

Project 5296 - Proposed

STATE WATER CONTROL BOARD

Amend and Reissue the Construction Stormwater General Permit

9VAC25-880-1. Definitions.

The words and terms used in this chapter shall have the meanings defined in the Virginia Stormwater Management Act (Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia), this chapter, and 9VAC25-870 unless the context clearly indicates otherwise, except as otherwise specified in this section. Terms not defined in the Act, this chapter, or 9VAC25-870 shall have the meaning attributed to them in the federal Clean Water Act (33 USC § 1251 et seq.) (CWA). For the purposes of this chapter:

"Business day" means Monday through Friday excluding state holidays.

"Commencement of land disturbance" means the initial disturbance of soils associated with clearing, grading, or excavating activities or other construction activities (e.g., stockpiling of fill material).

"Construction site" means the land where any land-disturbing activity is physically located or conducted, including any adjacent land used or preserved in connection with the land-disturbing activity.

"Final stabilization" means that one of the following situations has occurred:

1. All soil disturbing activities at the site have been completed and a permanent vegetative cover has been established on denuded areas not otherwise permanently stabilized. Permanent vegetation shall not be considered established until a ground cover is achieved that is uniform (e.g., evenly distributed), mature enough to survive, and will inhibit erosion.

2. For individual lots in residential construction, final stabilization can occur by either:

a. The homebuilder completing final stabilization as specified in subdivision 1 of this definition; or

b. The homebuilder establishing temporary soil stabilization, including perimeter controls for an individual lot prior to occupation of the home by the homeowner, and [~~informing~~ providing written notification to] the homeowner of the need for, and benefits of, final stabilization. [The homeowner shall maintain a copy of the written notification and a signed statement certifying that the information was provided to the homeowner in accordance with the stormwater pollution prevention plan recordkeeping requirements as specified in Part II G 6.]

3. For construction projects on land used for agricultural purposes, final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to surface waters, and areas that are not being returned to their preconstruction agricultural use ~~must~~ shall meet the final stabilization criteria specified in subdivision 1 or 2 of this definition.

"Immediately" means as soon as practicable, but no later than the end of the next business day, following the day when the land-disturbing activities have temporarily or permanently ceased. In the context of this general permit, "immediately" is used to define the deadline for initiating stabilization measures.

"Impaired waters" means surface waters identified as impaired on the ~~2012~~ 2016 § 305(b)/303(d) Water Quality Assessment Integrated Report.

"Infeasible" means not technologically possible or not economically practicable and achievable in light of best industry practices.

"Initiation of stabilization activities" means:

1. Prepping the soil for vegetative or nonvegetative stabilization;
2. Applying mulch or other nonvegetative product to the exposed area;
3. Seeding or planting the exposed area;
4. Starting any of the above activities on a portion of the area to be stabilized, but not on the entire area; or
5. Finalizing arrangements to have the stabilization product fully installed in compliance with the applicable deadline for completing stabilization.

This list is not exhaustive.

"Measurable storm event" means a rainfall event producing 0.25 inches of rain or greater over 24 hours.

"Stabilized" means land that has been treated to withstand normal exposure to natural forces without incurring erosion damage.

9VAC25-880-10. Purpose.

This general permit regulation governs stormwater discharges from regulated construction activities. For the purposes of this chapter, these discharges are defined as stormwater discharges associated with large construction activity, and stormwater discharges associated with small construction activity. Stormwater discharges associated with other types of industrial activity shall not have coverage under this general permit. This general permit covers only discharges through a point source to surface waters or through a municipal or nonmunicipal separate storm sewer system to surface waters. Stormwater discharges associated with industrial activity that originate from construction activities that have been completed and the site has undergone final stabilization are not authorized by this general permit.

9VAC25-880-15. Applicability of incorporated references based on the dates that they became effective.

Except as noted, when a regulation of the United States set forth in the Code of Federal Regulations is referenced and incorporated herein, that regulation shall be as it exists and has been published in the July 1, ~~2013~~ 2018, update.

9VAC25-880-20. Effective date of general permit.

This general permit is effective on July 1, ~~2014~~ 2019. The general permit will expire on June 30, ~~2019~~ 2024. This general permit is effective for any covered operator upon compliance with all provisions of 9VAC25-880-30.

9VAC25-880-30. Authorization to discharge.

A. Any operator governed by this general permit is authorized to discharge to surface waters of the Commonwealth of Virginia provided that:

1. The operator submits a complete and accurate registration statement, ~~if required to do so,~~ in accordance with 9VAC25-880-50, unless not required, and receives acceptance of the registration by the board;
2. The operator submits any permit fees, ~~if required to do so~~ unless not required, in accordance with 9VAC25-870-700 et seq.;
3. The operator complies with the applicable requirements of 9VAC25-880-70;
4. The operator obtains approval of:
 - a. An erosion and sediment control plan from the appropriate Virginia Erosion and Sediment Control Program (VESCP) authority as authorized under the Erosion and Sediment Control Regulations (9VAC25-840), unless the operator receives from the VESCP authority an "agreement in lieu of a plan" as defined in 9VAC25-840-10 or

~~prepares the erosion and sediment control plan in accordance with annual standards and specifications approved by the department. The operator of any land-disturbing activity that is not required to obtain erosion and sediment control plan approval from a VESCP authority or is not required to adopt department-approved annual standards and specifications shall submit the erosion and sediment control plan to the department for review and approval; and~~

b. [~~A~~Except as specified in 9VAC25-880-70 Part II B 3 b, a] stormwater management plan from the appropriate ~~VSMP authority as authorized under the Virginia Stormwater Management Program (VSMP)~~ authority as authorized under the VSMP Regulation (9VAC25-870), unless the operator receives from the VSMP authority an "agreement in lieu of a stormwater management plan" as defined in 9VAC25-870-10 or prepares the stormwater management plan in accordance with annual standards and specifications approved by the department. ~~The operator of any land-disturbing activity that is not required to obtain stormwater management plan approval from a VSMP authority or is not required to adopt department-approved annual standards and specifications shall submit the stormwater management plan to the department for review and approval; and~~

5. The board has not notified the operator that the discharge is not eligible for coverage in accordance with subsection B of this section.

B. The board will notify an operator that the discharge is not eligible for coverage under this general permit in the event of any of the following:

1. The operator is required to obtain an individual permit in accordance with 9VAC25-870-410 B;

2. The operator is proposing discharges to surface waters specifically named in other board regulations that prohibit such discharges;
3. The discharge causes, may reasonably be expected to cause, or contributes to a violation of water quality standards (9VAC25-260);
4. The discharge violates or would violate the antidegradation policy in the Water Quality Standards (9VAC25-260-30); or
5. The discharge is not consistent with the assumptions and requirements of an applicable TMDL approved prior to the term of this general permit.

C. This general permit also authorizes stormwater discharges from support activities (e.g., concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, borrow areas) located on-site or off-site provided that:

1. The support activity is directly related to a construction activity that is required to have general permit coverage for discharges of stormwater from construction activities;
2. The support activity is not a commercial operation, nor does it serve multiple unrelated construction activities by different operators;
3. The support activity does not operate beyond the completion of the last construction activity it supports;
4. The support activity is identified in the registration statement at the time of general permit coverage;
5. Appropriate control measures are identified in a stormwater pollution prevention plan and implemented to address the discharges from the support activity areas; and
6. All applicable, state, federal, and local approvals are obtained for the support activity.

D. Support activities located off-site are not required to be covered under this general permit. Discharges of stormwater from off-site support activities may be authorized under another state or VPDES permit. Where stormwater discharges from off-site support activities are not authorized under this general permit, the land area of the off-site support activity need not be included in determining the total land disturbance acreage of the construction activity seeking general permit coverage.

E. Discharges authorized by this general permit may be commingled with other sources of stormwater that are not required to be covered under a state permit, so long as the commingled discharge is in compliance with this general permit. Discharges authorized by a separate state or VPDES permit may be commingled with discharges authorized by this general permit so long as all such discharges comply with all applicable state and VPDES permit requirements.

F. Authorized nonstormwater discharges. The following nonstormwater discharges from construction activities are authorized by this general permit:

1. Discharges from firefighting activities;
2. Fire hydrant flushings;
3. Water used to wash vehicles or equipment where soaps, solvents, or detergents have not been used and the wash water has been filtered, settled, or similarly treated prior to discharge;
4. Water used to control dust that has been filtered, settled, or similarly treated prior to discharge;
5. Potable water source, including uncontaminated waterline flushings [.] managed in a manner to avoid an instream impact;

6. Routine external building wash down where soaps, solvents, or detergents have not been used and the wash water has been filtered, settled, or similarly treated prior to discharge;
7. Pavement wash water where spills or leaks of toxic or hazardous materials have not occurred (or where all spilled or leaked material has been removed prior to washing); where soaps, solvents, or detergents have not been used; and where the wash water has been filtered, settled, or similarly treated prior to discharge;
8. Uncontaminated air conditioning or compressor condensate;
9. Uncontaminated groundwater or spring water;
10. Foundation or footing drains where flows are not contaminated with process materials such as solvents;
11. Uncontaminated, excavation dewatering, including dewatering of trenches and excavations that have been filtered, settled, or similarly treated prior to discharge; and
12. Landscape irrigations.

G. Approval for coverage under this general permit does not relieve any operator of the responsibility to comply with any other applicable federal, state or local statute, ordinance or regulation.

H. Continuation of general permit coverage.

1. ~~Any operator that was authorized to discharge under the general permit issued in 2009 and that submits~~ Permit coverage shall expire at the end of its term. However, expiring permit coverages are automatically continued if the owner has submitted a complete and accurate registration statement on or before June 30, 2014 at least 60 days prior to the expiration date of the permit, or a later submittal date established by the board, which

cannot extend beyond the expiration date of the permit. The permittee is authorized to continue to discharge ~~under the terms of the 2009 general permit~~ until such time as the board either:

- a. Issues coverage to the operator under this general permit; or
- b. Notifies the operator that the discharge is not eligible for coverage under this general permit.

