

Project 3208 - Proposed

STATE WATER CONTROL BOARD

Amend and Reissue the General Permit for Discharges of Stormwater from Construction

Activities

CHAPTER 880

**GENERAL [VPDES] PERMIT FOR DISCHARGES OF STORMWATER FROM
CONSTRUCTION ACTIVITIES**

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

"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 stabilization, including perimeter controls for an individual lot prior to occupation of the home by the homeowner, and informing the homeowner of the need for, and benefits of, final stabilization.

3. For construction projects on land used for agricultural purposes (e.g., pipelines across crop or range land), 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 meet the final stabilization criteria specified in subdivision 1 or 2 of this definition.

~~"Minimize" means to prevent, reduce, or eliminate using practicable control measures to meet the conditions of this state permit.~~

"Immediately" means as soon as practicable, but no later than the end of the next [workbusiness] day, following the day when the [earthland-]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 § 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.

9VAC25-880-10. Purpose.

This general permit regulation [~~authorizes~~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 ~~state~~surface waters or through a municipal or nonmunicipal separate storm sewer system to ~~state~~surface waters. Stormwater discharges associated with industrial activity that originate from ~~the site~~ [~~after~~] construction activities that have been completed and the site has undergone final stabilization are not authorized by this [~~state~~general] permit. ~~The goal of this state permit is to minimize the discharge of stormwater~~

~~pollutants from construction activity by requiring that the operator plan and implement appropriate control measures.~~

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, 2009~~July 1, 2013], update.

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

This general permit is effective on July 1, ~~2009~~2014. The general permit will expire on June 30, ~~2014~~2019. This general permit is effective for any covered operator upon compliance [~~will with~~] all provisions of [~~4VAC50-60-11309~~9VAC25-880-30.]

9VAC25-880-30. Authorization to discharge.

~~[A. Any operator governed~~covered~~by this general permit is authorized to discharge to state stormwater associated with construction activities including stormwater associated with emergency-related construction-related activities to surface waters of the Commonwealth of Virginia in accordance with 9VAC25-880-50 A 4 provided that the operator has filed~~ submits a ~~complete and accurate registration statement in accordance with 9VAC25-880-50 and receives acceptance of the registration statement by the board,~~ submitted ~~submits~~ any fees required by Part XIII of 9VAC25-870 (9VAC25-870-700 et seq.) unless exempted pursuant to 9VAC25-880-50 A 3 (a), complied with the requirements of 9VAC25-880-50, complies with the requirements of 9VAC25-880-80 through 9VAC25-880-90, and complies with the requirements of 4VAC50-60-117099VAC25-880-70 and provided that:

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

1 ~~[1. Prior to commencing construction~~land-disturbing activities~~, the operator shall obtain~~
2 ~~approval of an erosion and sediment control plan from the VESCP authority in the~~
3 ~~locality in which the construction activity is to occur unless the operator receives from the~~
4 ~~VESCP authority an "agreement in lieu of a plan" as defined in 9VAC25-840-10, or is~~
5 ~~exempt from the requirement to submit an erosion and sediment control plan by the~~
6 ~~Erosion and Sediment Control Law and Erosion and Sediment Control Regulations~~
7 ~~(9VAC25-840)~~ obtains approval of:

8 a. An erosion and sediment control plan from the appropriate VESCP authority as
9 authorized under the Virginia Erosion and Sediment Control Regulations, [4VAC50-
10 309VAC25-840], unless the operator receives from the VESCP and "agreement in lieu
11 of a plan" as defined in [4VAC50-30-109VAC25-840-10] or prepares the erosion and
12 sediment control plan in accordance with annual standards and specifications approved
13 by the board. The operator of any land-disturbing activity that is not required to obtain
14 erosion and sediment control plan approval from a VESCP authority or is not required to
15 adopt department approved annual standards and specifications shall submit the erosion
16 and sediment control plan to the department for review and approval prior to land
17 disturbance; and

18 b. A stormwater management plan from the appropriate VSMP authority as authorized
19 under the Virginia Stormwater Management Program Regulations, [4VAC50-
20 609VAC25-870]. The operator of any land-disturbing activity that is not required to
21 obtain stormwater management plan approval from a VSMP authority and is not required
22 to adopt department approved annual standards and specifications shall submit the
23 stormwater management plan to the department for review and approval prior to land
24 disturbance.

~~Emergency related construction activities are not required to obtain the approvals specified in subdivision 1 a and b of this subsection prior to the commencement of land disturbance.~~

~~1. The operator submits a complete and accurate registration statement, if required to do so, in accordance with 9VAC25-880-50 and receives acceptance of the registration by the board;]~~

~~2. [The stormwater discharge Discharges authorized by this state permit may be combined commingled with other sources of stormwater that are not required to be covered under a state permit, so long as the combined commingled discharge is in compliance with this state permit. Any discharge Discharges authorized by a different separate state or a VPDES permit may be commingled with discharges authorized by this state permit so long as all such discharges comply with all applicable state permits permit requirements The operator submits any permit fees, if required to do so, in accordance with 9VAC25-870-700 et seq.];~~

~~3. [Discharges to impaired waters for which a "total maximum daily load" (TMDL) wasteload allocation has been established, including discharges to surface waters located within a TMDL watershed are not eligible for coverage under this general permit unless they are otherwise authorized in accordance with 9VAC25-880-70 Section II D 6 and the operator develops, implements, and maintains a stormwater pollution prevention plan that minimizes applicable observed sources identified in the 2012 §305(b)/303(d) Water Quality Assessment Integrated Report, minimizes pollutants of concern identified in a TMDL approved prior to July 1, 2014 and is consistent with the requirements and assumptions assumptions and requirements of the wasteload allocations in the TMDL, all applicable TMDL wasteload allocations. This only applies when construction activities discharge or are reasonable expected to discharge an applicable observed source~~

~~identified in the 2012 §305(b)/303(d) Water Quality Assessment Report or a pollutant of concern identified in a TMDL approved prior to July 1, 2014.; and The operator complies with the applicable requirements of 9VAC25-880-70;]~~

~~[4. Discharges to waters that have been identified as impaired in the 2008 §305(b)/303(d) Water Quality Assessment Integrated Report are not eligible for coverage under this general permit unless they are otherwise authorized in accordance with 9VAC25-880-70 Section I H. Authorized nonstormwater discharges. The following nonstormwater discharges are authorized by this permit:~~

~~a. Discharges from fire fighting activities;~~

~~b. Fire hydrant flushings;~~

~~c. Water used to wash vehicles where detergents have not been used and the wash water has been treated;~~

~~d. Water used to control dust that has been filtered, settled, or similarly treated prior to discharge;~~

~~e. Potable water source, including uncontaminated waterline flushings;~~

~~f. Routine external building wash down that does not use detergents, solvents, or other wash chemicals and that have been filtered, settled, or similarly treated prior to discharge;~~

~~g. Pavement washwater where spills or leaks of toxic or hazardous materials have not occurred (or where all spilled material has been removed prior to washing); where detergents, solvents, or other wash chemicals are not used; and where the washwater has been filtered, settled, or similarly treated prior to discharge;~~

~~h. Uncontaminated air conditioning or compressor condensate;~~

i. Uncontaminated groundwater or spring water;

j. Foundation or footing drains where flows are not contaminated with process materials such as solvents;

k. Uncontaminated excavation dewatering, including dewatering of trenches and excavations that have been filtered, settled, or similarly treated prior to discharge; and

l. Landscape irrigation.]

[4. The operator obtains approval of:

a. An erosion and sediment control plan from the appropriate VESCP authority as authorized under the Virginia Erosion and Sediment Control Regulations [4VAC50-309VAC25-840] , unless the operator receives from the VESCP an “agreement in lieu of a plan” as defined in [4VAC50-30-109VAC25-840-10] 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 stormwater management plan from the appropriate VSMP authority as authorized under the Virginia Stormwater Management Program Regulation, 9VAC25-870, unless the operator 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.

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. In addition to other prohibitions, the following discharges are not eligible for coverage under this general permit~~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. Discharges for which the operator has been~~ The operator is required to obtain an individual permit ~~[according to~~ in accordance with] 9VAC25-870-410 B;

~~2. Discharges~~ The operator is proposing discharges to state surface waters specifically named in other board regulations ~~or policies~~ that prohibit such discharges; ~~[and]~~

~~3. Stormwater discharges that the department in consultation with the State Water Control Board determines cause, may reasonably be expected to cause, or contribute to a violation of water quality standards (9VAC25-260).~~ The [discharges cause discharge causes], may reasonably be expected to cause, or [contributecontributes] to a violation of water quality standards (9VAC25-260) [as determined in consultation with the State Water Control Board];

~~4. The [discharges violatedischarge violates] or would violate the antidegradation policy in the Virginia Water Quality Standards (9VAC25-260-30) [as determined in consultation with the State Water Control Board];~~ or

~~5. The [discharges aredischarge is]~~ not consistent with the assumptions and requirements of [aan applicable] TMDL approved prior to [July 1, 2014the term of this general permit] .

C. This [~~state~~general] permit [~~may~~] also be used to [~~authorize~~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 ~~site that is required to have state permit coverage for discharges of stormwater associated with construction activity~~ [~~applying for state permit coverage~~that is required to have general permit coverage for discharges of stormwater from construction activities];

2. The support activity is not a commercial operation [~~] serving [or nor] does [not-it]~~ serve multiple unrelated construction [projects-activities] by different operators [, and does not operate beyond the completion of the construction activity at the last construction project it supports]; and

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 [state general] permit coverage~~];

3. [~~4-5.~~] Appropriate control measures [~~that will be implemented to minimize pollutant discharges from the support activity are identified in a stormwater pollution prevention plan covering the discharges from the support activity areas~~are identified in a stormwater pollution prevention plan and implemented to address the discharges from the support activity areas]; and

[~~5-6.~~] 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 [a] 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 fire fighting 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;

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.] Receipt of 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.

~~[F. H.] The department may allow exceptions to technical criteria contained in the state permit in accordance with Part III of 9VAC25-870 (9VAC25-870-100 et seq.).~~Continuation of [general] permit coverage.

[1.] Any operator that was authorized to discharge under the general permit issued in 2009 [under 4VAC50-60-1170 Section III-M] and that submits a complete [and accurate] registration statement [that is stamped as received by the department or postmarked 90 days prior to the effective date of this general permit on or before June 30, 2014,] is authorized to continue to discharge under the terms of the 2009 general permit until such time as the board either:

[~~1-a.~~] Issues coverage to the operator under this general permit or

[~~2-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 the expiring or expired general permit the board may choose to do any or all of the following:

a. Initiate enforcement action based upon the 2009 general permit;

b. Issue a notice of intent to deny the new general permit. If the general permit is denied, the owner or operator would then be required to cease the activities authorized by the continued general permit or be subject to enforcement action for operating without a state permit;

c. Issue a new state permit with appropriate conditions; or

d. Take other actions authorized by the VSMP regulations (9VAC25-870)]

9VAC25-880-40. ~~Virginia erosion and sediment control programs~~ Delegation of authorities to state and local programs.

~~VESCP requirements may be incorporated by reference into the Stormwater Pollution Prevention Plan (SWPPP) required by 9VAC25-880-70 of this state permit. Where a VESCP does not include one or more of the elements in this section, then the operator must include those elements as part of the SWPPP required by 9VAC25-880-70 of this permit. A VESCP is one that is approved by the board, meets the requirements of 9VAC25-870-460 L and includes:~~

~~1. Requirements for construction site operators to implement appropriate erosion and sediment control measures;~~

~~2. Requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality; and~~

~~3. Requirements for construction site operators to develop and implement a SWPPP in accordance with 9VAC25-880-70 Section II.~~

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; (iii) [stormwater management] plan review and approval; and (iv) permit compliance and enforcement dependent upon conditions established as part of the board approval.

9VAC25-880-50. [~~State~~General] permit application (registration statement).

A. Deadlines for submitting registration statement. [Any operator seeking coverage under this general permit, and who 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. [Except as provided in subdivision 3 of this subsection, operators must certify that all information required in subsection B of this section has been entered completely and accurately into the available electronic database provided by the department and submit a complete and accurate registration statement to the VSMP authority in accordance with the requirements of this section prior to the issuance of coverage under the general permit that authorizes the commencement of land-disturbing activities (i.e., the initial disturbance of soils associated with clearing, grading, excavation activities, or other construction activities). 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 residence separately built, disturbing less than one acre and part of a larger 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, provided that the stormwater management plan for the larger common plan of development or sale provides permanent control measures (i.e., stormwater management facilities) encompassing the single family residence.]

