL that ,at the point of discharge, the discharge will meet in-stream water quality criteria for the pollutants for which the water is impaired; or

***ii.)*** For discharges to 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 dischargers 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 the Department determines that your discharge will not contribute to the existing impairment, or determines additional controls or limits are required (Parts I.F.1 and III.B.1). You must retain this documentation onsite with your SWPPP.

### E. *No Exposure Certification*

If your facility has no exposure of industrial materials or activities to rain, snow, snowmelt, or runoff, and meets the requirements for a no exposure exclusion from permitting under 40 CFR §122.26(g), you may file a No Exposure Certification (NEC). If you believe you qualify for this exclusion, refer to the State's "Guidance Manual for No Exposure" and apply using the Department's NEC (found on MDE's website at https://mdewwp.page.link/NEForm). The Department will review your form and associated documentation and confirm if your exemption is valid.

### F. *Alternative Permit Coverage*

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 Notice of Intent (NOI) to be submitted, after which you must cease discharges that were covered by this permit.

1. If the Department determines that your discharge may cause water quality standards to be violated in the receiving water, then the Department may require you to implement additional controls or meet numeric limits as part of your authorization or you may be required to obtain an individual NPDES discharge permit. If the Department requires additional controls or numeric limits (Part III.B.1), they will be specified in your authorization letter. If the Department requires you to apply for an individual permit, the Department will notify you in writing that an individual permit application is required. This notification will include a brief statement of the reasons for this decision, instructions for submitting an individual permit application and deadlines for completing your application.
2. For discharges subject to stormwater ELGs under 40 CFR, Subchapter N, only those stormwater discharges identified in Table 1-1 are eligible for coverage under this permit. If any stormwater discharges at your facility are subject to any other ELGs or new source performance standards under 40 CFR Subchapter N, then you must apply for an individual NPDES permit or coverage under an industry-specific general permit for those stormwater discharges. This permit may cover parts of your facilities not covered by ELGs or new source performance standards. For a complete list of current ELGs by industry, see the indicated 40 CFR part on the Environmental Protection Agency's (EPA) website for Industrial Regulations (http://www.epa.gov/waterscience/guide/industry.html). If your industry is included in this list then you should review the applicable 40 CFR part to determine if you are subject to ELGs for stormwater.
3. If the Department has issued an industry-specific general permit addressing stormwater and wastewater discharges from your primary industrial activity, you should apply for coverage (including stormwater) under that permit.
4. You may request to be excluded from coverage under this permit by applying for an individual state NPDES discharge permit or submitting an NOI for coverage under another general permit to the Department. The Department may grant your request if the Department determines your reasons are adequate. If you are issued an individual NPDES permit or apply for coverage under an industry-specific general permit, the Department may terminate your coverage under this permit.

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

Note that if this permit is not reissued or replaced prior to the expiration date, it will be administratively continued in accordance with section 558(c) of the Administrative Procedure Act (see 40 CFR 122.6) and remain in force and effect for operators that were

covered prior to its expiration. All operators authorized to discharge prior to the expiration date of this permit will automatically remain covered under this permit until the earliest of:

1. The date the operator is authorized for coverage under a new version of this permit following the timely submittal of a complete and accurate NOI. (Standard Condition Part VI.E). Note that if a timely NOI for coverage under the reissued or replacement permit is not submitted, coverage will terminate on the date that the NOI was due;
2. The date a valid Notice of Termination (NOT) is processed and acknowledged by the Department;
3. Issuance of an individual permit for the facility's discharge(s); or
4. A final permit decision by the Department not to reissue this permit, at which time the Department will identify a reasonable time period for covered operators to seek coverage under an alternative general permit or an individual permit. Coverage under this permit will terminate at the end of this time period.

# 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 prior to discharge in accordance with Part III to meet numeric and non-numeric effluent limits;
- Submit a complete and accurate Notice of Intent (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 III.C of this permit.

Based on a review of your NOI or Transfer Request, the Department may delay your authorization for further review or deny coverage under this permit and require submission of an application for an individual NPDES permit (Part I.F). In these instances, the Department will notify you in writing of the delay, or of the request for submission of an individual NPDES permit application or alternative general permit NOI.

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

**a.** Notice of Intent (NOI)

You must complete all information required on this permit's corresponding NOI form found at https://mdewwp.page.link/MMGP, or an equivalent electronic (eNOI) form provided by the Department. Detailed instructions are included on the NOI or eNOI form. If you operate multiple facilities you must submit an NOI or eNOI, payment (Part II.A.2) and SWPPP (Part II.A.3) for each noncontiguous site. Once the eNOI electronic form is available, all applicants must use the eNOI form. When submitting electronically, verification that you meet the signature requirements is required. However until the eNOI is available the completed and signed copy of the NOI and payment should be sent to the following address:

Maryland Department of the Environment
P.O. Box 2057
Baltimore MD 21203-2057

You are required to provide the following information on the appropriate NOI form.

- Facility Operator Information including your name, mailing address, email address, telephone number, IRS Employer Identification Number (EIN) and Worker's Comp Insurance company and policy.
- Facility Information including the facility location, including physical address and coordinates in degrees decimal; the primary and any subsequent co-located Standard Industrial Classification (SIC) codes relevant to this permit, 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 presently inactive and unstaffed[1].

- Information on the receiving waters of the industrial stormwater discharge. Identify the receiving water body(s) and 8 digit identifier for your discharges, including whether they qualify as high quality Tier II, and identification of any impairments. Specify the MS4 jurisdiction you operate in.
- Identify who has prepared the Stormwater Pollution Prevention Plan (SWPPP), including email and phone number, along with how you have provided the SWPPP to the Department.
- Document discharge type and flow (expressed as gallons per day) for each process generated wastewater discharge and describe each discharge point and monitoring point.
- Identify which industry sector benchmarks, process wastewater numeric limits and ELGs apply to the operation.
- Clarify which limits apply for each specific discharge point at your operation.
- If you intend to use cationic chemical additives, include the approved product you intend to use.
- Selection of appropriate annual fee or fee exemption;
- Identify if your operation is within a census tract with an EJ Score >=0.76. (defined in Appendix E).
- Identify if your operation is within the Base Flood Elevation (BFE). (defined in Appendix E).
- Provide the Signatory name, title, contact information and their signature. Provide the NOI preparer information, including phone number and email address.

**b.** Transfer of Authorization.

For transfer of permit coverage, you can complete the Permit Transfer Request Form for General NPDES Permits found on the Department's website or at https://mdewwp.page.link/GPXferForm, or an equivalent electronic (eNOI) form provided by the Department. Detailed instructions are included with the form. If you operate multiple facilities, you must submit a Transfer Request 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 discharge points, and other information given on the original NOI remain correct or updates this information.
- The new permittee confirms in writing that either they will follow the existing stormwater pollution prevention plan or that they have developed a new plan.
- 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

[1] This indicates whether the exemptions for "inactive and unstaffed" are being considered, when such facilities no longer have industrial activities or materials exposed to stormwater. The Department is allowing exception in Part V, when facilities will not be contributing pollutants in stormwater discharges. These facilities could alternatively submit an NEC, terminating permit coverage. However, the Department realizes that some facilities plan to recommence industrial activity in the future and therefore may wish to keep active permit coverage. Appendix D includes an additional allowance for inactive and unstaffed sites in Sector J.

**a.** The initial and annual permit fees are specified in COMAR 26.08.04.09-1(F)(2)(b), and will be listed in NOI. You must submit the initial permit fee when applying for coverage, by either sending in a check with your NOI, or by paying via credit card in coordination with Department staff. Annual fees will be invoiced by the Department based on information in your NOI.

**b.** If the initial fee is being paid by check it must be made payable to the Maryland Department of the Environment and sent with the completed NOI to:

Maryland Department of the Environment
P.O. Box 2057
Baltimore, MD 21203-2057

**c.** If you pay the NOI 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 Department 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 operator of a facility as a result of a transfer of authorization is responsible for any fees unpaid by the former operator.

**e.** Any permittee making facility modifications to reduce water discharged may be entitled to an annual fee reduction equivalent to the reductions achieved each year after the first year of the permit. The permittee shall submit before and after photographs and site plans documenting changes made to the Department at least 90 days before the annual billing date.

**f.** You must give notice as described in Part II.F of any changes in operations that may change the applicable fee.

**3.** SWPPP

Proper formats for submitting your SWPPP to the Department are provided below.

**a.** You should not include any confidential information in your submitted SWPPP, which will be a public document available for review by the public.

**b.** You must submit an electronic copy of the SWPPP to the Department and maintain a copy available onsite. If the updated SWPPP is maintained only in hardcopy, a scanned version of this is acceptable. Your electronic copy (PDF, JPEG or Word) of the SWPPP must be provided to the Department by one of these methods.

***i.)*** Including a file on electronic media (CD, DVD, USB drive, or other approved media) along with your mailed copy of the NOI.

***ii.)*** Emailing the file to swppp.permit@maryland.gov when you send your NOI to the Department. The email cannot exceed 25 MB and so you may need to use more than one email to deliver the entire file. The email subject line should include "26-MM", your previous registration number (if you had previous coverage under the 15-MM) and your facility name.

***iii.)*** Posting a copy of the SWPPP using your NetDMR (See Part V.B.4) account when you send your NOI to the Department.

***iv.)*** Providing the Department a link (URL) to your document on your NOI, which provides access to your SWPPP on a publicly available company website.

***v.)*** Other electronic means that you make accessible to the Department such as a link to DropBox, Google Drive, SkyDrive, eNOI, etc.