2. When the operator ~~is not in compliance with the conditions of~~ that was covered under the expiring or expired general permit has violated the conditions of that permit, the board may choose to do any or all of the following:

- a. Initiate enforcement action based upon the ~~2009~~ general permit coverage that has been continued;
- b. Issue a notice of intent to deny coverage under the ~~new~~ reissued general permit. If the general permit coverage is denied, the ~~owner or~~ operator would then be required to cease ~~the activities~~ discharges authorized by the continued general permit coverage or be subject to enforcement action for operating without a state permit;
- c. Issue ~~a new state~~ an individual permit with appropriate conditions; or
- d. Take other actions authorized by the VSMP Regulation (9VAC25-870).

9VAC25-880-40. Delegation of authorities to state and local programs.

A board-approved VSMP authority is authorized to administer requirements of this general permit, including but not limited to: (i) registration statement acceptance, (ii) fee collection, and (iii) stormwater management plan review and approval dependent upon conditions established as part of the board approval.

[9VAC25-880-45. Applicability of technical design criteria for land-disturbing activities.

Any operator seeking coverage under this general permit shall comply with the technical design criteria of the VSMP Regulation (9VAC25-870) as described in this section:

1. New construction activities. Any operator proposing a new stormwater discharge from construction activities and obtaining initial permit coverage under the general permit effective July 1, 2019, shall be subject to the technical design criteria requirements of Part II B (9VAC25-870-62 et seq.) of the VSMP regulations. The operator shall continue to be subject to the requirements of Part II B of the VSMP Regulation for two additional permit cycles. After such time, portions of the project not under construction shall become subject to any new technical criteria adopted by the board.

2. Existing construction activities.

a. Time limits on applicability of approved technical design criteria. Any operator that obtained authorization to discharge under the general permits effective July 1, 2009, and July 1, 2014, for projects meeting the requirements of 9VAC25-870-47 B, has maintained continuous permit coverage since initial permit coverage was approved, and obtains coverage under the general permit effective July 1, 2019, shall conduct land disturbance in accordance with the requirements of Part II C (9VAC25-870-93 et seq.) of the VSMP Regulation or to more stringent standards at the operator's discretion. Portions of the project not under construction as of June 30, 2024, shall no longer be eligible to use the technical design criteria in Part II C of the VSMP Regulation.

b. Grandfathering.

(1) Any operator that obtained initial permit authorization to discharge under the general permit effective July 1, 2014, for projects meeting the requirements of

~~9VAC25-870-48 A, has maintained continuous permit coverage since initial permit coverage was approved, and obtains coverage under the general permit effective July 1, 2019, shall conduct land disturbance in accordance with Part II C (9VAC25-870-93 et seq.) of the VSMP Regulation or more stringent standards at the operator's discretion. Portions of the project not under construction as of June 30, 2019, shall no longer be eligible to use the technical design criteria in Part II C of the VSMP Regulation.~~

~~(2) For locality, state, and federal projects, any operator that obtained initial permit authorization to discharge under the general permit effective July 1, 2014, for projects meeting the requirements of 9VAC25-870-48 B, has maintained continuous permit coverage since initial permit coverage was approved, and obtains coverage under the general permit effective July 1, 2019, shall conduct land disturbance in accordance with Part II C (9VAC25-870-93 et seq.) of the VSMP Regulation or more stringent standards at the operator's discretion. Portions of the project not under construction as of June 30, 2019, shall no longer be eligible to use the technical design criteria in Part II C of the VSMP Regulation.~~

~~(3) Projects in which government bonding or public debt financing has been issued prior to July 1, 2012, shall be subject to the technical design criteria of Part II C (9VAC25-870-93 et seq.) of the VSMP Regulation or a more stringent standards at its discretion.~~

~~c. Any operator that obtained authorization to discharge under the general permit effective on July 1, 2014, and obtained stormwater management plan approval consistent with Part II B (9VAC25-870-62 et seq.) of the VSMP Regulation shall continue to be subject to the requirements of Part II B of the VSMP Regulation for two~~

~~additional permit cycles. After such time, portions of the project not under construction shall become subject to any new technical criteria adopted by the board.~~

~~d. For purposes of subdivision 2 of this section, "portions of a project not under construction" means:~~

~~(1) Any construction activity permitted as described in subdivisions 2 a and 2 b of this section and included on an approved stormwater management plan for which land disturbance has not commenced for any activities on the approved stormwater management plan; or~~

~~(2) For locality, state, and federal projects permitted as described in subdivision 2 b (2) of this section, those projects that obtained initial state permit coverage under the general permit effective July 1, 2014, and for which a contract award for construction is not issued by December 31, 2020.]~~

9VAC25-880-50. ~~General permit application (registration statement)~~ Registration statement.

A. Deadlines for submitting registration statement. Any operator seeking coverage under this general permit, and that is required to submit a registration statement, shall submit a complete and accurate general VPDES permit registration statement in accordance with this section, which shall serve as a notice of intent for coverage under the general VPDES permit for discharges of stormwater from construction activities.

1. New construction activities.

a. Any operator proposing a new stormwater discharge from construction activities shall submit a complete and accurate registration statement to the VSMP authority prior to the commencement of land disturbance.

b. Any operator proposing a new stormwater discharge from construction activities in response to a public emergency where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment is authorized to discharge under this general permit, provided that:

(1) The operator submits a complete and accurate registration statement to the VSMP authority no later than 30 days after commencing land disturbance; and

(2) Documentation to substantiate the occurrence of the public emergency is provided with the registration statement.

c. Any operator proposing a new stormwater discharge associated with the construction of a single-family detached residential structure, within or outside a common plan of development or sale, is authorized to discharge under this general permit and is not required to submit a registration statement or the department portion of the permit fee.

2. Existing construction activities.

a. Any operator ~~that~~ who was authorized to discharge under the expiring or expired general permit ~~issued in 2009~~ and ~~that~~ who intends to continue coverage under this general permit shall:

(1) Submit a complete and accurate registration statement to the VSMP authority ~~on or before June 1, 2014~~ at least 60 days prior to the expiration date of the existing permit or a later submittal date established by the board; and

(2) Update its stormwater pollution prevention plan to comply with the requirements of this general permit no later than 60 days after the date of coverage under this general permit.

- b. Any operator with an existing stormwater discharge associated with the construction of a single-family detached residential structure, within or outside a common plan of development or sale that intends to continue coverage under this general permit, is authorized to discharge under this general permit and is not required to submit a registration statement or the department portion of the permit fee, provided that the operator updates its stormwater pollution prevention plan to comply with the requirements of this general permit no later than 60 days after the date of coverage under this general permit.
3. For stormwater discharges from construction activities where the operator changes, the new operator ~~must~~ shall submit a complete and accurate registration statement or transfer agreement form and any other documents deemed necessary by the VSMP authority to the VSMP authority to demonstrate transfer of ownership and long-term maintenance responsibilities for stormwater management facilities, as required, has occurred prior to assuming operational control over site specifications or commencing work on-site.
4. Late notifications. Operators are not prohibited from submitting registration statements after commencing land disturbance. When a late registration statement is submitted, authorization for discharges shall not occur until coverage under the general permit is issued. The VSMP authority, department, board, and the EPA reserve the right to take enforcement action for any unpermitted discharges that occur between the commencement of land disturbance and discharge authorization.
5. Late registration statements. Registration statements for existing facilities covered under subdivision A 2 a of this section will be accepted after the expiration date of this permit, but authorization to discharge will not be retroactive. [The VSMP authority, department, board, and the EPA reserve the right to take enforcement action for any

unpermitted discharges that occur after existing permit coverage expires and prior to coverage under this permit is approved.]

B. Registration statement. The operator shall submit a registration statement to the VSMP authority that ~~shall contain~~ contains the following information:

1. Name, contact, mailing address, telephone number, and email address if available of the construction activity operator. No more than one operator may receive coverage under each registration statement;

NOTE: General permit coverage will be issued to this operator, and the certification in subdivision 44 [~~19~~ 17] of this subsection ~~must~~ shall be signed by the appropriate person associated with this operator as described in Part III K of 9VAC25-880-70.

2. Name and physical location if available address of the construction ~~activity and all off-site support activities~~ activity, when available, to be covered under this general permit, including city or county, and latitude and longitude in decimal degrees (six digits - ten-thousandths place);

3. A site map [~~in a format specified by the VSMP authority~~(in a 8.5 inch by 11 inch format)] showing the location of the existing or proposed land-disturbing activities [~~for which the operator is seeking permit coverage,~~] the limits of land disturbance, construction entrances, [on-site support activities] and all water bodies receiving stormwater discharges from the site;

4. If offsite support activities will be used, the name and physical location address, when available, of those offsite support activities, including city or county; latitude and longitude in decimal degrees (six digits - ten-thousandths place); and whether or not the offsite support activity will be covered under this general permit or a separate VPDES permit;

5. Status of the construction activity: federal, state, public, or private;

4. 6. Nature of the construction activity (e.g., commercial, industrial, residential, agricultural, oil and gas, etc.);

7. If stormwater management plans for the construction activity have been approved by an entity with department approved annual standards and specifications, the name of the entity with the department approved annual standards and specifications. A copy of the annual standard and specification entity form shall be submitted with the registration statement;

8. If the construction activity was previously authorized to discharge under the general permit effective July 1, 2014, the [~~date~~date] of erosion and sediment control plan approval [for the estimated area to be disturbed by the construction activity during this permit term] ;

9. If the construction activity was previously authorized to discharge under the general permit effective July 1, 2014, whether land disturbance has commenced;

~~5.~~ 10. Name of the receiving ~~water(s)~~ waters and sixth order Hydrologic Unit Code (HUC);

~~6.~~ 11. If the discharge is through a municipal separate storm sewer system (MS4), the name of the ~~municipal separate storm sewer system~~ MS4 operator;

