

1 **Project 7057 - Exempt Final- For February 23, 2024 State Water Control Board meeting**

2 **2024 Amendment and Reissuance of the Existing General VPDES Permit for Discharges**
 3 **of Stormwater from Construction Activities Regulation (9VAC25-880)**

4 **9VAC25-880-1. Definitions.**

5 The following words and terms, when used in this chapter, shall have the following meanings
 6 unless the context clearly indicates otherwise. For the purposes of this chapter, words and terms
 7 used in this chapter shall have the meanings that are defined in the Virginia Erosion and
 8 Stormwater Management Act (Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of
 9 the Code of Virginia), this chapter, and 9VAC25-870 the Virginia Erosion and Stormwater
 10 Management Regulation (9VAC25-875), shall have those meanings unless the context clearly
 11 indicates otherwise, except as otherwise specified in this section. Terms not defined in the Act,
 12 this chapter, or 9VAC25-870 shall have the meaning attributed to them in the federal Clean Water
 13 Act (33 USC § 1251 et seq.) (CWA). For the purposes of this chapter:

14 "Board" means the State Water Control Board. When used outside the context of the
 15 promulgation of regulations, including regulations to establish general permits, "board" means the
 16 Department of Environmental Quality.

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

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

21 "Construction dewatering" means the act of draining or pumping stormwater or groundwater
 22 from building foundations, vaults, and trenches, or other similar points of accumulation, including
 23 from sediment basins or similar impoundments for maintenance or decommissioning purposes.
 24 Construction dewatering does not include temporary pumparounds associated with instream
 25 construction activities.

26 "Construction site" means the land or water area where any land-disturbing construction
 27 activity is physically located or conducted, including any adjacent land used or preserved in
 28 connection with the land-disturbing activity. The term "construction site" includes construction
 29 support activities located on-site or off-site.

30 "Construction support activity" means a construction-related activity that specifically supports
 31 construction and involves land disturbance or pollutant-generating activities of its own and can
 32 include activities associated with concrete or asphalt batch plants, equipment staging yards,
 33 materials storage areas, excavated material disposal areas, and borrow areas.

34 "Department" means the Department of Environmental Quality.

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

36 1. All ~~soil-disturbing~~ soil-disturbing activities at the construction site have been completed
 37 and a permanent vegetative cover has been established on denuded areas not otherwise
 38 permanently stabilized. Permanent vegetation shall not be considered established until a
 39 ground cover is achieved that is uniform (e.g., evenly distributed), [to provide 75 percent
 40 or more vegetative cover with no significant bare areas,] mature enough to survive, and
 41 will inhibit erosion.

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

43 a. The homebuilder completing ~~final~~ [permanent] stabilization as specified in
 44 subdivision 1 of this definition; or

45 b. The homebuilder establishing temporary soil stabilization, including perimeter
 46 controls for an individual lot prior to occupation of the home by the homeowner, and

47 providing written notification to the homeowner of the need for, and benefits of, ~~final~~ [
 48 ~~permanent~~] stabilization as specified in subdivision 1 of this definition. The
 49 homebuilder shall maintain a copy of the written notification and a signed statement
 50 certifying that the information was provided to the homeowner in accordance with the
 51 stormwater pollution prevention plan recordkeeping requirements as specified in Part
 52 II G 6 of 9VAC25-880-70.

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

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

64 "Impaired waters" means surface waters identified as impaired on the ~~2016~~ 2022 §
 65 305(b)/303(d) Water Quality Assessment Integrated Report.

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

68 "Initiation of stabilization activities" means:

- 69 1. Prepping the soil for vegetative or nonvegetative stabilization;
- 70 2. Applying mulch or other nonvegetative product to the exposed area;
- 71 3. Seeding or planting the exposed area;
- 72 4. Starting any of the ~~above~~ activities listed in subdivision 1, 2, or 3 of this definition on a
 73 portion of the area to be stabilized, but not on the entire area; or
- 74 5. Finalizing arrangements to have the stabilization product fully installed in compliance
 75 with the applicable deadline for completing stabilization.

76 This list is not exhaustive.

77 "Measurable storm event" means a rainfall event producing 0.25 inches of rain or greater over
 78 24 hours or snow melt from a snow event producing 3.25 inches or more of snow within a 24-hour
 79 period.

80 "Qualified personnel" means a person knowledgeable in the principles and practices of
 81 erosion and sediment and stormwater management controls who possesses the skills to assess
 82 conditions at the construction site for the operator that could impact stormwater quality and
 83 quantity and to assess the effectiveness of any sediment and erosion control measures or
 84 stormwater management facilities selected to control the quality and quantity of stormwater
 85 discharges from the construction activity. On or after July 1, 2025, "qualified personnel" shall hold
 86 an unexpired certificate of competence for Project Inspector for Erosion and Sediment Control
 87 and an unexpired certificate of competence for Project Inspector for Stormwater Management,
 88 both issued by the department, a Construction General Permit Qualified Personnel
 89 Certificate [issued by the department of the Virginia Department of Transportation], or an
 90 equivalent certification provided by EPA (currently titled Construction Inspection Training Course).

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

93 **9VAC25-880-10. Purpose.**

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

104 **9VAC25-880-15. Applicability of incorporated references based on the dates that they**
 105 **became effective.**

106 Except as noted, when a regulation of the United States set forth in the Code of Federal
 107 Regulations is referenced and incorporated ~~herein in this chapter~~, that regulation shall be as it
 108 exists and has been published in the July 1, 2018 2022, update.

109 **9VAC25-880-20. Effective date of general permit.**

110 This general permit is effective on July 1, 2019 2024. The general permit will expire on June
 111 30, 2024 2029. This general permit is effective for any covered operator upon compliance with all
 112 provisions of 9VAC25-880-30.

113 **9VAC25-880-30. Authorization to discharge.**

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

116 1. The operator submits a complete and accurate registration statement in accordance
 117 with 9VAC25-880-50, unless not required, and receives acceptance of the registration by
 118 the ~~board~~ department;

119 2. The operator submits any all permit fees, ~~unless not required including all outstanding~~
 120 ~~permit maintenance fees~~, in accordance with ~~9VAC25-870-700~~ 9VAC25-875-1290 et
 121 seq., ~~unless not required~~;

122 3. The operator complies with the applicable requirements of 9VAC25-880-70;

123 4. The operator obtains approval of:

124 a. An erosion and sediment control plan from the appropriate Virginia Erosion and
 125 Stormwater Management Program (VESMP) authority or Virginia Erosion and
 126 Sediment Control Program (VESCP) authority ~~as authorized under the Erosion and~~
 127 ~~Sediment Control Regulations (9VAC25-840)~~, unless the operator receives from the
 128 VESCP authority an "agreement in lieu of a plan" as defined in ~~9VAC25-840-10~~
 129 9VAC25-875-20 and 9VAC25-875-210, respectively, or [~~prepares the an~~] erosion and
 130 sediment control plan in accordance with ~~annual~~ standards and specifications
 131 approved by the department; and

132 b. Except as specified in 9VAC25-880-70 Part II B 3 b, a stormwater management
 133 plan from the appropriate Virginia Stormwater Management Program (VSMP) VESMP
 134 authority ~~as authorized under the VSMP Regulation (9VAC25-870)~~, unless the
 135 operator receives from the ~~VSMP~~ VESMP authority an "agreement in lieu of a [~~stormwater management~~]
 136 plan" as defined in ~~9VAC25-870-10~~ 9VAC25-875-20 or [~~prepares the a~~] stormwater management plan in accordance with ~~annual~~
 137 standards and specifications approved by the department; and
 138

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

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

143 1. The operator is required to obtain an individual permit in accordance with ~~9VAC25-870-~~
 144 ~~440~~ 9VAC25-875-980 B;

145 2. The operator is proposing discharges to surface waters specifically named in other
 146 board regulations that prohibit such discharges;

147 3. The discharge causes, may reasonably be expected to cause, or contributes to a
 148 violation of water quality standards (9VAC25-260);

149 4. The discharge violates or would violate the antidegradation policy in the Water Quality
 150 Standards (9VAC25-260-30); or

151 5. The discharge is not consistent with the assumptions and requirements of an applicable
 152 TMDL approved prior to the term of this general permit.

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

156 1. The support activity is directly related to a construction ~~activity site~~ that is required to
 157 have general permit coverage for stormwater discharges ~~of stormwater from construction~~
 158 ~~activities~~;

159 2. The support activity is not a commercial operation, nor does it serve multiple unrelated
 160 construction ~~activities by different operators~~ sites;

161 3. The support activity does not operate beyond the completion of the last construction
 162 activity it supports;

163 4. The support activity is ~~identified~~ reported in the registration statement at the time of
 164 general permit coverage or reported in a modified registration statement once the need
 165 for the support activity is known;

166 5. Appropriate control measures are identified in a stormwater pollution prevention plan
 167 and implemented to address the discharges from the support activity ~~areas~~; and

168 6. All applicable, state, federal, and local approvals are obtained for the support activity.

169 D. ~~Support activities located off-site are not required to be covered under this general permit.~~
 170 ~~Discharges of stormwater~~ Stormwater discharges from an off-site construction support activities
 171 activity may be authorized under another state or VPDES permit. Where stormwater discharges
 172 from an off-site construction support activities activity are not authorized under this general permit,
 173 the land area of the off-site construction support activity ~~need~~ shall not be included in determining
 174 the total land disturbance ~~acreage of the construction activity seeking general permit coverage~~
 175 area of [~~development~~ the construction site] and estimated area to be disturbed reported in the
 176 registration statement.

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

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

184 1. Discharges from emergency firefighting activities;

- 185 2. Fire hydrant flushings managed to avoid an instream impact;
- 186 3. Water used to wash vehicles or equipment ~~where, provided no~~ soaps, solvents, or
- 187 detergents ~~have not been~~ are used and the wash water ~~has been~~ is filtered, settled, or
- 188 similarly treated prior to discharge;
- 189 4. Water used to control dust that ~~has been~~ is filtered, settled, or similarly treated prior to
- 190 discharge;
- 191 5. Potable water ~~source~~, including uncontaminated waterline flushings, managed in a
- 192 manner to avoid an instream impact;
- 193 6. Routine external building wash down ~~where, provided no~~ soaps, solvents, or detergents
- 194 ~~have not been~~ are used, external building surfaces do not contain hazardous substances,
- 195 and the wash water ~~has been~~ is filtered, settled, or similarly treated prior to discharge;
- 196 7. Pavement wash water ~~where, provided~~ spills or leaks of toxic or hazardous materials
- 197 have not occurred (~~or where, unless~~ all spilled or leaked material ~~has been~~ is removed
- 198 prior to washing); ~~where~~ soaps, solvents, or detergents ~~have not been~~ are not used; and
- 199 ~~where~~ the wash water ~~has been~~ is filtered, settled, or similarly treated prior to discharge;
- 200 8. Uncontaminated air conditioning or compressor condensate;
- 201 9. Uncontaminated groundwater or spring water;
- 202 10. Foundation or footing drains ~~where, provided~~ flows are not contaminated with process
- 203 materials such as solvents or contaminated groundwater;
- 204 11. Uncontaminated, excavation dewatering, including dewatering of trenches and
- 205 excavations that ~~have been~~ are filtered, settled, or similarly treated prior to discharge; and
- 206 12. Landscape ~~irrigations~~ irrigation.

207 G. ~~Approval for coverage~~ Coverage under this general permit does not relieve any operator

208 of the responsibility to comply with any other applicable federal, state or local statute, ordinance

209 or regulation.