## B. *Deadlines for Coverage*

If you have missed the deadline as provided in the following table to submit your i) No Exposure Certification, or ii) an NOI, SWPPP and fee payment or iii) transfer request, or iv) modification request, any and all discharges from your industrial activities will be unauthorized under the CWA or state law until they are covered by this or a different NPDES permit. The Department may take enforcement action for any unpermitted discharges that occur between the commencement of discharging and discharge

authorization. Late submittals will be accepted, but authorization to discharge will not be retroactive.

| Category | Coverage Submittal Deadline |
|---|---|
| Existing operators – in operation as of the effective date of this permit and previously authorized for coverage under 15-MM. | Within 6 months after the effective date of this permit. Authorization to discharge under 15-MM continues in the interim. |
| New operators or new sources | A minimum of 60 days prior to commencing discharge. |
| New operator of an existing operation - transfer of 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 operator. |
| A request to modify an existing authorization for a change of the chemical additive used. | A modification for use of any approved cationic chemical additive must be submitted at least 7 days prior to use. All other modification requests must be submitted within 7 days of the change. |
| Other Eligible Operators – in operation prior to permit effective date, but not covered under the 15-MM or another NPDES permit. | Immediately, to minimize the time discharges from the facility will continue to be unauthorized. |

## C. *Required Signatures*

1. Any person signing documents in accordance with Part 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. All applications, including NOIs, transfer requests, and No Exposure Certifications must be signed by a Signatory as defined in 40 C.F.R. § 122.22, and as defined in COMAR 26.08.04.01-1(B)(5), 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 including 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 Limited Liability Company (LLC*): By a member of the LLC with authority under the LLC's Articles of Organization, or the functional equivalent of a responsible corporate officer as defined in paragraph (a) above;
   - **c.** *For a partnership or sole proprietorship:* By a general partner or the proprietor, respectively;

**d.** *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.** 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:
**a.** the authorization is made in writing by a Signatory;
**b.** 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 plant manager, operator of a well or a well field, 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
**c.** 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 when, or before, submitting 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 this State without an appropriate discharge permit, then you are in violation of the Federal Clean Water Act and/or of the Environment Article, Annotated Code of Maryland, and may be subject to penalties.

## E. *Additional Notification*

**1.** Municipal Separate Storm Sewer System (MS4)
If authorized stormwater or wastewater from your facility discharges into a Municipal Separate Storm Sewer System (MS4) you must notify the MS4 that you are registered under this permit if the system is regulated by a NPDES permit. If the MS4 notifies you of additional requirements that you must meet to discharge into that system then you must comply with those requirements to stay eligible for this permit.

**2.** Wastewater Pollution Prevention and Reclamation Program
When directed to contact the Department's Wastewater Pollution Prevention and Reclamation Program use this address and phone number:

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

**3.** Compliance Program
When directed to contact the Department's Compliance Program use one of the following addresses and phone numbers as applicable for your operations. To determine which Sector applies to your facility, refer to Appendix A.

For mining operations (Primary Activity in Sectors J):
Maryland Department of the Environment,
LMA - Mining Program, 1800 Washington Blvd., Suite 655, Baltimore MD 21230
Phone: 410-537-3557

For non-mining operations (All Primary Activity in Sectors other than J):
Maryland Department of the Environment
WSA – Compliance Program, 1800 Washington Blvd., Suite 425, Baltimore, MD 21230
Phone: 410-537-3510

## F. *Changes in Permit Coverage*

Certain planned changes in stormwater discharge or termination of permit coverage, both described below in this section, require notification to the Department's Wastewater Pollution Prevention and Reclamation Program (Part II.E.2):

**1.** Planned Changes

Consider the contours/elevations at a particular site and site new structures on the higher elevations at a site and put parking or other structures that can be flooded at the lower elevations, in anticipation of climate change effects. Certain planned changes resulting in new sources of pollutants require written notice (Standard Permit Condition Part VI.P.1). Other alterations require filing a modification request, when:

- **a.** The alteration either adds or removes discharge points subject to this permit, or
- **b.** The alteration either adds or removes process water or chemical additives which require changes in monitoring or reporting.

**2.** Termination of Permit Coverage

- **a.** Submitting 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 Department's Wastewater Pollution Prevention and Reclamation Program (Part II.E.2). Your authorization to discharge under this permit terminates at midnight of the day that a complete NOT is processed and acknowledged by the Department. If you submit a NOT without meeting one or more of the conditions identified in the Part b below, then your NOT 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 operations 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 Part III.B.1.b.v, and for mining operations that you have meet the conditions in Appendix D Part J.11;
  - ***ii.)*** you move your operation to a new location[2];
  - ***iii.)*** a new operator has taken over responsibility for the facility;
  - ***iv.)*** you have obtained coverage under an individual or alternative general permit for all discharges required to be covered by an NPDES permit, unless the Department has required that you obtain such coverage under Part I.F, in which case coverage under this permit will terminate automatically.
- **c.** The Department may terminate your coverage under this general permit if the Department finds good cause to do so.

## G. *Requirement to Post a 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 areas. You must use a 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:

- The State and NPDES permit number (i.e., permit tracking number assigned to your NOI);

[2] After submitting an NOT you must then apply for coverage at the new location per Part II.

- The Department's wastewater permits portal URL (https://mdewwp.page.link/WWPPortal); and
- A contact name and phone number for obtaining additional facility information.

Signage location and content questions may be discussed with an authorized Department representative, if there are no safe locations available to post signage. For mining sites which have numerous signs required under their permits, alternatives for technology-based solutions may include QR codes which provide easy access to website confirming multiple permits held by the location.

# PART III. CONTROL MEASURES AND EFFLUENT LIMITS

## A. *Control Measures*

You must select, design, install, and implement control measures (including best management practices) to minimize pollutants in your discharges that 1) address the selection and design considerations in Part III.A.1, 2) meet the non-numeric effluent limits in III.A.2; 3) meet the applicable process water numeric limits and ELGs in Appendix D; and 4) meet the water quality based effluent limitations in Part III.B.

The selection, design, installation, and implementation of control measures to comply with Part III.A 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, consistent with Part III.C.4. You must modify your control measures per Part IV.1 if your control measures are not minimizing pollutants in your discharges (i.e. your discharge will be controlled as necessary to meet numeric limits, water quality standards or the non-numeric effluent limits). Regulated stormwater discharges from your facility include stormwater run-on that commingles with stormwater discharges associated with industrial activity at your facility.

**1.** Control Measure Selection and Design Considerations

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

**a.** preventing stormwater from coming into contact with polluting materials is generally more effective, and less costly, than trying to remove pollutants from stormwater;

**b.** using control measures in combination is more effective than using control measures in isolation for minimizing pollutants in your stormwater discharge;

**c.** 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;

**d.** 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 groundwater contamination;

**e.** attenuating flow using open vegetated swales and natural depressions can reduce in-stream impacts of erosive flows;

**f.** conserving and/or restoring riparian buffers will help protect streams from stormwater runoff and improve water quality; and

**g.** using treatment interceptors (e.g., swirl separators and sand filters) may be appropriate in some instances to minimize the pollutants in your discharge; and

**h.** 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:

***i.)*** Reinforce materials storage structures to withstand flooding and additional exertion of force;

***ii.)*** Prevent floating of semi-stationary structures by elevating to the Base Flood Elevation (BFE)3 level or securing with non-corrosive device;

***iii.)*** 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);

***iv.)*** Temporarily store materials and waste above the BFE level;

***v.)*** Temporarily reduce or eliminate outdoor storage;

***vi.)*** Temporarily relocate any mobile vehicles and equipment to upland areas;

***vii.)*** 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

***viii.)*** Conduct staff training for implementing your emergency procedures at regular intervals.

**2.** Control Measures and Non-Numeric Technology-Based Effluent Limits (BPT/BAT/BCT)

You must comply with the following non-numeric effllluent limits as well as any sector-specific non-numeric effluent limits stipulated in the relevant sector-specific section(s) of Appendix D. In the technology-based limits included in Part III.A and in Appendix D, the term “minimize” means eliminate, or otherwise reduce to the greatest extent achievable, using control measures (including best management practices). You must, at minimum, select, design, and implement control measures that are technologically available and economically practicable and achievable in light of best industry practice. Such control measures include the following:

**a.** 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. Unless infeasible, you must also:

***i.)*** use grading, berming, or curbing to prevent runoff of contaminated flows and divert run-on away from these areas;

***ii.)*** 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);

***iii.)*** clean up spills and leaks promptly using dry methods (e.g., absorbents) to prevent the discharge of pollutants;

***iv.)*** use drip pans and absorbents under or around leaky vehicles and equipment or store indoors where feasible;

***v.)*** use spill/overflow protection equipment;

***vi.)*** drain fluids from equipment and vehicles prior to onsite storage or disposal;

***vii.)*** perform all cleaning operations indoors, under cover, or in bermed areas that prevent runoff and run-on and also that capture any overspray; and

***viii.)*** ensure that all washwater not covered by this permit (Part I.C) drains to a proper collection system (i.e., not the stormwater drainage system).

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.

**b.** Good Housekeeping.

You must keep clean all exposed areas that are potential sources of pollutants. You must perform good housekeeping measures in order to minimize pollutants in your discharges, including but not limited to:

***i.)*** sweeping or vacuuming at regular intervals or, alternatively, washing down the area and collecting and/or treating, and properly disposing of the washdown water;

[3] 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 accessed through https://msc.fema.gov/portal/search. Refer also to Appendix E.

***ii.)*** storing materials in appropriate containers;

***iii.)*** closing all dumpster lids when not in use. For dumpsters and roll off boxes without lids and that could leak, ensuring that discharges have a control (e.g., secondary containment, treatment). Consistent with Part I.C above, this permit does not authorize dry weather discharges from dumpsters or roll off boxes;

***iv.)*** keeping exposed areas free of waste, garbage and floatable debris, or intercepting such materials before they are discharged.

***v.)*** Plastic Materials Requirements: Facilities that handle pre-production plastic must implement control measures to eliminate discharges of plastic in stormwater. Examples of such plastic material include plastic resin pellets, powders, flakes, additives, regrind, scrap, waste and recycling..

**c.** Maintenance.

***i.)*** Maintenance Activities. You must maintain all control measures, as well as all industrial equipment and systems, in effective operating condition, in order to minimize pollutants in your discharges. This includes:

- Performing inspections and preventive maintenance of stormwater drainage, source controls, treatment systems, and plant equipment and systems that could fail and result in discharges of pollutants via stormwater.
- Maintaining non-structural control measures (e.g., keeping spill response supplies available, personnel appropriately trained).
- Inspecting and maintaining baghouses at least quarterly to prevent the escape of dust from the system and immediately removing any accumulated dust at the base of the exterior baghouse.
- Cleaning catch basins when the depth of debris reaches two-thirds (2/3) of the sump depth, or in line with manufacturer specifications, whichever is lower, and keeping the debris surface at least six inches below the lowest outlet pipe.