2. [Existing construction activities.

a. Any operator that was authorized to discharge under the general permit issued in 2009, and 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; and

(2) Update their 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 residence separately built, disturbing less than one acre and part of a larger common plan of development or sale, and who 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:

(1) The stormwater management plan for the larger common plan of development or sale provides permanent control measures (i.e., stormwater management facilities) encompassing the single-family residence; and

(2) The operator updates their 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 [~~certify that all information required in subsection B of this section has been entered completely and accurately into the available electronic database provided by the department and~~] submit a complete [and accurate] registration statement or transfer [agreement] form [to the VSMP authority] prior to assuming operational control over site specifications or commencing work on-site

[~~3. In order to continue state permit coverage, operators of ongoing construction activity projects as of July 1, 2009~~2014~~, that received authorization to discharge for those projects under the construction stormwater general permit issued in 2004~~2009~~ must:~~

1 a. ~~Submit~~Certify that all information required in subsection B of this section has been
2 ~~entered completely and accurately into the available electronic database provided by~~
3 ~~the department and submit a complete and accurate registration statement by June~~
4 ~~1, 2009 to the department 90 days prior to the effective date of this general permit.~~
5 ~~Provided that a complete and accurate registration statement is submitted by the~~
6 ~~June 1 reapplication date at least 90 days before the expiration date of the existing~~
7 ~~state permit, the state permit application (registration statement) fee will be waived~~
8 ~~for land-disturbing activities for which the department initially issued state permit~~
9 ~~coverage on or after July 1, 2008~~2013; and

10 b. ~~Update their stormwater pollution prevention plan to comply with the requirements~~
11 ~~of this general permit within no later than 30 days after the date of coverage under~~
12 ~~this general permit.]~~

13 4. ~~Effective date of state permit coverage. The operator of a construction activity is~~
14 ~~authorized to discharge stormwater under the terms and conditions of this state permit~~
15 ~~15 business days following submission of a complete and accurate registration~~
16 ~~statement to the VSMP authority as the administering entity for the board unless~~
17 ~~notification of coverage is made by the department at an earlier time. For the purposes~~
18 ~~of this state permit, a registration statement that is mailed is considered to be submitted~~
19 ~~once it is postmarked. Operators are not authorized to discharge if the registration~~
20 ~~statement is incomplete or incorrect, or if the discharge(s) was not eligible for coverage~~
21 ~~under this state permit.~~

22 NOTE: ~~A stormwater pollution prevention plan (SWPPP) must be prepared in~~
23 ~~accordance with the requirements of the General Permit for Stormwater Discharges from~~
24 ~~Construction Activities prior to submitting the registration statement. By signing the~~
25 ~~registration statement the operator certifies that the SWPPP has been prepared.~~

1 ~~5.~~ 4. Late notifications. Operators are not prohibited from submitting registration
 2 statements after [~~initiating clearing, grading, excavation activities, or other land-~~
 3 ~~disturbing activities~~ commencing land disturbance]. When a late registration statement is
 4 submitted, authorization for discharges shall not occur until coverage under the general
 5 permit is issued. The ~~department~~ VSMP authority, department, board, and the EPA
 6 reserves the right to take enforcement action for any unpermitted discharges that occur
 7 between the commencement of [~~construction~~ land disturbance] and discharge
 8 authorization.

9 [~~5. Any discharge from a construction activity that was previously permitted under the~~
 10 ~~2009 General Permit but failed to maintain uninterrupted permit coverage is considered~~
 11 ~~an unauthorized discharge.~~]

12 B. Registration statement. The operator shall submit a registration statement [~~onto the~~
 13 VSMP authority] ~~the official department form [a form specified by the department]~~ that shall
 14 contain the following information:

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

18 NOTE: [~~The state~~ General] permit [coverage] will be issued to this operator, and the
 19 certification in subdivision [~~4211~~] of this subsection must be signed by the appropriate
 20 person associated with this operator;

21 2. Name and location [if available] of the construction activity [~~, including town, city, or~~
 22 ~~county, and latitude and longitude (degrees, minutes, seconds), and all off-site support~~
 23 ~~activities to be covered under the state permit.~~] ~~If a street address is unavailable,~~

1 ~~provide latitude and longitude [and all off-site support activities to be covered under this~~
 2 ~~general permit, including city or county, and latitude and longitude in decimal degrees];~~

3 3. Status of the [construction] activity: federal, state, public, or private;

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

6 5. Name of the receiving water(s) and HUC [~~Direct discharges to any receiving water~~
 7 ~~identified as impaired on the 20082012 § 305(b)/303(d) Water Quality Assessment~~
 8 ~~Integrated Report or for which a TMDL WLA has been established for stormwater~~
 9 ~~discharges from a construction activity shall be noted];~~

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

12 7. Estimated project start date and completion date;

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

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

17 10. ~~An indication of whether nutrient offsets are intended to be acquired in accordance~~
 18 ~~with § 62.1-44.15:35 of the Code of Virginia [Certifications. All information required by~~
 19 ~~4VAC50-60-1150 B9VAC25-880-50 B has been entered into the electronic database~~
 20 ~~provided by the department. By signing the registration statement, the operator certifies~~
 21 ~~that all information has been entered completely and accurately. By signing the~~
 22 ~~registration statement, the operator certifies that all necessary approvals required by the~~
 23 ~~permit will be obtained prior to land disturbance;~~11.] A stormwater pollution prevention

24 plan (SWPPP) must be prepared in accordance with the requirements of the General

[VPDES] Permit for Stormwater Discharges from Construction Activities prior to [submitting the registration statement ~~land disturbance~~] . By signing the registration statement the operator certifies that the SWPPP [has been ~~will be~~] prepared [~~prior to land disturbance~~]; and

[~~42.11.~~] 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, [~~Section~~ Part] III K.

[~~D. Where to submit. The registration statement shall be submitted to the VSMP authority as the administering entity for the board.~~

~~E. Registration statements in the custody of the VSMP authority or the department are subject to requests made pursuant to the Virginia Freedom of Information Act (§ 2.2-3700 et seq. of the Code of Virginia).]~~

9VAC25-880-60. Termination of [~~state~~ general] permit coverage.

A. Requirements. The operator [of the construction activity] shall [~~certify that all information required in subsection B of this section has been entered completely and accurately into the electronic database provided by the department and shall~~] submit a notice of termination ~~on the~~

1 ~~official department form [on a form specified by the department to the VSMP authority]~~ after
2 one or more of the following conditions have been met:

3 1. Necessary [~~post-construction~~permanent] control measures included in the SWPPP
4 for the site are in place and functioning effectively and final stabilization has been
5 achieved on all portions of the site for which the operator is responsible [. When
6 applicable, long-term responsibility and maintenance requirements for permanent control
7 measures shall be recorded in the local land records prior to the submission of a notice
8 of termination];

9 2. Another operator has assumed control over all areas of the site that have not been
10 finally stabilized and obtained coverage for the ongoing discharge;

11 3. Coverage under an alternative VPDES or state permit has been obtained; or

12 4. For residential construction only, temporary stabilization has been completed and the
13 residence has been transferred to the homeowner.

14 The notice of termination ~~must~~ should be submitted [~~within~~no later than] 30 days [~~or after~~]
15 one of the above conditions being met. Authorization to discharge terminates at midnight on the
16 date that the notice of termination is submitted for the conditions set forth in subdivisions 2
17 through 4 of this subsection [unless otherwise notified by the VSMP authority or the
18 department]. Termination of authorizations to discharge for the conditions set forth in
19 subdivision 1 of this subsection shall be effective upon notification from the department that the
20 provisions of subdivision 1 of this subsection have been met or 60 days after submittal of the
21 notice of terminations, whichever occurs first.

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

23 1. Name, [contact,] mailing address, telephone number, and email address [if
24 available] of the construction activity operator.

2. Name and location [if available] of the construction activity [covered under this general permit, including city or county, and latitude and longitude in decimal degrees.] -

~~If a street address is unavailable, latitude and longitude shall be provided.~~

3. The ~~stormwater~~ 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 [~~or employed to meet the post development stormwater quality criteria at the construction activity site~~ to comply with the stormwater management technical criteria. For each permanent control measure that was installed [~~or employed~~], the following information shall be included:

a. [~~Where applicable, the following information related to onsite control measures:~~ (1) Type ~~The type~~] of [onsite] permanent control measure installed and the date that it became functional as a permanent control measure;

b. ~~Geographic location (county or city and Hydrologic Unit Code).~~ [~~(2) Latitude and longitude may additionally be included if available; (in degrees, minutes, and seconds to the nearest 15 seconds) of the permanent control measure outfall~~ The location if available of the permanent control measure, including city or county, and latitude and longitude in decimal degrees;]

[c.] ~~Waterbody the control measure discharges into; and~~ [The receiving water of the permanent control measures; and

d.] ~~Number~~ [The number of total and impervious acres treated by the permanent control measure (to the nearest one-tenth of an acre).]

~~[(3) Construction activity acres treated onsite (to the nearest one tenth of an acre);~~
~~and~~

~~(4) Construction activity nutrient reductions achieved onsite (lbs. per acre per year).~~

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]:

~~[b. Where applicable, the following information related to offsite control measures:~~

~~(1) Type of offsite permanent control measure to which the construction activity contributes (e.g., a permanent control measure installed as part of a larger common plan of development or a permanent control measure installed in accordance with a comprehensive stormwater management plan adopted pursuant to 4VAC50-60-929VAC25-870-92);~~

~~(2) Approximate latitude and longitude (in degrees, minutes, and seconds to the nearest 15 seconds) of the offsite control measure; and~~

~~(3) Construction activity nutrient reductions achieved offsite (lbs. per acre per year).~~

a.] Type [The type of regional facility] or facilities [to which the site contributes;

b.] Geographic location of any regional facility to which the site contributes (county or city and Hydrologic Unit Code); [The location if available of the regional facility, including city or county, and latitude and longitude in decimal degrees; and

c.] Geographic location of the site (county or city and Hydrologic Unit Code). Latitude and longitude may additionally be included if available; and [The number of total and impervious site acres treated by the regional facility (to the nearest one-tenth of an acre).]

~~d. Number of acres treated by a regional facility.~~

[~~7.6.~~] Where applicable, the following information related to perpetual nutrient
[~~offsets~~credits] that were acquired in accordance with § 62.1-44.15:35 of the Code of
Virginia:

[~~(1) Name of the nonpoint source nutrient bank from which nutrient credits were
acquired.~~a. The name of the nonpoint nutrient credit generating entity from which
perpetual nutrient credits were acquired] ; and

[~~(2) Number~~b. The number] of [perpetual] nutrient credits acquired (lbs. per acre
per year).

~~a. Name of the broker from which offsets were acquired;~~

~~b. Geographic location (county or city and Hydrologic Unit Code) of the broker's
offset generating facility;~~

~~c. Number of nutrient offsets acquired (lbs. per acre per year); and~~

~~d. Nutrient reductions achieved on site (lbs. per acre per year).~~

[~~6. Any instrument recorded for the long term maintenance of any permanent
stormwater management facilities, required pursuant to 9VAC25-870-112 has been
submitted to the VSMP authority.]~~

[~~8.7.~~] 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

1 belief true, accurate, and complete. I am aware that there are significant penalties for
 2 submitting false information including the possibility of fine and imprisonment for
 3 knowing violations."

4 C. The notice of termination shall be signed in accordance with 9VAC25-880-70
 5 [~~Section~~Part] III K.

6 D. [~~Where to submit. The notice of termination shall be submitted to the VSMP authority as~~
 7 ~~the administering entity for the board. E.] Termination by the [department in coordination with~~
 8 ~~the VSMP authority~~board]. The ~~department in coordination with the VSMP authority~~ board may
 9 terminate coverage under this [~~state~~general] permit during its term and require application for
 10 an individual permit or deny a [~~state~~general] permit renewal application on its own initiative in
 11 accordance with the Act, this chapter, and [the VSMP regulation,] 9VAC25-870.

12 **9VAC25-880-70. General permit.**

13 Any operator whose registration statement is accepted by the ~~department~~ board [~~or its~~
 14 ~~designated authority~~] will receive the following [~~state~~general] permit and shall comply with the
 15 requirements in it and ~~be subject to all requirements of the Virginia Stormwater Management~~
 16 ~~Act and the Virginia Stormwater Management Program (VSMP) Regulations (9VAC25-870)~~
 17 [contained] therein [and be subject to all requirements of 9VAC25-870] . [~~No more than one~~
 18 ~~operator may receive coverage under each registration statement.~~]

General Permit No.: VAR10

Effective Date: July 1, ~~2009~~2014

Expiration Date: June 30, ~~2014~~2019

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 [~~attendant~~] regulations [adopted pursuant thereto], operators of construction activities [~~covered by this state permit with stormwater discharges~~] are authorized to discharge to state surface waters, ~~including discharges to a regulated MS4 system,~~ 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 this cover page, [~~SectionPart~~] I - Discharge Authorization and Special Conditions, [~~SectionPart~~] II - Stormwater Pollution Prevention Plan, and [~~SectionPart~~] III - Conditions Applicable [~~to~~] All [~~State~~ VPDES] Permits as set forth herein.