210 H. Continuation of general permit coverage.

211 1. Permit coverage shall expire at the end of its term. However, expiring permit coverages

212 are automatically continued if ~~the owner~~ an operator has submitted a complete registration

213 statement at least ~~60~~ 90 days prior to the expiration date of the permit, or a later submittal

214 date established by the ~~board, which cannot extend beyond the expiration date of the~~

215 ~~permit~~ department and has paid all past due general permit maintenance fees. The

216 permittee is authorized to continue to discharge until such time as the ~~board~~ department

217 either:

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

221 2. When ~~the~~ an operator that was covered under the expiring or expired general permit

222 has violated the conditions of that permit, the ~~board~~ department may choose to do any or

223 all of the following:

- 224 a. Initiate enforcement action based upon the general permit coverage that has been
- 225 continued;
- 226 b. Issue a notice of intent to deny coverage under the reissued general permit. If the
- 227 general permit coverage is denied, the operator would then be required to cease
- 228 discharges authorized by the continued general permit coverage or be subject to
- 229 enforcement action for operating without a ~~state~~ permit;
- 230 c. Issue an individual permit with appropriate conditions; or

231 d. Take other actions authorized by the ~~VSMP~~ Virginia Erosion and Stormwater
 232 Management Regulation (9VAC25-870) (9VAC25-875).

233 **9VAC25-880-40. Delegation of authorities to state and local programs.**

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

238 **9VAC25-880-50. Registration statement.**

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

244 1. New construction activities.

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

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

252 (1) The operator submits a complete and accurate registration statement to the ~~VSMP~~
 253 VESMP authority no later than 30 days after ~~commencing~~ the commencement of land
 254 disturbance; and

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

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

265 2. Existing construction activities.

266 a. Any operator who was authorized to discharge under the expiring or expired 2019
 267 general permit and who intends to continue coverage under this general permit shall:

268 (1) Submit a complete and accurate registration statement to the ~~VSMP~~ VESMP
 269 authority at least ~~60~~ 90 days prior to the expiration date of the existing permit or a later
 270 submittal date established by the ~~board~~ department; and

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

274 b. Any operator with an existing stormwater discharge associated with a small
 275 construction activity involving the construction of a single-family detached residential
 276 structure, within or outside a common plan of development or sale, that intends to
 277 continue coverage under this general permit, is authorized to discharge under this

278 general permit and is not required to submit a registration statement, provided that the
 279 operator updates its stormwater pollution prevention plan to comply with the
 280 requirements of this general permit no later than 60 days after the date of coverage
 281 under this general permit. Any operator with an existing stormwater discharge
 282 associated with the construction of a single-family detached residential structure,
 283 within or outside a common plan of development or sale, that intends to continue
 284 coverage under this general permit is not required to submit the department portion of
 285 the permit fee.

286 ~~3. For stormwater discharges from construction activities where the operator changes, the~~
 287 Transfer of ownership. The new operator shall submit a complete and accurate registration
 288 statement or transfer of ownership agreement form and any other documents ~~deemed~~
 289 ~~necessary~~ required by the ~~VSMP~~ VESMP authority to the ~~VSMP~~ VESMP authority to
 290 ~~demonstrate transfer of ownership and long-term maintenance responsibilities for~~
 291 ~~stormwater management facilities, as required, has occurred~~ prior to assuming operational
 292 control over construction site specifications or ~~commencing work on site~~ the
 293 commencement of land disturbance.

294 ~~4. Late notifications submissions.~~ Operators are not prohibited from submitting registration
 295 statements after ~~commencing the commencement of~~ land disturbance. When a late
 296 registration statement is submitted, authorization for discharges shall not occur until
 297 coverage under the general permit is issued. The ~~VSMP~~ VESMP authority, department,
 298 ~~board,~~ and EPA reserve the right to take enforcement action for any unpermitted
 299 discharges that occur between the commencement of land disturbance and discharge
 300 authorization.

301 5. Late registration statements. Registration statements for existing facilities covered
 302 under subdivision A 2 a of this section will be accepted after the expiration date of this
 303 permit, but authorization to discharge will not be retroactive. The ~~VSMP~~ VESMP authority,
 304 department, ~~board,~~ and EPA reserve the right to take enforcement action for any
 305 unpermitted discharges that occur after existing permit coverage expires and prior to
 306 coverage under this permit is approved.

307 B. Registration statement. The operator shall submit a complete and accurate registration
 308 statement to the ~~VSMP~~ VESMP authority that contains the following information:

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

312 ~~NOTE:~~ General permit coverage will be issued to this operator, and the certification in
 313 subdivision ~~47~~ 18 of this subsection shall be signed by the appropriate person associated
 314 with this operator as described in Part III K of 9VAC25-880-70.

315 2. State Corporation Commission entity identification number if the operator is required to
 316 obtain an entity identification number;

317 3. Name and physical location address of the construction activity, when available, to be
 318 covered under this general permit, including city or county, and latitude and longitude in
 319 decimal degrees (six digits - ten-thousandths place);

320 ~~3. 4. A legible site map (in an 8.5 inch by 11 inch format)~~ showing the location of the
 321 existing or proposed land-disturbing activities for which the operator is seeking permit
 322 coverage, the limits of land disturbance, construction entrances, ~~on-site~~ construction
 323 support activities, and all water bodies receiving stormwater discharges from the
 324 construction site;

- 325 4. 5. If off-site construction support activities will be used, the name and physical location
326 address, when available, of all off-site construction support activities, including city or
327 county; latitude and longitude in decimal degrees (six digits - ten-thousandths place); and
328 whether or not the off-site construction support activity will be covered under this general
329 permit or a separate VPDES permit;
- 330 ~~5.~~ 6. If excavated material (i.e., fill) will be transported off the construction site for disposal,
331 the name and physical location address, when available, of all off-site excavated material
332 disposal areas, including city or county; latitude and longitude in decimal degrees (six
333 digits - ten-thousandths place); and the contents of the excavated material;
- 334 ~~6.~~ 7. Status of the construction activity: federal, state, public, or private;
- 335 ~~7.~~ 8. Nature of the construction activity (e.g., commercial, industrial, residential,
336 agricultural, oil and gas, ~~etc.~~);
- 337 ~~8.~~ 9. If stormwater management or erosion and sediment control plans for the construction
338 activity have been approved by an entity with department approved ~~annual~~ standards and
339 specifications, ~~the name of the entity with the department approved annual standards and~~
340 ~~specifications. A copy of the annual~~ a complete and accurate standard and specification
341 entity form shall be submitted with the registration statement;
- 342 ~~9.~~ ~~If the construction activity was previously authorized to discharge under the general~~
343 ~~permit effective July 1, 2014, the~~ 10. The date of erosion and sediment control plan
344 approval for the estimated area to be disturbed by the construction activity during this
345 permit term for construction activities that were authorized to discharge under the expiring
346 or expired 2019 general permit;
- 347 ~~10.~~ ~~If the construction activity was previously authorized to discharge under the general~~
348 ~~permit effective July 1, 2014, whether~~ 11. If land disturbance has commenced for
349 construction activities that were authorized to discharge under the expiring or expired 2019
350 general permit;
- 351 ~~11.~~ 12. Name of the receiving waters and sixth order Hydrologic Unit Code (HUC);
- 352 ~~12.~~ ~~If the discharge is through a municipal separate storm sewer system (MS4), the~~ 13.
353 The name of the MS4 municipal separate storm sewer system (MS4) operator if the
354 construction activity discharges to an MS4;
- 355 ~~13.~~ 14. Estimated ~~project~~ construction activity start date and completion date;
- 356 ~~14.~~ 15. Total land area of ~~development~~ the construction site and estimated area to be
357 disturbed by the construction activity during ~~this~~ the 2024 general permit term (to the
358 nearest one-hundredth of an acre);
- 359 ~~15.~~ ~~Whether~~ 16. If the area to be disturbed by the construction activity is part of a larger
360 common plan of development or sale;
- 361 ~~16.~~ 17. If nutrient credits ~~are to be~~ will be used to ~~demonstrate compliance~~ comply with
362 the water quality ~~technical design~~ criteria ~~as allowed in 9VAC25-870-65 F requirements~~
363 ~~(9VAC25-875-590), a letter of availability from an appropriate nutrient bank that nonpoint~~
364 ~~source nutrient credits are available;~~ 17. A stormwater pollution prevention plan (SWPPP)
365 shall be prepared in accordance with the requirements of the General VPDES Permit for
366 Stormwater Discharges from Construction Activities prior to submitting the registration
367 statement. By signing the registration statement, the operator certifies that the SWPPP
368 has been prepared; and
- 369 18. The following certification: "I certify under penalty of law that I have read and
370 understand this registration statement and that this document and all attachments were
371 prepared in accordance with a system designed to assure that qualified personnel properly
372 gathered and evaluated the information submitted. Based on my inquiry of the person or

373 persons who manage the system or those persons directly responsible for gathering the
 374 information, the information submitted is to the best of my knowledge and belief true,
 375 accurate, and complete. I am aware that there are significant penalties for submitting false
 376 information including the possibility of fine and imprisonment for knowing violations."

377 C. A stormwater pollution prevention plan (SWPPP) shall be prepared in accordance with this
 378 general permit prior to submitting the registration statement. By signing the registration statement,
 379 the operator certifies that the SWPPP has been prepared.

380 D. The registration statement shall be signed in accordance with 9VAC25-880-70, Part III K
 381 of 9VAC25-880-70.

382 **9VAC25-880-60. Termination of general permit coverage.**

383 A. Requirements. The operator of the construction activity shall submit a complete and
 384 accurate notice of termination, unless a registration statement was not required to be submitted
 385 in accordance with 9VAC25-880-50 A 1 c or A 2 b for [a stormwater discharge associated with a
 386 small construction activity of a] single-family detached residential [~~structures~~ structure, within or
 387 outside a common plan of development or sale] , to the ~~VSMP~~ VESMP authority after one or
 388 more of the following conditions have been met:

389 1. Necessary permanent control measures included in the SWPPP for the construction
 390 site are in place and functioning effectively and final stabilization has been achieved on all
 391 portions of the construction site for which the operator has operational control. When
 392 applicable, long-term responsibility and maintenance requirements for permanent control
 393 measures shall be recorded in the local land records prior to the submission of a complete
 394 and accurate notice of termination, and the construction record drawing prepared;

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

397 3. Coverage under an alternative VPDES permit or ~~state~~ other applicable permit has been
 398 obtained; or

399 4. For individual lots in residential construction only, final stabilization as defined in
 400 9VAC25-880-1 has been completed, including providing written notification to the
 401 homeowner and incorporating a copy of the notification and signed certification statement
 402 into the SWPPP, and the residence has been transferred to the homeowner.

403 B. Notice of termination due date and effective date.

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

406 2. Termination of authorization ~~to discharge for the conditions set forth in subdivision A 1~~
 407 ~~of this section~~ shall become effective upon notification from the department that the
 408 provisions of subdivision A 1 of this section have been met or ~~60~~ 90 days after ~~submittal~~
 409 receipt of a complete and accurate notice of termination, whichever occurs first, unless
 410 otherwise notified by the VESMP authority or the department.