***ii.)*** Maintenance Deadlines.

- For control measures that need routine maintenance, you must conduct the necessary maintenance immediately in order to minimize pollutants in your discharges.
- If your control measures need to be repaired or replaced, you must immediately take all steps to prevent or minimize the pollutants in your discharge until the final repair or replacement is implemented, including cleaning up any contaminated surfaces so that the material will not be discharged during subsequent storm events. Final repairs/replacement of stormwater controls should be completed as soon as feasible but must be no later than the timeframe established in Part IV.A.3 for corrective actions, i.e., within 14 days or, if that is infeasible, within 45 days. If the completion of stormwater control repairs/replacement will exceed the 45 day timeframe, you may take the minimum additional time necessary to complete the maintenance, provided that you notify the Department's Compliance Program of your intention to exceed 45 days, and document in your SWPPP your rationale for your modified maintenance timeframe. If a control measure was never installed, was installed incorrectly or not in accordance with Parts III.A and/or Appendix D, or is not being properly operated or maintained, you must conduct corrective action as specified in Part IV.A.1.

Note: In this context, the term "immediately" means the day you identify that a control measure needs to be maintained, repaired, or replaced, you must take all steps to minimize or prevent the discharge until you can implement a permanent solution. However, if you identify a problem too late in the work day to initiate action, you must perform the action the following work day morning. "All steps" means you must respond to the conditions triggering the 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 Measure to be installed.

**d.** 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 in order to minimize pollutants in your discharges. You must conduct spill prevention and response measures, including but not limited to, the following:

***i.)*** Clean up spills and leaks promptly using dry methods (e.g., absorbents) to prevent the discharges;

***ii.)*** Use drip pans and absorbents under or around leaky vehicles and equipment or store indoors where feasible;

***iii.)*** Use spill/overflow protection equipment;

***iv.)*** Plainly label 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;

***v.)*** Implement procedures for material storage and handling, including the use of secondary containment and barriers between material storage and traffic areas, or a similarly effective means designed to prevent the discharge from these areas;

***vi.)*** Inspect containment structures to ensure that no pollutants are detected. If a visual observation identifies 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, TSDF (Treatment Storage & Disposal Facilities) or disposal facility;

***vii.)*** Develop training on the 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 have necessary spill response equipment available. As appropriate, execute such procedures as soon as possible; and

***viii.)*** Notify appropriate facility personnel, emergency response agencies, and regulatory agencies when a leak, spill or other release occurs. Where a leak, spill, or other release containing a hazardous substance or oil in accordance with the requirements of 40 CFR Part 110, 40 CFR Part 117, 40 CFR Part 302, and COMAR 26.10.01.05 as soon as you have knowledge of the discharge. 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. 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. (Refer to the Standard Conditions in Part VI for additional reporting requirements).

**e.** Erosion and Sediment Controls.

You must minimize erosion by stabilizing exposed soils at your facility and placing flow velocity dissipation devices at discharge locations to minimize channel and streambank erosion and scour in the immediate vicinity of discharge points. 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 must use the Department's Soil Erosion & Sediment Control resources (https://mdewwp.page.link/ESCRegs) and if applicable to your activity have an approved E&SC plan.

*Use of Chemical Additives*. Chemical additives for sediment control may **only** be used if conventional erosion and sediment controls alone cannot meet water quality standards according to Part III.B.1 (i.e. soils that contain clay, fine silt or fine particulates). If you use chemical additives (defined in Appendix E) for control of sediment at your site, you must comply with the following requirements:

***i.)*** Chemical Additive Selection

- You must select chemical additives from the Department's pre-approved list. The Department's current list of pre-approved polymers/flocculants including approved application method and maximum allowable dosage, concentration,

or application rate are listed on its website: https://mdewwp.page.link/MDFlocs.

- You may request that the Department evaluate a chemical additive not on the pre-approved list by following the Department's Procedures for Review of Chemical Additives for Sediment Control at: https://mdewwp.page.link/ChemAddReview. If, after review, the Department approves the product it will be added to the Department's pre-approved list. You may not use additives before they are reviewed and approved by the Department.
- You must select additives and determine dosing rates based on site-specific test results. Discharge concentrations cannot exceed those maximum concentrations found in the Department's list of pre-approved additives.

***ii.)*** Chemical Additive Planning

- You must identify any polymers and/or chemicals used as a sediment control and include the reasoning for such use in your SWPPP. Documentation of the chemical selection process and dosing rate determination must be included in your SWPPP. You must also incorporate into your SWPPP the required elements indicated in the most current version of Standards for Use of Chemical Additives for Sediment Control document available on the Department's website at: https://mdewwp.page.link/ChemAddStandards.
- Chemical additives may only be applied where treated stormwater is directed to a sediment control (e.g., sediment basin, perimeter control) prior to discharge. The additives authorized are primarily used to create flocculation of suspended materials in stormwater.
  - When used for flocculation in stormwater, if your dosing rate is less than the maximum discharge concentration allowed, this ensures you will meet the limits of the permit. If dosing rates exceed those concentrations, you must provide justification and an explanation of the best management practices you will use to ensure that the discharge will meet the water quality standards and document this in your SWPPP.
  - When used for bank or soil stabilization you must provide justification and an explanation of the best management practices you will use to ensure that the discharge will meet the water quality standards and document this in your SWPPP.
- For cationic chemical additive (as defined in Appendix E) use, you must identify in your SWPPP 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 chemical additives will not violate water quality standards. See the Standards for Use of Chemical Additives for Sediment Control document for additional instructions for completing your SWPPP.

***iii.)*** Approval for Use

- Approval for use will be based on information in your NOI and SWPPP. You must identify all additives you will be using in your SWPPP, and any cationic chemical additives in your Notice of Intent (pursuant to Part II.A.1 of this permit).
- Additionally for cationic chemical additive use, you must submit a "Request for Use of Cationic Chemical Additives" form.
- Once you are approved to use a chemical additive, if you need to change to or add another preapproved chemical, you must provide an NOI and SWPPP for modification according to the deadlines in Part II.B.
- You must comply with relevant local requirements affecting the use of chemical additives. If requested by the E&SC plan approval authority, you must provide a Safety Data Sheet (SDS) with your E&SC plan.

***iv.)*** Implementation

- 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 and documented in your SWPPP.
- Any non-compliance with the requirements for Use of Chemical Additives must be documented in your SWPPP. This includes any departure from good engineering practices or dosing specifications and sediment removal design specifications provided by the provider/supplier of the applicable chemicals.
- Depending on the additive selected for use, you may be required to sample discharges and test for residuals or other components. Any such monitoring requirement will be explained in your authorization letter. Results of required monitoring shall be maintained with the SWPPP and made available if requested by Department personnel.
- You must comply with all requirements outlined in the Standards for Use of Chemical Additives for Sediment Control plus any additional requirements that are determined by the Department as being necessary to ensure that the use of such chemicals will not violate water quality standards.
- You must eliminate or minimize to the extent achievable the exposure of stored chemicals to stormwater. At minimum, you must store all treatment chemicals in leakproof containers that are kept under storm-resistant cover and surrounded by secondary containment structures (e.g., spill berms, decks, spill containment pallets), or provide equivalent measures (e.g., storing chemicals in a covered area, having a spill kit available on site and ensuring personnel are available to respond expeditiously in the event of a leak or spill).
- You must ensure that all persons who handle and use chemical additives at the site are provided with appropriate, product-specific training. At a minimum, this training must cover proper dosing requirements and safe handling practices.

**f.** Management of Stormwater.
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, 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, available at: https://mde.maryland.gov/programs/permits/WaterManagementPermits/Pages/15MMEPAGuidance.aspx.

**g.** 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.

**h.** Sector Specific Numeric Effluent Limits.
Appendix A of this permit identifies your specific Industry Sector. You must achieve any additional numeric limits stipulated in the relevant sector-specific section(s) of Appendix D.

**i.** Employee Training.

***i.)*** Types of Personnel Who Require 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 comply with this permit (e.g., inspectors, maintenance personnel), including all members of your stormwater pollution prevention team. You must ensure the following personnel understand the requirements of this permit and their specific responsibilities with respect to those requirements:

- Personnel who are responsible for the design, installation, maintenance, and/or repair of controls (including pollution prevention measures);
- Personnel responsible for the storage and handling of chemicals and materials that could become pollutants discharged via stormwater;
- Personnel who are responsible for conducting and documenting inspections and monitoring as required in Parts V.A and Parts V.B; and
- Personnel who are responsible for taking and documenting corrective actions as required in Part IV.

***ii.)*** Areas of Required Training. Personnel must be trained in at least the following if related to the scope of their job duties (e.g., only personnel responsible for conducting inspections need to understand how to conduct inspections):

- An overview of what is in the SWPPP;
- Spill response procedures, good housekeeping, maintenance requirements, and material management practices;
- The location of all the controls required by this permit, and how they are to be maintained;
- The proper procedures to follow with respect to the permit's pollution prevention requirements; and
- When and how to conduct inspections, record applicable findings, and take corrective actions; and
- The facility's emergency procedures, if applicable per Part III.A.2.d.

***iii.)*** Frequency of Training. Personnel must be trained at least annually (or more often if employee turnover is high).

**j.** Non-Stormwater Discharges.
You must evaluate for the presence of non-stormwater discharges. You must eliminate non-stormwater discharges not authorized by a NPDES or State discharge permit. See Part I.C for a list of non-stormwater discharges authorized by this permit. If not covered under a separate NPDES permit, wastewater, wash water and any other unauthorized non-stormwater must be discharged to a sanitary sewer in accordance with applicable industrial pretreatment requirements, or otherwise disposed of appropriately. (i.e., not the stormwater drainage system).

**k.** Dust Generation and Vehicle Tracking of Industrial Materials.
You must minimize generation of dust and offsite tracking of raw, final, or waste materials in order to minimize pollutants in your stormwater discharges.

## B. *Water Quality-Based Effluent Limitations*

This Part includes water quality-based effluent limitations (WQBELs) and other limitations applicable to the permittee for any discharges authorized under this permit. Your discharge must not contain:

- observable floating, settled, or suspended solids, scum, sheen or other substances or debris,
- an observable foam that does not dissipate within one half-hour;
- an observable film or sheen upon or discoloration from oil and grease; or
- substances that produce an observable change in color or odor in the discharge.

**1.** Site-Specific Water Quality-Based Actions.
You must take and document corrective action(s), as required in Part IV, if you become aware that your control measures may not be controlling discharges sufficiently to meet the effluent limits in this permit or one of the following occurs:

- Your discharge contains any of the observable elements described in the paragraph above;
- Your impaired water monitoring results (Part III.B.2.b) exceed the acute concentrations in the State's water quality criteria (Part III.B.4); or
- Your monitoring results under Parts V.B (benchmark monitoring) indicate that your stormwater control measures may be functioning improperly and need replacement, maintenance, or repair.

