



Maryland

Department of the Environment

Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor

Ben Grumbles, Secretary
Horacio Tablada, Deputy Secretary

April 27, 2018

Mr. John W. Swauger, Jr., Stormwater Management Coordinator
Division of Environmental Management
Washington County Government
16232 Elliott Parkway
Williamsport, MD 21795

RE: Designation Letter

Dear Mr. Swauger:

The Maryland Department of the Environment (the Department), Water and Science Administration has reached a Final Determination to issue a National Pollutant Discharge Elimination System (NPDES) General Permit for Discharges from Small Municipal Separate Storm Sewer Systems (MS4s) (General Discharge Permit No. 13-IM-5500, General NPDES No. MDR055500). The legal framework for permit requirements is provided in the federal Clean Water Act (CWA), Title 40 of the Code of Federal Regulations (CFR) § 122 pertaining to NPDES MS4 programs, and numerous guidelines of the United States (U.S.) Environmental Protection Agency (EPA). MS4 owners or operators required to obtain coverage under this MS4 general permit are those located within urbanized areas or other MS4s designated by the Department under authority of the CWA and CFR.

You are receiving this letter because the Department is applying the designation criteria to the part of Washington County (the County) that has been identified as being located within an urbanized area according to the 2010 U.S. Census. The Department has also evaluated MS4s in the County that are located outside of urbanized areas in accordance with § 123.35(b), and § 122.26(a)(9). After applying the designation criteria, the Department has found that the County's stormwater discharges result in or have the potential to result in exceedances of water quality standards or other significant water quality impacts. As a result, the County is being designated for permit coverage. Please reference Attachment 1 enclosed with this letter that provides further detail on the Department's designation process.

The MS4 general permit will become effective on October 31, 2018. As an owner or operator of a designated MS4 to be regulated under this general permit, the County must submit a Notice of Intent (NOI) to the Department by the effective date. An NOI serves as notification that the County intends to comply with the terms and conditions of this general permit. Conditions of the general permit are effective for a five-year term unless administratively continued by the Department.

The MS4 general permit requires implementation of stormwater management programs and restoration actions to control the discharge of pollutants from regulated MS4s. Compliance with the

Mr. John W. Swauger, Jr., Stormwater Management Coordinator

April 27, 2018

Page 2

general permit will reduce stormwater pollutants to local waterways. Furthermore, pollution reductions from the County are necessary to comply with the assumptions and requirements of the Chesapeake Bay Total Maximum Daily Load. Restoration requirements are based on untreated impervious areas located within the County's urbanized area. The general permit, however, allows flexibility to implement restoration projects and management programs across the entire geographical boundary of the County.

The Department has complied with public participation requirements established under Maryland's Administrative Procedures Act in order to reach this Final Determination. The Department has met with numerous stakeholders, held a public hearing, and accepted public comments from December 22, 2016, through March 30, 2017. The Final Determination, MS4 general permit, and the comments submitted during the public comment period may be found on the Department's website at: www.mde.maryland.gov/programs/Water/StormwaterManagementProgram. Additional resources related to stormwater program implementation and restoration planning may also be found on the website.

Compliance with the general permit will support our mutual goals of improving local water quality and contributing to long standing efforts to restore the Chesapeake Bay. The Department looks forward to working with you to achieve these goals. If you have any questions, please contact me at 410-537-3567 or Ms. Jennifer Smith at 410-537-3543 or jenniferm.smith@maryland.gov.

Regards,



D. Lee Currey
Director, Water and Science Administration

Attachment

MDE Designation Process for MS4s Outside of Urbanized Areas

Designation of Washington County

Federal regulations under 40 CFR § 122.26(a)(9)(i)(D) and 123.35(b) authorize State permitting authorities to evaluate MS4s located outside of urbanized areas for inclusion into the NPDES permit program. This regulation clarifies that the Maryland Department of the Environment (the Department) has the authority to evaluate any small MS4 due to water quality considerations “to evaluate whether a storm water discharge results in or has the potential to result in exceedances of water quality standards, including impairment of designated uses, or other significant water quality impacts” (collectively “water quality impairment”) (40 CFR § 123.35(b)(1)(i)). Based on the authority granted under these regulations, the Department’s designation process includes the following steps:

Step 1: In accordance with 40 CFR § 123.35(b)(1), develop water-quality based criteria to determine whether stormwater discharges from MS4s result in or have the potential to result in exceedances of water quality standards, including impairment of designated uses, or other significant water quality impacts, including habitat and biological impacts.