411 3. ~~Authorization to discharge terminates at midnight on the date that the notice of~~
 412 ~~termination is submitted for the conditions set forth in subdivisions A 2 through A 4 of this~~
 413 ~~section unless otherwise notified by the VSMP authority or the department.~~

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

416 1. Name, contact, mailing address, telephone number, and email address, if available, of
 417 the construction activity operator;

- 418 2. Name and physical location address of the construction activity, when available,
419 covered under this general permit, including city or county, and latitude and longitude in
420 decimal degrees (six digits - ten-thousandths place);
- 421 3. The general permit registration number;
- 422 4. The basis for submission of the notice of termination, pursuant to subsection A of this
423 section;
- 424 5. Where applicable, a list of the on-site and off-site permanent control measures (both
425 structural and nonstructural) that were installed to comply with the stormwater
426 management water quality and water quantity technical criteria. For each permanent
427 control measure that was installed, the following information shall be included:
- 428 a. The type of permanent control measure installed and the date that it became
429 functional as a permanent control measure;
- 430 b. The location of the permanent control measure, including city or county, and latitude
431 and longitude in decimal degrees;
- 432 c. The receiving water to which the permanent control measures discharge; and
- 433 d. The number of total and impervious acres treated by the permanent control
434 measures (to the nearest one-hundredth of an acre);
- 435 6. Where applicable, the following information related to participation in a regional
436 stormwater management plan. For each regional stormwater management facility, the
437 following information shall be included:
- 438 a. The type of regional facility to which the site contributes;
- 439 b. The location of the regional facility, including city or county, and latitude and
440 longitude in decimal degrees; and
- 441 c. The number of total and impervious site acres treated by the regional facility (to the
442 nearest one-hundredth of an acre);
- 443 7. Where applicable, the following information related to perpetual nutrient credits that
444 were acquired in accordance with § 62.1-44.15:35 of the Code of Virginia:
- 445 a. The name of the nonpoint nutrient credit generating entity from which perpetual
446 nutrient credits were acquired; and
- 447 b. The number of perpetual nutrient credits acquired (~~lbs.~~ pounds per acre per year).
- 448 8. A construction record drawing in a format as specified by the ~~VSMP~~ VESMP authority
449 for ~~permanent long-term~~ stormwater management facilities in accordance with ~~9VAC25-~~
450 ~~870-55-D~~ 9VAC25-875-535 appropriately sealed and signed by a professional registered
451 in the Commonwealth of Virginia, certifying that the stormwater management facilities
452 have been constructed in accordance with the approved plan;
- 453 9. Where applicable, evidence that the signed Stormwater Management Maintenance
454 Agreement has been recorded in an instrument within the local land records;
- 455 10. For individual lots in residential construction only when the homebuilder established
456 temporary soil stabilization, a signed statement from the permittee that the new owner, if
457 not the same as the permittee, has been notified of the final stabilization requirements;
458 and
- 459 11. The following certification: "I certify under penalty of law that I have read and
460 understand this notice of termination and that this document and all attachments were
461 prepared in accordance with a system designed to assure that qualified personnel properly
462 gathered and evaluated the information submitted. Based on my inquiry of the person or
463 persons who manage the system or those persons directly responsible for gathering the

464 information, the information submitted is to the best of my knowledge and belief true,
 465 accurate, and complete. I am aware that there are significant penalties for submitting false
 466 information including the possibility of fine and imprisonment for knowing violations."

467 D. The notice of termination shall be signed in accordance with ~~9VAC25-880-70~~, Part III K of
 468 9VAC25-880-70.

469 E. Termination by the ~~board~~ department. The ~~board~~ department may terminate coverage
 470 under this general permit during its term and require application for an individual permit or deny
 471 a general permit renewal application on its own initiative in accordance with the Virginia Erosion
 472 and Stormwater Management Act (Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1
 473 of the Code of Virginia), this chapter, and the ~~VSMP~~ Virginia Erosion and Stormwater
 474 Management Regulation, 9VAC25-870 9VAC25-875.

475 **9VAC25-880-70. General permit.**

476 Any operator whose registration statement is accepted by the ~~board~~ department will receive
 477 the following general permit and shall comply with the requirements contained ~~therein~~ in this
 478 general permit and be subject to all requirements of ~~9VAC25-870 9VAC25-875~~.

479 [Any operator with a stormwater discharge associated with a small construction activity of a
 480 single-family detached residential structure, within or outside a common plan of development or
 481 sale, is authorized to discharge under the following general permit and shall comply with the
 482 requirements contained in this general permit and be subject to all requirements of 9VAC25-875.
 483]

484 General Permit No.: VAR10

485 Effective Date: July 1, ~~2019~~ 2024

486 Expiration Date: June 30, ~~2024~~ 2029

487 GENERAL VPDES PERMIT FOR DISCHARGES OF STORMWATER FROM
 488 CONSTRUCTION ACTIVITIES

489 AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA EROSION AND
 490 STORMWATER MANAGEMENT PROGRAM AND THE VIRGINIA EROSION AND
 491 STORMWATER MANAGEMENT ACT

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

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

501 [For stormwater discharge associated with a small construction activity of a single-family
 502 detached residential structure, within or outside a common plan of development or sale, the
 503 authorized discharge shall be in accordance with this cover page, Part I - Discharge Authorization
 504 and Special Conditions, Part II - Stormwater Pollution Prevention Plan, and Part III - Conditions
 505 Applicable to All VPDES Permits as set forth in this general permit.]

506 Part I

507 DISCHARGE AUTHORIZATION AND SPECIAL CONDITIONS

508 A. Coverage under this general permit.

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

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

516 a. The support activity is directly related to the construction activity site that is required
517 to have general permit coverage for discharges of ~~stormwater from construction~~
518 ~~activities~~;

519 b. The support activity is ~~not~~ neither a commercial operation, nor ~~does it serve~~ serves
520 multiple unrelated construction ~~activities by different operators~~ sites;

521 c. The support activity does not operate beyond the completion of the last construction
522 activity it supports;

523 d. The support activity is identified in the registration statement at the time of general
524 permit coverage or reported in a modified registration statement once the need for the
525 support activity is known;

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

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

529 B. Limitations on coverage.

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

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

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

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

544 a. Nutrient and sediment impaired waters. Discharges of stormwater from construction
545 activities to surface waters identified as impaired in the ~~2016~~ 2022 § 305(b)/303(d)
546 Water Quality Assessment Integrated Report for Benthic Macroinvertebrates
547 Bioassessments or for which a TMDL wasteload allocation has been established and
548 approved prior to the term of this general permit for (i) sediment or a sediment-related
549 parameter (i.e., total suspended solids or turbidity) or (ii) nutrients (i.e., nitrogen or
550 phosphorus), including all surface waters within the Chesapeake Bay Watershed, are

551 not eligible for coverage under this general permit unless the operator develops,
 552 implements, and maintains a stormwater pollution prevention plan (SWPPP) in
 553 accordance with Part II B 5 of this permit that minimizes the pollutants of concern and,
 554 when applicable, is consistent with the assumptions and requirements of the approved
 555 TMDL wasteload allocations and implements an inspection frequency consistent with
 556 Part II G 2 a.

557 b. Polychlorinated biphenyl (PCB) impaired waters. Discharges of stormwater from
 558 construction activities that include the demolition of any structure with at least 10,000
 559 square feet of floor space built or renovated before January 1, 1980, to surface waters
 560 identified as impaired in the ~~2016~~ 2022 § 305(b)/303(d) Water Quality Assessment
 561 Integrated Report or for which a TMDL wasteload allocation has been established and
 562 approved prior to the term of this general permit for PCB are not eligible for coverage
 563 under this general permit unless the operator develops, implements, and maintains a
 564 SWPPP in accordance with Part II B 6 of this permit that minimizes the pollutants of
 565 concern and, when applicable, is consistent with the assumptions and requirements
 566 of the approved TMDL wasteload allocations, and implements an inspection frequency
 567 consistent with Part II G 2 a.

568 5. Exceptional waters limitation. Discharges of stormwater from construction activities not
 569 previously covered under the general permit effective on July 1, [~~2014~~ 2019] , to
 570 exceptional waters identified in 9VAC25-260-30 A 3 c are not eligible for coverage under
 571 this general permit unless the operator develops, implements, and maintains a SWPPP in
 572 accordance with Part II B 7 of this permit and implements an inspection frequency
 573 consistent with Part II G 2 a.

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

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

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

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

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

- 594 1. Discharges from emergency firefighting activities;
- 595 2. Fire hydrant flushings, managed to avoid an instream impact;

- 596 3. Waters used to wash vehicles or equipment ~~where, provided no~~ soaps, solvents, or
 597 detergents ~~have not been~~ are used and the wash water ~~has been~~ is filtered, settled,
 598 or similarly treated prior to discharge;
- 599 4. Water used to control dust that ~~has been~~ is filtered, settled, or similarly treated prior
 600 to discharge;
- 601 5. Potable water ~~sources~~, including uncontaminated waterline flushings, managed in
 602 a manner to avoid an instream impact;
- 603 6. Routine external building wash down ~~where provided no~~ soaps, solvents or
 604 detergents ~~have not been~~ are used, external building surfaces do not contain
 605 hazardous substances, and the wash water ~~has been~~ is filtered, settled, or similarly
 606 treated prior to discharge;
- 607 7. Pavement wash waters ~~where, provided~~ spills or leaks of toxic or hazardous
 608 materials have not occurred (~~or where, unless~~ all spilled or leaked material has been
 609 removed prior to washing); ~~where~~ soaps, solvents, or detergents ~~have not been~~ are
 610 not used; and where the wash water ~~has been~~ is filtered, settled, or similarly treated
 611 prior to discharge;
- 612 8. Uncontaminated air conditioning or compressor condensate;
- 613 9. Uncontaminated ground water or spring water;
- 614 10. Foundation or footing drains ~~where, provided~~ flows are not contaminated with
 615 process materials such as solvents or contaminated groundwater;
- 616 11. Uncontaminated excavation dewatering, including dewatering of trenches and
 617 excavations that ~~have been~~ are filtered, settled, or similarly treated prior to discharge;
 618 and
- 619 12. Landscape irrigation.

620 F. Termination of general permit coverage.

- 621 1. The operator of the construction activity shall submit a notice of termination in
 622 accordance with 9VAC25-880-60, unless a registration statement was not required to be
 623 submitted in accordance with 9VAC25-880-50 A 1 c or A 2 b for single-family detached
 624 residential structures, to the ~~V~~SMP Virginia Erosion and Stormwater Management
 625 (VESMP) authority after one or more of the following conditions have been met:
- 626 a. Necessary permanent control measures included in the SWPPP for the construction
 627 site are in place and functioning effectively and final stabilization has been achieved
 628 on all portions of the construction site for which the operator has operational control.
 629 When applicable, long term responsibility and maintenance requirements for
 630 permanent control measures shall be recorded in the local land records prior to the
 631 submission of a complete and accurate notice of termination and the construction
 632 record drawing prepared;
- 633 b. Another operator has assumed control over all areas of the construction site that
 634 have not been finally stabilized and obtained coverage for the ongoing discharge;
- 635 c. Coverage under an alternative VPDES permit or ~~state~~ other applicable permit has
 636 been obtained; or
- 637 d. For individual lots in residential construction only, final stabilization as defined in
 638 9VAC25-880-1 has been completed, including providing written notification to the
 639 homeowner and incorporating a copy of the notification and signed certification
 640 statement into the SWPPP, and the residence has been transferred to the homeowner.
- 641 2. The notice of termination shall be submitted no later than 30 days after one of the ~~above~~
 642 conditions in subdivision 1 of this subsection is met.

643 3. Termination of authorization to discharge ~~for the conditions set forth in subdivision 1 a~~
 644 ~~of this subsection~~ shall be effective upon notification from the department that the
 645 provisions of subdivision 1 a of this subsection have been met or ~~60~~ 90 days after submittal
 646 of a complete and accurate notice of termination in accordance with 9VAC25-880-60 C,
 647 whichever occurs first, unless otherwise notified by the VESMP or the department.

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

651 ~~5.~~ 4. The notice of termination shall be signed in accordance with Part III K 1 and include
 652 the required certification in accordance with Part III K 4 of this general permit.

653 G. Water quality protection.

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

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

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

664 b. Submit valid and verifiable data and information that are representative of ambient
 665 conditions and indicate that the receiving water is attaining water quality standards; or

666 c. Submit an individual permit application in accordance with ~~9VAC25-870-410~~
 667 9VAC25-875-980 B 3.