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 (See Part III.B.4 or Part I.F).

**2.** Discharges to Water Quality Impaired Waters

You are considered to discharge to an impaired water if the first water of this State to which you discharge is identified as not meeting an applicable water quality standard, and: requires development of a TMDL (pursuant to section 303(d) of the CWA) or is addressed by an EPA-approved or established TMDL.

Note: 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 water from the storm sewer system.

**a.** *Existing Operator discharging to an Impaired Water with an EPA-Approved or Established TMDL*.

If you discharge to an impaired water with an EPA-approved or established TMDL, the Department will inform you of any additional monitoring, limits or controls necessary for your discharge to comply with the assumptions and requirements of any wasteload allocations, or if coverage under an individual permit is necessary in accordance with Part I.F.

**b.** *Existing Operator discharging to an Impaired Water without an EPA-Approved or Established TMDL.*

If you discharge to an impaired water without an EPA approved or established TMDL, you are required to comply with Part III.B.1, and the monitoring requirements of Part V.B.3. Note that the impaired waters monitoring requirements of Part V.B.3 also apply where the Department determines that your discharge does not meet applicable water quality standards in an impaired downstream water segment, even if your discharge is to a receiving water that is not identified as impaired according to Part III.B.2.

**c.** *New Discharger or New Source to an Impaired Water.*

If your authorization to discharge under this permit relied on Part I.D.6 for a new discharger or a new source to an impaired water, you must implement and maintain any measures that enabled you to become eligible under Part I.D.6, as determined by the Department and modify such measures as necessary pursuant to any corrective actions. You must also comply with Part III.B.1 and the monitoring requirements of Parts V.B.3.

**3.** 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 to a Tier II watershed, then you must perform an antidegradation review according to 26.08.02.04-2. The Department may require that you perform additional analyses, control measures, or other permit conditions necessary to comply with the applicable antidegradation requirements, or notify you that an individual permit application is necessary (Part I.F).

**4.** Criteria Selection

Any additional numerical water quality based limits for any specific discharger under Part III.B.2 of the permit shall be applied at the point of discharge and 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, or the applicable wasteload allocation in a TMDLs.

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

The SWPPP documents the selection, design, and installation of control measures. The SWPPP does not contain effluent limitations; the limitations are contained in Part III.A and III.B of the permit, and, for some Industry Sectors, Appendix D of the permit.

Your SWPPP must contain all of the following elements (Part III.C.1 through Part III.C.7), as described below. The additional documentation requirements (see Part III.C.8) are

required to be kept with the SWPPP to document the implementation (including inspection, maintenance, monitoring, and corrective action) of the permit requirements.

The SWPPP is a living document. You must keep your SWPPP up-to-date throughout your permit coverage, including making revisions and improvements to your stormwater management program based on new information and experiences with major storm events.

**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.* A description of the nature of the industrial activities at your facility.

**b.** *General location map.* A general location map (e.g., U.S. Geological Survey (USGS) quadrangle map) with enough detail to identify the location of your facility and all receiving waters for your stormwater discharges. At least one public roadway must be identified on the map.

**c.** *Site map(s).* A map (or alternatively several overlay maps) 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;

***vi.)*** locations of all stormwater conveyances including ditches, pipes, and swales;

***vii.)*** locations of potential pollutant sources identified under Part III.C.3.b;

***viii.)*** locations where significant spills or leaks identified under Part III.C.3.c have occurred;

***ix.)*** locations of all stormwater monitoring points;

***x.)*** locations of stormwater inlets and discharge points, with a unique identification code for each discharge point (e.g., Discharge point No. 1, No. 2, etc), indicating if you are treating one or more discharge points as substantially identical, and an approximate outline of the areas draining to each discharge point;

***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.3.d;

***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; cutting steel beams).

**b.** *Pollutants.* A list of the pollutant(s) or pollutant constituents (e.g., admixtures, 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. As part of your evaluation of potential sources, the following resources or guidelines must be taken into account:

***i.)*** The industry specific fact sheets produced by EPA, found on the Department's website, that include potential pollutants based on your industrial activity.

***ii.)*** These industries have higher potential to be sources of Polychlorinated Biphenyls (PCBs):

- 2875: Composting
- 4212: Local Trucking Without Storage
- 4213: Trucking, Except Local
- 4214: Local Trucking With Storage
- 4953: Landfill - Refuse Systems

***iii.)*** These industries have higher potential to be sources of certain per- and polyfluoroalkyl substances (PFAS):

- 2952: Asphalt Felts and Coatings
- 4011: Railroads, Line-Haul Operating
- 4212: Local Trucking Without Storage
- 4213: Trucking, Except Local
- 4214: Local Trucking With Storage
- 4231: Terminal & Motor Freight Transport
- 4225: General Warehousing and Storage
- 4226: Special Warehousing and Storage, Not Elsewhere Classified
- 4953: Landfill - Refuse Systems

**c.** *Spills and Leaks.* You must document where potential spills and leaks could occur that could contribute pollutants to stormwater discharges, and the corresponding discharge point(s) that would be affected by such spills and leaks. You must document all significant spills and leaks of oil or toxic pollutants or hazardous substances 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 or COMAR 26.10.01.05 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 discharge points 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 sewer, 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.

**4.** Description of Control Measures to Meet Effluent Limits

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.A.2 and, where applicable, in Appendix D Sector-Specific Requirements for Industrial Activity, and the water quality-based effluent limits in Part III.B, 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.C.3 and any stormwater run-on that commingles with any discharges covered under this permit.

**5.** Schedules and Procedures

**a.** For Control Measures Used to Comply with the Effluent Limits in Part III.A, the following must be documented in your SWPPP:

***i.)*** *Good Housekeeping (See Part III.A.2.b or Appendix D)* – 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.A.2.c or Appendix D)* – 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.B.2.d or Appendix D)* – 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.C.8; and

***iv.)*** *Employee Training (See Part III.A.2.i or Appendix D)* – 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
- Quarterly visual assessment of stormwater discharges (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 discharge points.

***iii.)*** If numeric limits, impaired or benchmark monitoring are required for your industry, per Part III.B or Appendix D, then your SWPPP must document:

- Locations where samples are collected, including any determination that two or more discharge points 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 (benchmarks, TMDL-related requirements, or other requirements) applicable to discharges from each discharge point; and
- Procedures (e.g., responsible staff, logistics, laboratory to be used, etc.) for gathering storm event data, as specified in Part V.C.

***iv.)*** You must document the following in your SWPPP if you plan to use the substantially identical discharge point (SIDP) (refer to definitions in Appendix E) exception for your quarterly visual assessment requirements in Part V.A.2.d.iii or your benchmark or impaired monitoring requirements in Part V.B.5:

- Location of each of the substantially identical discharge points;
- Description of the general industrial activities conducted in the drainage area of each discharge point;
- Description of the control measures implemented in the drainage area of each discharge point;
- Description of the exposed materials located in the drainage area of each discharge point 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 discharge points are expected to discharge substantially identical effluents.

***v.)*** If you are invoking the exception for inactive and unstaffed sites relating to routine facility inspections and quarterly visual assessments, you must include in your SWPPP the information to support this claim as required by Parts V.A.1 and V.A.2. If you are invoking the exception for inactive and unstaffed sites for benchmark monitoring, you must include in your SWPPP the information to support this claim as required by Part V.B.4.

**6.** Signature Requirements

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

**7.** Required SWPPP Modifications

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.A 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.A.3 and 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 at your facility, which must be immediately available to the Department (an electronic copy easily available to personnel is also acceptable). In cases where there is no office to store documentation, an alternative central location may be used for storing documents, as long as personnel at the permitted facility are aware of the SWPPP and have access to critical information to ensure compliance. Include within the SWPPP, the location where the SWPPP and documentation may be found, if you are choosing an alternative central location. 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 (or in an immediately accessible Environmental Management System (EMS)) that together, keep your records complete and up-to-date, and demonstrate your full compliance upon request by the Department 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; 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.A.2.d);
**e.** Records of employee training, including date training received (see Part III.A.2.i);
**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.A.2.c);
**g.** All inspection and discharge monitoring reports (an electronic copy easily available is also acceptable), including the Routine Facility Inspection documentation (see Part V.A.1), the Quarterly Visual Assessment (see Part V.A.2 and Form in Appendix B)), and the Comprehensive Annual Reports (see Part V.A.1.g);
**h.** Description of any deviations from the schedule for visual assessments and/or 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 or limit exceedances and how they were responded to, including either (1) corrective action taken or AIM Benchmark response, (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 IV.B.4;
**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, 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.

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

This permit has monitoring and various limits. You are required to take corrective actions in response to triggering conditions and within timeframes listed below. The actions required are Corrective Actions (Part IV.A) required for certain conditions at your site (Part IV.A.1 and Part IV.A.2), and Additional Implementation Measures (AIM) (Part IV.B). AIM only applies to discharges subject to benchmarks.

## A. *Corrective Action*

**1.** Conditions Requiring SWPPP Review, Revision and Implementation 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 or the operator of the MS4 through which you discharge informs you that any of the following conditions have occurred, you must review and 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 pollutants in your 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 (Appendix D or Part III.B.1);
- **c.** your control measures are not stringent enough for the discharge to meet applicable effluent and other limits in Part III or Appendix D of this permit[4];
- **d.** a required control measure was never installed, was installed incorrectly, or not in accordance with Parts III.A.2, and/or in Appendix D, or is not being properly operated and maintained; or
- **e.** whenever a visual assessment (Part V.A.2) shows evidence of stormwater pollution (e.g., color, odor, floating solids, settled solids, suspended solids, foam).

**2.** Conditions Requiring SWPPP Review to Determine if Modifications Are Necessary

If construction or a change in design, operation, or maintenance at your facility occurs that significantly changes the nature of pollutants discharged via stormwater from your facility, or significantly increases the quantity of pollutants discharged, you must review your SWPPP (e.g., sources of pollution, spill and leak procedures, non-stormwater discharges, selection, design, installation and implementation of your stormwater control measures) to determine if modifications are necessary to meet the effluent limits in this permit.

**3.** 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.3.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

[4] For example, the Department would consider your observation during a visual inspection of deposits of floating solids, scum, sheen, or substances to be an indicator that your stormwater discharge is not being controlled as necessary to meet the water quality standards. Similarly, if monitoring under Part V.B.3 results in detecting a pollutant causing the impairment, the detection is also considered an indicator your stormwater discharge is not being controlled as necessary to meet the water quality standards.