[SECTIONPART] I

DISCHARGE AUTHORIZATION AND SPECIAL CONDITIONS

A. Coverage under this [~~state~~ general] permit.

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

~~a. New construction activities. Construction activities for which initial permit coverage is sought under this permit provided permit compliance is maintained or construction activities previously covered under the 2009 Virginia General Permit for Stormwater Discharges for Construction Activities and for which a registration statement was submitted in accordance with Section III M of the 2009 permit in order to maintain uninterrupted coverage.~~

~~b. Previously covered construction activities. Construction activities that have obtained VSMP permit coverage under the 2009 Construction Activities and submitted a registration statement in accordance with Section III M of the 2009 permit in order to maintain uninterrupted permit coverage.~~

~~c. Emergency related construction activities. Construction activities in response to a public emergency (e.g., natural disaster, disruption in essential public services), and the related work requires immediate authorization to avoid imminent endangerment to human health, public safety, or the environment. The operator shall have coverage under this permit in order to address these public emergencies provided that:~~

~~(1) The operator advises the VSMP authority of the construction activity within seven days of commencing land disturbance;~~

~~(2) State permit coverage is applied for within 30 days of commencing the land disturbing activity; and~~

~~(3) Documentation is provided with the registration statement to substantiate the occurrence of the public emergency.]~~

2. This [~~stategeneral~~] permit ~~may also authorize~~ 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 ~~site that is required to have activity~~ [applying for state that is required to have general] permit coverage ~~[for discharges of stormwater] associated with [from construction activity~~ activities];

b. The support activity is not a commercial operation ~~[,] serving [or does not nor does it]~~ serve multiple unrelated construction ~~[projects~~ activities] by different operators ~~[, and does not operate beyond the completion of the construction activity at the last construction project it supports]~~; and

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;

[d. e.] Appropriate control measures are identified in a stormwater pollution prevention plan and implemented to address the discharges from the support activity areas; and

[e. f.] All applicable state, federal, and local approvals are obtained for the support activity.

~~3. There shall be no discharge of floating solids or visible foam that contravenes established standards or interferes directly or indirectly with designated uses of surface waters.~~

B. ~~Limitation~~ Limitations on coverage.

1 1. Post-construction discharges. This [~~state~~general] permit does not authorize
2 stormwater discharges that originate from the site after construction activities have been
3 completed and the site, including any ~~temporary~~-support activity [~~sites~~sites] covered
4 under the [general] permit registration, has undergone final stabilization. ~~Post-~~
5 ~~construction industrial stormwater discharges may need to be covered by a separate~~
6 ~~VPDES permit [and permit coverage has been terminated].~~ Post construction industrial
7 stormwater discharges may need to be covered by a separate VPDES permit.

8 [2. Discharges mixed with nonstormwater. This general] ~~state~~ [permit does not
9 authorize discharges that are mixed with sources of nonstormwater, other than those
10 discharges that are identified in] ~~Section [Part I E (Authorized nonstormwater~~
11 ~~discharges)] I-D-2 (Exceptions to prohibition of nonstormwater discharges)~~ and are in
12 compliance with [this general permit.] ~~Section II D-5 (Nonstormwater discharge~~
13 ~~management).~~

14 [~~3.2.~~] Discharges covered by another state permit. This [~~state~~general] permit does not
15 authorize [~~stormwater discharges associated with construction activity~~ discharges of
16 stormwater from construction activities] that have been covered under an individual
17 permit or required to obtain coverage under an alternative general permit.

18 4. TMDL limitation. ~~Discharges to waters for which a wasteload allocation (WLA) for a~~
19 ~~pollutant has been established in an approved "total maximum daily load" (TMDL) that~~
20 ~~would apply to stormwater discharges from a construction activity are not eligible for~~
21 ~~coverage under this state permit unless the stormwater pollution prevention plan~~
22 ~~(SWPPP) developed by the operator is consistent with the requirements related to~~
23 ~~TMDLs contained in Section II D-6.~~

24 5. Impaired waters limitation. ~~Discharges to waters that have been identified as impaired~~
25 ~~in the 2008 § 305(b)/303(d) Water Quality Assessment Integrated Report are not eligible~~

1 for coverage under this state permit unless the operator implements strategies and
2 control measures consistent with Sections I H and II D 7.

3 [3. Limitations on coverage for discharges to impaired waters. This only applies when
4 construction activities discharge or are reasonably expected to discharge an applicable
5 observed source identified in the 2012 § 305(b)/303(d) Water Quality Integrated Report
6 or a pollutant of concern identified in a TMDL approved prior to July 1, 2014.

7 a. Discharges to impaired waters, including discharges to surface waters located
8 within a TMDL watershed, are not eligible for coverage under this general permit
9 unless the following requirements are implemented:

10 (1) The impaired water(s), associated impairment(s), TMDL name(s), and TMDL
11 pollutant(s) of concern when applicable shall be identified in the registration
12 statement and in the SWPPP;

13 (2) The operator shall develop, implement, and maintain a SWPPP that minimizes
14 applicable observed sources identified in the 2012 § 305(b)/303(d) Water Quality
15 Assessment Integrated Report, minimizes pollutants of concern identified in a TMDL
16 approved prior to July 1, 2014, and is consistent with the assumptions and
17 requirements of all associated TMDL wasteload allocations when applicable; and

18 (3) The following modifications to the SWPPP inspection schedule shall be
19 implemented:

20 (a) Inspections shall be conducted at a frequency of:

21 (i) At least once every four days; or

22 (ii) At least once every seven days and no later than 48 hours following any
23 measurable storm event. In the event that a measurable storm event occurs when

~~there are more than 48 hours between normal working days, the inspection shall be conducted on the next working day.~~

~~(b) Where areas have been temporarily stabilized or runoff is unlikely due to winter conditions (e.g., the site is covered with snow or ice, or continuous frozen ground exists), the inspection frequency may be reduced to once every 30 days. If unexpected weather conditions (such as above freezing temperature or rain or snow events) make discharges likely, the operator shall immediately resume the regular inspection frequency.~~

~~(c) Representative inspections utilized by utility line installation, pipeline construction, or other similar linear construction activities in Section II F 2 c shall also inspect all outfalls discharging directly to an impaired water.~~

~~(4) The requirements of Sections I B 3 a (1) through I B 3 a (3) shall be implemented for:~~

~~(a) All construction activities outside of Tidewater Virginia, as defined in § [10.1-210162.1-44.15:68] of the Code of Virginia, that discharge to a surface water in the Chesapeake Bay watershed and disturb greater than or equal to 20 acres;~~

~~(b) All construction activities inside of Tidewater Virginia, as defined in § [10.1-210162.1-44.15:68] of the Code of Virginia, that discharge to a surface water in the Chesapeake Bay watershed and disturb greater than or equal to 10 acres;~~

~~(c) All construction activities that discharge to a surface water located within a TMDL watershed other than the Chesapeake Bay watershed and disturb greater than or equal to five acres; and~~

~~(d) All construction activities that discharge directly to an impaired water. For the purposes of this permit, a construction activity will be considered a discharge directly~~

~~to an impaired water if the first surface water to which it discharges has been identified in the 2012 § 305(b)/303(d) Water Quality Assessment Integrated Report as not meeting an applicable water quality standard. For discharges that enter a storm sewer system prior to discharge, the surface water to which the operator discharges is the first surface water that receives the stormwater discharge from the storm sewer system.~~

~~b. Discharges to impaired waters, including discharges to surface waters located within a TMDL watershed, where sediment, a sediment related parameter (e.g., total suspended solids or turbidity) or nutrients (e.g., nitrogen or phosphorus) are an applicable observed source identified in the 2012 § 305(b)/303(d) Water Quality Assessment Integrated Report or a pollutant of concern identified in a TMDL approved prior to July 1, 2014, shall also implement the following requirements:~~

~~(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; and~~

~~(2) Nutrients shall be applied in accordance with manufacturer's recommendations and shall not be applied during rainfall events.~~

~~4. Limitations on coverage for new discharges to exceptional waters identified in 9VAC25-260-30 A 3 c. Discharges from new construction activities to exceptional waters are not eligible for coverage under this general permit unless the following requirements are implemented:~~

~~a. The exceptional water shall be identified in the registration statement and 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. The following modifications to the SWPPP inspection schedule shall be implemented:~~

~~(1) Inspections shall be conducted at a frequency of:~~

~~(a) At least once every four days; or~~

~~(b) At least once every seven days and no longer than 48 hours following any measurable storm event. In the event that a measurable storm event occurs when there are more than 40 hours between normal working days, the inspection shall be conducted on the next working day.~~

~~(c) Where areas have been temporary stabilized or runoff is unlikely due to winter conditions (e.g., the site is covered with snow or ice, or continuous frozen ground exists), the inspection frequency may be reduced to once every 30 days. If unexpected weather conditions (such as above freezing temperature or rain or snow events) make discharges likely, the operator shall immediately resume the regular inspection frequency.~~

~~(2) Representative inspections utilized by utility line installation, pipeline construction, or other similar linear construction activities in Section II F 2 c shall also inspect all outfalls discharging directly to an exceptional water.~~

~~5. There shall be no discharges of floating solids or visible foam in other than trace amounts.~~

~~4. Impaired waters and TMDL limitation. Discharges of stormwater from construction activities to surface waters identified as impaired in the 2012 § 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~~

1 (i.e., nitrogen or phosphorus) are not eligible for coverage under this general permit
2 unless the operator develops, implements, and maintains a SWPPP that minimizes the
3 pollutants of concern and, when applicable, is consistent with the assumptions and
4 requirements of the approved TMDL wasteload allocations. In addition, the operator
5 shall implement the following items:

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

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

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

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

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

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

1 5. Exceptional waters limitation. Discharges of stormwater from construction activities
2 not previously covered under the general permit issued in 2009 to exceptional waters
3 identified in 9VAC25-260-60 A 3 c are not eligible for coverage under this general permit
4 unless the operator implements the following:

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

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

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

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

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

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

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

23 C. Commingled discharges. ~~Any discharge authorized by a different state or VPDES permit~~
24 ~~may be commingled with discharges authorized by this state permit.~~ 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 [~~VSMP~~ 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.~~4. Except as provided in Sections I A 2, I C and I D-2 [Sections Parts] I A 2, I C and I E,~~ all discharges covered by this [~~state~~general] permit shall be composed entirely of stormwater associated with construction [~~activity~~activities]. All other discharges including the following are prohibited:

1. Wastewater from washout of concrete [~~, unless managed by an appropriate control as described at Section II A 2 d (5) (e)].~~

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 [~~and~~] solvents[, or detergents] used in equipment and vehicle washing.

~~2. The following nonstormwater discharges from active construction sites are authorized by this state permit provided the nonstormwater component of the discharge is in compliance with Section II D 5 (Nonstormwater discharges):~~

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:

~~a~~1. Discharges from firefighting activities;

~~b~~2. Fire hydrant flushings;

~~c~~3. Waters used to wash vehicles [or equipment] where [soaps, solvents or]
detergents ~~are not~~ have not been used and the wash water has been [filtered,
settled, or similarly] treated [prior to discharge];

~~d~~4. Water used to control dust that has been filtered, settled, or similarly treated
prior to discharge;

~~e~~5. Potable water sources, including uncontaminated waterline flushings;

~~f~~6. Routine external building wash down [~~which does not use detergents~~ where
soaps], solvents or [~~other wash chemicals and that have detergents~~ have not been
used and the wash water has] been filtered, settled, or similarly treated prior to
discharge;

~~g~~7. Pavement [~~washwaters~~ wash waters] where spills or leaks of toxic or hazardous
materials have not occurred ~~(unless all spilled material has been removed)~~ (or where
all spilled [or leaked] material has been removed [prior to washing] ~~and;~~ where
[soaps, solvents, or] detergents [~~, solvents, or other wash chemicals are~~ have] [not
[been] used, and where the [~~washwater~~ wash water] has been filtered, settled, or
similarly treated prior to discharge;

~~h~~8. Uncontaminated air conditioning or compressor condensate;

~~i~~9. Uncontaminated ground water or spring water;

~~j~~10. Foundation or footing drains where flows are not contaminated with process
materials such as solvents;

~~k.11. Uncontaminated excavation dewatering, including dewatering of trenches and excavations that have been filtered, settled, or similarly treated prior to discharge;~~
and

~~l.12. Landscape irrigation.~~

~~E. Releases of hazardous substances or oil in excess of reportable quantities. The discharge of hazardous substances or oil in the stormwater discharges from the construction site shall be prevented or minimized in accordance with the stormwater pollution prevention plan for the site. This state permit does not relieve the state permittee of the reporting requirements of 40 CFR Part 110, 40 CFR Part 117 and 40 CFR Part 302 or § 62.1-44.34.19 of the Code of Virginia.~~

~~Where a release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR Part 110, 40 CFR Part 117, 40 CFR Part 302, or § 62.1-44.34.19 of the Code of Virginia occurs during a 24-hour period:~~

~~1. The operator is required to notify the department and the VSMP authority in accordance with the requirements of Section III G as soon as he has knowledge of the discharge;~~

~~2. Where a release enters a municipal separate storm sewer system (MS4), the operator shall also notify the operator of the MS4; and~~

~~3. The stormwater pollution prevention plan required under Section II D of this state permit must be reviewed by the operator to identify measures to prevent the reoccurrence of such releases and to respond to such releases, and the plan must be modified where appropriate within seven calendar days of knowledge of a release.~~

~~F. Spills. This state permit does not authorize the discharge of hazardous substances or oil resulting from an on-site spill.~~

1 ~~G.F. Termination of [stategeneral] permit coverage. [Coverage under this state permit may~~
2 ~~be terminated in accordance with 9VAC25-880-60.~~

3 1. The operator of the construction activity shall submit a notice of termination in
4 accordance with 9VAC25-880-60 to the VSMP authority after one or more of the
5 following conditions have been met:

6 a. Necessary permanent control measures included in the SWPPP for the site are in
7 place and functioning effectively and final stabilization has been achieved on all
8 portions of the site for which the operator is responsible. When applicable, long term
9 responsibility and maintenance requirements shall be recorded in the local land
10 records prior to the submission of a notice of termination;

11 b. Another operator has assumed control over all areas of the site that have not been
12 finally stabilized and obtained coverage for the ongoing discharge;

13 c. Coverage under an alternative VPDES or state permit has been obtained; or

14 d. For residential construction only, temporary stabilization has been completed and
15 the residence has been transferred to the homeowner.