668 H. All written responses required under this ~~chapter~~ general permit shall include a signed
 669 certification consistent with Part III K.

670 Part II

671 STORMWATER POLLUTION PREVENTION PLAN

672 A. Stormwater pollution ~~prevent~~ prevention plan.

673 1. A stormwater pollution prevention plan (SWPPP) shall be developed prior to the
 674 submission of a registration statement and implemented for the construction activity,
 675 including any construction support activity, covered by this general permit. [For a small
 676 construction activity of a single-family detached residential structure, within or outside a
 677 common plan of development or sale, a SWPPP shall be developed and implemented
 678 prior to the initiation of the construction activity, including any construction support activity
 679 covered by this general permit.

680 2.] SWPPPs shall be prepared in accordance with good engineering practices.
 681 Construction activities that are part of a larger common plan of development or sale and
 682 disturb less than one acre may utilize a SWPPP template provided by the department and
 683 need not provide a separate stormwater management plan if one has been prepared and
 684 implemented for the larger common plan of development or sale.

685 [2.3.] The SWPPP requirements of this general permit may be fulfilled by incorporating
 686 by reference other plans such as a spill prevention control and countermeasure (SPCC)
 687 plan developed for the construction site under § 311 of the federal Clean Water Act or best

688 management practices (BMP) programs otherwise required for the facility construction site
 689 provided that the incorporated plan meets or exceeds the SWPPP requirements of Part II
 690 B. All plans incorporated by reference into the SWPPP become enforceable under this
 691 general permit. If a plan incorporated by reference does not contain all of the required
 692 elements of the SWPPP, the operator shall develop the missing elements and include
 693 them in the SWPPP.

694 [~~3.4.~~] Any operator that was authorized to discharge under the general permit effective
 695 July 1, [~~2014~~ 2019], and that intends to continue coverage under this general permit,
 696 shall update its stormwater pollution prevention plan to comply with the requirements of
 697 this general permit no later than 60 days after the date of coverage under this general
 698 permit.

699 B. Contents. The SWPPP shall include the following items:

700 1. General information.

701 a. A signed copy of the registration statement, if required, for coverage under ~~the this~~
 702 general VPDES permit for discharges of stormwater from construction activities;

703 b. Upon receipt, a copy of the notice of coverage under ~~the this~~ general VPDES permit
 704 for discharges of stormwater from construction activities (i.e., notice of coverage
 705 letter);

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

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

710 e. A legible map of the construction site plan identifying:

711 (1) ~~Directions of stormwater flow~~ Existing and proposed drainage patterns on the
 712 construction site and approximate slopes ~~anticipated~~ before and after major grading
 713 activities;

714 (2) Limits of clearing and grading (i.e., land disturbance) including steep slopes and
 715 natural buffers around surface waters that will ~~not be disturbed~~ remain undisturbed;

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

721 (4) Locations of surface waters;

722 (5) Locations where concentrated stormwater is discharged;

723 (6) Locations of any construction support activities, including (i) areas where
 724 equipment and vehicle washing, wheel wash water, and other wash water is to occur;

725 (ii) storage areas for chemicals such as acids, fuels, fertilizers, and other lawn care
 726 chemicals; (iii) concrete wash out areas; (iv) vehicle fueling and maintenance areas;

727 (v) sanitary waste facilities, including those temporarily placed on the construction site;
 728 and (vi) construction waste storage; and (vii) areas where polymers, flocculants, or

729 other stormwater treatment chemicals will be used or stored; and

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

733 2. Erosion and sediment control plan [for the construction activity authorized by this
 734 general permit] .

- 735 a. An erosion and sediment control plan designed and approved in accordance with
 736 the Virginia Erosion and ~~Sediment Control~~ Stormwater Management Regulations
 737 (~~9VAC25-840~~) (9VAC25-875), an "agreement in lieu of a plan" as defined in ~~9VAC25-~~
 738 ~~840-10~~ from the ~~VESCP~~ authority 9VAC25-875-20, or an erosion and sediment control
 739 plan prepared in accordance with annual department-approved standards and
 740 specifications ~~approved by the department~~.
- 741 b. All erosion and sediment control plans shall include a statement describing the
 742 maintenance responsibilities required for the erosion and sediment controls used.
- 743 c. An approved erosion and sediment control plan, "agreement in lieu of a plan," or
 744 erosion and sediment control plan prepared in accordance with department-approved
 745 ~~annual~~ standards and specifications, shall be implemented to:
- 746 (1) Control the volume and velocity of stormwater runoff within the construction site to
 747 minimize soil erosion;
- 748 (2) Control stormwater discharges, including peak flow rates and total stormwater
 749 volume, to minimize erosion at outlets and to minimize downstream channel and
 750 stream bank erosion;
- 751 (3) Minimize the amount of soil exposed during the construction activity;
- 752 (4) Minimize the disturbance of steep slopes;
- 753 (5) Minimize sediment discharges from the construction site in a manner that
 754 addresses (i) the amount, frequency, intensity, and duration of precipitation; (ii) the
 755 nature of resulting stormwater runoff; and (iii) soil characteristics, including the range
 756 of soil particle sizes present on the construction site;
- 757 (6) Provide and maintain natural buffers around surface waters, direct stormwater to
 758 vegetated areas to increase sediment removal, and maximize stormwater infiltration,
 759 ~~unless infeasible~~ infiltration would be inadvisable due to the underlying geology (e.g.,
 760 karst topography) and groundwater contamination concerns or infeasible due to site
 761 conditions;
- 762 (7) Minimize soil compaction and, ~~unless infeasible, preserve topsoil. Minimizing soil~~
 763 compaction is not required where the intended function of a specific area of the
 764 construction site dictates that it be compacted;
- 765 (8) Unless infeasible, preserve topsoil. Preserving topsoil is not required where the
 766 intended function of a specific area of the construction site dictates that the topsoil be
 767 disturbed or removed;
- 768 (9) ~~Ensure the~~ initiation of stabilization activities, as defined in 9VAC25-880-1, of
 769 disturbed areas occurs immediately whenever any clearing, grading, excavating, or
 770 other land-disturbing activities have permanently ceased on any portion of
 771 construction the site, or temporarily ceased on any portion of the construction site and
 772 will not resume for a period exceeding 14 days; and
- 773 ~~(9)~~ (10) Utilize outlet structures that withdraw stormwater from the surface (i.e., above
 774 the permanent pool or wet storage water surface elevation), unless infeasible, when
 775 discharging from sediment basins or sediment traps.
- 776 3. Stormwater management plan [for the construction activity authorized by this general
 777 permit] .
- 778 a. Except for those projects identified in Part II B 3 b, a stormwater management plan
 779 approved by the ~~VSMP~~ authority as authorized under in accordance with the Virginia
 780 Erosion and Stormwater Management Program (VSMP) Regulation (9VAC25-870),
 781 (9VAC25-875) or an "agreement in lieu of a ~~stormwater management~~ plan" as defined

782 in ~~9VAC25-870-10~~ from the VSMP authority, 9VAC25-875-20 or a stormwater
 783 management plan prepared in accordance with annual department-approved
 784 standards and specifications ~~approved by the department~~.

785 b. For any operator meeting the conditions of ~~9VAC25-870-47~~ 9VAC25-875-480 B of
 786 the ~~VSMP regulation~~ Virginia Erosion and Stormwater Management Regulation, an
 787 approved stormwater management plan is not required. In lieu of an approved
 788 stormwater management plan, the SWPPP shall include a description of, and all
 789 necessary calculations supporting, all post-construction stormwater management
 790 measures that will be installed prior to the completion of the construction process to
 791 control pollutants in stormwater discharges after construction operations have been
 792 completed. Structural measures should be placed on upland soils to the degree
 793 possible. Such measures must be designed and installed in accordance with
 794 applicable VESCP authority, ~~VSMP~~ VESMP authority, state, and federal requirements,
 795 and any necessary permits must be obtained.

796 4. Pollution prevention plan [for the construction activity authorized by this general permit
 797] . A pollution prevention plan that addresses potential pollutant-generating activities that
 798 may reasonably be expected to affect the quality of stormwater discharges from the
 799 construction activity, including any support activity. The pollution prevention plan shall:

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

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

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

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

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

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

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

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

826 (4) Minimize the discharge of pollutants from vehicle and equipment washing, wheel
 827 wash water, and other types of washing (e.g., locating activities away from surface
 828 waters and ~~stormwater~~ storm drain inlets or conveyance, and constructed or natural

- 829 site drainage features and directing wash waters to sediment basins or traps, using
830 filtration devices such as filter bags or sand filters, or using similarly effective controls);
- 831 (5) Direct concrete wash water into a leak-proof container or leak-proof settling basin.
832 ~~The container or basin shall be~~ designed so that no overflows can occur due to
833 inadequate sizing or precipitation. Hardened concrete wastes shall be removed and
834 disposed of in a manner consistent with the handling of other construction wastes.
835 Liquid concrete wastes shall be removed and disposed of in a manner consistent with
836 the handling of other construction wash waters and shall not be discharged to surface
837 waters, disposed of through infiltration, or otherwise disposed of on the ground;
- 838 (6) Minimize the discharge of pollutants from storage, handling, and disposal of
839 construction products, materials, and wastes, including (i) building products such as
840 asphalt sealants, copper flashing, roofing materials, adhesives, and concrete
841 admixtures; (ii) pesticides, herbicides, insecticides, fertilizers, and landscape
842 materials; and (iii) construction and domestic wastes such as packaging materials,
843 scrap construction materials, masonry products, timber, pipe and electrical cuttings,
844 plastics, Styrofoam, concrete, and other trash or building materials;
- 845 (7) Prevent the discharge of fuels, oils, and other petroleum products, hazardous or
846 toxic wastes, waste concrete, and sanitary wastes;
- 847 (8) Address any other discharge from the potential pollutant-generating activities not
848 addressed ~~above~~ in this subdivision 4; and
- 849 (9) Minimize the exposure of waste materials to precipitation by closing or covering
850 waste containers during precipitation events and at the end of the business day, or
851 implementing other similarly effective practices. Minimization of exposure is not
852 required in cases where the exposure to precipitation will not result in a discharge of
853 pollutants; and
- 854 f. Describe procedures for providing pollution prevention awareness of all applicable
855 wastes, including any wash water, disposal practices, and applicable disposal
856 locations of such wastes, to personnel in order to comply with the conditions of this
857 general permit. The operator shall implement the procedures described in the SWPPP.
- 858 5. SWPPP requirements for discharges to nutrient and sediment impaired waters. For
859 discharges to surface waters (i) identified as impaired in the ~~2016~~ 2022 § 305(b)/303(d)
860 Water Quality Assessment Integrated Report for Benthic Macroinvertebrates
861 Bioassessments or (ii) with an applicable TMDL wasteload allocation established and
862 approved prior to the term of this general permit for sediment ~~for~~ or a sediment-related
863 parameter (i.e., total suspended solids or turbidity) or nutrients (i.e., nitrogen or
864 phosphorus), including all surface waters within the Chesapeake Bay Watershed, the
865 operator shall:
- 866 a. Identify the impaired waters, approved TMDLs, and pollutants of concern in the
867 SWPPP; and
- 868 b. Provide ~~clear direction~~ documentation in the SWPPP that:
- 869 (1) Permanent or temporary soil stabilization shall be applied to denuded areas within
870 seven days after final grade is reached on any portion of the construction site;
- 871 (2) Nutrients shall be applied in accordance with manufacturer's recommendations or
872 an approved nutrient management plan and shall not be applied during rainfall events;
873 and
- 874 (3) A modified inspection schedule shall be implemented in accordance with Part II G
875 2 a.