Step 2: In accordance with 40 CFR § 123.35(b)(2), apply these criteria to:

- a) At a minimum, small MS4s with populations greater than 10,000 and a density of 1,000 people per square mile outside of urbanized areas,
- b) Small MS4s next to or located within existing jurisdictions regulated under Phase I MS4 permits, and
- c) Geographic areas under a local government’s authority for counties that operate MS4s within urbanized areas.

The Department’s water quality criteria for evaluating MS4s in non-urbanized areas are based on the State’s TMDL program and the Maryland Biological Stream Survey (MBSS). Maryland’s TMDL program includes water quality assessments found in the Integrated Report of Surface Water Quality (IR), which identifies waters that meet water quality standards, and waterways that are impaired or threatened and require TMDLs. Documentation includes watershed assessments, water quality data, and mapping of impaired waterways. These water quality analyses are reviewed by the Department to determine whether MS4 discharges may contribute to stream impairments or exceedances of water quality standards.

The MBSS data are a comprehensive compilation of local water quality conditions throughout the State of Maryland. The data are based on field protocols that evaluate stream impairments and water quality through fish and habitat indicators. The MBSS data show that streams receiving stormwater runoff from urban development often have degraded biological communities. Results of these field surveys provide ratings of “good”, “fair”, “poor”, or “very poor” indicating overall stream health. The MBSS data are reviewed by the Department to

determine whether MS4 discharges have the potential to impact biological and habitat conditions in local streams.

Federal regulations specify that small MS4s located within an urbanized area are automatically regulated under the NPDES program in accordance with 122.26(a)(9)(i)(A) and 122.32. This is referred to as nationwide designation. The Department additionally evaluated MS4s in Washington County (the County) that are located outside of urbanized areas based on regulations under 40 CFR 123.35(b)(2) and 40 CFR 122.26(a)(9)(i)(D) and determined the following:

- 65 MBSS data points outside of the urbanized area indicate a score of poor or very poor stream health for benthic macroinvertebrates. This includes watersheds located throughout the County.
- The 2016 Integrated Report documents that a significant portion of the streams in the County are impaired. Antietam Creek, Conococheague Creek, Little Tonoloway Creek, and Marsh Run are listed on the Integrated Report as having an impairment caused by urban runoff/storm sewers. Conococheague Creek and Antietam Creek are additionally listed as impaired due to polychlorinated biphenyls (PCBs) in fish tissue from contaminated sediments.

Stormwater discharges inside and outside of the County's urbanized area are a contributing factor to these water quality impairments and future MS4 discharges have the potential to cause significant water quality impacts.¹ Because of the link between the County's MS4 discharges and water quality impairment, the geographic area under the authority of Washington County has been designated by the Department for coverage under the general permit. Subsequently, the County must submit a Notice of Intent (NOI) in accordance with the general permit and obtain coverage under the NPDES MS4 program.

¹ Water Quality Documentation:

- TMDL documentation can be found at the TMDL Homepage (<http://mde.maryland.gov/programs/Water/TMDL/Pages/index.aspx>) and a county-specific TMDL search and maps can be obtained through the TMDL Data Center (<http://mde.maryland.gov/programs/Water/TMDL/DataCenter/Pages/index.aspx>)
- MBSS Data - <http://dnr.maryland.gov/streams/Pages/mbss.aspx>
- The Integrated Report lists stream impairments and identifies the likely source of impairment (<http://mde.maryland.gov/programs/Water/TMDL/Integrated303dReports/Pages/2016IR.aspx>)
- Information about the classification and location of Maryland's Tier II waters can be found here: http://mde.maryland.gov/programs/Water/TMDL/WaterQualityStandards/Pages/Antidegradation_Policy.aspx
- A webmap tool that includes TMDL watersheds and Integrated Report stream designations can be found here: <http://mdewin64.mde.state.md.us/SSA/TMDL/index.html>