16 The notice of termination should be submitted no later than 30 days after one of the above
17 conditions being met. Authorization to discharge terminates at midnight on the date that the
18 notice of termination is submitted for the conditions set forth in 1 b through 1 d of this
19 subsection. Termination of authorizations to discharge for the conditions set forth in 1 a of this
20 subsection shall be effective upon notification from the department that the provisions of 1 a of
21 this subsection has been met or 60 days after submittal of the notice of termination, whichever
22 occurs first.

23 2. The notice of termination shall be signed in accordance with Part III K of this general
24 permit.]

~~H.G.~~ Water quality protection.

1. The operator must 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 ~~standards~~standard.

2. If it is determined by the department [~~in consultation with the State Water Control Board~~] ~~at any time~~ that the operator's [~~stormwater~~] discharges are causing, have reasonable potential to cause or ~~contribute~~are contributing to an excursion above any applicable water quality standard, the department ~~shall~~, 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 [~~SectionPart~~] II ~~CB~~ 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. [~~Cease discharges of pollutants from construction activity and submit~~Submit] an individual permit application [~~according to~~in accordance with] 9VAC25-870-410 B 3.

All written responses required under this chapter must include a signed certification consistent with [~~SectionPart~~] III K.

[~~SECTIONPART~~] II

STORMWATER POLLUTION PREVENTION PLAN

[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.

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. 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 develop the missing elements and include them in the SWPPP.

Any operator that was authorized to discharge under the general permit issued in 2009, and who intends to continue coverage under this general permit, shall update their 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] Framework: [pollution prevention plan contents. The SWPPP shall include the following items:]

1. [A stormwater pollution prevention plan (SWPPP) shall be developed prior to] submission of a registration statement and implemented [land disturbance for the construction activity covered by this state permit. SWPPPs shall be prepared in accordance with good engineering practices. Construction activities that are part of a common plan of development and disturb less than one acre may utilize a SWPPP template provided by the department and need not provide a separate stormwater

~~management plan is one has been prepared and implemented for the planned development.~~

~~2. The SWPPP shall:]~~

~~a. Identify potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges from the construction site;~~

~~b. Describe control measures that will be used to minimize pollutants in stormwater discharges from the construction site; and~~

~~c. Comply with the terms and conditions of this state permit.~~

~~[a. General Information:~~

~~(1) A copy of the Registration for Coverage under the General Permit for Discharges of Stormwater for Construction Activities signed in accordance with [4VAC50-60-3709VAC25-870-370];~~

~~(2) Upon receipt of coverage, a copy of the Notice of Coverage under the General Permit for Discharges of Stormwater from Construction Activities;~~

~~(3) A copy of the General Permit for Discharges of Stormwater from Construction Activities;~~

~~(4) 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.);~~

~~(5) A legible site plan identifying:~~

~~(a) Directions of stormwater flow and approximate slopes anticipated after major grading activities;~~

~~(b) Limits of land disturbance including steep slopes and natural buffers around surface waters that will not be disturbed;~~

(c) Locations of major structural and nonstructural control measures including sediment basins and traps, perimeter dikes, sediment barriers, and other measures intended to filter 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;

(d) Locations of surface waters;

(e) Locations where concentrated stormwater is discharged;

(f) Location of the on site rain gauge, or a description of the methodology to identify measurable storm events established in consultation with the VSMP authority, used to identify a measurable storm event for inspection purposes; and

(g) Locations of on site and off site, when applicable and when required by the VSMP authority, support activities, including: (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.

b. Erosion and Sediment Control Plan.

(1) An erosion and sediment control plan or an agreement in lieu of a plan, as defined in [4VAC50-30-109VAC25-840-10], approved by a board approved VESCP authority or, where appropriate, an erosion and sediment control plan designed 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 approval from a VESCP authority or adopts department approved

~~annual standards and specifications shall submit the erosion and sediment control plan to the department for review and approval prior to land disturbance. Plan approval prior to land disturbance does not apply to emergency related construction activities.~~

~~(2) For off site support activities such as borrow or fill areas, all required erosion and sediment control plans approved by a VESCP authority or, where appropriate, an erosion and sediment control plan designed 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 adopts department approved annual standards and specifications shall submit the erosion and sediment control plan to the department for review and approval prior to land disturbance.~~

~~(3) All erosion and sediment control plans shall include a statement describing the maintenance responsibilities required for the erosion and sediment controls utilized.~~

~~(4) Unless there is evidence as a result of an inspection as required under Section II F, an approved and properly implemented erosion and sediment control plan; an agreement in lieu of a plan approved by the VESCP authority without exception; or an erosion and sediment control plan designed and implemented in accordance with annual standards and specifications approved by the department that adequately:~~

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

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

(c) Minimizes the disturbance of steep slopes;

(d) Minimizes the amount of soil exposed during construction activity;

(e) Minimizes sediment discharges from the site in a manner that addresses the amount, frequency, intensity, and duration of precipitation, the nature of resulting stormwater runoff and soil characteristics, including the range of soil particle sizes expected to be present on the site;

(f) Provides and maintains natural buffers around surface waters, directs stormwater to vegetated areas to increase sediment removal, and maximizes stormwater infiltration, unless infeasible;

(g) Minimizes soil compaction and preserves topsoil where feasible;

(h) Ensures that stabilization will begin immediately upon installation of earthen structures such as dams, dikes, and diversions and that stabilization of denuded areas shall be initiated immediately upon reaching final grade or for areas that may not be at final grade but will remain dormant for longer than 14 days. Temporary stabilization shall be installed within seven days of initiation; and

(i) Discharges stormwater from the surface of basins and other impoundments when the impoundment is designed to include wet storage and is designed to discharge above the permanent pool elevation.

(5) Previously covered construction activities, as identified in Section I A 1 b, shall implement the inspection requirements in Section II F and update their erosion and sediment control plan no later than 30 days following permit coverage to include the required modifications resulting from the inspection requirements.

c. Stormwater Management Plan. A stormwater management plan from the appropriate VSMP authority as authorized under the Virginia Stormwater

~~Management Program Regulations, [4VAC50-609VAC25-870]. 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 prior to land disturbance. Plan approval prior to land disturbance does not apply to emergency related construction activities.~~

~~d. Pollution Prevention Plan. A pollution prevention plan that addresses expected pollutant generating activities from both on site and off site support activities covered under the general permit that may reasonably be expected to affect the quality of stormwater discharges. In order to comply with [4VAC50-60-569VAC25-870-56], the pollution prevention plan shall:~~

~~(1) Identify the potential pollutant generating activities and the pollutant that is expected to be exposed to stormwater for on site and off site activities, including support activities;~~

~~(2) Describe the location where the pollutant generating activities will occur; or if identified on the site plan, reference to the site plan;~~

~~(3) Identify all nonstormwater discharges, as authorized in Section I E of this permit, that are or will be commingled with stormwater discharges from the construction activity at the site;~~

~~(4) Identify the person responsible for the pollution prevention activities for each pollutant generating activity (if other than the person listed as the qualified personnel);~~

~~(5) Describe procedures and practices that will be implemented to:~~

~~(a) 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 Section III G;~~

~~(b) Eliminate 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);~~

~~(c) Prevent the discharge of soaps, detergents, solvents, and wash water from construction materials, such as clean up of stucco, paint form release oils, and curing compounds, by 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;~~

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

~~(e) Direct concrete wash water into a leak proof container or leak proof settling basin that is 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;~~

~~(f) 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, 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;~~

~~(g) Prevent the discharge of fuels, oils, and other petroleum products, hazardous or toxic wastes, and sanitary wastes; and~~

~~(h) Address any other discharges from the potential pollutant generating activity not addressed above.~~

~~(6) The pollution prevention plan shall 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 permit. The operator shall implement the procedures described in the SWPPP.~~

~~(7) Previously covered construction activities, as identified in Section I A 1 b, shall review and update their pollution prevention plan no later than 30 days following permit coverage to ensure compliance with these permit conditions.~~

~~e. Applicable state or local programs. Certain 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 BMP programs otherwise required for the facility provided that the incorporated plan meets or exceeds the SWPPP requirements of Section II~~

~~A 2 a. All plans incorporated by reference into the SWPPP become enforceable under this permit. If a plan incorporated by reference does not contain all of the required elements of the SWPPP, the operator must develop the missing elements and include them in the SWPPP.~~

~~f. SWPPP requirements for discharges to impaired waters, surface waters located within a TMDL watershed, and exceptional waters. The SWPPP shall:~~

~~(1) Identify impaired water(s), associated impairment(s), TMDL name(s), TMDL pollutant(s) of concern, and exceptional waters when applicable; and~~

~~(2) Provide clear direction that:~~

~~(a) 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, when applicable;~~

~~(b) Nutrients shall be applied in accordance with manufacturer's recommendations and shall not be applied during wet weather events when applicable; and~~

~~(c) A modified inspection schedule shall be implemented, when applicable.~~

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

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

~~i. SWPPP signature. The SWPPP shall be signed and dated in accordance with Section III K.]~~

~~3. The SWPPP requirements of this general permit may be fulfilled by incorporating by reference other state or local plans such as (i) an erosion and sediment control (ESC)~~

1 plan, (ii) an agreement in lieu of a plan as defined in 9VAC25-840-10, (iii) a stormwater
2 management plan, (iv) a spill prevention control and countermeasure (SPCC) plan
3 developed for the site under § 311 of the federal Clean Water Act or (v) best
4 management practices (BMP) programs otherwise required for the facility provided that
5 the incorporated plan meets or exceeds the SWPPP requirements of Section II D. If an
6 erosion and sediment control plan for the land-disturbing activity is being incorporated by
7 reference, the referenced plan must be approved by the VESCP authority of the locality
8 in which the construction activity is to occur prior to the commencement of land
9 disturbance.

10 4. All plans incorporated by reference into the SWPPP become enforceable under this
11 state permit. If a plan incorporated by reference does not contain all of the required
12 elements of the SWPPP of Section II D, the operator must develop the missing elements
13 and include them in the required SWPPP.

14 5. Once a definable area has been finally stabilized, the operator may mark this on the
15 SWPPP and no further SWPPP or inspection requirements apply to that portion of the
16 site (e.g., earth-disturbing activities around one of three buildings in a complex are done
17 and the area is finally stabilized; one mile of a roadway or pipeline project is done and
18 finally stabilized, etc.).

19 6. The SWPPP shall identify all properties that are no longer under the control of the
20 operator and the dates on which the operator no longer had control over each property.

21 7. The operator must implement the SWPPP as written and updated in accordance with
22 Section II C from commencement of construction activity until final stabilization is
23 complete. General information.