876 6. SWPPP requirements for discharges to polychlorinated biphenyl (PCB) impaired
877 waters. For discharges from construction activities that include the demolition of any
878 structure with at least 10,000 square feet of floor space built or renovated before January
879 1, 1980, to surface waters (i) identified as impaired in the ~~2016~~ 2022 § 305(b)/303(d) Water
880 Quality Assessment Integrated Report or (ii) with an applicable TMDL wasteload allocation
881 established and approved prior to the term of this general permit for PCB, the operator
882 shall:

- 883 a. Identify the impaired waters, approved TMDLs, and pollutant of concern in the
884 SWPPP;
- 885 b. Implement the approved erosion and sediment control plan in accordance with Part
886 II B 2;
- 887 c. Dispose of waste materials in compliance with applicable state, federal, and local
888 requirements; and
- 889 d. Implement a modified inspection schedule in accordance with Part II G 2 a.

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

- 892 a. Identify the exceptional surface waters in the SWPPP; and
- 893 b. Provide ~~clear direction~~ documentation in the SWPPP that:
 - 894 (1) Permanent or temporary soil stabilization shall be applied to denuded areas within
895 seven days after final grade is reached on any portion of the construction site;
 - 896 (2) Nutrients shall be applied in accordance with manufacturer's recommendations or
897 an approved nutrient management plan and shall not be applied during rainfall events;
898 and
 - 899 (3) A modified inspection schedule shall be implemented in accordance with Part II G
900 2 a.

901 8. SWPPP requirements for construction dewatering discharges to sediment impaired
902 waters or exceptional waters. Dewatering discharges of uncontaminated stormwater or
903 groundwater from footers or foundations of a single-family detached residential structure
904 are exempt from the requirements of this subdivision 8, provided that such discharges
905 are not discharged directly to surface waters. For construction dewatering discharges to
906 surface waters (i) identified as impaired in the 2022 § 305(b)/303(d) Water Quality
907 Assessment Integrated Report for Benthic Macroinvertebrates Bioassessments; (ii) with
908 an applicable TMDL wasteload allocation established and approved prior to the term of
909 this general permit for sediment or a sediment-related parameter (i.e., total suspended
910 solids or turbidity), including all surface waters within the Chesapeake Bay Watershed;
911 or (iii) identified in 9VAC25-260-30 A 3 c as an exceptional water, the operator shall
912 undertake one of the following methods for controlling and documenting construction
913 dewatering discharges:

- 914 a. Turbidity benchmark option 1:
 - 915 (1) Identify the location of all construction dewatering discharges in the SWPPP;
 - 916 (2) Select, install, implement, and maintain control measures at each dewatering
917 location that minimize pollutants, including suspended solids, in construction
918 dewatering discharges prior to discharging into a stormwater conveyance system or
919 surface water; and
 - 920 (3) Provide documentation in the SWPPP that:
 - 921 (a) Sample frequency. At least one grab sample shall be collected from each
922 construction dewatering discharge when the first discharge at that location occurs,

923 daily thereafter until the dewatering discharge stops, and after any installation of new
924 controls or routine maintenance activity of existing controls. An upstream grab sample
925 shall be collected from the receiving stream;

926 (b) Sample timing. Grab samples of the construction dewatering discharge shall be
927 collected during the first 15 minutes of the construction dewatering discharge and daily
928 thereafter until the dewatering discharge stops. Upstream grab samples of the
929 receiving stream shall be collected within 15 minutes of the corresponding construction
930 dewatering discharge sample;

931 (c) Sample location. Grab samples shall be collected after the construction dewatering
932 water has been filtered, settled, or similarly treated and prior to its discharge into a
933 stormwater conveyance system or surface water;

934 (d) Test methods. Grab samples taken as required by this subdivision 8 shall be
935 measured using a turbidity meter that reports results in nephelometric turbidity units
936 (NTUs) or formazin turbidity unit (FTUs), and conduct a turbidity meter calibration
937 verification prior to each day's use, consistent with manufacturer recommendations;

938 (e) Visual monitoring. All dewatering discharges shall be visually monitored for
939 changes in the characterization of effluent discharge;

940 (f) Corrective action. If (i) any turbidity measurement of the construction dewatering
941 discharge exceeds the upstream grab sample of the receiving stream by more than [
942 40 50] NTUs/FTUs or (ii) visual monitoring indicates a change in the characterization
943 of effluent discharge, corrective action shall be taken in accordance with Part II H 2 of
944 this general permit; and

945 (g) Recordkeeping. Turbidity monitoring information (i.e., location, date, sample
946 collection time, and turbidity measurement) and any necessary corrective actions
947 taken shall be recorded in the SWPPP; or

948 b. Turbidity benchmark option 2:

949 (1) Identify the location of all construction dewatering discharges in the SWPPP;

950 (2) Select, install, implement, and maintain control measures at each dewatering
951 location that minimize pollutants, including suspended solids, in construction
952 dewatering discharges prior to discharging into a stormwater conveyance system or
953 surface water; and

954 (3) Provide documentation in the SWPPP that:

955 (a) Sample frequency. At least one grab sample shall be collected from each
956 construction dewatering discharge when the first discharge at that location occurs,
957 daily thereafter until the dewatering discharge stops, and after any installation of new
958 controls or routine maintenance activity of existing controls. Grab samples shall be
959 tested to confirm a turbidity measurement of equal to or less than [50
960 150] NTUs/FTUs from the construction dewatering discharge;

961 (b) Sample timing. Grab samples of the construction dewatering discharge shall be
962 collected during the first 15 minutes of the construction dewatering discharge and daily
963 thereafter until the dewatering discharge stops;

964 (c) Sample location. Grab samples shall be collected after the construction dewatering
965 water has been filtered, settled, or similarly treated and prior to its discharge into a
966 stormwater conveyance system or surface water;

967 (d) Test methods. Grab samples taken as required by this subdivision 8 shall be
968 measured using a turbidity meter that reports results in nephelometric turbidity units

969 (NTUs) or formazin turbidity unit (FTUs), and conduct a turbidity meter calibration
970 verification prior to each day's use, consistent with manufacturer recommendations;
971 (e) Visual monitoring. All dewatering discharges shall be visually monitored for
972 changes in the characterization of effluent discharge;
973 (f) Corrective action. If (i) any turbidity measurement of the construction dewatering
974 discharge exceeds [50 150] NTUs/FTUs or (ii) visual monitoring indicates a change
975 in the characterization of effluent discharge, corrective action shall be taken in
976 accordance with Part II H 2 of this general permit; and
977 (g) Recordkeeping. Turbidity monitoring information (i.e., location, date, sample
978 collection time, and turbidity measurement) and any necessary corrective actions
979 taken shall be recorded in the SWPPP [-; or
980 c. Turbidity benchmark option 3:
981 (1) Identify the location of all construction dewatering discharges in the SWPPP;
982 (2) Select, install, implement, and maintain control measures at each dewatering
983 location that minimize pollutants, including suspended solids, in construction
984 dewatering discharges prior to discharging into a stormwater conveyance system or
985 surface water; and
986 (3) Provide documentation in the SWPPP that:
987 (a) Sample frequency. At least one grab sample shall be collected from each
988 construction dewatering discharge when the first discharge at that location occurs,
989 daily thereafter until the dewatering discharge stops, and after any installation of new
990 controls or routine maintenance activity of existing controls. Grab samples shall be
991 tested to conform a turbidity measurement of equal to or less than 50 NTUs/FTUs,
992 based on a weekly average, from the construction dewatering discharge;
993 (b) Sample timing. Grab samples of the construction dewatering discharge shall be
994 collected during the first 15 minutes of the construction dewatering discharge and daily
995 thereafter until the dewatering discharge stops;
996 (c) Sample location. Grab samples shall be collected after the construction dewatering
997 water has been filtered, settled, or similarly treated and prior to its discharge into a
998 stormwater conveyance system or surface water;
999 (d) Test methods. Grab samples taken as required by this subdivision 8 shall be
1000 measured using a turbidity meter that reports results in nephelometric turbidity units
1001 (NTUs) or formazin turbidity units (FTUs), and conduct a turbidity meter calibration
1002 verification prior to each day's use, consistent with manufacturer recommendations;
1003 (e) Visual monitoring. All dewatering discharges shall be visually monitored for
1004 changes in the characterization of effluent discharge;
1005 (f) Corrective action. If (i) the weekly average of the turbidity measurements of the
1006 construction dewatering discharge exceeds 50 NTUs/FTUs or (ii) visual monitoring
1007 indicates a change in the characterization of effluent discharge, corrective action shall
1008 be taken in accordance with Part II H 2 of this general permit. The weekly average is
1009 the sum of all turbidity samples taken during a monitoring week (starting on Monday
1010 and ending on Sunday) divided by the number of samples measures during that week;
1011 and
1012 (g) Recordkeeping. Turbidity monitoring information (i.e., location, date, sample
1013 collection time, and turbidity measurement) and any necessary corrective actions
1014 taken shall be recorded in the SWPPP.
1015 d. Request for alternative benchmark threshold:

1016 (1) At any time prior to or during coverage under this permit, a request may be
 1017 submitted to the department to approve a benchmark that is higher than turbidity
 1018 benchmark options 1, 2, and 3 if information is available demonstrating the higher
 1019 number is the same as the receiving water's water quality standard for turbidity. To
 1020 request approval of an alternate benchmark, the operator must submit the following to
 1021 the department:

1022 (a) the current turbidity water quality standard that applies to the receiving water; and
 1023 (b) information on the natural or background turbidity level to determine the specific
 1024 standard for the receiving water, including available data that can be used to establish
 1025 the natural turbidity levels of the receiving water.

1026 (2) The department will notify the operator of its decision on whether to approve the
 1027 requested alternate benchmark within 30 days. Until the department approves an
 1028 alternate benchmark, the operator is required to use the option 1, option 2, or option 3
 1029 turbidity benchmark and take any required corrective actions if an exceedance occurs.
 1030]

1031 9. Identification of qualified personnel. The name, phone number, and qualifications of
 1032 the qualified personnel conducting inspections required by this general permit.

1033 ~~9. Delegation of authority~~ 10. Duly authorized representatives. The SWPPP shall include
 1034 the names of individuals or positions with delegated authority, in accordance with Part III
 1035 K, duly authorized to sign inspection reports or modify the SWPPP on behalf of the
 1036 operator. Any authorization shall be signed and dated in accordance with Part III K 2 and
 1037 shall include the required certification in accordance with Part III K 4.

1038 ~~10. 11. SWPPP signature and certification.~~ The SWPPP shall be signed and dated in
 1039 accordance with Part III K 2 of this general permit and shall include the required
 1040 certification in accordance with Part III K 4 of this general permit.

1041 C. SWPPP amendments, modification, and updates.

1042 1. The operator shall amend the SWPPP whenever there is a change in the design,
 1043 construction, operation, or maintenance that has a significant effect on the discharge of
 1044 pollutants to surface waters and that has not been previously addressed in the SWPPP.

1045 2. The SWPPP shall be amended if, during inspections or investigations by the operator's
 1046 qualified personnel, or by local, state, or federal officials, it is determined that the existing
 1047 control measures are ineffective in minimizing pollutants in discharges from the
 1048 construction activity. Revisions to the SWPPP shall include additional or modified control
 1049 measures designed and implemented to correct problems identified. If approval by the
 1050 VESCP authority, ~~VSMP~~ VESMP authority, or department is necessary for the control
 1051 measure, revisions to the SWPPP shall be completed no later than ~~seven calendar~~ five
 1052 business days following approval. Implementation of these additional or modified control
 1053 measures shall be accomplished as described in Part II H.