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.

**4.** 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. The taking of a Corrective Action by itself is not evidence that a violation has occurred.

**5.** Substantially Identical Discharge Points (SIDPs) Consideration

If the event triggering corrective action is linked to a discharge point that represents other substantially identical discharge points (SIDPs) (see Parts V.A.2.d.iii and V.B.5), your review must assess the need for corrective action for each discharge point represented by the discharge point that triggered the review. Any necessary changes to control measures that affect these other discharge points 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.3.

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

AIM applies to discharges subject to benchmarks. You must take action 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. There are three AIM Benchmark Action Levels: AIM Benchmark Action Level 1 through AIM Benchmark Action Level 3. All sites start in AIM Benchmark Action Level 1, beginning on the date you are authorized under this permit. Unless you are able to meet the benchmarks (refer to Part V.B.2), you are then subject to AIM Benchmark Action Level 2 during the second year of your permit authorization. If you have continued exceedances after the second year you are then subject to AIM Benchmark Action Level 3+. See Part IV.B.4 for AIM exceptions.

**1.** AIM Benchmark Action Level 1:

**a.** Triggering Events. During the first of your coverage under this permit, if any of the following events occur, you must comply with the responses (Part IV.B.1.b) and deadlines (Part IV.B.1.c).

***i.)*** An Annual Average Over the Benchmark Threshold. An annual average exceedance occurs from the average of four quarterly samples for a parameter. If there were less than 4 samples taken in the year, the average would be from the samples that were able to be taken. Refer to Part V for sampling methodology.

***ii.)*** Sampling Results Guarantee Exceeding the Benchmark Threshold. Less than four sample results taken before the end of the year indicate that an exceedance is mathematically certain (i.e., if a single sample or sum of quarterly sample results to date is already more than four times the benchmark threshold).

**b.** Responses. Unless exempt as provided in Part IV.B.4 (AIM Exceptions), you must:

***i.)*** Assess Stormwater Control Measures. Evaluate 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.

***ii.)*** Implement Additional Measures. After reviewing your control measures, you must implement additional implementation measures to ensure the efficiencies of your control measures to bring your exceedances below the parameter's benchmark threshold. If determined during assessment of stormwater control measures that modifications are not necessary to bring your benchmarks below the parameter's threshold, you must document this per Part III.C and include in your Comprehensive Annual Report; and

***iii.)*** Continue Quarterly Monitoring. You must continue quarterly benchmark monitoring. You must attach your updated Comprehensive Annual Report to your next DMR.

**c.** Deadlines: Unless exempt as provided in Part IV.B.4 (AIM Exceptions) and modifications related to control measures are necessary, you must implement the actions or modifications within 14 days of the triggering. If 14 days is infeasible, you must document per Part IV.C.2 why it is infeasible and implement such modifications within 45 days.

**2.** AIM Benchmark Action Level 2:

**a.** Triggering Events. During the second year of your coverage under this permit, if any of the following events occur, you must comply with the responses (Part IV.B.2.b) and deadlines (Part IV.B.2.c).

***i.)*** An Annual Average Over the Benchmark Threshold. An annual average exceedance occurs from the average of four quarterly samples for a parameter. If there were less than four samples taken in the year, the average would be from the samples that were able to be taken. Refer to Part V for sampling methodology.

***ii.)*** Sampling Results Guarantee Exceeding the Benchmark Threshold. Less than four sample results taken before the end of the year indicate that an exceedance is mathematically certain (i.e., a single sample or sum of quarterly sample results to date is already more than four times the benchmark threshold).

**b.** Responses. Unless exempt as provided in Part IV.B.4 (AIM Exceptions), you must:

***i.)*** Install Permanent Controls. You must install permanent controls with treatment technologies or treatment train that are appropriate for the pollutants that triggered this response. You must select controls that bring your exceedances below the benchmark threshold. You must install such controls for the discharge point in question and for substantially identical discharge points; and

***ii.)*** Continue Quarterly Monitoring. You must continue quarterly benchmark monitoring. You must also attach your updated Comprehensive Annual Report to your next DMR.

**c.** Deadlines. You must install the appropriate structural source and/or treatment control measures and amend your SWPPP within 30 days of the occurrence of the triggering event under Part IV.B.2.a unless you qualify for an exemption consistent with Part IV.B.4 (AIM Exceptions). You may request an extension to your deadline upon consultation with the Compliance Program when it is infeasible to complete installation within the 30 days.

**3.** AIM Benchmark Action Level 3+:

**a.** Triggering Events. If during the third or subsequent year of your coverage under this permit (Year 3+), any of the following events occur, you must comply with the responses (Part IV.B.3.b) and deadlines (Part IV.B.3.c).

***i.)*** An Annual Average Over the Benchmark Threshold. An annual average exceedance occurs from the average of four quarterly samples for a parameter. If there were less than four samples taken in the year, the average would be from the samples that were able to be taken. Refer to Part V for sampling methodology.

***ii.)*** Sampling Results Guarantee Exceeding the Benchmark Threshold. Less than four sample results taken before the end of the year indicate that an exceedance is mathematically certain (i.e., a single sample or the sum of quarterly sample results to date is already more than four times the benchmark threshold).

**b.** Responses. You must provide an action plan prepared by a professional, unless exempt as provided in Part IV.B.4 (AIM Exceptions). You may take up to 60 days to select the professional, and an additional 30 days to prepare the action plan for the Department, which must include interim milestone dates for:

***i.)*** installing additional structural source controls (see “Install Permanent Controls” Part IV.B.2.b.i), enhancing existing structural source controls, enclosing operations in storm resistant shelters (see Part III.A.1.a.i) and/or addition of use of Chemical Additives (Part I.C.4) or

***ii.)*** Continue Quarterly Benchmark Monitoring. You must continue quarterly

benchmark monitoring. You must also attach your updated Comprehensive Annual Report to your next DMR. If you continue to exceed the quarterly benchmark threshold for the same parameter, the Department may require you to apply for an individual permit.

**c.** Deadlines. You must install the appropriate structural source and/or treatment control measures and amend your SWPPP within 90 days of the occurrence of the triggering event under Part IV.B.3.a unless qualifying for an exemption consistent with Part IV.B.4 (AIM Exceptions). You may request an extension to your deadline upon consultation with the Compliance program when it is infeasible to complete installation within the 90 days.

**4.** AIM Exceptions.

Following the occurrence of an AIM triggering event per Part IV.B.1.a, Part IV.B.2.a, or Part IV.B.3.a, at any point or tier level of AIM and following four quarters of benchmark monitoring (or sooner if the exceedance is triggered by less than four quarters of data), you may qualify for the below exceptions from AIM requirements and continued benchmark monitoring. Regardless, if you qualify for and claim an exception, you must still review your stormwater control measures, SWPPP, and other on-site activities to determine if actions or modifications are necessary or appropriate in light of your benchmark exceedance(s). If claiming an AIM exception, you must follow the requirements to demonstrate that you qualify for the exception as provided below. If you qualify for an exception, you are not required to comply with the AIM responses or the continuation of quarterly benchmark monitoring for any parameters for which you can demonstrate that the benchmark exceedance is:

**a.** Solely Attributable to Natural Background Pollutant Levels (as defined in Appendix E): You must demonstrate that the benchmark exceedance is solely attributable to the presence of that pollutant in natural background sources, 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 results (or fewer than four-quarters of data that trigger an exceedance) is less than or equal to the concentration of that pollutant in the natural background; and

***ii.)*** You document and maintain with the SWPPP as required in Part III.C, 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 Departments Permitting Program in writing and get written 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.B.2).

**b.** Due to Run-On: You must 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, by submitting your analysis and documentation to the Department's Compliance Program for concurrence.

**c.** Due to an abnormal event: You must immediately document per Part IV.C "Corrective Action and AIM Documentation" 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 (See Part VI.P.4) 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.** Aluminum or Copper: [Reserved]

**e.** AIM Level 3 Exception: Demonstrated to not result in any exceedance of water quality standards: Provide an adequate demonstration to the Department that your discharge would not result in any exceedance of water quality standards. 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:

***i.)*** the water quality standards applicable to the receiving water;

***ii.)*** the flow rate of the stormwater discharge;

***iii.)*** the instream flow rates of the receiving water immediately upstream and downstream of the discharge point;

***iv.)*** the ambient concentration of the pollutant(s) of concern in the receiving water immediately upstream and downstream of the discharge point demonstrated by full-storm composite sampling;

***v.)*** the concentration of the pollutant(s) of concern in the stormwater discharge demonstrated by full-storm, flow-weighted composite sampling;

***vi.)*** any relevant dilution factors applicable to the discharge; and

***vii.)*** the hardness of the receiving water.

Within 60 days of receipt of the plan, the Department will notify you whether the plan is approved or disapproved or if additional review time is required.

## 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, and/or IV.B.3.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.1.g. 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.3.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 recurrence of such releases (see Part III.A.2.d); and

**d.** A statement, signed and certified in accordance with Part II.C.1.

**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 it is infeasible for you to complete the necessary corrective actions and/or AIM responses within the specified timeframe, per Parts IV.A.3, 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 (See Part VI.P.4). You must 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 Comprehensive Annual Report required in Part V.A.1.g.

# PART V. INSPECTIONS, MONITORING, AND REPORTING

You must conduct the following inspections or evaluations (Part V.A), numeric and benchmark monitoring (Part V.B), and use the specified monitoring procedures (Part V.C), at your facility.

## A. *Site Inspections and Evaluations*

You must keep a copy of the documentation from all inspections and evaluations with your SWPPP per Part III.C.8.g. You may also keep records in an Environmental Management System (EMS) that is accessible by site personnel.

**1.** Routine Facility Inspection

**a.** *Inspection Personnel.* Qualified personnel (as defined in Appendix E) must perform the inspections. The qualified personnel may be a member of your stormwater pollution prevention team, or if the qualified personnel is a third-party you hire (i.e., a contractor), at least one member of your stormwater pollution prevention team must participate in the inspection. Inspectors must consider the results of visual assessments and analytical monitoring (if any) for the past year when planning and conducting inspections.