1 a. A signed copy of the registration statement for coverage under the general
2 VPDES permit for discharges of stormwater from construction activities;

3 b. Upon receipt, a copy of the notice of coverage under the general VPDES permit
4 for discharges of stormwater from construction activities (i.e., notice of coverage
5 letter);

6 c. Upon receipt, a copy of the general VPDES permit for discharges of stormwater
7 from construction activities;

8 d. A narrative description of the nature of the construction activity, including the
9 function of the project (e.g., low density residential, shopping mall, highway, etc.);

10 e. A legible site plan identifying:

11 (1) Directions of stormwater flow and approximate slopes anticipated after major
12 grading activities;

13 (2) Limits of land disturbance including steep slopes and natural buffers around
14 surface waters that will not be disturbed;

15 (3) Locations of major structural and nonstructural control measures including
16 sediment basins and traps, perimeter dikes, sediment barriers, and other measures
17 intended to filter, settle, or similarly treat sediment that will be installed between
18 disturbed areas and the undisturbed vegetated areas, in order to increase sediment
19 removal and maximize stormwater infiltration;

20 (4) Locations of surface waters;

21 (5) Locations where concentrated stormwater is discharged;

22 (6) Locations of support activities, when applicable and when required by the VSMP
23 authority, including but not limited to: (i) areas where equipment and vehicle

1 washing, wheel wash water, and other wash water is to occur; (ii) storage areas for
2 chemicals such as acids, fuels, fertilizers and other lawn care chemicals; (iii)
3 concrete wash out areas; (iv) vehicle fueling and maintenance areas; (v) sanitary
4 waste facilities, including those temporarily placed on the construction site; and (vi)
5 construction waste storage; and

6 (7) When applicable, the location of the on-site rain gauge, or the methodology
7 established in consultation with the VSMP authority, used to identify measurable
8 storm events for inspection purposes.

9 2. Erosion and sediment control plan.

10 a. An erosion and sediment control plan approved by the VESCP authority as
11 authorized under the Virginia Erosion and Sediment Control Regulations, 9VAC25-
12 840, an “agreement in lieu of a plan” as defined in 9VAC25-840-10 from the VESCP
13 authority, or an erosion and sediment control plan prepared in accordance with
14 annual standards and specifications approved by the department. Any operator
15 proposing a new stormwater discharge from construction activities that is not
16 required to obtain erosion and sediment control plan approval from a VESCP
17 authority or does not adopt department-approved annual standards and
18 specifications shall submit the erosion and sediment control plan to the department
19 for review and approval;

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

22 c. A properly implemented approved erosion and sediment control plan, “agreement
23 in lieu of a plan”, or erosion and sediment control plan prepared in accordance with
24 department-approved annual standards and specifications, adequately:

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

(2) Controls 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 the amount of soil exposed during the construction activity;

(4) Minimizes the disturbance of steep slopes;

(5) Minimizes 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 and maintains natural buffers around surface waters, directs stormwater to vegetated areas to increase sediment removal, and maximizes stormwater infiltration, unless infeasible;

(7) Minimizes soil compaction and, unless infeasible, preserves topsoil;

(8) Ensures that stabilization of disturbed areas will be initiated immediately whenever any clearing, grading, or 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;

(9) Utilizes 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 basis or sediment traps.

3. Stormwater management plan.

1 a. New construction activities. A stormwater management plan approved by the
2 VSMP authority as authorized under the Virginia Stormwater Management Program
3 Regulations, 9VAC25-870, or a stormwater management plan prepared in
4 accordance with annual standards and specifications approved by the department.
5 Any operator proposing a new stormwater discharge from construction activities that
6 is not required to obtain stormwater management plan approval from a VSMP
7 authority or does not adopt department-approved annual standards and
8 specifications shall submit the stormwater management plan to the department for
9 review and approval:

10 b. Existing construction activities. Any operator that was authorized to discharge
11 under the general permit issued in 2009, and who intends to continue coverage
12 under this general permit, shall ensure compliance with the requirements of 9VAC25-
13 870-93 through 9VAC25-870-99 of the VSMP regulation, including but not limited to
14 the water quality and quantity requirements. The SWPPP shall include a description
15 of, and all necessary calculations supporting, all post-construction stormwater
16 management measures that will be installed prior to the completion of the
17 construction process to control pollutants in stormwater discharges after construction
18 operations have been completed. Structural measures should be placed on upland
19 soils to the degree possible. Such measures must be designed and installed in
20 accordance with applicable VESCP authority, VSMP authority, state, and federal
21 requirements, and any necessary permits must be obtained.

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

1 a. Identify the potential pollutant-generating activities and the pollutant that is
2 expected to be exposed to stormwater;

3 b. Describe the location where the potential pollutant-generating activities will occur,
4 or if identified on the site plan, reference the site plan;

5 c. Identify all nonstormwater discharges, as authorized in Part I E of this general
6 permit, that are or will be commingled with stormwater discharges from the
7 construction activity, including any applicable support activity;

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

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

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

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

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

1 prevent contact with stormwater; and (iii) a similarly effective means designed to
2 prevent discharge of these pollutants).

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

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

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

22 (7) Prevent the discharge of fuels, oils, and other petroleum products, hazardous or
23 toxic wastes, and sanitary wastes; and

(8) Address any other discharge from the potential pollutant-generating activities not addressed above.

f. The pollution prevention plan shall 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:

a. Identify the impaired water(s), approved TMDL(s), pollutant(s) of concern, and exceptional waters identified in 9VAC25-260-30 A 3, when applicable;

b. Provide clear direction 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 I B 4 or Part I B 5.

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

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

3 8. SWPPP signature. The SWPPP shall be signed and dated in accordance with Part III
4 K.]

5 ~~B. Signature, SWPPP review and making SWPPPs available.~~

6 ~~1. The SWPPP shall be signed in accordance with Section III K.~~

7 ~~2. The SWPPP shall be retained, along with a copy of this state permit, registration~~
8 ~~statement, and state permit coverage letter from the department, at the construction site~~
9 ~~or other location easily accessible during normal business hours from the date of~~
10 ~~commencement of construction activity to the date of final stabilization. Operators with~~
11 ~~day-to-day operational control over SWPPP implementation shall have a copy of the~~
12 ~~SWPPP available at a central location on-site for the use of all operators and those~~
13 ~~identified as having responsibilities under the SWPPP whenever they are on the~~
14 ~~construction site. The SWPPP must be made available, in its entirety, to the department,~~
15 ~~the VSMP authority, and the operator of a municipal separate storm sewer system~~
16 ~~receiving discharges from the site for review at the time of an on-site inspection. If an on-~~
17 ~~site location is unavailable to store the SWPPP when no personnel are present, notice of~~
18 ~~the SWPPP's location must be posted near the main entrance at the construction site.~~

19 ~~3. The operator shall make SWPPPs and all updates available upon request to the~~
20 ~~department; the VSMP authority; EPA; a state or local agency approving erosion and~~
21 ~~sediment control plans, grading plans, or stormwater management plans; local~~
22 ~~government officials; or the operator of a municipal separate storm sewer system~~
23 ~~receiving discharges from the site.~~

1 ~~4. A sign or other notice must be posted conspicuously near the main entrance of the~~
2 ~~construction site. The sign or other notice must contain the following information:~~

3 ~~a. A copy of the state permit coverage letter that includes the registration number for~~
4 ~~the construction activity; and~~

5 ~~b. The Internet address at which a copy of the SWPPP may be found or the location~~
6 ~~of a hard copy of the SWPPP and name and telephone number of a contact person~~
7 ~~for scheduling viewing times.~~

8 ~~For linear projects, the sign or other notice must be posted at a publicly accessible~~
9 ~~location near an active part of the construction project (e.g., where a pipeline project~~
10 ~~crosses a public road).~~

11 ~~5. For discharges that commence on or after July 1, 2009, that have not previously held~~
12 ~~coverage under a state or VPDES permit, the operator shall make the SWPPP available~~
13 ~~to the public for review. A copy of the SWPPP for each site shall be made available on~~
14 ~~the Internet or in hard copy. The website address or contact person for access to the~~
15 ~~SWPPP shall be posted on the sign required by subdivision B 4 of this section. If not~~
16 ~~provided electronically, access to the SWPPP may be arranged upon request at a time~~
17 ~~and at a publicly accessible location convenient to the operator or his designee but shall~~
18 ~~be no less than once per month and shall be during normal business hours. If a~~
19 ~~reproduced copy of the SWPPP is provided to the requestor, the requestor shall be~~
20 ~~responsible for the costs of reproduction. Information excluded from disclosure under~~
21 ~~applicable law shall not be required to be released. Information not required to be~~
22 ~~contained within the SWPPP by this state permit is not required to be released.~~

23 ~~C. Maintaining an updated SWPPP.~~

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

4 ~~2. The SWPPP must be amended if during inspections or investigations by the~~
5 ~~operator's qualified personnel, or by VESCP authority, VSMP authority, state or federal~~
6 ~~officials, it is determined that the existing control measures are ineffective in minimizing~~
7 ~~pollutants in stormwater discharges from the construction site. Revisions to the SWPPP~~
8 ~~shall include additional or modified control measures designed to correct problems~~
9 ~~identified. If approval by a VSMP authority is necessary for the control measure,~~
10 ~~revisions to the SWPPP shall be completed within seven calendar days of approval.~~
11 ~~Implementation of these additional or modified control measures must be accomplished~~
12 ~~as described in Section II D 3 b.~~

13 ~~3. Revisions to the SWPPP must be dated and signed in accordance with Section III K 2,~~
14 ~~but are not required to be certified in accordance with Section III K 4.~~

15 ~~4. The SWPPP must clearly identify the contractor(s) or subcontractor(s) that will~~
16 ~~implement and maintain each measure identified in the SWPPP. The SWPPP shall be~~
17 ~~revised to identify any new contractor that will implement a measure.~~

18 ~~D. Stormwater pollution prevention plan contents. The SWPPP shall include the registration~~
19 ~~statement, this state permit, and the following items:~~

20 ~~1. Site and activity description. Each SWPPP shall provide the following information:~~

21 ~~a. A narrative description of the nature of the construction activity, including the~~
22 ~~function of the project (e.g., low density residential, shopping mall, highway, etc.);~~

23 ~~b. The intended sequence and timing of activities that disturb soils at the site (e.g.,~~
24 ~~grubbing, excavation, grading, utilities and infrastructure installation);~~

~~c. A record of the dates when major grading activities occur, when construction activities temporarily or permanently cease on a portion of the site, and when stabilization measures are initiated;~~

~~d. Estimates of the total area expected to be disturbed by excavation, grading, or other construction activities including off-site borrow and fill areas;~~

~~e. A description of any other potential pollutant sources, such as vehicle fueling, storage of fertilizers or chemicals, sanitary waste facilities, etc.;~~

~~f. Identification of the nearest receiving waters at or near the construction site that will receive discharges from disturbed areas of the project;~~

~~g. The location and description of any discharge associated with industrial activity other than construction at the site. This includes stormwater discharges from dedicated asphalt plants and dedicated concrete plants that are covered by this state permit;~~

~~h. A legible general location map (e.g., USGS quadrangle map, a portion of a city or county map, or other map) with sufficient detail to identify the location of the construction activity and surface waters within one mile of the construction activity; and~~

~~i. A legible site map identifying:~~

~~(1) Directions of stormwater flow and approximate slopes anticipated after major grading activities;~~

~~(2) Areas of soil disturbance and areas of the site which will not be disturbed;~~

~~(3) Locations of major structural and nonstructural control measures identified in the SWPPP, including those that will be permanent after construction activities have been completed;~~

~~(4) Locations where stabilization practices are expected to occur;~~

~~(5) Locations of surface waters;~~

~~(6) Locations where concentrated stormwater discharges;~~

~~(7) Locations of off-site material, waste, borrow or equipment storage areas covered by the SWPPP;~~

~~(8) Locations of other potential pollutant sources, such as vehicle fueling, storage of chemicals, concrete wash-out areas, sanitary waste facilities, including those temporarily placed on the construction site, etc.; and~~

~~(9) Areas where final stabilization has been accomplished.~~

~~2. Controls to minimize pollutants. The SWPPP shall include a description of all control measures that will be implemented as part of the construction activity to minimize pollutants in stormwater discharges. For each major activity identified in the project description, the SWPPP shall clearly describe appropriate control measures, the general sequencing during the construction process in which the control measures will be implemented, and which operator is responsible for the control measure's implementation.~~

~~a. Erosion and sediment controls.~~

~~(1) An erosion and sediment control plan or an agreement in lieu of a plan shall be approved by the appropriate VESCP authority for the land-disturbing activity in accordance with the Virginia Erosion and Sediment Control Law and regulations~~

~~(9VAC25-840). Where applicable, a plan shall be developed in accordance with board approved annual general erosion and sediment control specifications.~~

~~(2) All control measures required by the plan shall be designed, installed, and maintained in accordance with good engineering practices and the minimum standards of the Virginia Erosion and Sediment Control Law and regulations (9VAC25-840).~~

~~b. Management practices.~~

~~(1) Plans should ensure that existing vegetation is preserved where possible and that disturbed portions of the site are stabilized.~~

~~(2) All control measures must be properly selected, installed, and maintained in accordance with good engineering practices and, where applicable, manufacturer specifications. If periodic inspections or other information indicates a control has been used inappropriately or incorrectly, the operator must replace or modify the control for site situations as soon as practicable and update the SWPPP in accordance with Section II C.~~

~~(3) If sediment escapes the construction site, off-site accumulations of sediment must be removed as soon as practicable to minimize off-site impacts. If approval by a VESCP authority is necessary, control measures shall be implemented to minimize pollutants in stormwater discharges until such approvals can be obtained.~~