7. 12. Estimated project start date and completion date;

~~8.~~ 13. Total land area of development and estimated area to be disturbed by the construction activity [during this permit term] (to the nearest one-hundredth of an acre);

~~9.~~ 14. Whether the area to be disturbed by the construction activity is part of a larger common plan of development or sale;

~~[15. For cases of development on prior developed lands, whether the area disturbed by the construction activity results in the demolition of structures equal to or greater than 10,000 square feet of floor space built or renovated prior to January 1, 1980;~~

~~16. Where applicable, a stormwater management maintenance agreement in accordance with 9VAC25-870-112 A;~~

~~17.15.] If nutrient credits are to be used to demonstrate compliance with the water quality technical criteria as allowed in 9VAC25-870-65 F, a letter of availability from an appropriate nutrient bank that nonpoint source nutrient credits are available [. Prior to issuance of state permit coverage, an affidavit of sale documenting that nonpoint source nutrient credits have been obtained shall be submitted] ;~~

40. [~~18.16.~~] A stormwater pollution prevention plan (SWPPP) ~~must~~ shall be prepared in accordance with the requirements of the General VPDES Permit for Stormwater Discharges from Construction Activities prior to submitting the registration statement. By signing the registration statement the operator certifies that the SWPPP has been prepared; and

44. [~~19.17.~~] The following certification: "I certify under penalty of law that I have read and understand this registration statement and that this document and all attachments were prepared in accordance with a system designed to assure that qualified personnel properly gathered and evaluated 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."

C. The registration statement shall be signed in accordance with 9VAC25-880-70, Part III K.

9VAC25-880-60. Termination of general permit coverage.

A. Requirements. The operator of the construction activity shall submit a complete and accurate notice of termination [, unless a registration statement was not required to be submitted in accordance with 9VAC25-880-50 A 1 c or A 2 b for single-family detached residential structures,] to the VSMP authority after one or more of the following conditions have been met:

1. Necessary permanent control measures included in the SWPPP for the site are in place and functioning effectively and final stabilization has been achieved on all portions of the site for which the operator ~~is responsible~~ has operational control. When applicable, long-term responsibility and maintenance requirements for permanent control measures shall be recorded in the local land records prior to the submission of a complete and accurate notice of termination [, and the construction record drawing prepared] ;
2. Another operator has assumed control over all areas of the site that have not been finally stabilized and obtained coverage for the ongoing discharge;
3. Coverage under an alternative VPDES or state permit has been obtained; or
4. For individual lots in residential construction only, ~~temporary soil~~ final stabilization as defined in 9VAC25-880-1 has been completed [including providing written notification to the homeowner and incorporating a copy of the notification and signed certification statement into the SWPPP,] and the residence has been transferred to the homeowner.

B. Notice of termination due date and effective date.

1. The notice of termination ~~should~~ shall be submitted no later than 30 days after one of the ~~above~~ conditions in subsection A of this section is met.

2. Termination of [~~authorizations~~ authorization] to discharge for the conditions set forth in subdivision A 1 of this section shall become effective upon notification from the department that the provisions of subdivision A 1 of this section have been met or 60 days after submittal of a complete and accurate notice of termination, whichever occurs first.

3. Authorization to discharge terminates at midnight on the date that the notice of termination is submitted for the conditions set forth in subdivisions A 2 through A 4 of this subsection ~~section~~ unless otherwise notified by the VSMP authority or the department. ~~Termination of authorizations to discharge for the conditions set forth in subdivision 1 of this subsection shall be effective upon notification from the department that the provisions of subdivision 1 of this subsection have been met or 60 days after submittal of the notice of terminations, whichever occurs first.~~

B. C. Notice of termination. The complete notice of termination shall contain the following information:

1. Name, contact, mailing address, telephone number, and email address, if available, of the construction activity operator;
2. Name and physical location ~~if available~~ address of the construction activity, when available, covered under this general permit, including city or county, and latitude and longitude in decimal degrees- (six digits - ten-thousandths place);
3. The general permit registration number;
4. The basis for submission of the notice of termination, pursuant to subsection A of this section;
5. Where applicable, a list of the on-site and off-site permanent control measures (both structural and nonstructural) that were installed to comply with the stormwater

management water quality and water quantity technical criteria. For each permanent control measure that was installed, the following information shall be included:

- a. The type of permanent control measure installed and the date that it became functional as a permanent control measure;
 - b. The location ~~if available~~ of the permanent control measure, including city or county, and latitude and longitude in decimal degrees;
 - c. The receiving water ~~of~~ to which the permanent control measures discharge; and
 - d. The number of total and impervious acres treated by the permanent control ~~measure~~ measures (to the nearest ~~one-tenth~~ one-hundredth of an acre)-;
6. Where applicable, the following information related to participation in a regional stormwater management plan. For each regional stormwater management facility, the following information shall be included:

- a. The type of regional facility to which the site contributes;
- b. The location ~~if available~~ of the regional facility, including city or county, and latitude and longitude in decimal degrees; and
- c. The number of total and impervious site acres treated by the regional facility (to the nearest ~~one-tenth~~ one-hundredth of an acre)-;

[7. Where applicable, the following information related to perpetual nutrient credits that were acquired in accordance with § 62.1-44.15:35 of the Code of Virginia:

- a. The name of the nonpoint nutrient credit generating entity from which perpetual nutrient credits were acquired; and
- b. The number of perpetual nutrient credits acquired (lbs. per acre per year).]

[7-8.] A construction record drawing in a format as specified by the VSMP authority for permanent stormwater management facilities in accordance with 9VAC25-870-55 D appropriately sealed and signed by a professional registered in the Commonwealth of Virginia, certifying that the stormwater management facilities have been constructed in accordance with the approved plan;

[8-9.] Where applicable, evidence that the signed Stormwater Management Maintenance Agreement has been recorded [in an instrument within the local land records] ;

[9-10.] For individual lots in residential construction only [when the homebuilder established temporary soil stabilization] , a signed statement from the permittee that the new owner, if not the same as the permittee, has been notified of the final stabilization requirements; and

8. [10-11.] The following certification: "I certify under penalty of law that I have read and understand this notice of termination and that this document and all attachments were prepared in accordance with a system designed to assure that qualified personnel properly gathered and evaluated 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."

6. D. The notice of termination shall be signed in accordance with 9VAC25-880-70 Part III K.

D. E. Termination by the board. The board may terminate coverage under this general permit during its term and require application for an individual permit or deny a general permit renewal

application on its own initiative in accordance with the Act, this chapter, and the VSMP Regulation, 9VAC25-870.

9VAC25-880-70. General permit.

Any operator whose registration statement is accepted by the board will receive the following general permit and shall comply with the requirements contained therein and be subject to all requirements of 9VAC25-870.

General Permit No.: VAR10

Effective Date: July 1, ~~2014~~ 2019

Expiration Date: June 30, ~~2019~~ 2024

GENERAL VPDES PERMIT FOR DISCHARGES OF STORMWATER FROM CONSTRUCTION
ACTIVITIES

AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA STORMWATER MANAGEMENT
PROGRAM AND THE VIRGINIA STORMWATER MANAGEMENT ACT

In compliance with the provisions of the Clean Water Act, as amended, and pursuant to the Virginia Stormwater Management Act and regulations adopted pursuant thereto, operators of construction activities are authorized to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those specifically named in State Water Control Board regulations that prohibit such discharges.

The authorized discharge shall be in accordance with the registration statement filed with the Department of Environmental Quality, this cover page, Part I - Discharge Authorization and Special Conditions, Part II - Stormwater Pollution Prevention Plan, and Part III - Conditions Applicable to All VPDES Permits as set forth ~~herein~~ in this general permit.

PART I

DISCHARGE AUTHORIZATION AND SPECIAL CONDITIONS

A. Coverage under this general permit.

1. During the period beginning with the date of coverage under this general permit and lasting until the general permit's expiration date, the operator is authorized to discharge stormwater from construction activities.

2. This general permit also authorizes stormwater discharges from support activities (e.g., concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, borrow areas) located on-site or off-site provided that:

- a. The support activity is directly related to the construction activity that is required to have general permit coverage for discharges of stormwater from construction activities;
- b. The support activity is not a commercial operation, nor does it serve multiple unrelated construction activities by different operators;
- c. The support activity does not operate beyond the completion of the last construction activity it supports;
- d. The support activity is identified in the registration statement at the time of general permit coverage;
- e. Appropriate control measures are identified in a stormwater pollution prevention plan and implemented to address the discharges from the support activity areas; and
- f. All applicable state, federal, and local approvals are obtained for the support activity.

B. Limitations on coverage.

1. Post-construction discharges. This general permit does not authorize stormwater discharges that originate from the site after construction activities have been completed and the site, including any support activity sites covered under the general permit registration, has undergone final stabilization. Post-construction industrial stormwater discharges may need to be covered by a separate VPDES permit.

2. Discharges mixed with nonstormwater. This general permit does not authorize discharges that are mixed with sources of nonstormwater, other than those discharges that are identified in Part I E (Authorized nonstormwater discharges) and are in compliance with this general permit.

3. Discharges covered by another state permit. This general permit does not authorize discharges of stormwater from construction activities that have been covered under an individual permit or required to obtain coverage under an alternative general permit.

4. Impaired waters and ~~TMDL~~ total maximum daily load (TMDL) limitation.

a. Nutrient and sediment impaired waters. Discharges of stormwater from construction activities to surface waters identified as impaired in the ~~2012~~ 2016 § 305(b)/303(d) Water Quality Assessment Integrated Report or for which a TMDL wasteload allocation has been established and approved prior to the term of this general permit for (i) sediment or a sediment-related parameter (i.e., total suspended solids or turbidity) or (ii) nutrients (i.e., nitrogen or phosphorus) are not eligible for coverage under this general permit unless the operator develops, implements, and maintains a SWPPP stormwater pollution prevention plan (SWPPP) in accordance with Part II B 5 of this permit that minimizes the pollutants of concern and, when applicable, is consistent with the assumptions and requirements of the approved TMDL wasteload allocations. ~~In addition, the operator shall implement the following items: allocations~~ and implements an inspection frequency consistent with Part II G 2 a.