**b.** *Areas that You Must Inspect*. During normal facility operating hours, the qualified personnel must conduct inspections of areas of the facility covered by the requirements in this permit, including, but not limited to, the following:

- Areas where industrial materials or activities are exposed to stormwater;
- Areas identified in the SWPPP and those that are potential pollutant sources (see Part III.C.3);
- Areas where spills and leaks have occurred in the past three years;
- Discharge points; and
- Control measures used to comply with the effluent limits contained in this permit.

**c.** *What You Must Look for During an Inspection.* During the inspection, the qualified personnel must examine or look out for, including, but not limited to, the following:

- Industrial materials, residue or trash that may have or could come into contact with stormwater;
- Leaks or spills from industrial equipment, drums, tanks and other containers;
- Offsite tracking of industrial or waste materials, or sediment where vehicles enter or exit the site;
- Tracking or blowing of raw, final or waste materials from areas of no exposure to exposed areas;
- Erosion of soils at your facility, channel and streambank erosion and scour in the immediate vicinity of discharge points, per Part III.A.2.e;
- Non-authorized non-stormwater discharges, per Part III.A.2.j;
- Control measures needing replacement, maintenance or repair; and
- During an inspection occurring during a stormwater event or stormwater discharge, you must observe control measures implemented to comply with effluent limits to ensure they are functioning correctly. You must also observe discharge points, as defined in Appendix E, during this inspection. If such discharge locations are inaccessible, you must inspect nearby downstream locations.

**d.** *Inspection Frequency*. Your qualified personnel must conduct inspections at least quarterly (i.e., once each calendar quarter), or in some instances more frequently (e.g., monthly). Increased frequency may be appropriate for some types of equipment, processes and stormwater control measures, or areas of the facility with significant activities and materials exposed to stormwater. At least once each calendar year, the routine inspection must be conducted during a period when a stormwater discharge is occurring.

**e.** *Exceptions to Routine Facility Inspections for Inactive and Unstaffed Facilities.* The requirement to conduct facility inspections on a routine 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 site inspection. To invoke this exception, you must indicate that your facility is inactive and unstaffed on your NOI. If you are already covered under the permit and your facility has changed from active to inactive and unstaffed, you must modify and re-certify your NOI. You must also include a statement in your SWPPP per Part III.C.5.b.v indicating 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)(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 routine facility inspections. If you are not qualified for this exception at the time you become authorized under this permit, but during the permit term you become qualified because your facility becomes inactive and unstaffed, and there are no industrial materials or activities exposed to stormwater, you must include the same signed and certified statement as above and retain it with your records.
Inactive and unstaffed facilities covered under Sector J (Non-Metallic Mineral Mining and Dressing) are not required to meet the “no industrial materials or activities exposed to stormwater” standard to be eligible for this exception from routine inspections, per Appendix D Sector J.

**f.** *Routine Facility Inspection Documentation*. You must document the findings of your facility inspections and maintain this report with your SWPPP as required in Part III.C.8. You must conduct any corrective action required as a result of a routine facility inspection consistent with Part IV. If you conducted a discharge visual assessment required in Part V.A during your facility inspection, you may include the results of the assessment with the report required in this Part, as long as you include all components of both types of inspections in the report.
Do not submit your routine facility inspection report to the Department, unless specifically requested to do so. However, you must summarize your findings in the Comprehensive Annual Report per Part V.A.1.g. Document all findings, including but not limited to, the following information.

***i.)*** The inspection date and time;
***ii.)*** The name(s) and signature(s) of the inspector(s);
***iii.)*** Weather information;
***iv.)*** All observations relating to the implementation of stormwater control measures at the facility, including:
- A description of any stormwater discharges occurring at the time of the inspection;
- Any previously unidentified stormwater discharges from and/or pollutants at the facility;
- Any evidence of, or the potential for, pollutants entering the stormwater drainage system;
- Observations regarding the physical condition of and around all stormwater discharge points, including any flow dissipation devices, and evidence of pollutants in discharges and/or the receiving water;
- Any stormwater control measures needing maintenance, repairs, or replacement;

***v.)*** Any additional stormwater control measures needed to comply with the permit requirements;
***vi.)*** Any incidents of noncompliance; and
***vii.)*** A statement, signed and certified in accordance with Part II.C.

**g.** *Comprehensive Annual Report.* Once a year a Comprehensive Annual 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. This report must be signed in accordance with Part II.C.3 of this permit. The SWPPP must be modified as necessary based on the results of the evaluation. Include a summary of any incomplete actions remaining related to Corrective Actions triggered under Part IV, and include the AIM Documentation as required under Part IV.C. If your EJ Score is >= 0.75, then you must submit your Comprehensive Annual Report using NetDMR or as otherwise directed by the Department. EJ Score is defined in Appendix E and identified on your NOI, and will be indicated on your authorization letter.

**2.** Quarterly Visual Assessment of Stormwater Discharges

**a.** *Visual Assessment Frequency.* Once each quarter (see part V.C.6) for your entire permit coverage, you must collect a stormwater sample from each discharge point (except as noted below in this Part) and conduct a visual assessment of each of these samples. These samples are not required to be collected consistent with 40 CFR Part 136 procedures but must be collected in such a manner that the samples are representative of the stormwater discharge. Guidance on monitoring is available at https://mdewwp.page.link/ISWGuidance.

**b.** *Visual Assessment Procedures*. You must do the following for the quarterly visual assessment:

***i.)*** Make the assessment of a stormwater discharge sample in a clean, colorless glass or plastic container, and examined in a well-lit area;

***ii.)*** Make the assessment of the sample you collected within the first 30 minutes of an actual discharge from a storm event. If it is not possible to collect the sample within the first 30 minutes of discharge, the sample must be collected as soon as practicable after the first 30 minutes and you must document why it was not possible to take the sample within the first 30 minutes. In the case of snowmelt, samples must be taken during a period with a measurable discharge;

***iii.)*** For storm events, make the assessment on discharges that occur at least 72 hours (three days) from the previous discharge. The 72-hour (three-day) storm interval does not apply if you document that less than a 72-hour (three-day) interval is representative for local storm events during the sampling period.

***iv.)*** Visually inspect or observe for the following water quality characteristics, which may be evidence of stormwater pollution:

- Color;
- Odor;
- Clarity (diminished);
- Floating solids;
- Settled solids;
- Suspended solids;
- Foam;
- Oil sheen; and
- Other obvious indicators of stormwater pollution.

***v.)*** Whenever the visual assessment shows evidence of pollution in the stormwater discharge, you must initiate the corrective action procedures in Part IV.A.1.

**c.** *Visual Assessment Documentation.* You must document the results of your visual assessments using the Quarterly Visual Assessment Form found in Appendix B and maintain this documentation onsite with your SWPPP as required in Part III.C.8. Any corrective action required as a result of a quarterly visual assessment must be conducted consistent with Part IV of this permit. You are not required to submit your visual assessment findings to Department, unless specifically requested to do so. However, you must summarize your findings in the comprehensive annual report per Part V.A.1.g. Your documentation of the visual assessment using the form in Appendix B must include, but not be limited to:

- Sample location(s);

- Sample collection date and time, and visual assessment date and time for each sample;
- Personnel collecting the sample and conducting visual assessment, and their signatures;
- Nature of the discharge (i.e., stormwater from rain or snow);
- Results of observations of the stormwater discharge;
- Probable sources of any observed stormwater contamination;
- If applicable, why it was not possible to take samples within the first 30 minutes;
- If applicable, when no sample is possible, the form must be filled out to reflect why no visual assessment was possible for the quarter; and
- A statement, signed and certified in accordance with Part II.C.

**d.** *Exceptions to Quarterly Visual Assessments*

***i.)*** Adverse Weather Conditions. When adverse weather (see also Part V.C.5) conditions prevent the collection of stormwater discharge sample(s) during the quarter, you must take a substitute sample during the next qualifying storm event. Documentation of the rationale for no visual assessment for the quarter must be included with your SWPPP records as described in Part III.C.8.

***ii.)*** Areas that Receive Snow. If the facility is in an area that typically receives snow and the facility receives snow at least once over a period of four quarters, at least one quarterly visual assessment must capture snowmelt discharge, as described in Part V.C.3.

***iii.)*** Substantially Identical Discharge Points (SIDPs). If your facility has two or more discharge points that you believe discharge substantially identical effluents, as documented in Part III.C.5.b, you may conduct quarterly visual assessments of the discharge at just one of the discharge points and report that the results also apply to the SIDP(s) provided that you perform visual assessments on a rotating basis of each SIDP throughout the period of your coverage under this permit. If stormwater contamination is identified through visual assessment performed at a SIDP, you must assess and modify your control measures as appropriate for each discharge point represented by the monitored discharge point.

***iv.)*** Inactive and Unstaffed Facilities. The requirement for a quarterly visual assessment 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 maintain a statement in your SWPPP per Part III.C.5.b.v 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 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 visual assessments. 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 becomes 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.C.8. Inactive and unstaffed facilities covered under Sector J (Non-Metallic Mineral Mining and Dressing), are not required to meet the "no industrial materials or activities exposed to stormwater" standard to be eligible for this exception from quarterly visual assessments, consistent with the requirements established in Appendix D Parts J.3.5.

## B. *Monitoring and Numeric Limit Requirements*

This Part V.B specifies various numeric criteria for your operations. These include numeric limits, impaired waters monitoring and benchmarks. Reporting requirements are in Part VI.P.

**1.** Applicability of Monitoring and Numeric Limits

Your industry-specific benchmark concentrations or limits are listed in the sector-specific sections of Appendix D. In determining numeric limits or benchmarks, you must cross reference Appendix A to Appendix D and select them based on the industrial sector(s) related to your SIC code, both primary industrial activity and any co-located industrial activities. Water quality based limits are identified in Part III.B.1.

You must monitor and take action (Part IV) for any numeric or benchmark parameters as described here:

**a.** The numeric limits for process water, washwater and stormwater subject to ELGs, each according to your industry sector (refer to Appendix D). Impaired water limits are based on the impairment status of the receiving waters (refer to Part III.B). An exceedance of the numeric limits is a permit violation.

**b.** This permit also stipulates pollutant benchmark concentrations [5] (Part V.B.2), impaired water monitoring (Part V.B.3), and flow monitoring (Part V.B.7) that may be applicable to your discharge. The benchmark concentrations, impaired water monitoring and flow monitoring are not effluent limitations; an exceedance therefore, is not a permit violation Failure to conduct any of the required Corrective Actions or AIM measures (Part IV) would be a permit violation.