~~(4) Construction debris and construction chemicals exposed to stormwater shall be prevented from becoming a pollutant source in stormwater discharges.~~

~~(5) Litter exposed to stormwater shall be prevented from becoming a pollutant source in stormwater discharges and the construction site shall be policed daily to control litter.~~

1 ~~c. Stormwater management.~~

2 ~~(1) The operator shall ensure compliance with the requirements of 9VAC25-880-80~~
3 ~~through 9VAC25-880-90 of the General Permit for Discharges of Stormwater from~~
4 ~~Construction Activities regulations, including but not limited to water quality and~~
5 ~~quantity requirements. The SWPPP shall include a description of, and all necessary~~
6 ~~calculations supporting, all post-construction stormwater management measures that~~
7 ~~will be installed prior to the completion of the construction process to control~~
8 ~~pollutants in stormwater discharges after construction operations have been~~
9 ~~completed. Structural measures should be placed on upland soils to the degree~~
10 ~~possible. Such measures must be designed and installed in accordance with~~
11 ~~applicable VESCP authority, VSMP authority, state, and federal requirements, and~~
12 ~~any necessary permits must be obtained.~~

13 ~~(2) Control measures contained in Part II (9VAC25-870-40 et seq.) of the Virginia~~
14 ~~Stormwater Management Regulations, 9VAC25-880-84, or on the Virginia BMP~~
15 ~~Clearinghouse Website may be utilized. Innovative or alternate control measures~~
16 ~~may be allowed by the department provided such measures effectively address~~
17 ~~water quality and quantity in accordance with the requirements of 9VAC25-880-80~~
18 ~~through 9VAC25-880-90 and are not restricted by the locality in accordance with~~
19 ~~§ 62.1-44.15:33 of the Code of Virginia.~~

20 ~~(3) Where applicable, the SWPPP shall contain additional information related to~~
21 ~~participation in a regional stormwater management plan, including:~~

22 ~~(a) Type of regional facility or facilities to which the site contributes;~~

23 ~~(b) Geographic location of any regional facility to which the site contributes (county or~~
24 ~~city and Hydrologic Unit Code);~~

~~(c) Geographic location of the site (county or city and Hydrologic Unit Code). Latitude and longitude may additionally be included if available; and~~

~~(d) Number of acres treated by a regional facility.~~

~~(4) Where applicable, the SWPPP shall contain additional information related to nutrient offsets to be acquired in accordance with § 62.1-44.15:35 of the Code of Virginia, including:~~

~~(a) Name of the broker from which offsets will be acquired;~~

~~(b) Geographic location (county or city and Hydrologic Unit Code) of the broker's offset generating facility;~~

~~(c) Number of nutrient offsets to be acquired (lbs. per acre per year); and~~

~~(d) Nutrient reductions to be achieved on site (lbs. per acre per year).~~

~~(5) Outflows from a stormwater management facility or stormwater conveyance system shall be discharged to an adequate channel as defined in the Virginia Erosion and Sediment Control Regulations (9VAC25-840). In addition, all control measures shall be employed in a manner that minimizes impacts on the physical, chemical and biological integrity of rivers, streams, and other state waters, is protective of water quality standards, and is consistent with Section II D 6 and D 7 and other applicable provisions of this state permit.~~

~~d. Other controls.~~

~~(1) The SWPPP shall describe measures to prevent the discharge of solid materials, including building materials, garbage, and debris to state waters, except as authorized by a Clean Water Act § 404 permit.~~

~~(2) The SWPPP shall describe control measures used to comply with applicable state or local waste disposal, sanitary sewer or septic system regulations.~~

~~(3) The SWPPP shall include a description of construction and waste materials expected to be stored on-site with updates as appropriate. The SWPPP shall also include a description of controls including storage practices, to minimize exposure of the materials to stormwater, and for spill prevention and response.~~

~~(4) The SWPPP shall include a description of pollutant sources from off-site areas (including stormwater discharges from dedicated asphalt plants and dedicated concrete plants), and a description of control measures that will be implemented at those sites to minimize pollutant discharges.~~

~~e. Applicable state or local programs. The control measures implemented at the site shall be consistent with all applicable federal, state, or VESCP or VSMP authority requirements for erosion and sediment control and stormwater management. The SWPPP shall be updated as necessary to reflect any revisions to applicable federal, state or VESCP or VSMP authority requirements that affect the control measures implemented at the site.~~

~~3. Maintenance of controls.~~

~~a. All control measures must be properly maintained in effective operating condition in accordance with good engineering practices and, where applicable, manufacturer specifications. If site inspections required by Section II D 4 identify control measures that are not operating effectively, maintenance shall be performed as soon as practicable to maintain the continued effectiveness of stormwater controls.~~

~~b. If site inspections required by Section II D 4 identify existing control measures that need to be modified or if additional control measures are necessary for any reason,~~

1 ~~implementation shall be completed before the next anticipated storm event. If~~
2 ~~implementation before the next anticipated storm event is impracticable, the situation~~
3 ~~shall be documented in the SWPPP and alternative control measures shall be~~
4 ~~implemented as soon as practicable.~~

5 ~~4. Inspections. The name and phone number of qualified personnel conducting~~
6 ~~inspections shall be included in the SWPPP.~~

7 ~~a. Inspections shall be conducted (i) at least every seven calendar days or (ii) at~~
8 ~~least once every 14 calendar days and within 48 hours following any runoff~~
9 ~~producing storm event. Where areas have been temporarily stabilized or runoff is~~
10 ~~unlikely due to winter conditions (e.g., the site is covered with snow or ice, or frozen~~
11 ~~ground exists) such inspections shall be conducted at least once every month.~~

12 ~~b. Inspections must include all areas of the site disturbed by construction activity, off-~~
13 ~~site areas covered by the state permit, and areas used for storage of materials that~~
14 ~~are exposed to precipitation, but does not need to include areas identified pursuant~~
15 ~~to Section II A 5. Inspectors must look for evidence of, or the potential for, pollutants~~
16 ~~entering a stormwater conveyance system. Control measures identified in the~~
17 ~~SWPPP shall be inspected for proper installation, maintenance, and operation.~~
18 ~~Discharge locations, where accessible, shall be inspected to ascertain whether~~
19 ~~control measures are effective in minimizing impacts to receiving waters. Where~~
20 ~~discharge locations are inaccessible, nearby downstream locations shall be~~
21 ~~inspected to the extent that such inspections are practicable. Locations where~~
22 ~~vehicles enter or exit the site shall be inspected for evidence of off-site sediment~~
23 ~~tracking.~~

24 ~~c. Utility line installation, pipeline construction, and other examples of long, narrow,~~
25 ~~linear construction activities may limit the access of inspection personnel to the areas~~

described in Section II D 4 b. Inspection of these areas could require that vehicles compromise temporarily or even permanently stabilized areas, cause additional disturbance of soils, and increase the potential for erosion. In these circumstances, controls must be inspected on the same frequencies as other construction projects, but representative inspections may be performed. For representative inspections, personnel must inspect controls along the construction site for 0.25 miles above and below each access point where a roadway, undisturbed right of way, or other similar feature intersects the construction site and allows access to the areas described above. The conditions of the controls along each inspected 0.25-mile segment may be considered as representative of the condition of controls along that reach extending from the end of the 0.25-mile segment to either the end of the next 0.25-mile segment, or to the end of the project, whichever occurs first. Inspection locations must be listed in the report required by Section II D 4 d.

d. A report summarizing the scope of the inspection, names and qualifications of personnel making the inspection, the dates of the inspection, major observations relating to the implementation of the SWPPP, and actions taken in accordance with Section II D 4 d of the state permit shall be made and retained as part of the SWPPP in accordance with Section III B of this state permit. Major observations should include:

- (1) The location(s) of discharges of sediment or other pollutants from the site;
- (2) Location(s) of control measures that need to be maintained;
- (3) Location(s) of control measures that failed to operate as designed or proved inadequate for a particular location;

~~(4) Location(s) where additional control measures are needed that did not exist at the time of inspection;~~

~~(5) Corrective action required including any changes to the SWPPP that are necessary and implementation dates;~~

~~(6) An estimate of the amount of rainfall at the construction site (in inches) from the runoff producing storm event requiring the inspection, or if inspecting on a seven-day schedule, the amount of rainfall (in inches) since the previous inspection; and~~

~~(7) Weather information and a description of any discharges occurring at the time of inspection.~~

~~A record of each inspection and of any actions taken in accordance with Section II must be retained by the operator as part of the SWPPP for at least three years from the date that state permit coverage expires or is terminated. The inspection reports shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the SWPPP and this state permit. The report shall be signed in accordance with Section III K of this state permit.~~

~~5. Nonstormwater discharge management. The SWPPP shall identify all allowable sources of nonstormwater discharges listed in Section I D 2 of this state permit that are combined with stormwater discharges from the construction activity at the site, except for flows from firefighting activities. The SWPPP shall identify and require the implementation of appropriate control measures for the nonstormwater components of the discharge.~~

~~6. Total maximum daily loads. An approved total maximum daily load (TMDL) may include a wasteload allocation to the regulated construction activity that identifies the~~

1 pollutant for which stormwater control measures are necessary for the surface waters to
 2 meet water quality standards. The pollutant identified in a wasteload allocation as of the
 3 effective date of this state permit must be specified in the SWPPP. The SWPPP shall
 4 include strategies and control measures to ensure consistency with the assumptions and
 5 requirements of the TMDL WLA that apply to the operator's discharge. In a situation
 6 where a TMDL has specified a general wasteload allocation applicable to construction
 7 stormwater discharges, but no specific requirements for construction sites have been
 8 identified in the TMDL, the operator shall consult with the state or federal TMDL authority
 9 to confirm that meeting state permit requirements will be consistent with the approved
 10 TMDL. If the TMDL specifically precludes such discharges, the operator is not eligible for
 11 coverage under the general permit.

12 7. Impaired waters. In accordance with Section I H, control measures shall be protective
 13 of water quality standards for impaired waters identified as having impairments for
 14 pollutants that may be discharged from the construction activity in the 2008
 15 § 305(b)/303(d) Water Quality Assessment Integrated Report.

16 B. SWPPP [amendments,] modification, [and] updates [,and records].

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

20 2. The SWPPP must be amended if, during inspections or investigations by the
 21 operator's qualified personnel, or by local, state, or federal officials, it is determined that
 22 the existing control measures are ineffective in minimizing pollutants in discharges from
 23 the construction [site activity]. Revisions to the SWPPP shall include additional or
 24 modified control measures designed and implemented to correct problems identified. If
 25 approval by the VESCP authority, VSMP authority, or [the] department is necessary for

1 the control measure, revisions to the SWPPP shall be completed no later than seven
2 [calendar] days following approval. Implementation of these additional of modified
3 control measures must be accomplished as described in [~~Section Part~~] II G.

4 3. [~~Revisions to the SWPPP shall be signed and dated in accordance with Section III K~~
5 ~~2 but are not required to be certified in accordance with Section III K 4. 4.~~] The SWPPP
6 must clearly identify the contractor(s) that will implement and maintain each control
7 measure identified in the SWPPP. The SWPPP shall be [~~revised~~ amended] to identify
8 any new contractor that will implement and maintain a control measure.

9 [~~5.4.~~] The operator shall update the SWPPP no later than seven days following any
10 modification to its implementation. All modifications or [~~changes~~ updates] to the SWPPP
11 shall be noted [~~Updates and modifications shall be signed and dated in accordance~~
12 ~~with Section III K~~] and shall include [the following items];

13 a. A record of dates when:

14 (1) Major grading activities occur;

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

16 and

17 (3) Stabilization measures are initiated.

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

21 c. Areas that have reached final stabilization and where no further SWPPP or
22 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 [~~Section~~Part] II F [~~;-and~~

h. ~~Updates necessary to reflect any revisions to applicable federal, state, or local requirements that affect the control measures implemented at the site.~~

5. Amendments, modifications, or updates to the SWPPP shall be signed in accordance with Part III K.]

C. Public Notification. Upon commencement of land disturbance, the operator shall [~~maintain and~~] post conspicuously [a copy of the notice of coverage letter] near the main entrance of the construction activity [~~;-1. A copy of the Notice of Coverage letter; 2.-~~] For linear projects, the [~~operator~~operator] shall post the [~~information~~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) [~~;-and3.-~~] The operator shall maintain the posted information until termination of general permit coverage [as specified in Part I F].

D. 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 [SWPPPs the SWPPP] and all [updates amendments, modifications, and updates] available upon request to the department, the VSMP authority, the EPA, [the] VESCP [authorities 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 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 C. 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. SWPPP implementation. The operator shall implement the SWPPP and subsequent [amendments, modifications, and] updates from commencement of [construction activity and disturbance until permit termination of general permit coverage as specified in Part I F].