~~a. The impaired water(s), approved TMDL(s), and pollutant(s) of concern, when applicable, shall be identified in the SWPPP;~~

~~b. Permanent or temporary soil stabilization shall be applied to denuded areas within seven days after final grade is reached on any portion of the site;~~

~~c. Nutrients shall be applied in accordance with manufacturer's recommendations or an approved nutrient management plan and shall not be applied during rainfall events; and~~

~~d. The applicable SWPPP inspection requirements specified in Part II F 2 shall be amended as follows:~~

~~(1) Inspections shall be conducted at a frequency of (i) at least once every four business days or (ii) at least once every five business days and no later than 48 hours following a measurable storm event. In the event that a measurable storm event occurs when there are more than 48 hours between business days, the inspection shall be conducted on the next business day; and~~

~~(2) Representative inspections used by utility line installation, pipeline construction, or other similar linear construction activities shall inspect all outfalls discharging to surface waters identified as impaired or for which a TMDL wasteload allocation has been established and approved prior to the term of this general permit.~~

b. Polychlorinated biphenyl (PCB) impaired waters. Discharges of stormwater from construction activities that include the demolition of any structure with at least 10,000 square feet of floor space built or renovated before January 1, 1980, to surface waters identified as impaired in the 2016 § 305(b)/303(d) Water Quality Assessment Integrated Report or for which a TMDL wasteload allocation has been established and approved prior to the term of this general permit for PCB are not eligible for coverage

under this general permit unless the operator develops, implements, and maintains a SWPPP in accordance with Part II B 6 of this permit that minimizes the pollutants of concern and, when applicable, is consistent with the assumptions and requirements of the approved TMDL wasteload allocations, and implements an inspection frequency consistent with Part II G 2 a.

5. Exceptional waters limitation. Discharges of stormwater from construction activities not previously covered under the general permit ~~issued in 2009~~ effective on July 1, 2014, to exceptional waters identified in 9VAC25-260-30 A 3 c are not eligible for coverage under this general permit unless the operator ~~implements the following:~~ develops, implements, and maintains a SWPPP in accordance with Part II B 7 of this permit and implements an inspection frequency consistent with Part II G 2 a.

~~a. The exceptional water(s) shall be identified in the SWPPP;~~

~~b. Permanent or temporary soil stabilization shall be applied to denuded areas within seven days after final grade is reached on any portion of the site;~~

~~c. Nutrients shall be applied in accordance with manufacturer's recommendations or an approved nutrient management plan and shall not be applied during rainfall events; and~~

~~d. The applicable SWPPP inspection requirements specified in Part II F 2 shall be amended as follows:~~

~~(1) Inspections shall be conducted at a frequency of (i) at least once every four business days or (ii) at least once every five business days and no later than 48 hours following a measurable storm event. In the event that a measurable storm event occurs when there are more than 48 hours between business days, the inspection shall be conducted on the next business day; and~~

~~(2) Representative inspections used by utility line installation, pipeline construction, or other similar linear construction activities shall inspect all outfalls discharging to exceptional waters.~~

6. There shall be no discharge of floating solids or visible foam in other than trace amounts.

C. Commingled discharges. Discharges authorized by this general permit may be commingled with other sources of stormwater that are not required to be covered under a state permit, so long as the commingled discharge is in compliance with this general permit. Discharges authorized by a separate state or VPDES permit may be commingled with discharges authorized by this general permit so long as all such discharges comply with all applicable state and VPDES permit requirements.

D. Prohibition of nonstormwater discharges. Except as provided in Parts I A 2, I C, and I E, all discharges covered by this general permit shall be composed entirely of stormwater associated with construction activities. All other discharges including the following are prohibited:

1. Wastewater from washout of concrete;
2. Wastewater from the washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials;
3. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance;
4. Oils, toxic substances, or hazardous substances from spills or other releases; and
5. Soaps, solvents, or detergents used in equipment and vehicle washing.

E. Authorized nonstormwater discharges. The following nonstormwater discharges from construction activities are authorized by this general permit when discharged in compliance with this general permit:

1. Discharges from firefighting activities;
2. Fire hydrant flushings;
3. Waters used to wash vehicles or equipment where soaps, solvents, or detergents have not been used and the wash water has been filtered, settled, or similarly treated prior to discharge;
4. Water used to control dust that has been filtered, settled, or similarly treated prior to discharge;
5. Potable water sources, including uncontaminated waterline flushings [] managed in a manner to avoid an instream impact;
6. Routine external building wash down where soaps, solvents or detergents have not been used and the wash water has been filtered, settled, or similarly treated prior to discharge;
7. Pavement wash waters where spills or leaks of toxic or hazardous materials have not occurred (or where all spilled or leaked material has been removed prior to washing); where soaps, solvents, or detergents have not been used; and where the wash water has been filtered, settled, or similarly treated prior to discharge;
8. Uncontaminated air conditioning or compressor condensate;
9. Uncontaminated ground water or spring water;
10. Foundation or footing drains where flows are not contaminated with process materials such as solvents;
11. Uncontaminated excavation dewatering, including dewatering of trenches and excavations that have been filtered, settled, or similarly treated prior to discharge; and
12. Landscape irrigation.

F. Termination of general permit coverage.

1. The operator of the construction activity shall submit a notice of termination in accordance with 9VAC25-880-60 [, unless a registration statement was not required to be submitted in accordance with 9VAC25-880-50 A 1 c or A 2 b for single-family detached residential structures.] to the VSMP authority after one or more of the following conditions have been met:

- a. Necessary permanent control measures included in the SWPPP for the site are in place and functioning effectively and final stabilization has been achieved on all portions of the site for which the operator ~~is responsible~~ has operational control. When applicable, long term responsibility and maintenance requirements for permanent control measures shall be recorded in the local land records prior to the submission of a complete and accurate notice of termination and the construction record drawing prepared;
- b. Another operator has assumed control over all areas of the site that have not been finally stabilized and obtained coverage for the ongoing discharge;
- c. Coverage under an alternative VPDES or state permit has been obtained; or
- d. For individual lots in residential construction only, ~~temporary soil~~ final stabilization as defined in 9VAC25-880-1 has been completed [including providing written notification to the homeowner and incorporating a copy of the notification and signed certification statement into the SWPPP.] and the residence has been transferred to the homeowner.

2. The notice of termination ~~should~~ shall be submitted no later than 30 days after one of the above conditions in subdivision 1 of this subsection is met. ~~Authorization to discharge~~

~~terminates at midnight on the date that the notice of termination is submitted for the conditions set forth in subdivisions 1 b through 1 d of this subsection.~~

3. Termination of [~~authorizations~~authorization] to discharge for the conditions set forth in subdivision 1 a of this subsection shall be effective upon notification from the department that the provisions of subdivision 1 a of this subsection have been met or 60 days after submittal of ~~the~~ a complete and accurate notice of termination in accordance with 9VAC25-880-60 C, whichever occurs first.

4. Authorization to discharge terminates at midnight on the date that the notice of termination is submitted for the conditions set forth in subdivisions 1 b through 1 d of this subsection unless otherwise notified by the VSMP authority or department.

~~3.~~ 5. The notice of termination shall be signed in accordance with Part III K of this general permit.

G. Water quality protection.

1. The operator ~~must~~ shall select, install, implement [] and maintain control measures as identified in the SWPPP at the construction site that minimize pollutants in the discharge as necessary to ensure that the operator's discharge does not cause or contribute to an excursion above any applicable water quality standard.

2. If it is determined by the department that the operator's discharges are causing, have reasonable potential to cause, or are contributing to an excursion above any applicable water quality standard, the department, in consultation with the VSMP authority, may take appropriate enforcement action and require the operator to:

a. Modify or implement additional control measures in accordance with Part II ~~B~~ C to adequately address the identified water quality concerns;

- b. Submit valid and verifiable data and information that are representative of ambient conditions and indicate that the receiving water is attaining water quality standards; or
- c. Submit an individual permit application in accordance with 9VAC25-870-410 B 3.

All written responses required under this chapter ~~must~~ shall include a signed certification consistent with Part III K.

PART II

STORMWATER POLLUTION PREVENTION PLAN

A. Stormwater pollution prevent plan.

1. A stormwater pollution prevention plan (SWPPP) shall be developed prior to the submission of a registration statement and implemented for the construction activity, including any support activity, covered by this general permit. SWPPPs shall be prepared in accordance with good engineering practices. Construction activities that are part of a larger common plan of development or sale and disturb less than one acre may utilize a SWPPP template provided by the department and need not provide a separate stormwater management plan if one has been prepared and implemented for the larger common plan of development or sale.

2. The SWPPP requirements of this general permit may be fulfilled by incorporating by reference other plans such as a spill prevention control and countermeasure (SPCC) plan developed for the site under § 311 of the federal Clean Water Act or best management practices (BMP) programs otherwise required for the facility provided that the incorporated plan meets or exceeds the SWPPP requirements of Part II A B. All plans incorporated by reference into the SWPPP become enforceable under this general permit. If a plan incorporated by reference does not contain all of the required elements of the SWPPP, the operator ~~must~~ shall develop the missing elements and include them in the SWPPP.

3. Any operator that was authorized to discharge under the general permit ~~issued in 2009~~ effective July 1, 2014, and that intends to continue coverage under this general permit, shall update its stormwater pollution prevention plan to comply with the requirements of this general permit no later than 60 days after the date of coverage under this general permit.