1054 3. The SWPPP shall clearly identify the contractors that will implement and maintain each
 1055 control measure identified in the SWPPP. The SWPPP shall be amended to identify any
 1056 new contractor that will implement and maintain a control measure.

1057 4. The operator shall update the SWPPP as soon as possible but no later than ~~seven~~ five
 1058 business days following any modification to its implementation. All modifications or
 1059 updates to the SWPPP shall be noted and shall include the following items:

1060 a. A record of dates when:

1061 (1) Major grading activities occur;

1062 (2) Construction activities temporarily or permanently cease on a portion of the
1063 construction site; and

1064 (3) Stabilization measures are initiated;

1065 b. Documentation of replaced or modified controls where periodic inspections or other
1066 information have indicated that the controls have been used inappropriately or
1067 incorrectly and were modified;

1068 c. Areas that have reached final stabilization and where no further SWPPP or
1069 inspection requirements apply;

1070 d. All properties that are no longer under the legal control of the operator and the dates
1071 on which the operator no longer had legal control over each property;

1072 e. The date of any prohibited discharges, the discharge volume released, and what
1073 actions were taken to minimize the impact of the release;

1074 f. Measures taken to prevent the reoccurrence of any prohibited discharge; and

1075 g. Measures taken to address any evidence identified as a result of an inspection
1076 required under Part II G.

1077 5. Amendments, modifications, or updates to the SWPPP shall be signed in accordance
1078 with Part III K 2 and shall include the required certification in accordance with Part III K 4.

1079 D. Public notification. Upon commencement of ~~land disturbance~~ construction activities, the
1080 operator shall post ~~conspicuously~~ a copy of the notice of coverage letter at a publicly accessible
1081 location near the main entrance of the construction ~~activity~~ site. For linear projects, the operator
1082 shall post a copy of the notice of coverage letter at a publicly accessible location near an active
1083 part of the construction ~~project~~ site (e.g., where a pipeline crosses a public road). The copy of the
1084 notice of coverage letter shall be visible such that it can be readily viewed from a public right-of-
1085 way. The operator shall maintain the posted information until termination of general permit
1086 coverage as specified in Part I F.

1087 E. SWPPP availability.

1088 1. Operators with day-to-day operational control over SWPPP implementation shall have
1089 a copy of the SWPPP available at a central location on-site for use by those identified as
1090 having responsibilities under the SWPPP whenever they are on the construction site.

1091 2. The operator shall make the SWPPP and all amendments, modifications, and updates
1092 available upon request to the department, the ~~VSMP~~ VESMP authority, the EPA, the
1093 VESCP authority, local government officials, or the operator of a municipal separate storm
1094 sewer system receiving discharges from the construction activity. If an on-site location is
1095 unavailable to store the SWPPP when no personnel are present, notice of the SWPPP's
1096 location shall be posted near the main entrance of the construction site.

1097 3. The operator shall make the SWPPP available for public review in an electronic format
1098 or in hard copy. Information for public access to the SWPPP shall be posted and
1099 maintained in accordance with Part II D. If not provided electronically, public access to the
1100 SWPPP may be arranged upon request at a time and at a publicly accessible location
1101 convenient to the operator or ~~his~~ the operator's designee but shall be no less than once
1102 per month and shall be during normal business hours. Information not required to be
1103 contained within the SWPPP by this general permit is not required to be released.

1104 F. SWPPP implementation. The operator shall implement the SWPPP and subsequent
1105 amendments, modifications, and updates from commencement of land disturbance until
1106 termination of general permit coverage as specified in Part I F.

1107 1. All control measures shall be properly maintained in effective operating condition in
 1108 accordance with good engineering practices and, where applicable, manufacturer
 1109 specifications.

1110 2. If a site inspection required by Part II G identifies a control measure that is not operating
 1111 effectively or needs routine maintenance, corrective actions or routine maintenance shall
 1112 be completed as soon as practicable, but no later than ~~seven~~ five business days after
 1113 discovery or a longer period as established by the ~~VSMP~~ VESMP authority, to maintain
 1114 the continued effectiveness of the control measures.

1115 2- 3. If the operator must make the same repairs more than two times to the same control
 1116 at the same location, even if the fix can be completed by the close of the next business
 1117 day, the operator shall either:

1118 a. Complete work to fix any subsequent repeat occurrences of this same problem
 1119 under the corrective action procedures in Part II H, including keeping any records of
 1120 the condition and how it was corrected under Part II C; or

1121 b. Document in the inspection report under Part II G why the specific reoccurrence of
 1122 this same problem should still be addressed as a routine maintenance fix.

1123 4. If site inspections required by Part II G identify an existing control measure that needs
 1124 to be modified or if an additional or alternative control measure is necessary for any
 1125 reason, implementation shall be completed prior to the next anticipated measurable storm
 1126 event. If implementation prior to the next anticipated measurable storm event is
 1127 impracticable, then additional or alternative control measures shall be implemented as
 1128 soon as practicable, but no later than ~~seven~~ five business days after discovery or a longer
 1129 period as established by the ~~VSMP~~ VESMP authority.

1130 G. SWPPP Inspections.

1131 1. Personnel responsible for on-site and off-site inspections. Inspections required by this
 1132 general permit shall be conducted by the qualified personnel identified by the operator in
 1133 the SWPPP. The operator is responsible for ensuring that the qualified personnel conduct
 1134 the inspection. Qualified personnel may be a person on the operator's staff or a third party
 1135 hired to conduct such inspections.

1136 2. Inspection schedule.

1137 a. For construction activities that discharge to a surface water identified in Part II B 5
 1138 and B 6 as impaired or having an approved TMDL or Part II B 7 as exceptional, the
 1139 following inspection schedule requirements apply:

1140 (1) Inspections shall be conducted at a frequency of (i) at least once every four
 1141 business days or (ii) at least once every five business days and no later than 24 hours
 1142 following a measurable storm event. In the event that a measurable storm event occurs
 1143 when there are more than 24 hours between business days, the inspection shall be
 1144 conducted on the next business day; and

1145 (2) Representative inspections as authorized in Part II G 2 d shall not be allowed.

1146 b. Except as specified in Part II G 2 a, inspections shall be conducted at a frequency
 1147 of:

1148 (1) At least once every five business days; or

1149 (2) At least once every 10 business days and no later than 24 hours following a
 1150 measurable storm event. In the event that a measurable storm event occurs when
 1151 there are more than 24 hours between business days, the inspection shall be
 1152 conducted on the next business day.

1153 (a) A storm event that produces 0.25 inches or more of rain within a 24-hour period on
 1154 the first day of the storm and continues to produce 0.25 inches or more of rain on
 1155 subsequent days. The operator is required to conduct an inspection within 24 hours of
 1156 the first day of the storm and within 24 hours after the last day of the storm that
 1157 produces 0.25 inches or more of rain.

1158 (b) A discharge caused by snowmelt [from a snow event producing 3.25 inches or
 1159 more of snow within a 24-hour period] . The operator is required to conduct one
 1160 inspection once the discharge of snowmelt occurs. Additional inspections are only
 1161 required if following the discharge from the first snowmelt, there is a discharge from a
 1162 separate storm event.

1163 c. Where areas have been temporarily stabilized or ~~land-disturbing~~ construction
 1164 activities will be suspended due to continuous frozen ground conditions and
 1165 stormwater discharges are unlikely, the inspection frequency described in Part II G 2
 1166 a and 2 b may be reduced to once per month. If weather conditions (such as above
 1167 freezing temperatures or rain or snow events) make discharges likely, the operator
 1168 shall immediately resume the regular inspection frequency.

1169 d. Except as prohibited in Part II G 2 a (2), representative inspections may be utilized
 1170 for utility line installation, pipeline construction, or other similar linear construction
 1171 activities provided that:

1172 (1) Temporary or permanent soil stabilization has been installed and vehicle access
 1173 may compromise the temporary or permanent soil stabilization and potentially cause
 1174 additional land disturbance increasing the potential for erosion;

1175 (2) Inspections occur on the same frequency as other construction activities;

1176 (3) Control measures are inspected along the construction site 0.25 miles above and
 1177 below each access point (i.e., where a roadway, undisturbed right-of-way, or other
 1178 similar feature intersects the construction activity and access does not compromise
 1179 temporary or permanent soil stabilization); and

1180 (4) Inspection locations are provided in the inspection report required by Part II G.

1181 e. If adverse weather causes the safety of the inspection personnel to be in jeopardy,
 1182 the inspection may be delayed until the next business day on which it is safe to perform
 1183 the inspection. Any time inspections are delayed due to adverse weather conditions,
 1184 evidence of the adverse weather conditions shall be included in the SWPPP with the
 1185 dates of occurrence.

1186 3. Inspection requirements. ~~a.~~ As part of the inspection, the qualified personnel shall at a
 1187 minimum:

1188 (1) a. Record the date and time of the inspection and, when applicable, the date and
 1189 rainfall or snowfall amount of the last measurable storm event;

1190 (2) b. Record the information and a description of any discharges occurring at the time
 1191 of the inspection or evidence of discharges occurring prior to the inspection;

1192 (3) c. Record any ~~land-disturbing~~ construction activities that have occurred outside of
 1193 the approved erosion and sediment control plan;

1194 (4) d. Inspect all stormwater discharge locations at the construction site. If a
 1195 stormwater discharge is occurring during the inspection, observe and document the
 1196 visual quality and characteristics of the discharge, including color; odor; floating,
 1197 settled, or suspended solids; foam; oil sheen; and other indicators of stormwater
 1198 pollutants;

- 1199 e. Inspect all construction dewatering discharge locations at the construction site, if
 1200 applicable. If a construction dewatering discharge is occurring during the inspection,
 1201 observe and document the visual quality and the characteristics of the discharge,
 1202 including color; odor; floating, settled, or suspended solids; foam; oil sheen; and other
 1203 indicators of pollutants;
- 1204 f. Inspect the following for installation in accordance with the approved erosion and
 1205 sediment control plan, identification of any maintenance needs, and evaluation of
 1206 effectiveness in minimizing sediment discharge, including whether the control has
 1207 been inappropriately or incorrectly used:
- 1208 ~~(a)~~ (1) All perimeter erosion and sediment controls, such as silt fence;
- 1209 ~~(b)~~ (2) Soil stockpiles, when applicable, and borrow areas for stabilization or sediment
 1210 trapping measures;
- 1211 ~~(c)~~ (3) Completed earthen structures, such as dams, dikes, ditches, and diversions for
 1212 stabilization and effective impoundment or flow control;
- 1213 ~~(d)~~ (4) Cut and fill slopes;
- 1214 ~~(e)~~ (5) Sediment basins and traps, sediment barriers, and other measures installed to
 1215 control sediment discharge from stormwater;
- 1216 ~~(f)~~ (6) Temporary or permanent channels, flumes, or other slope drain structures
 1217 installed to convey concentrated runoff down cut and fill slopes;
- 1218 ~~(g)~~ (7) Storm inlets that have been made operational to ensure that sediment laden
 1219 stormwater does not enter without first being filtered or similarly treated; and
- 1220 ~~(h)~~ (8) Construction vehicle access routes that intersect or access paved or public
 1221 roads for minimizing sediment tracking;
- 1222 ~~(5)~~ g. Inspect areas that have reached final grade or that will remain dormant for more
 1223 than 14 days to ensure:
- 1224 ~~(a)~~ (1) Initiation of stabilization activities have occurred immediately, as defined in
 1225 9VAC25-880-1; and
- 1226 ~~(b)~~ (2) Stabilization activities have been completed within seven days of reaching
 1227 grade or stopping work;
- 1228 ~~(6)~~ h. Inspect for evidence that the approved erosion and sediment control plan,
 1229 "agreement in lieu of a plan," or erosion and sediment control plan prepared in
 1230 accordance with department-approved annual standards and specifications has not
 1231 been properly implemented. This includes:
- 1232 ~~(a)~~ (1) Concentrated flows of stormwater in conveyances such as rills, rivulets, or
 1233 channels that have not been filtered, settled, or similarly treated prior to discharge, or
 1234 evidence thereof;
- 1235 ~~(b)~~ (2) Sediment laden or turbid flows of stormwater that have not been filtered or
 1236 settled to remove sediments prior to discharge;
- 1237 ~~(c)~~ (3) Sediment deposition in areas that drain to unprotected stormwater inlets or
 1238 catch basins that discharge to surface waters. Inlets and catch basins with failing
 1239 sediment controls due to improper installation, lack of maintenance, or inadequate
 1240 design are considered unprotected;
- 1241 ~~(d)~~ (4) Sediment deposition on any property (including public and private streets)
 1242 outside of the construction activity covered by this general permit;
- 1243 ~~(e)~~ (5) Required stabilization has not been initiated or completed or is not effective on
 1244 portions of the construction site;