1. All control measures must be properly maintained in effective operating condition in accordance with good engineering practices and, where applicable, manufacturer specifications. If [a] site [inspections inspection] required by [SectionPart] II F [identify identifies a] control [measures measure] that [are is] not operating effectively, corrective [action action(s)] shall be [performed 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 [stormwater control the control measures] .

2. If site inspections required by ~~[SectionPart]~~ II F identify ~~[an]~~ existing control ~~[measuresmeasure]~~ that ~~[needneeds]~~ to be modified or if ~~[an]~~ additional control ~~[measuresmeasure 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 even is impracticable, then ~~[the situation shall be documented in the SWPPP and]~~ 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. ~~[SWPPP]~~ Inspections.

1. Personnel responsible for on-site and off-site 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 that the qualified personnel conduct the inspection.

2. Inspection schedule.

a. Inspections shall be conducted at a frequency of:

(1) At least once every ~~[sevenfive business]~~ days; or

(2) At least once every ~~[4410 business]~~ days and no later than 48 hours following ~~[anya]~~ measurable storm event. In the event that a measurable storm event occurs when there are more than 48 hours between ~~[normal workingbusiness]~~ days, the inspection shall be conducted no later than the next business day.

b. Where areas have been temporarily stabilized ~~[or runoff is unlikely due to winter conditions (e.g., the site is covered with snow or ice, or continuous frozen ground exists), the inspection frequency may be reduced to once every 30 days. If unexpected weather conditions (such as above freezing temperatureor land-~~

disturbing activities will be suspended due to continuous frozen ground conditions and stormwater discharges are unlikely, the inspection frequency 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.

c. Representative inspections may be utilized for utility line installation, pipeline construction, or other similar linear construction activities provided that:

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

(2) Inspections occur on the same [frequenciesfrequency] as other construction [projectsactivities], [Controls

(3) Control measures] are inspected along the construction site [of] 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 [siteactivity] and [allows] access [to the areas without compromisingdoes not compromise] temporary or permanent stabilization [)] ; and

[(3)-(4)] Inspection locations [shall be listedare provided] in the report required by [SectionPart] II F.

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 [amount of cumulative rainfall since the last inspectiondate 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;

(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, [~~identify~~ identification of any] maintenance needs and [~~evaluate~~ 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;

(d) Cut and fill slopes;

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

(f) Temporary or permanent channel, flume, or other slope drain structures installed to convey concentrated runoff [~~flowing~~] 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 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;

(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) 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 [and is not meeting the requirements of Section II A 2 b

(4). Evidence. This] includes but is not limited to:

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

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

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

(d) [~~Deposits of sediment from construction activity~~ Sediment deposition] on any property (including public and private streets) outside of the construction activity covered by this [general] permit;

(e) [~~Portions of the site where required~~ Required] stabilization has not been initiated or completed [on portions of the site];

(f) Sediment basins without [a dewatering device allowing discharge from below the designed permanent pool elevationadequate 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 [andor] dry storage [and without restricted discharge from the drawdown of dry 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 outside of the [delineatedapproved] area to be disturbed;

(8) Inspect pollutant generating activities identified in the pollution prevention plan for the proper implementation, maintenance and effectiveness of the procedures and practices;

(9) Identify any pollutant generating activities not identified in the pollution prevention plan; and

(10) 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 [document in a reportinclude 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) of prohibited discharges;

d. The location(s) of control measures that require maintenance;

e. The location(s) of control measures that failed to operate as designed or proved inadequate [or inappropriate] for a particular location;

f. The location(s) where [any] evidence identified under [~~Section~~Part] II F 3 a (7) exists;

g. The location(s) where [any] additional control [~~measures are~~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 [) to implement] as a result of the inspection [~~and in order~~] to maintain permit compliance;

i. Documentation of any corrective actions required from a previous inspection that [~~have yet to be~~has not been] implemented; and

j. The date and signature of the qualified personnel and [the] operator or [~~the~~their duly] authorized representative.

The inspection report and any actions taken in accordance with [~~Section~~Part] II must 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 [~~reports~~report] shall identify any incidents of noncompliance. Where [~~a~~an inspection] report does not identify any incidents of noncompliance, the report shall contain a certification that the [~~facility~~construction activity] is in compliance with the SWPPP and this [~~state~~general] permit. The report shall be signed in accordance with [~~Section~~Part] III K of this [general] permit.

G. Corrective actions.

1. The operator shall implement the corrective action(s) 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 correction action]
 by a regulatory authority (e.g., VSMP authority, VESCP authority [, the department])
 [~~of a corrective action~~] 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 [~~and~~ 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.

[~~SECTION~~PART] III

CONDITIONS APPLICABLE TO ALL [~~STATE~~VPDES] PERMITS

NOTE: Discharge monitoring is not required for this [~~state~~general] permit. If the operator
 chooses to monitor stormwater discharges or control measures, the operator must 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 [~~state~~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) who performed the sampling or measurements;
- c. The date(s) and time(s) analyses were performed;
- d. The individual(s) who performed the analyses;
- e. The analytical techniques or methods used; and
- f. The results of such analyses.

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 [stategeneral] permit, and records of all data used to complete the registration statement for this [stategeneral] 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 1. The operator shall update the SWPPP to include the results of the monitoring as may
2 be performed in accordance with this [~~state~~general] permit, unless another reporting
3 schedule is specified elsewhere in this [~~state~~general] permit.

4 2. Monitoring results shall be reported on a discharge monitoring report (DMR); on forms
5 provided, approved or specified by the department; or in any format provided that the
6 date, location, parameter, method, and result of the monitoring activity are included.

7 3. If the operator monitors any pollutant specifically addressed by this [general] permit
8 more frequently than required by this [~~state~~general] permit using test procedures
9 approved under 40 CFR Part 136 or using other test procedures approved by the U.S.
10 Environmental Protection Agency or using procedures specified in this [general] permit,
11 the results of this monitoring shall be included in the calculation and reporting of the data
12 submitted in the DMR or reporting form specified by the department.

13 4. Calculations for all limitations which require averaging of measurements shall utilize
14 an arithmetic mean unless otherwise specified in this [~~state~~general] permit.

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

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

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

7 G. Reports of unauthorized discharges. Any operator who discharges or causes or allows a
8 discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance or
9 a hazardous substance or oil in an amount equal to or in excess of a reportable quantity
10 established under either 40 CFR Part 110, 40 CFR Part 117, 40 CFR Part 302, or § 62.1-
11 44.15:19 of the Code of Virginia that occurs during a 24-hour period into or upon statesurface
12 waters or who discharges or causes or allows a discharge that may reasonably be expected to
13 enter statesurface waters, shall notify the Department of Environmental Quality of the discharge
14 immediately upon discovery of the discharge, but in no case later than within 24 hours after said
15 discovery. A written report of the unauthorized discharge shall be submitted to the department
16 and the VSMP authority within five days of discovery of the discharge. The written report shall
17 contain:

- 18 1. A description of the nature and location of the discharge;
- 19 2. The cause of the discharge;
- 20 3. The date on which the discharge occurred;
- 21 4. The length of time that the discharge continued;
- 22 5. The volume of the discharge;
- 23 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 [~~state~~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, should occur from a facility and the discharge
enters or could be expected to enter ~~state~~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 [~~Section~~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 ~~state~~surface waters or may endanger public health.

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

5 a. Any unanticipated bypass; and

6 b. Any upset that causes a discharge to ~~state~~surface waters.

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

8 a. A description of the noncompliance and its cause;

9 b. The period of noncompliance, including exact dates and times, and if the
10 noncompliance has not been corrected, the anticipated time it is expected to
11 continue; and

12 c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the
13 noncompliance.

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

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

20 NOTE: The reports required in [~~Section~~Part] III G, H and I shall be made to the
21 department and the VSMP authority. Reports may be made by telephone, email, or by
22 fax. For reports outside normal working hours, leaving a recorded message shall fulfill

1 the immediate reporting requirement. For emergencies, the Virginia Department of
2 Emergency Management maintains a 24-hour telephone service at 1-800-468-8892.

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

7 J. Notice of planned changes.

8 1. The operator shall give notice to the department and the VSMP authority as soon as
9 possible of any planned physical alterations or additions to the permitted facility or
10 activity. Notice is required only when:

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

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

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

20 K. Signatory requirements.

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

22 a. For a corporation: by a responsible corporate officer. For the purpose of this
23 chapter, a responsible corporate officer means: (i) a president, secretary, treasurer,

1 or vice-president of the corporation in charge of a principal business function, or any
2 other person who performs similar policy-making or decision-making functions for the
3 corporation; or (ii) the manager of one or more manufacturing, production, or
4 operating facilities, provided the manager is authorized to make management
5 decisions that govern the operation of the regulated facility including having the
6 explicit or implicit duty of making major capital investment recommendations, and
7 initiating and directing other comprehensive measures to assure long-term
8 compliance with environmental laws and regulations; the manager can ensure that
9 the necessary systems are established or actions taken to gather complete and
10 accurate information for state permit application requirements; and where authority to
11 sign documents has been assigned or delegated to the manager in accordance with
12 corporate procedures;

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

15 c. For a municipality, state, federal, or other public agency: by either a principal
16 executive officer or ranking elected official. For purposes of this chapter, a principal
17 executive officer of a public agency includes: (i) the chief executive officer of the
18 agency or (ii) a senior executive officer having responsibility for the overall
19 operations of a principal geographic unit of the agency.

20 2. Reports, etc. All reports required by [~~state permits~~ this general permit], including
21 SWPPPs, and other information requested by the board or the department shall be
22 signed by a person described in [~~Section~~ Part] III K 1 or by a duly authorized
23 representative of that person. A person is a duly authorized representative only if:

24 a. The authorization is made in writing by a person described in [~~Section~~ Part] III K
25 1;

1 b. The authorization specifies either an individual or a position having responsibility
2 for the overall operation of the regulated facility or activity such as the position of
3 plant manager, operator of a well or a well field, superintendent, position of
4 equivalent responsibility, or an individual or position having overall responsibility for
5 environmental matters for the operator. (A duly authorized representative may thus
6 be either a named individual or any individual occupying a named position); and

7 c. The signed and dated written authorization is included in the SWPPP. A copy must
8 be provided to the department and VSMP authority, if requested.

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

15 4. Certification. Any person signing a document under [~~Section~~Part] III K 1 or 2 shall
16 make the following certification:

17 "I certify under penalty of law that I have read and understand this document and that
18 this document and all attachments were prepared in accordance with a system designed
19 to assure that qualified personnel properly gathered and evaluated the information
20 submitted. Based on my inquiry of the person or persons who manage the system, or
21 those persons directly responsible for gathering the information, the information
22 submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am
23 aware that there are significant penalties for submitting false information, including the
24 possibility of fine and imprisonment for knowing violations."

1 L. Duty to comply. The operator shall comply with all conditions of this [~~state~~general]
2 permit. Any state permit noncompliance constitutes a violation of the Virginia Stormwater
3 Management Act and the Clean Water Act, except that noncompliance with certain provisions of
4 this [~~state~~general] permit may constitute a violation of the Virginia Stormwater Management
5 Act but not the Clean Water Act. Permit noncompliance is grounds for enforcement action; for
6 state permit termination, revocation and reissuance, or modification; or denial of a state permit
7 renewal application.

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

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

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

22 O. State law. Nothing in this [~~state~~general] permit shall be construed to preclude the
23 institution of any legal action under, or relieve the operator from any responsibilities, liabilities, or
24 penalties established pursuant to any other state law or regulation or under authority preserved
25 by § 510 of the Clean Water Act. Except as provided in state permit conditions on "bypassing"

1 [~~(Section III U)~~(Part III U)] and "upset" [~~(Section III V)~~(Part III V)], nothing in this
2 [stategeneral] permit shall be construed to relieve the operator from civil and criminal penalties
3 for noncompliance.

4 P. Oil and hazardous substance liability. Nothing in this [stategeneral] permit shall be
5 construed to preclude the institution of any legal action or relieve the operator from any
6 responsibilities, liabilities, or penalties to which the operator is or may be subject under §§ 62.1-
7 44.34:14 through 62.1-44.34:23 of the State Water Control Law or § 311 of the Clean Water Act.

8 Q. Proper operation and maintenance. The operator shall at all times properly operate and
9 maintain all facilities and systems of treatment and control (and related appurtenances), which
10 are installed or used by the operator to achieve compliance with the conditions of this
11 [stategeneral] permit. Proper operation and maintenance also includes effective plant
12 performance, adequate funding, adequate staffing, and adequate laboratory and process
13 controls, including appropriate quality assurance procedures. This provision requires the
14 operation of back-up or auxiliary facilities or similar systems, which are installed by the operator
15 only when the operation is necessary to achieve compliance with the conditions of this
16 [stategeneral] permit.