~~A. Stormwater pollution prevention plan contents~~ B. Contents. The SWPPP shall include the following items:

1. General information.

- a. A signed copy of the registration statement, if required, for coverage under the general VPDES permit for discharges of stormwater from construction activities;
- b. Upon receipt, a copy of the notice of coverage under the general VPDES permit for discharges of stormwater from construction activities (i.e., notice of coverage letter);
- c. Upon receipt, a copy of the general VPDES permit for discharges of stormwater from construction activities;
- d. A narrative description of the nature of the construction activity, including the function of the project (e.g., low density residential, shopping mall, highway, etc.);
- e. A legible site plan identifying:
 - (1) Directions of stormwater flow and approximate slopes anticipated after major grading activities;
 - (2) Limits of land disturbance including steep slopes and natural buffers around surface waters that will not be disturbed;
 - (3) Locations of major structural and nonstructural control measures, including sediment basins and traps, perimeter dikes, sediment barriers, and other measures

intended to filter, settle, or similarly treat sediment, that will be installed between disturbed areas and the undisturbed vegetated areas in order to increase sediment removal and maximize stormwater infiltration;

(4) Locations of surface waters;

(5) Locations where concentrated stormwater is discharged;

(6) Locations of any support activities, ~~when applicable and when required by the VSMP authority,~~ including ~~but not limited to~~ (i) areas where equipment and vehicle washing, wheel wash water, and other wash water is to occur; (ii) storage areas for chemicals such as acids, fuels, fertilizers, and other lawn care chemicals; (iii) concrete wash out areas; (iv) vehicle fueling and maintenance areas; (v) sanitary waste facilities, including those temporarily placed on the construction site; and (vi) construction waste storage; and

(7) When applicable, the location of the on-site rain gauge or the methodology established in consultation with the VSMP authority used to identify measurable storm events for inspection purposes as allowed by [~~Part II F 2 b (2)~~Part II G 2 a (1) (ii) or Part II G 2 b (2)] .

2. Erosion and sediment control plan.

a. An erosion and sediment control plan designed and approved by the ~~VESCP authority as authorized under~~ in accordance with the Virginia Erosion and Sediment Control Regulations (9VAC25-840), an "agreement in lieu of a plan" as defined in 9VAC25-840-10 from the VESCP authority, or an erosion and sediment control plan prepared in accordance with annual standards and specifications approved by the department. ~~Any operator proposing a new stormwater discharge from construction activities that is not required to obtain erosion and sediment control plan approval from~~

~~a VESCP authority or does not adopt department-approved annual standards and specifications shall submit the erosion and sediment control plan to the department for review and approval.~~

b. All erosion and sediment control plans shall include a statement describing the maintenance responsibilities required for the erosion and sediment controls used.

c. ~~A properly implemented~~ An approved erosion and sediment control plan, "agreement in lieu of a plan," or erosion and sediment control plan prepared in accordance with department-approved annual standards and specifications, ~~adequately~~ implemented to:

(1) ~~Controls~~ Control the volume and velocity of stormwater runoff within the site to minimize soil erosion;

(2) ~~Controls~~ Control stormwater discharges, including peak flow rates and total stormwater volume, to minimize erosion at outlets and to minimize downstream channel and stream bank erosion;

(3) ~~Minimizes~~ Minimize the amount of soil exposed during the construction activity;

(4) ~~Minimizes~~ Minimize the disturbance of steep slopes;

(5) ~~Minimizes~~ Minimize sediment discharges from the site in a manner that addresses (i) the amount, frequency, intensity, and duration of precipitation; (ii) the nature of resulting stormwater runoff; and (iii) soil characteristics, including the range of soil particle sizes present on the site;

(6) ~~Provides~~ Provide and ~~maintains~~ maintain natural buffers around surface waters, [~~directs~~direct] stormwater to vegetated areas to increase sediment removal, and [~~maximizes~~maximize] stormwater infiltration, unless infeasible;

- (7) ~~Minimizes~~ Minimize soil compaction and, unless infeasible, [~~preserves~~preserve] topsoil;
- (8) ~~Ensures that~~ Ensure initiation of stabilization activities, as defined in 9VAC25-880-1, of disturbed areas ~~will be initiated~~ immediately whenever any clearing, grading, excavating, or other land-disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 days; and
- (9) ~~Utilizes~~ Utilize outlet structures that withdraw stormwater from the surface (i.e., above the permanent pool or wet storage water surface elevation), unless infeasible, when discharging from sediment basins or sediment traps.
3. Stormwater management plan.

- a. ~~New construction activities. A~~ Except for those projects identified in Part II B 3 b [~~and 3 a, a~~] stormwater management plan approved by the VSMP authority as authorized under the Virginia Stormwater Management Program (VSMP) Regulation (9VAC25-870), or an "agreement in lieu of a stormwater management plan" as defined in 9VAC25-870-10 from the VSMP authority, or a stormwater management plan prepared in accordance with annual standards and specifications approved by the department. ~~Any operator proposing a new stormwater discharge from construction activities that is not required to obtain stormwater management plan approval from a VSMP authority or does not adopt department-approved annual standards and specifications shall submit the stormwater management plan to the department for review and approval.~~
- b. ~~Existing construction activities. Any~~ For any operator [~~that was authorized to discharge under the general~~] permit issued in 2009, and that intends to continue

~~coverage under this general permit, shall ensure compliance with [permits effective July 1, 2009, and July 1, 2014, for projects] meeting the [requirements/conditions] of 9VAC25-870-93 through 9VAC25-870-99 of the VSMP Regulation, including but not limited to the water quality and quantity requirements. The 9VAC25-870-47 B [of the VSMP regulation] , an approved stormwater management plan is not required. In lieu of an approved stormwater management plan, the SWPPP shall include a description of, and all necessary calculations supporting, all post-construction stormwater management measures that will be installed prior to the completion of the construction process to control pollutants in stormwater discharges after construction operations have been completed. Structural measures should be placed on upland soils to the degree possible. Such measures must be designed and installed in accordance with applicable VESCP authority, VSMP authority, state, and federal requirements, and any necessary permits must be obtained.~~

4. Pollution prevention plan. A pollution prevention plan that addresses potential pollutant-generating activities that may reasonably be expected to affect the quality of stormwater discharges from the construction activity, including any support activity. The pollution prevention plan shall:

- a. Identify the potential pollutant-generating activities and the pollutant that is expected to be exposed to stormwater;
- b. Describe the location where the potential pollutant-generating activities will occur, or if identified on the site plan, reference the site plan;
- c. Identify all nonstormwater discharges, as authorized in Part I E of this general permit, that are or will be commingled with stormwater discharges from the construction activity, including any applicable support activity;

d. Identify the person responsible for implementing the pollution prevention practice or practices for each pollutant-generating activity (if other than the person listed as the qualified personnel);

e. Describe the pollution prevention practices and procedures that will be implemented to:

(1) Prevent and respond to leaks, spills, and other releases including (i) procedures for expeditiously stopping, containing, and cleaning up spills, leaks, and other releases; and (ii) procedures for reporting leaks, spills, and other releases in accordance with Part III G;

(2) Prevent the discharge of spilled and leaked fuels and chemicals from vehicle fueling and maintenance activities (e.g., providing secondary containment such as spill berms, decks, spill containment pallets, providing cover where appropriate, and having spill kits readily available);

(3) Prevent the discharge of soaps, solvents, detergents, and wash water from construction materials, including the clean-up of stucco, paint, form release oils, and curing compounds (e.g., providing (i) cover (e.g., plastic sheeting or temporary roofs) to prevent contact with stormwater; (ii) collection and proper disposal in a manner to prevent contact with stormwater; and (iii) a similarly effective means designed to prevent discharge of these pollutants);

(4) Minimize the discharge of pollutants from vehicle and equipment washing, wheel wash water, and other types of washing (e.g., locating activities away from surface waters and stormwater inlets or conveyance and directing wash waters to sediment basins or traps, using filtration devices such as filter bags or sand filters, or using similarly effective controls);

(5) Direct concrete wash water into a leak-proof container or leak-proof settling basin. The container or basin shall be designed so that no overflows can occur due to inadequate sizing or precipitation. Hardened concrete wastes shall be removed and disposed of in a manner consistent with the handling of other construction wastes. Liquid concrete wastes shall be removed and disposed of in a manner consistent with the handling of other construction wash waters and shall not be discharged to surface waters;

(6) Minimize the discharge of pollutants from storage, handling, and disposal of construction products, materials, and wastes including (i) building products such as asphalt sealants, copper flashing, roofing materials, adhesives, and concrete admixtures; (ii) pesticides, herbicides, insecticides, fertilizers, and landscape materials; and (iii) construction and domestic wastes such as packaging materials, scrap construction materials, masonry products, timber, pipe and electrical cuttings, plastics, Styrofoam, concrete, and other trash or building materials;

(7) Prevent the discharge of fuels, oils, and other petroleum products, hazardous or toxic wastes, [excesswaste] concrete, and sanitary wastes; ~~and~~

(8) Address any other discharge from the potential pollutant-generating activities not addressed above; [~~and~~]

(9) Minimize the exposure of waste materials to precipitation by closing or covering waste containers during precipitation events and at the end of the business day, or implementing other similarly effective practices. Minimization of exposure is not required in cases where the exposure to precipitation will not result in a discharge of pollutants; and

- f. Describe procedures for providing pollution prevention awareness of all applicable wastes, including any wash water, disposal practices, and applicable disposal locations of such wastes, to personnel in order to comply with the conditions of this general permit. The operator shall implement the procedures described in the SWPPP.
5. SWPPP requirements for discharges to ~~impaired waters, surface waters with an applicable TMDL wasteload allocation established and approved prior to the term of this general permit, and exceptional waters.~~ The SWPPP shall: nutrient and sediment impaired waters. For discharges to surface waters (i) identified as impaired in the 2016 § 305(b)/303(d) Water Quality Assessment Integrated Report or (ii) with an applicable TMDL wasteload allocation established and approved prior to the term of this general permit for sediment for a sediment-related parameter (i.e., total suspended solids or turbidity) or nutrients (i.e., nitrogen or phosphorus), the operator shall:
- a. Identify the impaired ~~water(s)~~ waters, approved ~~TMDL(s)~~ TMDLs, ~~pollutant(s)~~ and pollutants of concern, ~~and exceptional waters identified in 9VAC25-260-30 A 3 c, when applicable;~~ in the SWPPP; and
 - b. Provide clear direction in the SWPPP that:
 - (1) Permanent or temporary soil stabilization shall be applied to denuded areas within seven days after final grade is reached on any portion of the site;
 - (2) Nutrients shall be applied in accordance with manufacturer's recommendations or an approved nutrient management plan and shall not be applied during rainfall events; and
 - (3) A modified inspection schedule shall be implemented in accordance with ~~Part 1-B 4~~ Part 1-B 5 II G 2 a.