- 1245 (f) (6) Sediment basins without adequate wet or dry storage volume or sediment basins
 1246 that allow the discharge of stormwater from below the surface of the wet storage
 1247 portion of the basin;
- 1248 (g) (7) Sediment traps without adequate wet or dry storage or sediment traps that allow
 1249 the discharge of stormwater from below the surface of the wet storage portion of the
 1250 trap; and
- 1251 (h) (8) Land disturbance or sediment deposition outside of the approved area to be
 1252 disturbed;
- 1253 (7) i. Inspect pollutant generating activities identified in the pollution prevention plan
 1254 for the proper implementation, maintenance, and effectiveness of the procedures and
 1255 practices;
- 1256 (8) j. Identify and report any pollutant generating activities not identified in the pollution
 1257 prevention plan; and
- 1258 (9) k. Identify and document the presence of any evidence of the discharge of
 1259 pollutants prohibited by this general permit.
- 1260 4. Inspection report. Each inspection report shall include the following items:
- 1261 a. The date and time of the inspection and, when applicable, the date and rainfall or
 1262 snowfall amount of the last measurable storm event;
- 1263 b. Summarized findings of the inspection;
- 1264 c. The locations, visual quality, and characteristics of all stormwater discharges, when
 1265 occurring;
- 1266 d. The locations, visual quality, and characteristics of all construction dewatering
 1267 discharges, if applicable;
- 1268 e. The locations of prohibited discharges;
- 1269 f. The locations of control measures that require routine maintenance;
- 1270 g. The locations of control measures that failed to operate as designed or proved
 1271 inadequate or inappropriate for a particular location;
- 1272 h. The locations where any evidence identified under Part II G 3 a-(6) h exists;
- 1273 i. The locations where any additional control measure is needed;
- 1274 j. A list of corrective actions required (including any changes to the SWPPP that are
 1275 necessary) as a result of the inspection or to maintain permit compliance;
- 1276 k. Documentation of any corrective actions required from a previous inspection that
 1277 have not been implemented;
- 1278 l. Any incidents of noncompliance. If none, the report shall contain a certification that
 1279 the construction activity is in compliance with the SWPPP and this general permit;
- 1280 m. The required certification in accordance with Part III K 4 of this general permit; and
- 1281 n. The date and signature of the qualified personnel and the operator or its duly
 1282 authorized representative in accordance with Part III K 2 of this general permit.
- 1283 5. The inspection report shall be included into the SWPPP no later than four business
 1284 days after the inspection is complete.
- 1285 6. The inspection report and any actions taken in accordance with Part II shall be retained
 1286 by the operator as part of the SWPPP for at least three years from the date that general
 1287 permit coverage expires or is terminated. ~~The inspection report shall identify any incidents~~
 1288 ~~of noncompliance. Where an inspection report does not identify any incidents of~~
 1289 ~~noncompliance, the report shall contain a certification that the construction activity is in~~

1290 compliance with the SWPPP and this general permit. The report shall be signed in
 1291 accordance with Part III K of this general permit.

1292 H. Corrective actions.

1293 1. ~~[The Except as required in Part II H 2, the]~~ operator shall implement the corrective
 1294 actions identified as a result of an inspection as soon as practicable but no later than
 1295 ~~seven five business~~ days after discovery or a longer period as approved by the ~~V~~SMP
 1296 ~~VESMP~~ authority. If approval of a corrective action by a regulatory authority (e.g., ~~V~~SMP
 1297 ~~VESMP~~ authority, VESCP authority, or the department) is necessary, additional control
 1298 measures shall be implemented to minimize pollutants in stormwater discharges until such
 1299 approvals can be obtained.

1300 2. ~~When [using turbidity benchmark option 1, any turbidity measurement of the~~
 1301 ~~construction dewatering discharge exceeds the selected benchmark option or visual~~
 1302 ~~monitoring indicates a change in the characteristics of effluent discharge, as outlined in~~
 1303 ~~Part II B 8 ,] the operator shall [implement corrective actions when any construction~~
 1304 ~~dewatering discharge turbidity measurement exceeds the upstream grab sample of the~~
 1305 ~~receiving stream by 50 NTUs/FTUs or where visual monitoring indicates a change in the~~
 1306 ~~characteristics of effluent discharge. The operator shall] :~~

1307 ~~a. [Cease Immediately cease] the construction dewatering discharge at the location~~
 1308 ~~that exceeds [upstream grab sample the turbidity benchmark] or where visual~~
 1309 ~~monitoring indicates a change in the characterization of effluent discharge;~~

1310 ~~b. Determine whether the construction dewatering controls are operating effectively or~~
 1311 ~~need routine maintenance or if an additional or alternate control measure is necessary;~~
 1312 ~~and~~

1313 ~~c. Make any necessary adjustments, additions, repairs, or replacements to the~~
 1314 ~~construction dewatering controls.~~

1315 ~~Once these corrective action steps are completed and any necessary adjustments,~~
 1316 ~~additions, repairs, or replacements are made, the operator may resume its~~
 1317 ~~construction dewatering discharge and shall sample for turbidity within 15 minutes of~~
 1318 ~~the construction dewatering discharge commencing. [No additional corrective action~~
 1319 ~~items are required beyond recording the results in the SWPPP.~~

1320 ~~3. When using turbidity benchmark option 2, the operator shall implement corrective~~
 1321 ~~actions when any construction dewatering discharge turbidity measurement exceeds 50~~
 1322 ~~NTUs/FTUs or visual monitoring of any construction dewatering control measure~~
 1323 ~~indicates a change in the characterization of effluent discharge or a need for~~
 1324 ~~adjustments, additions, repairs, or replacements to control measures. The operator shall:~~

1325 ~~a. Cease the construction dewatering discharge at the location where visual~~
 1326 ~~monitoring indicates a change in the characterization of effluent discharge or a need~~
 1327 ~~for adjustments, additions, repairs, or replacements to control measures;~~

1328 ~~b. Determine whether the construction dewatering controls are operating effectively,~~
 1329 ~~need routine maintenance, or need replacement or if an additional or alternate~~
 1330 ~~control measure is necessary; and~~

1331 ~~c. Make any necessary adjustments, additions, repairs, or replacements to the~~
 1332 ~~construction dewatering controls.~~

1333 ~~Once these corrective action steps are completed and any necessary adjustments,~~
 1334 ~~additions, repairs, or replacements are made, the operator may resume its~~
 1335 ~~construction dewatering discharge and shall sample for turbidity within 15 minutes of~~
 1336 ~~the construction dewatering discharge commencing.~~

1337 ~~4.3.~~] The operator may be required to remove accumulated sediment deposits located
 1338 outside of the construction ~~activity site~~ covered by this general permit as soon as
 1339 practicable in order to minimize environmental impacts.

1340 [~~5.4.~~] The operator shall notify the ~~VSMP~~ VESMP authority and the department as well
 1341 as obtain all applicable federal, state, and local authorizations, approvals, and permits
 1342 prior to the removal of sediments accumulated in surface waters including wetlands.

1343 Part III

1344 CONDITIONS APPLICABLE TO ALL VPDES PERMITS

1345 ~~NOTE:~~ Discharge monitoring is not required for this general permit. If the operator chooses to
 1346 monitor stormwater discharges or control measures, the operator shall comply with the
 1347 requirements of ~~subsections~~ Part III A, B, and C, as appropriate.

1348 A. Monitoring.

1349 1. Samples and measurements taken for the purpose of monitoring shall be representative
 1350 of the monitoring activity.

1351 2. Monitoring shall be conducted according to procedures approved under 40 CFR Part
 1352 136 or alternative methods approved by the U.S. Environmental Protection Agency, unless
 1353 other procedures have been specified in this general permit. Analyses performed
 1354 according to test procedures approved under 40 CFR Part 136 shall be performed by an
 1355 environmental laboratory certified under regulations adopted by the Department of
 1356 General Services (1VAC30-45 or 1VAC30-46).

1357 3. The operator shall periodically calibrate and perform maintenance procedures on all
 1358 monitoring and analytical instrumentation at intervals that will ensure accuracy of
 1359 measurements.

1360 B. Records.

1361 1. Monitoring records and reports shall include:

- 1362 a. The date, exact place, and time of sampling or measurements;
- 1363 b. The individuals who performed the sampling or measurements;
- 1364 c. The dates and times analyses were performed;
- 1365 d. The individuals who performed the analyses;
- 1366 e. The analytical techniques or methods used; and
- 1367 f. The results of such analyses.

1368 2. The operator shall retain records of all monitoring information, including all calibration
 1369 and maintenance records and all original strip chart recordings for continuous monitoring
 1370 instrumentation, copies of all reports required by this general permit, and records of all
 1371 data used to complete the registration statement for this general permit, for a period of at
 1372 least three years from the date of the sample, measurement, report, or request for
 1373 coverage. This period of retention shall be extended automatically during the course of
 1374 any unresolved litigation regarding the regulated activity or regarding control standards
 1375 applicable to the operator, or as requested by the ~~board~~ department.

1376 C. Reporting monitoring results.

1377 1. The operator shall update the SWPPP to include the results of the monitoring as may
 1378 be performed in accordance with this general permit, unless another reporting schedule
 1379 is specified elsewhere in this general permit.

1380 2. Monitoring results shall be reported on a discharge monitoring report (DMR); on forms
 1381 provided, approved, or specified by the department; or in any format provided that the
 1382 date, location, parameter, method, and result of the monitoring activity are included.

1383 3. If the operator monitors any pollutant specifically addressed by this general permit more
 1384 frequently than required by this general permit using test procedures approved under 40
 1385 CFR Part 136 or using other test procedures approved by the U.S. Environmental
 1386 Protection Agency or using procedures specified in this general permit, the results of this
 1387 monitoring shall be included in the calculation and reporting of the data submitted in the
 1388 DMR or reporting form specified by the department.

1389 4. Calculations for all limitations ~~which that~~ require averaging of measurements shall utilize
 1390 an arithmetic mean unless otherwise specified in this general permit.

1391 D. Duty to provide information. The operator shall furnish, within a reasonable time, any
 1392 information ~~which that the board~~ department may request to determine whether cause exists for
 1393 terminating this general permit coverage or to determine compliance with this general permit. The
 1394 ~~board,~~ department, EPA, or ~~VSMP~~ VESMP authority may require the operator to furnish, upon
 1395 request, such plans, specifications, and other pertinent information as may be necessary to
 1396 determine the effect of the wastes from ~~his~~ the operator's discharge on the quality of surface
 1397 waters, or such other information as may be necessary to accomplish the purposes of the CWA
 1398 and the Virginia Erosion and Stormwater Management Act. The operator shall also furnish to the
 1399 ~~board,~~ department, EPA, or ~~VSMP~~ VESMP authority, upon request, copies of records required to
 1400 be kept by this general permit.