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

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

1 T. Need to halt or reduce activity not a defense. It shall not be a defense for an operator in
2 an enforcement action that it would have been necessary to halt or reduce the permitted activity
3 in order to maintain compliance with the conditions of this [~~state~~general] permit.

4 U. Bypass.

5 1. "Bypass," as defined in 9VAC25-870-10, means the intentional diversion of waste
6 streams from any portion of a treatment facility. The operator may allow any bypass to
7 occur that does not cause effluent limitations to be exceeded, but only if it also is for
8 essential maintenance to ensure efficient operation. These bypasses are not subject to
9 the provisions of [~~Section~~Part] III U 2 and 3.

10 2. Notice.

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

14 b. Unanticipated bypass. The operator shall submit notice of an unanticipated bypass
15 as required in [~~Section~~Part] III I.

16 3. Prohibition of bypass.

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

19 (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe
20 property damage. Severe property damage means substantial physical damage to
21 property, damage to the treatment facilities that causes them to become inoperable,
22 or substantial and permanent loss of natural resources that can reasonably be
23 expected to occur in the absence of a bypass. Severe property damage does not
24 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 [~~Section~~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 [~~Section~~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 [~~Section~~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) 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 [~~Section~~Part] III I; and

d. The operator complied with any remedial measures required under [~~Section~~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 be kept under the conditions of this [~~state~~general] permit;

2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this [~~state~~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 [~~state~~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 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.

1. State permits are not transferable to any person except after notice to the department. Except as provided in [~~Section~~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 [~~Section~~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 [~~Section~~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 [~~state~~general] permit are severable, and if any provision of this [~~state~~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 [~~state~~general] permit shall not be affected thereby.

9VAC25-880-80. ~~Applicability.~~(Repealed.)

~~Operators receiving coverage under this general permit shall remain subject to the water quality and quantity criteria set forth in 9VAC25-880-82 through 9VAC25-880-90, which specify technical criteria for every land-disturbing activity regulated by this general permit.~~

9VAC25-880-82. ~~General.~~(Repealed.)

~~A. Determination of flooding and channel erosion impacts to receiving streams due to land-disturbing activities shall be measured at each point of discharge from the land disturbance and such determination shall include any runoff from the balance of the watershed that also contributes to that point of discharge.~~

~~B. The specified design storms shall be defined as either a 24-hour storm using the rainfall distribution recommended by the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) when using NRCS methods or as the storm of critical duration that produces the greatest required storage volume at the site when using a design method such as the Modified Rational Method.~~

~~C. For purposes of computing runoff, all pervious lands in the site shall be assumed prior to development to be in good condition (if the lands are pastures, lawns, or parks), with good cover (if the lands are woods), or with conservation treatment (if the lands are cultivated); regardless of conditions existing at the time of computation.~~

~~D. Construction of stormwater management facilities or modifications to channels shall comply with all applicable laws and regulations. Evidence of approval of all necessary permits shall be presented.~~

~~E. Impounding structures that are not covered by the Impounding Structure Regulations (4VAC50-20) shall be engineered for structural integrity during the 100-year storm event.~~

~~F. Predevelopment and postdevelopment runoff rates shall be verified by calculations that are consistent with good engineering practices.~~

~~G. Outflows from a stormwater management facility or stormwater conveyance system, shall be discharged to an adequate channel.~~

~~H. Proposed residential, commercial, or industrial subdivisions shall apply these stormwater management criteria to the land disturbance as a whole. Individual lots in new subdivisions shall not be considered separate land-disturbing activities, but rather the entire subdivision shall be considered a single land development project. Hydrologic parameters shall reflect the ultimate land disturbance and shall be used in all engineering calculations.~~

~~I. All stormwater management facilities shall have an inspection and maintenance plan that identifies the owner and the responsible party for carrying out the inspection and maintenance plan.~~

~~J. Construction of stormwater management impoundment structures within a Federal Emergency Management Agency (FEMA) designated 100-year floodplain shall be avoided to the extent possible. When this is unavoidable, all stormwater management facility construction shall be in compliance with all applicable regulations under the National Flood Insurance Program, 44 CFR Part 59.~~

~~K. Natural channel characteristics shall be preserved to the maximum extent practicable.~~

~~L. Land-disturbing activities shall comply with the Virginia Erosion and Sediment Control Law and attendant regulations.~~

~~M. Flood control and stormwater management facilities that drain or treat water from multiple development projects or from a significant portion of a watershed may be allowed in Resource Protection Areas defined in the Chesapeake Bay Preservation Act, provided that (i) the local government has conclusively established that the location of the facility within the Resource Protection Area is the optimum location; (ii) the size of the facility is the minimum necessary to provide necessary flood control, stormwater treatment, or both; and (iii) the facility must be consistent with a stormwater management program that has been approved by the board, the Chesapeake Bay Local Assistance Board prior to its abolishment on July 1, 2012, or the Board of Conservation and Recreation.~~

9VAC25-880-84. Water quality.(Repealed.)

~~A. Compliance with the water quality criteria may be achieved by applying the performance-based criteria or the technology-based criteria to either the site or a planning area.~~

~~B. Performance-based criteria. For land-disturbing activities, the calculated postdevelopment nonpoint source pollutant runoff load shall be compared to the calculated predevelopment load based upon the average land cover condition or the existing site condition.~~

~~A BMP shall be located, designed, and maintained to achieve the target pollutant removal efficiencies specified in Table 1 of this section to effectively reduce the pollutant load to the required level based upon the following four applicable land development situations for which the performance criteria apply:~~

~~1. Situation 1 consists of land-disturbing activities where the existing percent impervious cover is less than or equal to the average land cover condition and the proposed improvements will create a total percent impervious cover that is less than the average land cover condition.~~

~~Requirement: No reduction in the after disturbance pollutant discharge is required.~~

~~2. Situation 2 consists of land-disturbing activities where the existing percent impervious cover is less than or equal to the average land cover condition and the proposed improvements will create a total percent impervious cover that is greater than the average land cover condition.~~

~~Requirement: The pollutant discharge after disturbance shall not exceed the existing pollutant discharge based on the average land cover condition.~~

~~3. Situation 3 consists of land-disturbing activities where the existing percent impervious cover is greater than the average land cover condition.~~

~~Requirement: The pollutant discharge after disturbance shall not exceed (i) the pollutant discharge based on existing conditions less 10% or (ii) the pollutant discharge based on the average land cover condition, whichever is greater.~~

4. Situation 4 consists of land-disturbing activities where the existing percent impervious cover is served by an existing stormwater management BMP that addresses water quality.

Requirement: The pollutant discharge after disturbance shall not exceed the existing pollutant discharge based on the existing percent impervious cover while served by the existing BMP. The existing BMP shall be shown to have been designed and constructed in accordance with proper design standards and specifications, and to be in proper functioning condition.

G. Technology-based criteria. For land-disturbing activities, the postdeveloped stormwater runoff from the impervious cover shall be treated by an appropriate BMP as required by the postdeveloped condition percent impervious cover as specified in Table 1 of this section. The selected BMP shall be located, designed, and maintained to perform at the target pollutant removal efficiency specified in Table 1. Design standards and specifications for the BMPs in Table 1 that meet the required target pollutant removal efficiency will be available at the department.

Table 1*

Water Quality BMP*	Target Phosphorus Removal Efficiency	Percent Impervious Cover
Vegetated filter strip	10%	16-21%
Grassed Swale	15%	
Constructed wetlands	20%	22-37%
Extended detention (2 x WQ Vol)	35%	
Retention basin I (3 x WQ Vol)	40%	
Bioretention basin	50%	38-66%
Bioretention filter	50%	
Extended detention-enhanced	50%	
Retention basin II (4 x WQ Vol)	50%	
Infiltration (1 x WQ Vol)	50%	

Sand filter	65%	67-100%
Infiltration (2 x WQ Vol)	65%	
Retention basin III (4 x WQ Vol with aquatic bench)	65%	
*Innovative or alternate BMPs not included in this table may be allowed at the discretion of the local program administrator or the department. Innovative or alternate BMPs not included in this table that target appropriate nonpoint source pollution other than phosphorous may be allowed at the discretion of the local program administrator or the department.		

1 9VAC25-880-86. ~~Stream channel erosion.~~(Repealed.)

2 A. ~~Properties and receiving waterways downstream of any land-disturbing activity shall be~~
3 ~~protected from erosion and damage due to changes in runoff rate of flow and hydrologic~~
4 ~~characteristics, including but not limited to, changes in volume, velocity, frequency, duration,~~
5 ~~and peak flow rate of stormwater runoff in accordance with the minimum design standards set~~
6 ~~out in this section.~~

7 B. ~~The permit-issuing authority shall require compliance with subdivision 19 of 9VAC25-840-~~
8 ~~40 of the Erosion and Sediment Control Regulations, promulgated pursuant to Article 2.4~~
9 ~~(§ 62.1-44.15:51 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia.~~

10 C. ~~The permit-issuing authority may determine that some watersheds or receiving stream~~
11 ~~systems require enhanced criteria in order to address the increased frequency of bankfull flow~~
12 ~~conditions (top of bank) brought on by land-disturbing activities. Therefore, in lieu of the~~
13 ~~reduction of the two-year post-developed peak rate of runoff as required in subsection B of this~~
14 ~~section, the land development project being considered shall provide 24-hour extended~~
15 ~~detention of the runoff generated by the one-year, 24-hour duration storm.~~

16 D. ~~In addition to subsections B and C of this section, permit-issuing authorities, by local~~
17 ~~ordinance may, or the board by state regulation may, adopt more stringent channel analysis~~
18 ~~criteria or design standards to ensure that the natural level of channel erosion, to the maximum~~

~~extent practicable, will not increase due to the land-disturbing activities. These criteria may include, but are not limited to, the following:~~

~~1. Criteria and procedures for channel analysis and classification.~~

~~2. Procedures for channel data collection.~~

~~3. Criteria and procedures for the determination of the magnitude and frequency of natural sediment transport loads.~~

~~4. Criteria for the selection of proposed natural or manmade channel linings.~~

9VAC25-880-88. Flooding. (Repealed.)

~~A. Downstream properties and waterways shall be protected from damages from localized flooding due to changes in runoff rate of flow and hydrologic characteristics, including but not limited to, changes in volume, velocity, frequency, duration, and peak flow rate of stormwater runoff in accordance with the minimum design standards set out in this section.~~

~~B. The 10-year postdeveloped peak rate of runoff from the development site shall not exceed the 10-year predeveloped peak rate of runoff.~~

~~C. In lieu of subsection B of this section, localities may, by ordinance, adopt alternate design criteria based upon geographic, land use, topographic, geologic factors or other downstream conveyance factors as appropriate.~~

~~D. Linear development projects shall not be required to control post-developed stormwater runoff for flooding, except in accordance with a watershed or regional stormwater management plan.~~

9VAC25-880-90. Regional (watershed-wide) stormwater management plans. (Repealed.)

~~This section enables localities to develop regional stormwater management plans. State agencies intending to develop large tracts of land such as campuses or prison compounds are encouraged to develop regional plans where practical.~~

~~The objective of a regional stormwater management plan is to address the stormwater management concerns in a given watershed with greater economy and efficiency by installing regional stormwater management facilities versus individual, site-specific facilities. The result will be fewer stormwater management facilities to design, build and maintain in the affected watershed. It is also anticipated that regional stormwater management facilities will not only help mitigate the impacts of new development, but may also provide for the remediation of erosion, flooding or water quality problems caused by existing development within the given watershed.~~

~~If developed, a regional plan shall, at a minimum, address the following:~~

- ~~1. The specific stormwater management issues within the targeted watersheds.~~
- ~~2. The technical criteria in 9VAC25-880-80 through 9VAC25-880-88 as needed based on subdivision 1 of this section.~~
- ~~3. The implications of any local comprehensive plans, zoning requirements, local ordinances pursuant to the Chesapeake Bay Preservation Area Designation and Management Regulations adopted pursuant to the Chesapeake Bay Preservation Act, and other planning documents.~~
- ~~4. Opportunities for financing a watershed plan through cost sharing with neighboring agencies or localities, implementation of regional stormwater utility fees, etc.~~
- ~~5. Maintenance of the selected stormwater management facilities.~~

~~6. Future expansion of the selected stormwater management facilities in the event that development exceeds the anticipated level.~~

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.

FORMS (9VAC25-880)

[Department of Environmental Quality Construction Activity Operator Permit Fee Form - Form DEQ 199-213 \(rev. 08/13\)](#)

[General Permit for Discharges of Stormwater from Construction Activities \(VAR10\) - Notice of Termination - Form DEQ 199-147 \(rev. 08/13\)](#)

[General Permit for Discharges of Stormwater from Construction Activities \(VAR10\) - Registration Statement - Form DEQ 199-146 \(rev. 08/13\)](#)

[General Permit for Discharges of Stormwater from Construction Activities \(VAR10\) - Transfer Agreement - Form DEQ 199-191 \(rev. 08/13\)](#)