6. SWPPP requirements for discharges to polychlorinated biphenyl (PCB) impaired waters. For discharges from construction activities that include the demolition of any structure with at least 10,000 square feet of floor space built or renovated before January 1, 1980, to surface waters (i) identified as impaired in the 2016 § 305(b)/303(d) Water Quality Assessment Integrated Report or (ii) with an applicable TMDL wasteload allocation established and approved prior to the term of this general permit for [PCBsPCB] , the operator shall:

a. Identify the impaired waters, approved TMDLs, and pollutant of concern in the SWPPP; [and]

b. [Include procedures in the SWPPP for:

(1) Implementation of controls to minimize the exposure of PCB-containing building materials, including paint, caulk, and pre-1980 fluorescent lighting fixtures, to precipitation and to stormwater such as separating work areas from nonwork areas and selecting appropriate personal protective equipment and tools, constructing a containment area so that all dust or debris generated by the work remains within the protected area, using tools that minimize dust and heat (<212°F)Implement the approved erosion and sediment control plan in accordance with Part II B 2] ;

[(2) Disposal.c. Dispose] of [suchwaste] materials [is performed] in compliance with applicable state, federal, and local requirements; and

[(3) Ad. Implement a] modified inspection schedule [shall be implemented] in accordance with Part II G 2 a.

7. SWPPP requirements for discharges to exceptional waters. For discharges to surface waters identified in 9VAC25-260-30 A 3 c as an exceptional water, the operator shall:

a. Identify the exceptional surface waters in the SWPPP; and

b. Provide clear direction in the SWPPP that:

(1) Permanent or temporary soil stabilization shall be applied to denuded areas within seven days after final grade is reached on any portion of the site;

(2) Nutrients shall be applied in accordance with manufacturer's recommendations or an approved nutrient management plan and shall not be applied during rainfall events;
and

(3) A modified inspection schedule shall be implemented in accordance with Part II G 2 a.

~~6. Qualified~~ 8. Identification of qualified personnel. The name, phone number, and qualifications of the qualified personnel conducting inspections required by this general permit.

~~7. 9.~~ Delegation of authority. The individuals or positions with delegated authority, in accordance with Part III K, to sign inspection reports or modify the SWPPP.

~~8. 10.~~ SWPPP signature. The SWPPP shall be signed and dated in accordance with Part III K.

~~B. C.~~ SWPPP amendments, modification, and updates.

1. The operator shall amend the SWPPP whenever there is a change in the design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to surface waters and that has not been previously addressed in the SWPPP.

2. The SWPPP ~~must~~ shall be amended if, during inspections or investigations by the operator's qualified personnel, or by local, state, or federal officials, it is determined that the existing control measures are ineffective in minimizing pollutants in discharges from the construction activity. Revisions to the SWPPP shall include additional or modified

control measures designed and implemented to correct problems identified. If approval by the VESCP authority, VSMP authority, or department is necessary for the control measure, revisions to the SWPPP shall be completed no later than seven calendar days following approval. Implementation of these additional or modified control measures ~~must~~ shall be accomplished as described in Part II ~~G~~ H.

3. The SWPPP ~~must~~ shall clearly identify the ~~contractor(s)~~ contractors that will implement and maintain each control measure identified in the SWPPP. The SWPPP shall be amended to identify any new contractor that will implement and maintain a control measure.

4. The operator shall update the SWPPP as soon as possible but no later than seven days following any modification to its implementation. All modifications or updates to the SWPPP shall be noted and shall include the following items:

a. A record of dates when:

(1) Major grading activities occur;

(2) Construction activities temporarily or permanently cease on a portion of the site;
and

(3) Stabilization measures are initiated;

b. Documentation of replaced or modified controls where periodic inspections or other information have indicated that the controls have been used inappropriately or incorrectly and ~~where~~ were modified ~~as soon as possible~~;

c. Areas that have reached final stabilization and where no further SWPPP or inspection requirements apply;

- d. All properties that are no longer under the legal control of the operator and the dates on which the operator no longer had legal control over each property;
 - e. The date of any prohibited discharges, the discharge volume released, and what actions were taken to minimize the impact of the release;
 - f. Measures taken to prevent the reoccurrence of any prohibited discharge; and
 - g. Measures taken to address any evidence identified as a result of an inspection required under Part II F G.
5. Amendments, modifications, or updates to the SWPPP shall be signed in accordance with Part III K.

~~C.~~ D. Public Notification notification. Upon commencement of land disturbance, the operator shall post conspicuously a copy of the notice of coverage letter near the main entrance of the construction activity. For linear projects, the operator shall post the notice of coverage letter at a publicly accessible location near an active part of the construction project (e.g., where a pipeline crosses a public road). The operator shall maintain the posted information until termination of general permit coverage as specified in Part I F.

~~D.~~ E. SWPPP availability.

- 1. Operators with day-to-day operational control over SWPPP implementation shall have a copy of the SWPPP available at a central location on-site for use by those identified as having responsibilities under the SWPPP whenever they are on the construction site.
- 2. The operator shall make the SWPPP and all amendments, modifications, and updates available upon request to the department, the VSMP authority, the EPA, the VESCP authority, local government officials, or the operator of a municipal separate storm sewer system receiving discharges from the construction activity. If an on-site location is

unavailable to store the SWPPP when no personnel are present, notice of the SWPPP's location ~~must~~ shall be posted near the main entrance of the construction site.

3. The operator shall make the SWPPP available for public review in an electronic format or in hard copy. Information for public access to the SWPPP shall be posted and maintained in accordance with Part II ~~G~~ D. If not provided electronically, public access to the SWPPP may be arranged upon request at a time and at a publicly accessible location convenient to the operator or his designee but shall be no less than once per month and shall be during normal business hours. Information not required to be contained within the SWPPP by this general permit is not required to be released.

~~E.~~ F. SWPPP implementation. The operator shall implement the SWPPP and subsequent amendments, modifications, and updates from commencement of land disturbance until termination of general permit coverage as specified in Part I F.

1. All control measures ~~must~~ shall be properly maintained in effective operating condition in accordance with good engineering practices and, where applicable, manufacturer specifications. If a site inspection required by Part II ~~F~~ G identifies a control measure that is not operating effectively, corrective ~~action(s)~~ actions shall be completed as soon as practicable, but no later than seven days after discovery or a longer period as established by the VSMP authority, to maintain the continued effectiveness of the control measures.

2. If site inspections required by Part II ~~F~~ G identify an existing control measure that needs to be modified or if an additional or alternative control measure is necessary for any reason, implementation shall be completed prior to the next anticipated measurable storm event. If implementation prior to the next anticipated measurable storm event is impracticable, then additional or alternative control measures shall be implemented as soon as practicable, but no later than seven days after discovery or a longer period as established by the VSMP authority.

F. G. SWPPP Inspections.

1. Personnel responsible for on-site and off-site inspections. Inspections required by this general permit shall be conducted by the qualified personnel identified by the operator in the SWPPP. The operator is responsible for ~~insuring~~ ensuring that the qualified personnel conduct the inspection.

2. Inspection schedule.

a. ~~Inspections shall be conducted at a frequency of~~ For construction activities that discharge to a surface water identified in Part II B 5 and B 6 as impaired or having an approved TMDL or [Part I B 5Part II B 7] as exceptional, the following inspection schedule requirements apply:

(1) Inspections shall be conducted at a frequency of (i) at least once every four business days or (ii) at least once every five business days and no later than 24 hours following a measurable storm event. In the event that a measurable storm event occurs when there are more than 24 hours between business days, the inspection shall be conducted on the next business day; and

(2) Representative inspections as [~~allowed~~authorized] in Part II G 2 d shall not be allowed.

b. Except as specified in Part II G 2 a, inspections shall be conducted at a frequency of:

(1) At least once every five business days; or

(2) At least once every 10 business days and no later than ~~48~~ 24 hours following a measurable storm event. In the event that a measurable storm event occurs when there are more than ~~48~~ 24 hours between business days, the inspection shall be conducted ~~no later than~~ on the next business day.

~~b. c.~~ Where areas have been temporarily stabilized or land-disturbing activities will be suspended due to continuous frozen ground conditions and stormwater discharges are unlikely, the inspection frequency described in [Part II G 2 b and 2 cPart II G 2 a and 2 b] may be reduced to once per month. If weather conditions (such as above freezing temperatures or rain or snow events) make discharges likely, the operator shall immediately resume the regular inspection frequency.

~~e. Representative~~ d. Except as prohibited in Part II G 2 a (2), representative inspections may be utilized for utility line installation, pipeline construction, or other similar linear construction activities provided that:

(1) Temporary or permanent soil stabilization has been installed and vehicle access may compromise the temporary or permanent soil stabilization and potentially cause additional land disturbance increasing the potential for erosion;

(2) Inspections occur on the same frequency as other construction activities;

(3) Control measures are inspected along the construction site 0.25 miles above and below each access point (i.e., where a roadway, undisturbed right-of-way, or other similar feature intersects the construction activity and access does not compromise temporary or permanent soil stabilization); and

(4) Inspection locations are provided in the inspection report required by Part II F G.

e. If adverse weather causes the safety of the inspection personnel to be in jeopardy, the inspection may be delayed until the next business day on which it is safe to perform the inspection. Any time inspections are delayed due to adverse weather conditions, evidence of the adverse weather conditions shall be included in the SWPPP with the dates of occurrence.