**2.** Benchmark Monitoring

You must conduct benchmark monitoring quarterly for four (4) full quarters, starting the first full monitoring period (found in Part V.C.6) 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. At your discretion, you may take more than four samples during separate discharge events to determine the average benchmark parameter value for facility discharges. If the annual average for any parameter does not exceed the benchmark threshold, you have fulfilled your benchmark monitoring requirements for that parameter for the permit term and you can request to discontinue benchmark monitoring for that parameter by 1) entering all data for the parameters in NetDMR, 2) requesting the Department's Permit Program to verify your calculation and 3) receiving confirmation from the Department. For averaging purposes, use a value of zero for any individual sample parameter, analyzed using procedures consistent with Part V.C, which is determined to be less than the method detection limit. For sample values that fall between the method detection level and the quantitation limit (i.e., a confirmed detection but below the level that can be reliably quantified), use a value halfway between zero and the quantitation limit. You must comply with Part IV (Additional Implementation Measures) and continue quarterly benchmark monitoring for any parameter with data exceeding the benchmark threshold as specified in Part IV.

**3.** Impaired Waters Monitoring

Impaired waters monitoring is required when you discharge to impaired waters as specified below (refer to Part III.B.2).

**a.** *Facilities Required to Monitor Discharges to Impaired Waters without an EPA approved or established TMDL:*

You must monitor for pollutants of concern once per calendar year, preferably in the second quarter, at each discharge point (except SIDPs (see Part V.C.1)) discharging stormwater to impaired waters without an EPA-approved or established TMDL, as follows:

***i.)*** Determine which pollutant of concern to monitor for:

- Review the potential pollutants you have listed in your SWPPP (Part III.C.3) and any sector specific benchmark monitoring pollutants and compare these to the list of pollutants for which the waterbody is impaired and for which a standard analytical method exists (see 40 CFR Part 136). The pollutant of

[5] If your facility is in one of the industrial sectors subject to a hardness-dependent benchmark, you are required to submit to the Department with your first discharge monitoring report (Part VI.P.4) a hardness value, established consistent with the procedures in Appendix C, which is representative of your receiving water, if you plan to modify your benchmark based on receiving water hardness.

concern will be where there is an overlap.

- Except where otherwise directed by the Department, if the pollutant of concern for the impaired waterbody is suspended solids, turbidity, or 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.

***ii.)*** If the monitored pollutant is <u>not</u> detected in your discharge, or is within the acceptable range for a given parameter for the waterbody to meet its designated use (e.g., pH or temperature), for three consecutive years, or it is detected but you have determined that its presence is caused solely by natural background sources (see iv below), you have fulfilled your impaired waters monitoring requirements for that parameter for the permit term and you can request to discontinue impaired waters monitoring for that parameter by 1) entering all data for the parameters in NetDMR, 2) requesting the Department's Permit Program to verify your calculation and 3) receiving confirmation from the Department.

***iii.)*** If the monitored pollutant is detected in your discharge and is outside the acceptable range for a given parameter for the waterbody to meet its designated use (e.g., pH or temperature), you must continue to monitor for the pollutant(s) annually until no longer detected, after which you can request to discontinue impaired waters monitoring for that parameter by 1) entering all data for the parameters in NetDMR, 2) requesting the Department's Permit Program to verify your calculation and 3) receiving confirmation from the Department.

***iv.)*** Natural Background Condition: To support a determination that the pollutant's presence is caused solely by natural background sources (see Appendix E), you must document:

- 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.

You must submit this request to the Department's Permitting Program and receive verification that the request was granted, and maintain request and verification with your SWPPP, as required by Part III.C.8.

**b.** *Facilities Required to Monitor 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 authorization letter 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.

**4.** <u>Benchmark Exception for Inactive and Unstaffed Sites</u>

The requirement for benchmark 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:

- 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.3) 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.

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

**6.** Exception for Discharges to Groundwater
For process generated wastewater discharges to groundwater via treatment, holding, or seepage facilities that are designed with no means for overflow, the associated surface water discharge monitoring and limits (Part V.B and Appendix D) are waived.

**7.** Flow Monitoring
Reporting of measured flow may be required for your facility as specified in Appendix D. 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 discharge point 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; and

**c.** A description of the factors (e.g. batch discharges, intermittent operation, etc) which cause flow at the discharge point to fluctuate significantly from the estimate provided.

## C. *Monitoring Sampling and Analysis Procedures*

You must collect and analyze samples for the required monitoring in Part V.B and the visual assessment in Part V.A consistently with the procedures described in this Part V.C and VI.N. When more than one type of monitoring for the same parameter at the same discharge point applies (e.g., total suspended solids once per month for an effluent limit and once per quarter for benchmark monitoring at a given discharge point), you may use a single sample to satisfy both monitoring requirements (i.e., one sample satisfying both the monthly effluent limit sample and one of the 4 quarterly benchmark monitoring samples).

**1.** Monitored Discharge points
You must conduct monitoring as required by this permit at each discharge point authorized by this permit, except visual assessment, impaired waters monitoring or benchmark monitoring for a discharge point exempt from monitoring as a substantially identical

discharge point (SIDP). In the case of benchmark monitoring, if your facility has two or more SIDPs, you may monitor the effluent of just one of the discharge points and report that the results also apply to the SIDP(s). As required in Part III.C.5.b, your SWPPP must identify each discharge point authorized by this permit and describe the rationale for any SIDP determinations. When more than one type of monitoring for the same parameter at the same discharge point applies (e.g., total suspended solids once per month for an effluent numeric limit and once per quarter for benchmark monitoring at a given discharge point), you may use a single sample to satisfy both monitoring requirements (i.e., one sample satisfying both the monthly effluent limit sample and one of the 4 quarterly benchmark monitoring samples).

**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 measurable storm event (as defined in Appendix E) that follows the preceding measurable storm event by at least 72 hours (3 days). The 72-hour (3-day) storm interval does not apply if you are able to document that less than a 72-hour (3-day) 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

Grab samples for process water or washwater are taken at your selected discharge point during a time of discharge. For stormwater related samples, 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, this permit does not require impractical or potentially unsafe sampling methods during periods of adverse weather conditions (see Part V.C.5). 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 (or in an Environmental Management System (EMS) that is accessible by site personnel) explaining why it was not possible to take samples within the first 30 minutes. In the case of snowmelt, samples must be taken during a period with a measurable discharge.

**5.** 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. Adverse conditions are those that are dangerous or create inaccessibility for personnel, such as local flooding, high winds, electrical storms, or situations that otherwise make sampling impractical, such as extended frozen conditions. Adverse weather does not exempt you from having to file a benchmark monitoring report in accordance with your

sampling schedule. You must keep a record with your SWPPP (or in an Environmental Management System (EMS) that is accessible by site personnel) of any failure to monitor as specified, indicating the basis for not sampling during the usual reporting period.

**6.** Monitoring Periods

Visual assessments (Part V.A.2) and benchmark monitoring (Part V.B.2) are required on a quarterly basis, and process water and washwater monitoring occurs either monthly or quarterly based on the industry specific requirements in Appendix D. Water quality-based limits (Part III.B.2) samples will be required quarterly. Impaired waters monitoring (Part V.B.3) requires a representative sample once a year. Quarterly schedules follows these 3-month periods:

- Quarter 1: January 1 – March 31;
- Quarter 2: April 1 – June 30;
- Quarter 3: July 1 – September 30; and
- Quarter 4: October 1 – December 31.

# PART VI. STANDARD PERMIT CONDITIONS

**A.** ***Duty to Comply*.**

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 (CWA), 33 U.S.C. § 1251 et seq. Any noncompliance with any of the requirements of this permit constitutes a violation of the CWA and the Environment Article, and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

**1.** You must comply with effluent standards or prohibitions established under section 307(a) of the CWA or under Section 9-314 and Sections 9-322 to 9-328 of the Environment Article, Annotated Code of Maryland, for toxic pollutants within the time provided in the regulations that establish these standards, even if the permit has not yet been modified to incorporate the requirement.

**2.** Penalties for Violations of Permit Conditions: The maximum and minimum statutory civil penalty amounts are adjusted through rulemaking by January 15 each year to account for inflation. Annual rulemaking adjustments, codified in 40 C.F.R. § 19.4, are mandated by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended through the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (28 U.S.C. § 2461 note). As such, the civil penalty amounts below may change in the future due to inflation. See 40 C.F.R. § 19.4 for the most up-to-date civil penalty amounts.

**a.** Criminal Penalties. In addition to the 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 CWA provides for the following criminal penalties:

***i.)*** Negligent Violations. The CWA provides that any person who negligently violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to criminal penalties of not less than $2,500 nor more than $25,000 per day of violation, or imprisonment of not more than one year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than $50,000 per day of violation or by imprisonment of not more than two years, or both.

***ii.)*** Knowing Violations. The CWA provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 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 3 years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than $100,000 per day of violation, or imprisonment of not more than 6 years, or both.

***iii.)*** Knowing Endangerment. The CWA provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or

405 of the Act and who knows at that time that he or she is placing another person in imminent danger of death or serious bodily injury shall upon conviction be subject to a fine of not more than $250,000 or by imprisonment of not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than $500,000 or by imprisonment of not more than 30 years, or both. An organization, as defined in section 309(c)(3)(B)(iii) of the Act, shall, upon conviction of violating the imminent danger provision be subject to a fine of not more than $1,000,000 and can fined up to $2,000,000 for second or subsequent convictions.

***iv.)*** False Statement. The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or both. The Act further provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

**b.** Civil Penalties. 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 CWA 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 a civil penalty not to exceed the maximum amounts authorized by Section 309(d) of the Act and the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (28 U.S.C. § 2461 note), and codified at 40 CFR § 19.4.

**c.** Administrative Penalties. 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 CWA 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

***i.)*** 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 of 1990 as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (28 U.S.C. § 2461 note), and codified at 40 CFR § 19.4.

***ii.)*** 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 of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (28 U.S.C. § 2461 note), and codified at 40 CFR § 19.4.

**B.** ***Severability.***

The provisions of this permit are severable. If any provisions of this permit is held invalid for any reason, the remaining provisions shall remain in full force and effect. If the application of any provision of this permit to any circumstances is held invalid, its application to other circumstances shall not be affected.

**C.** ***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.

**D.** ***Action on Violations***

The issuance or reissuance of this permit and/or authorizations under 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.

**E.** ***Duty to Reapply***

If you wish to continue an activity regulated by this permit after the expiration date of this permit, you must apply for and obtain authorization as required by the new permit once the Department issues it.