3. Inspection requirements.

a. As part of the inspection, the qualified personnel shall:

(1) Record the date and time of the inspection and [] when applicable [] the date and rainfall amount of the last measurable storm event;

(2) Record the information and a description of any discharges occurring at the time of the inspection or evidence of discharges occurring prior to the inspection;

(3) Record any land-disturbing activities that have occurred outside of the approved erosion and sediment control plan;

(4) Inspect the following for installation in accordance with the approved erosion and sediment control plan, identification of any maintenance needs, and evaluation of effectiveness in minimizing sediment discharge, including whether the control has been inappropriately or incorrectly used:

(a) All perimeter erosion and sediment controls, such as silt fence;

(b) Soil stockpiles, when applicable, and borrow areas for stabilization or sediment trapping measures;

(c) Completed earthen structures, such as dams, dikes, ditches, and diversions for stabilization and effective impoundment or flow control;

(d) Cut and fill slopes;

(e) Sediment basins and traps, sediment barriers, and other measures installed to control sediment discharge from stormwater;

(f) Temporary or permanent ~~channel, flume,~~ channels, flumes, or other slope drain structures installed to convey concentrated runoff down cut and fill slopes;

(g) Storm inlets that have been made operational to ensure that sediment laden stormwater does not enter without first being filtered or similarly treated; and

(h) Construction vehicle access routes that intersect or access paved or public roads for minimizing sediment tracking;

(5) Inspect areas that have reached final grade or that will remain dormant for more than 14 days for initiation of stabilization activities; to ensure:

(a) Initiation of stabilization activities have occurred immediately, as defined in 9VAC25-880-1; and

(b) Stabilization activities have been completed within seven days of reaching grade or stopping work;

~~(6) Inspect areas that have reached final grade or that will remain dormant for more than 14 days for completion of stabilization activities within seven days of reaching grade or stopping work;~~

~~(7)~~ (6) Inspect for evidence that the approved erosion and sediment control plan, "agreement in lieu of a plan," or erosion and sediment control plan prepared in accordance with department-approved annual standards and specifications has not been properly implemented. This includes ~~but is not limited to:~~

(a) Concentrated flows of stormwater in conveyances such as rills, rivulets [] or channels that have not been filtered, settled, or similarly treated prior to discharge, or evidence thereof;

(b) Sediment laden or turbid flows of stormwater that have not been filtered or settled to remove sediments prior to discharge;

(c) Sediment deposition in areas that drain to unprotected stormwater inlets or catch basins that discharge to surface waters. Inlets and catch basins with failing [~~sediments~~sediment] controls due to improper installation, lack of maintenance, or inadequate design are considered unprotected;

- (d) Sediment deposition on any property (including public and private streets) outside of the construction activity covered by this general permit;
 - (e) Required stabilization has not been initiated or completed or is not effective on portions of the site;
 - (f) Sediment basins without adequate wet or dry storage volume or sediment basins that allow the discharge of stormwater from below the surface of the wet storage portion of the basin;
 - (g) Sediment traps without adequate wet or dry storage or sediment traps that allow the discharge of stormwater from below the surface of the wet storage portion of the trap; and
 - (h) Land disturbance or sediment deposition outside of the approved area to be disturbed;
 - ~~(8)~~ (7) Inspect pollutant generating activities identified in the pollution prevention plan for the proper implementation, maintenance [] and effectiveness of the procedures and practices;
 - ~~(9)~~ (8) Identify any pollutant generating activities not identified in the pollution prevention plan; and
 - ~~(10)~~ (9) Identify and document the presence of any evidence of the discharge of pollutants prohibited by this general permit.
4. Inspection report. Each inspection report shall include the following items:
- a. The date and time of the inspection and [] when applicable, the date and rainfall amount of the last measurable storm event;
 - b. Summarized findings of the inspection;

- c. The ~~location(s)~~ locations of prohibited discharges;
 - d. The ~~location(s)~~ locations of control measures that require maintenance;
 - e. The ~~location(s)~~ locations of control measures that failed to operate as designed or proved inadequate or inappropriate for a particular location;
 - f. The ~~location(s)~~ locations where any evidence identified under Part II F G 3 a [~~(7)~~(6)] exists;
 - g. The ~~location(s)~~ locations where any additional control measure is needed ~~that did not exist at the time of inspection~~;
 - h. A list of corrective actions required (including any changes to the SWPPP that are necessary) as a result of the inspection or to maintain permit compliance;
 - i. Documentation of any corrective actions required from a previous inspection that have not been implemented; and
 - j. The date and signature of the qualified personnel and the operator or its duly authorized representative.
5. The inspection report shall be included into the SWPPP no later than four business days after the inspection is complete.
- [6.] The inspection report and any actions taken in accordance with Part II ~~must~~ shall be retained by the operator as part of the SWPPP for at least three years from the date that general permit coverage expires or is terminated. The inspection report shall identify any incidents of noncompliance. Where an inspection report does not identify any incidents of noncompliance, the report shall contain a certification that the construction activity is in compliance with the SWPPP and this general permit. The report shall be signed in accordance with Part III K of this general permit.

~~G.~~ H. Corrective actions.

1. The operator shall implement the corrective ~~action(s)~~ actions identified as a result of an inspection as soon as practicable but no later than seven days after discovery or a longer period as approved by the VSMP authority. If approval of a corrective action by a regulatory authority (e.g., VSMP authority, VESCP authority, or the department) is necessary, additional control measures shall be implemented to minimize pollutants in stormwater discharges until such approvals can be obtained.
2. The operator may be required to remove accumulated sediment deposits located outside of the construction activity covered by this general permit as soon as practicable in order to minimize environmental impacts. The operator shall notify the VSMP authority and the department as well as obtain all applicable federal, state, and local authorizations, approvals, and permits prior to the removal of sediments accumulated in surface waters including wetlands.

PART III

CONDITIONS APPLICABLE TO ALL VPDES PERMITS

NOTE: Discharge monitoring is not required for this general permit. If the operator chooses to monitor stormwater discharges or control measures, the operator ~~must~~ shall comply with the requirements of subsections A, B, and C, as appropriate.

A. Monitoring.

1. Samples and measurements taken for the purpose of monitoring shall be representative of the monitoring activity.
2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this general permit. Analyses performed

according to test procedures approved under 40 CFR Part 136 shall be performed by an environmental laboratory certified under regulations adopted by the Department of General Services (1VAC30-45 or 1VAC30-46).

3. The operator shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.

B. Records.

1. Monitoring records and reports shall include:

- a. The date, exact place, and time of sampling or measurements;
- b. The ~~individual(s)~~ individuals who performed the sampling or measurements;
- c. The ~~date(s)~~ dates and ~~time(s)~~ times analyses were performed;
- d. The ~~individual(s)~~ individuals who performed the analyses;
- e. The analytical techniques or methods used; and
- f. The results of such analyses.

2. The operator shall 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 general permit, and records of all data used to complete the registration statement for this general permit, for a period of at least three years from the date of the sample, measurement, report or request for coverage. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the operator, or as requested by the board.

C. Reporting monitoring results.

1. The operator shall update the SWPPP to include the results of the monitoring as may be performed in accordance with this general permit, unless another reporting schedule is specified elsewhere in this general permit.
2. Monitoring results shall be reported on a discharge monitoring report (DMR); on forms provided, approved or specified by the department; or in any format provided that the date, location, parameter, method, and result of the monitoring activity are included.
3. If the operator monitors any pollutant specifically addressed by this general permit more frequently than required by this general permit using test procedures approved under 40 CFR Part 136 or using other test procedures approved by the U.S. Environmental Protection Agency or using procedures specified in this general permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or reporting form specified by the department.
4. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this general permit.

D. Duty to provide information. The operator shall furnish, within a reasonable time, any information which the board may request to determine whether cause exists for ~~modifying, revoking and reissuing,~~ or terminating this general permit coverage or to determine compliance with this general permit. The board, department, EPA, or VSMP authority may require the operator to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from his discharge on the quality of surface waters, or such other information as may be necessary to accomplish the purposes of the CWA and the Virginia Stormwater Management Act. The operator shall also furnish to the board, department, EPA, or VSMP authority, upon request, copies of records required to be kept by this general permit.

E. Compliance schedule reports. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this general permit shall be submitted no later than 14 days following each schedule date.

F. Unauthorized stormwater discharges. Pursuant to § 62.1-44.5 of the Code of Virginia, except in compliance with a state permit issued by the department, it shall be unlawful to cause a stormwater discharge from a construction activity.

G. Reports of unauthorized discharges. Any operator who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance or a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR Part 110, 40 CFR Part 117, 40 CFR Part 302, or § 62.1-44.34:19 of the Code of Virginia that occurs during a 24-hour period into or upon surface waters or who discharges or causes or allows a discharge that may reasonably be expected to enter surface waters, shall notify the Department of Environmental Quality of the discharge immediately upon discovery of the discharge, but in no case later than within 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the department and the VSMP authority within five days of discovery of the discharge. The written report shall contain:

1. A description of the nature and location of the discharge;
2. The cause of the discharge;
3. The date on which the discharge occurred;
4. The length of time that the discharge continued;
5. The volume of the discharge;
6. If the discharge is continuing, how long it is expected to continue;

7. If the discharge is continuing, what the expected total volume of the discharge will be;
and

8. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present discharge or any future discharges not authorized by this general permit.

Discharges reportable to the department and the VSMP authority under the immediate reporting requirements of other regulations are exempted from this requirement.

H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge including a "bypass" or "upset," as defined ~~herein~~ in this general permit, should occur from a facility and the discharge enters or could be expected to enter surface waters, the operator shall promptly notify, in no case later than within 24 hours, the department and the VSMP authority by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse effects on aquatic life and the known number of fish killed. The operator shall reduce the report to writing and shall submit it to the department and the VSMP authority within five days of discovery of the discharge in accordance with Part III I 2. Unusual and extraordinary discharges include ~~but are not limited to~~ any discharge resulting from:

1. Unusual spillage of materials resulting directly or indirectly from processing operations;
2. Breakdown of processing or accessory equipment;
3. Failure or taking out of service of some or all of the facilities; and
4. Flooding or other acts of nature.

I. Reports of noncompliance. The operator shall report any noncompliance which may adversely affect surface waters or may endanger public health.

1. An oral report to the department and the VSMP authority shall be provided within 24 hours from the time the operator becomes aware of the circumstances. The following shall be included as information that shall be reported within 24 hours under this subdivision:

- a. Any unanticipated bypass; and
- b. Any upset that causes a discharge to surface waters.

2. A written report shall be submitted within five days and shall contain:

- a. A description of the noncompliance and its cause;
- b. 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
- c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The department may waive the written report on a case-by-case basis for reports of noncompliance under Part III I if the oral report has been received within 24 hours and no adverse impact on surface waters has been reported.

3. The operator shall report all instances of noncompliance not reported under Part III I 1 or 2 in writing as part of the SWPPP. The reports shall contain the information listed in Part III I 2.

NOTE: The reports required in Part III G, H and I shall be made to the department and the VSMP authority. Reports may be made by telephone, email, or by fax. For reports outside normal working hours, leaving a recorded message shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Management maintains a 24-hour telephone service at 1-800-468-8892.

4. Where the operator becomes aware of a failure to submit any relevant facts, or submittal of incorrect information in any report, including a registration statement, to the department or the VSMP authority, the operator shall promptly submit such facts or correct information.

J. Notice of planned changes.

1. The operator shall give notice to the department and the VSMP authority as soon as possible of any planned physical alterations or additions to the permitted facility or activity.

Notice is required only when:

a. The operator plans an alteration or addition to any building, structure, facility, or installation that may meet one of the criteria for determining whether a facility is a new source in 9VAC25-870-420;

b. The operator plans an alteration or addition that would significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are not subject to effluent limitations in this general permit; or

2. The operator shall give advance notice to the department and VSMP authority of any planned changes in the permitted facility or activity, which may result in noncompliance with state permit requirements.

K. Signatory requirements.

1. Registration statement. All registration statements shall be signed as follows:

a. For a corporation: by a responsible corporate officer. For the purpose of this chapter, 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-making or decision-making functions for the corporation; or (ii) the manager of one or more manufacturing, production, or operating

facilities, provided the manager is authorized to make management decisions that 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 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 state permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this chapter, a principal executive officer of a public 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.

2. Reports, ~~etc~~ and other information. All reports required by this general permit, including SWPPPs, and other information requested by the board or the department shall be signed by a person described in Part III K 1 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 person described in Part III K 1;

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, position of equivalent responsibility, or an individual or position having overall responsibility for

environmental matters for the operator. (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. A copy ~~must~~ shall be provided to the department and VSMP authority, if requested.

3. Changes to authorization. If an authorization under Part III K 2 is no longer accurate because a different individual or position has responsibility for the overall operation of the construction activity, a new authorization satisfying the requirements of Part III K 2 shall be submitted to the VSMP authority as the administering entity for the board prior to or together with any reports or information to be signed by an authorized representative.

4. Certification. Any person signing a document under Part III K 1 or 2 shall make the following certification:

"I certify under penalty of law that I have read and understand this document and that this document and all attachments were prepared in accordance with a system designed to assure that qualified personnel properly gathered and evaluated 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."

L. Duty to comply. The operator shall comply with all conditions of this general permit. Any state permit noncompliance constitutes a violation of the Virginia Stormwater Management Act and the Clean Water Act, except that noncompliance with certain provisions of this general permit may constitute a violation of the Virginia Stormwater Management Act but not the Clean Water Act. Permit noncompliance is grounds for enforcement action; for state permit coverage,

termination, revocation and reissuance, or modification; or denial of a state permit renewal application.

The operator shall comply with effluent standards or prohibitions established under § 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if this general permit has not yet been modified to incorporate the requirement.

M. Duty to reapply. If the operator wishes to continue an activity regulated by this general permit after the expiration date of this general permit, the operator shall submit a new registration statement at least ~~90~~ 60 days before the expiration date of the existing general permit, unless permission for a later date has been granted by the board. The board shall not grant permission for registration statements to be submitted later than the expiration date of the existing general permit.

N. Effect of a state permit. This general permit does not convey any property rights in either real or personal property or any exclusive privileges, nor does it authorize any injury to private property or invasion of personal rights, or any infringement of federal, state or local law or regulations.

O. State law. Nothing in this general permit shall be construed to preclude the institution of any legal action under, or relieve the operator from any responsibilities, liabilities, or penalties established pursuant to any other state law or regulation or under authority preserved by § 510 of the Clean Water Act. Except as provided in general permit conditions on "bypassing" (Part III U) and "upset" (Part III V), nothing in this general permit shall be construed to relieve the operator from civil and criminal penalties for noncompliance.

P. Oil and hazardous substance liability. Nothing in this general permit shall be construed to preclude the institution of any legal action or relieve the operator from any responsibilities,

liabilities, or penalties to which the operator is or may be subject under §§ 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law or § 311 of the Clean Water Act.

Q. Proper operation and maintenance. The operator 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 operator to achieve compliance with the conditions of this general permit. Proper operation and maintenance also includes effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems, which are installed by the operator only when the operation is necessary to achieve compliance with the conditions of this general permit.

R. Disposal of solids or sludges. Solids, sludges or other pollutants removed in the course of treatment or management of pollutants shall be disposed of in a manner so as to prevent any pollutant from such materials from entering surface waters and in compliance with all applicable state and federal laws and regulations.

S. Duty to mitigate. The operator shall take all steps to minimize or prevent any discharge in violation of this general permit that has a reasonable likelihood of adversely affecting human health or the environment.

T. Need to halt or reduce activity not a defense. It shall not be a defense for an operator 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.

U. Bypass.

1. "Bypass," as defined in 9VAC25-870-10, means the intentional diversion of waste streams from any portion of a treatment facility. The operator may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for

essential maintenance to ensure efficient operation. These bypasses are not subject to the provisions of Part III U 2 and 3.

2. Notice.

a. Anticipated bypass. If the operator knows in advance of the need for a bypass, the operator shall submit prior notice to the department, if possible at least 10 days before the date of the bypass.

b. Unanticipated bypass. The operator shall submit notice of an unanticipated bypass as required in Part III I.

3. Prohibition of bypass.

a. Except as provided in Part III U 1, bypass is prohibited, and the board or department may take enforcement action against an operator for bypass unless:

(1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage. Severe property damage means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that 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;

(2) 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 that occurred during normal periods of equipment downtime or preventive maintenance; and

(3) The operator submitted notices as required under Part III U 2.

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 in Part III U 3 a.

V. Upset.

1. An "upset," as defined in 9VAC25-870-10, means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based state permit effluent limitations because of factors beyond the reasonable control of the operator. 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.

2. An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based state permit effluent limitations if the requirements of Part III V 4 are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.

3. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

4. An operator who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that:

- a. An upset occurred and that the operator can identify the ~~cause(s)~~ cause of the upset;
- b. The permitted facility was at the time being properly operated;
- c. The operator submitted notice of the upset as required in Part III I; and

d. The operator complied with any remedial measures required under Part III S.

5. In any enforcement proceeding, the operator seeking to establish the occurrence of an upset has the burden of proof.

W. Inspection and entry. The operator shall allow the department as the board's designee, the VSMP authority, EPA, or an authorized representative of either entity (including an authorized contractor), upon presentation of credentials and other documents as may be required by law to:

1. Enter upon the operator's premises where a regulated facility or activity is located or conducted, or where records ~~must~~ shall be kept under the conditions of this general permit;

2. Have access to and copy, at reasonable times, any records that ~~must~~ shall be kept under the conditions of this general permit;

3. Inspect and photograph at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this general permit; and

4. Sample or monitor at reasonable times, for the purposes of ensuring state permit compliance or as otherwise authorized by the Clean Water Act or the Virginia Stormwater Management Act, any substances or parameters at any location.

For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging. Nothing contained herein shall make an inspection unreasonable during an emergency.

X. State permit actions. State ~~permits~~ permit coverage may be modified, revoked and reissued, or terminated for cause. The filing of a request by the operator for a state permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any state permit condition.

Y. Transfer of state ~~permits~~ permit coverage.

1. State permits are not transferable to any person except after notice to the department. Except as provided in Part III Y 2, a state permit may be transferred by the operator to a new operator only if the state permit has been modified or revoked and reissued, or a minor modification made, to identify the new operator and incorporate such other requirements as may be necessary under the Virginia Stormwater Management Act and the Clean Water Act.

2. As an alternative to transfers under Part III Y 1, this state permit may be automatically transferred to a new operator if:

a. The current operator notifies the department at least 30 days in advance of the proposed transfer of the title to the facility or property;

b. The notice includes a written agreement between the existing and new operators containing a specific date for transfer of state permit responsibility, coverage, and liability between them; and

c. The department does not notify the existing operator and the proposed new operator of its intent to modify or revoke and reissue the state permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part III Y 2 b.

3. For ongoing construction activity involving a change of operator, the new operator shall accept and maintain the existing SWPPP, or prepare and implement a new SWPPP prior to taking over operations at the site.

Z. Severability. The provisions of this general permit are severable, and if any provision of this general permit or the application of any provision of this state permit to any circumstance, is held

invalid, the application of such provision to other circumstances and the remainder of this general permit shall not be affected thereby.

9VAC25-880-100. Delegation of authority.

The director, or his designee, may perform any act of the board provided under this chapter, except as limited by § 62.1-44.14 of the Code of Virginia.