**F.** ***Need to Halt or Reduce Activity Not a Defense.***

It shall not be a defense for you 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.

**G.** ***Duty to Mitigate***

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

**H.** ***Proper Operation and Maintenance.***

You shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance requires the operation of backup, auxiliary facilities, or similar systems which are installed by a permittee when the operation is necessary to achieve compliance with the conditions of the permit.

**I.** ***Permit Actions.***

This permit may be modified, revoked and reissued, or terminated for cause. Your filing of a request for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

**J.** ***Property Rights.***

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.

**K.** ***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 this State. Operations 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.

**L.** ***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.

**M.** ***Inspection and Entry.***

You must allow the Department, or the EPA, or their authorized representatives (including an authorized contractor acting as a representative of the Department), 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. have 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 facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit;

4. sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the CWA, any substances or parameters at any location;
5. take photographs (which may require discretion for reasons of national security); and
6. use of an unmanned aircraft system to conduct inspections, collect samples, or make visual observations through photographic or video recordings.

**N.** ***Monitoring and Records.***

1. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
2. You must retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three years from the date the permit expires or the date the permittee's authorization is terminated. This period may be extended by request of the Department at any time.
3. Records of monitoring information shall include:
   a. The date, exact place, and time of sampling or measurements;
   b. The individual(s) who performed the sampling or measurements;
   c. The date(s) analyses were performed;
   d. The individual(s) who performed the analyses;
   e. The analytical techniques or methods used; and
   f. The results of such analyses.

   Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 "Guidelines Establishing Test Procedures for the Analysis of Pollutants" unless another method is required under 40 CFR subchapters N or O. You must use only test procedures with quantitation limits at or below concentrations specified for all monitored parameters for which you are required to sample.
4. The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or both.

**O.** ***Signatory Requirement.***

1. All applications, reports, or information submitted to the Department shall be signed and certified. (Refer to Part II "Required Signatures").
2. The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

**P.** ***Reporting Requirements.***

1. Planned changes. You must give notice to the Department as soon as possible, but no fewer than 30 days, of any planned physical alterations or additions to the permitted facility. Notice is required when:
   a. The alteration or addition to a permitted 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 effluent limitations in the permit, nor to notification requirements under 40 CFR 122.42(a)(1).
2. Anticipated noncompliance. You must give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
3. Transfers. This permit is not transferable to any person except as provided in Part II.

4. Monitoring reports. Monitoring results must be reported at the intervals specified elsewhere in this permit.
   a. 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:
      ***i.)*** 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://usepa.servicenowservices.com/oeca_icis?id=netdmr_homepage 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.
      ***ii.)*** Opt-out requests must be submitted in writing to the Department's WSA Compliance Program for written approval at least sixty (60) days prior to the date you would be required under this permit to begin using NetDMR. This demonstration shall be valid for twelve (12) months 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 opt-out request and such request is approved by the Department.
   b. 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.6), and according to the other Monitoring Procedures (Part V.C). Failure to sample and report is considered a permit violation.
   c. If you monitor any pollutant more frequently than required by the permit using test procedures approved under 40 CFR Part 136 or as specified in the permit, the results of this monitoring must be included in the calculation and reporting of the data submitted in the DMR.
   d. Calculations for all limitations which require averaging of measurements must use an arithmetic mean. For averaging purposes, use a value of zero for any individual sample parameter which is determined to be less than the method detection limit. For sample values that fall between the method detection level and the quantitation limit (i.e., a confirmed detection but below the level that can be reliably quantified), use a value halfway between zero and the quantitation limit.
5. Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit must be submitted no later than 14 days following each schedule date.
6. Twenty-four hour reporting.
   a. You must report any noncompliance which may endanger health or the environment. Any information must be provided orally by calling 410-537-3510 within 24 hours from the time you become aware of the circumstances. A written submission via email to mde.wsacompliance@maryland.gov must also be provided within five days of the time you become aware of the circumstances. The written submission must contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
   b. The following shall be included as information which must be reported within 24 hours under this paragraph.
      ***i.)*** Any unanticipated bypass which exceeds any effluent limitation in the permit. (See 40 CFR 122.41(m)(3)(ii))
      ***ii.)*** Any upset which exceeds any effluent limitation in the permit
      ***iii.)*** Violation of a maximum daily discharge limit for any numeric effluent limitation. (See 40 CFR 122.44(g).)

**c.** The Department may waive the written report on a case-by-case basis for reports under the twenty-four hour reporting requirements in these Reporting Requirements if the oral report has been received within 24 hours.

**7.** Other noncompliance. You must report all instances of noncompliance not reported under the monitoring reports, compliance schedules and twenty-four hour reporting requirements of these Reporting Requirements, at the time monitoring reports are submitted. The reports must contain the information listed in the twenty-four hour reporting requirements in these Reporting Requirements.

**8.** Other information. Where you become aware that you failed to submit any relevant facts in your NOI, or submitted incorrect information in your NOI or in any report to the Permitting Authority, you must promptly submit such facts or information.

**Q.** ***Notification of a pollutant Discharge Not Limited in This Permit***

You must notify the Department as soon as it is known or suspected:

**1.** That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant (any pollutant listed as toxic under section 307(1)) which is not specifically limited by this permit if that discharge will exceed the highest of the following "notification levels":

**a.** One hundred micrograms per liter (100 µg/l);

**b.** Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;

**c.** Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with § 122.21(g)(7); or

**d.** The level established in accordance with § 122.44(f).

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

**a.** Five hundred micrograms per liter (500 µg/l);

**b.** One milligram per liter (1 mg/l) for antimony;

**c.** Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with § 122.21(g)(7).

**d.** The level established in accordance with § 122.44(f).

**R.** ***Availability of Reports.***

Except for data determined to be confidential under the Maryland Public Information Act and/or Section 308 of the CWA, 33 U.S.C. § 1318, all submitted data, plans or reports prepared pursuant to this permit, including self-inspection information, must be available for public inspection at the offices of the Department and the Regional Administrator of the Environmental Protection Agency.

**S.** ***Retention of Records.***

Copies of the SWPPP and all documentation required by this permit, including records of all data used to complete the NOI to be covered by this permit, must be retained for at least three years from the date that permit coverage expires or is terminated. This period may be extended by request by the Department at any time.

**T.** ***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 this State. You must comply with standards for sewage sludge use or disposal established under section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal.

**U.** ***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 CWA (33. U.S.C. § 1321), or under the Annotated Code of Maryland. Permittees may be subject to additional requirements and regulations dictated

by the Department's Oil Control Program and Emergency Planning and Community Right-to-Know Act (EPCRA) (40 CFR 116). Any requirements listed in this permit which control grease, oil or fuel are to address potential pollutants not governed directly by Oil Pollution Prevention (40 CFR 112), as the handling and storage of fuel and other petroleum products has a potential to cause negative impacts to waters of this State. In addition, to 24 hour reporting in Part VI.P.6, any prohibited oil or hazardous substance discharge must be followed up with a written description sent to the Department within 10 working days of knowledge of the incident including: the type and estimate of the amount of material released, the date it occurred, the circumstances leading to it, and any other information as required by COMAR 26.10.01.05.

**V. *Bypass***

**1.** Definitions.
- **a.** Bypass means the intentional diversion of waste streams from any portion of a treatment facility See 40 CFR 122.41(m)(1)(i).
- **b.** Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production. See 40 CFR122.41(m)(1)(ii).

**2.** Bypass not exceeding limitations. You may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the notice and prohibition of bypass provisions below in subpart 3 and 4. See 40 CFR 122.41(m)(2).

**3.** Notice.
- **a.** Anticipated bypass. If you know in advance of the need for a bypass, you must submit prior notice, if possible at least ten days before the date of the bypass. See 40 CFR 122.41(m)(3)(i).
- **b.** Unanticipated bypass. You must submit notice of an unanticipated bypass as required in Reporting Requirements for twenty-four hour reporting. See 40 CFR 122.41(m)(3)(ii).

**4.** Prohibition of bypass. See 40 CFR 122.41(m)(4).
- **a.** Bypass is prohibited, and the Department may take enforcement action against you for bypass, unless:
  - ***i.)*** Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - ***ii.)*** There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
  - ***iii.)*** You submitted notices as required above for anticipated bypass.
- **b.** The Department may approve an anticipated bypass, after considering its adverse effects, if the Department determines that it will meet the three conditions listed above in subpart a.

**W. *Upset***

**1.** Definition. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond your reasonable control. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation. See 40 CFR 122.41(n)(1).

**2.** Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the conditions necessary for a demonstration of upset below are met. No determination made during

administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance is final, an administrative action is subject to judicial review. See 40 CFR 122.41(n)(2).

3. Conditions necessary for a demonstration of upset. See 40 CFR 122.41(n)(3). A permittee who wishes to establish the affirmative defense of upset must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
   - **a.** An upset occurred and that you can identify the cause(s) of the upset;
   - **b.** The permitted facility was at the time being properly operated; and
   - **c.** You submitted notice of the upset as required in Reporting Requirements above for twenty-four hour reporting of upsets.
   - **d.** You complied with any remedial measures required under Duty to Mitigate requirements above.
4. Burden of proof. In any enforcement proceeding, you, as the one seeking to establish the occurrence of an upset, have the burden of proof. See 40 CFR122.41(n)(4).

**X.** ***Reopener Clause for Permits***

1. Procedures for modification or revocation. Permit modification or revocation will be conducted according to COMAR 26.08.04.10 and 40 CFR §122.62, §122.63, §122.64 and §124.5. This includes reasons such as new information which was not available at the time of permit issuance and would have justified the application of different permit conditions at the time of issuance, including but not limited to any Reasonable and Prudent Alternatives or Reasonable and Prudent Measures developed in Endangered Species Act consultation, and/or future monitoring results or any applicable TMDL.
2. Water quality protection. If there is evidence indicating that the discharges authorized by this permit cause, have the reasonable potential to cause or contribute to an excursion above any applicable water quality standard, you may be required to obtain an individual permit, or the permit may be modified to include different limitations and/or requirements.
3. Timing of permit modification. The Department may elect to modify the permit prior to its expiration (rather than waiting for the new permit cycle) to comply with any new statutory or regulatory requirements, such as for effluent limitation guidelines that may be promulgated in the course of the current permit cycle.

# Part VII. 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, 1990, 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.

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D. Lee Currey, Director
Water and Science Administration