1401 E. Compliance schedule reports. Reports of compliance or noncompliance with, or any
 1402 progress reports on, interim and final requirements contained in any compliance schedule of this
 1403 general permit shall be submitted no later than 14 days following each schedule date.

1404 F. Unauthorized stormwater discharges. Pursuant to § 62.1-44.5 of the Code of Virginia,
 1405 except in compliance with a ~~state~~ permit issued by the department, it shall be unlawful to cause
 1406 a stormwater discharge from a construction activity.

1407 G. Reports of unauthorized discharges. Any operator who discharges or causes or allows a
 1408 discharge of sewage, industrial waste, other wastes ~~or,~~ any noxious or deleterious substance ~~or,~~
 1409 a hazardous substance, or oil in an amount equal to or in excess of a reportable quantity
 1410 established under either 40 CFR Part 110, 40 CFR Part 117, 40 CFR Part 302, or § 62.1-44.34:19
 1411 of the Code of Virginia that occurs during a 24-hour period into or upon surface waters or ~~who~~
 1412 that discharges or causes or allows a discharge that may reasonably be expected to enter surface
 1413 waters, shall notify the ~~Department of Environmental Quality~~ department and the VESMP
 1414 authority of the discharge immediately upon discovery of the discharge, but in no case later than
 1415 within 24 hours after said discovery. A written report of the unauthorized discharge shall be
 1416 submitted to the department and the ~~VSMP~~ VESMP authority within five calendar days of
 1417 discovery of the discharge. The written report shall contain:

- 1418 1. A description of the nature and location of the discharge;
- 1419 2. The cause of the discharge;
- 1420 3. The date on which the discharge occurred;
- 1421 4. The length of time that the discharge continued;
- 1422 5. The volume of the discharge;
- 1423 6. If the discharge is continuing, how long it is expected to continue;
- 1424 7. If the discharge is continuing, what the expected total volume of the discharge will be;
- 1425 and
- 1426 8. Any steps planned or taken to reduce, eliminate, and prevent a recurrence of the
- 1427 present discharge or any future discharges not authorized by this general permit.

1428 Discharges reportable to the department and the ~~VSMP~~ VESMP authority under the
 1429 immediate reporting requirements of other regulations are exempted from this requirement.

1430 H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge,
 1431 including a "bypass" or "upset," as defined in this general permit, should occur from a facility
 1432 construction site and the discharge enters or could be expected to enter surface waters, the
 1433 operator shall promptly notify, in no case later than within 24 hours, the department and the ~~VSMP~~
 1434 VESMP authority ~~by telephone~~ after the discovery of the discharge. This notification shall provide
 1435 all available details of the incident, including any adverse effects on aquatic life and the known
 1436 number of fish killed. The operator shall reduce the report to writing and shall submit it to the
 1437 department and the ~~VSMP~~ VESMP authority within five calendar days of discovery of the
 1438 discharge in accordance with Part III I 2. Unusual and extraordinary discharges include any
 1439 discharge resulting from:

- 1440 1. Unusual spillage of materials resulting directly or indirectly from processing operations;
- 1441 2. Breakdown of processing or accessory equipment;
- 1442 3. Failure or taking out of service of some or all of the facilities; and
- 1443 4. Flooding or other acts of nature.

1444 I. Reports of noncompliance. The operator shall report any noncompliance ~~which~~ that may
 1445 adversely affect surface state waters or may endanger public health.

1446 1. ~~An oral~~ A report to the department and the ~~VSMP~~ VESMP authority shall be provided
 1447 within 24 hours from the time the operator becomes aware of the circumstances. The
 1448 following shall be included as information that shall be reported within 24 hours under this
 1449 ~~subdivision~~ subsection:

- 1450 a. Any unanticipated bypass; and
- 1451 b. Any upset that causes a discharge to surface waters.
- 1452 2. A written report shall be submitted within five days and shall contain:
 - 1453 a. A description of the noncompliance and its cause;
 - 1454 b. The period of noncompliance, including exact dates and times, and if the
 1455 noncompliance has not been corrected, the anticipated time it is expected to continue;
 1456 and
 - 1457 c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the
 1458 noncompliance.

1459 The department may waive the written report on a case-by-case basis for reports of
 1460 noncompliance under Part III I if the oral report has been received within 24 hours and no
 1461 adverse impact on surface waters has been reported.

1462 3. The operator shall report all instances of noncompliance not reported under Part III I 1
 1463 or 2 in writing as part of the SWPPP. The reports shall contain the information listed in
 1464 Part III I 2.

1465 ~~NOTE: 4.~~ The immediate (within 24 hours) reports required in Part III G, H, and I ~~shall~~ may
 1466 be made to the department and the ~~VSMP~~ VESMP authority. Reports may be made by
 1467 telephone, or email, or online at [[https://www.deq.virginia.gov/get-involved/pollution-](https://www.deq.virginia.gov/get-involved/pollution-response)
 1468 response <https://www.deq.virginia.gov/our-programs/pollution-response>] . For reports
 1469 outside normal working hours, leaving a recorded message shall fulfill the immediate
 1470 reporting requirement. For emergencies, the Virginia Department of Emergency
 1471 Management maintains a 24-hour telephone service at 1-800-468-8892.

1472 4. 5. Where the operator becomes aware of a failure to submit any relevant facts, or
 1473 submittal of incorrect information in any report, including a registration statement, to the
 1474 department or the ~~VSMP~~ VESMP authority, the operator shall promptly submit such facts
 1475 or correct information.

1476 J. Notice of planned changes.

1477 1. The operator shall give notice to the department and the ~~VSM~~ VESMP authority as
 1478 soon as possible of any planned physical alterations or additions to the permitted facility
 1479 or activity. Notice is required only when:

1480 a. The operator plans an alteration or addition to any building, structure, facility, or
 1481 installation that may meet one of the criteria for determining whether a facility is a new
 1482 source in ~~9VAC25-870-420~~ 9VAC25-875-990; or

1483 b. The operator plans an alteration or addition that would significantly change the
 1484 nature or increase the quantity of pollutants discharged. This notification applies to
 1485 pollutants that are not subject to effluent limitations in this general permit; ~~or.~~

1486 2. The operator shall give advance notice to the department and ~~VSM~~ VESMP authority
 1487 of any planned changes in the permitted facility or activity, ~~which that~~ may result in
 1488 noncompliance with ~~state~~ permit requirements.

1489 3. The operator may continue construction activities based on the information provided in
 1490 the original registration statement and SWPPP but must wait until the review period has
 1491 ended before commencing or continuing construction activities on any portion of the
 1492 construction site that would be affected by any of the planned changes or
 1493 modifications. [Any operator that chooses to proceed with unapproved construction
 1494 activities while plans are being reviewed is proceeding at their own risk and subject to
 1495 compliance actions, if the plan is determined to be inadequate.]

1496 K. Signatory requirements.

1497 1. Registration statement and notice of termination. All registration statements and notices
 1498 of termination shall be signed as follows:

1499 a. For a corporation: by a responsible corporate officer. For the purpose of this chapter,
 1500 a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-
 1501 president of the corporation in charge of a principal business function, or any other
 1502 person who performs similar policy-making or decision-making functions for the
 1503 corporation; or (ii) the manager of one or more manufacturing, production, or operating
 1504 facilities, provided the manager is authorized to make management decisions that
 1505 govern the operation of the regulated facility including having the explicit or implicit
 1506 duty of making major capital investment recommendations, and initiating and directing
 1507 other comprehensive measures to assure long-term compliance with environmental
 1508 laws and regulations; the manager can ensure that the necessary systems are
 1509 established or actions taken to gather complete and accurate information for ~~state~~
 1510 permit application requirements; and where authority to sign documents has been
 1511 assigned or delegated to the manager in accordance with corporate procedures;

1512 b. For a partnership or sole proprietorship: by a general partner or the proprietor,
 1513 respectively; or

1514 c. For a municipality, state, federal, or other public agency: by either a principal
 1515 executive officer or ranking elected official. For purposes of this chapter, a principal
 1516 executive officer of a public agency includes (i) the chief executive officer of the agency
 1517 or (ii) a senior executive officer having responsibility for the overall operations of a
 1518 principal geographic unit of the agency.

1519 2. Reports and other information. All reports required by this general permit, including
 1520 SWPPPs, and other information requested by ~~the board or~~ the department shall be signed
 1521 by a person described in Part III K 1 or by a duly authorized representative of that person.
 1522 A person is a duly authorized representative only if:

1523 a. The authorization is made in writing by a person described in Part III K 1;

1524 b. The authorization specifies either an individual or a position having responsibility for
 1525 the overall operation of the regulated facility or activity, such as the position of plant
 1526 manager, operator of a well or a well field, superintendent, position of equivalent
 1527 responsibility, or an individual or position having overall responsibility for
 1528 environmental matters for the operator. (A duly authorized representative may thus be
 1529 either a named individual or any individual occupying a named position); and

1530 c. The signed and dated written authorization is included in the SWPPP. A copy shall
 1531 be provided to the department and ~~VSMP~~ VESMP authority, if requested.

1532 3. Changes to authorization. If an authorization under Part III K 2 is no longer accurate
 1533 because a different individual or position has responsibility for the overall operation of the
 1534 construction activity, a new authorization satisfying the requirements of Part III K 2 shall
 1535 be submitted to the ~~VSMP~~ VESMP authority as the administering entity for the ~~board~~
 1536 department prior to or together with any reports or information to be signed by an
 1537 authorized representative.

1538 4. Certification. Any person signing a document under Part III K 1 or 2 shall make the
 1539 following certification:

1540 "I certify under penalty of law that I have read and understand this document and that this
 1541 document and all attachments were prepared in accordance with a system designed to
 1542 assure that qualified personnel properly gathered and evaluated the information
 1543 submitted. Based on my inquiry of the person or persons who manage the system, or
 1544 those persons directly responsible for gathering the information, the information submitted
 1545 is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that
 1546 there are significant penalties for submitting false information, including the possibility of
 1547 fine and imprisonment for knowing violations."

1548 L. Duty to comply. The operator shall comply with all conditions of this general permit. Any
 1549 ~~state permit noncompliance with this general permit~~ constitutes a violation of the Virginia Erosion
 1550 and Stormwater Management Act and the Clean Water Act, except that noncompliance with
 1551 certain provisions of this general permit may constitute a violation of the Virginia Erosion and
 1552 Stormwater Management Act but not the Clean Water Act. Permit noncompliance is grounds for
 1553 enforcement action; for ~~state~~ permit coverage, termination, revocation, and reissuance, or
 1554 modification of permit coverage; or denial of a ~~state~~ permit renewal application.

1555 The operator shall comply with effluent standards or prohibitions established under § 307(a)
 1556 of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish
 1557 these standards or prohibitions or standards for sewage sludge use or disposal, even if this
 1558 general permit has not yet been modified to incorporate the requirement.

1559 M. Duty to reapply. If the operator wishes to continue an activity regulated by this general
 1560 permit after the expiration date of this general permit, the operator shall submit a new registration
 1561 statement at least ~~60~~ 90 days before the expiration date of the existing general permit, unless
 1562 permission for a later date has been granted by the ~~board~~ department. The ~~board~~ department
 1563 shall not grant permission for registration statements to be submitted later than the expiration date
 1564 of the existing general permit.

1565 N. Effect of a ~~state~~ permit. This general permit ~~does not convey~~ neither conveys any property
 1566 rights in either real or personal property or any exclusive privileges; nor ~~does it authorize~~
 1567 authorizes any injury to private property or invasion of personal rights, or any infringement of
 1568 federal, state, or local law or regulations.

1569 O. State law. Nothing in this general permit shall be construed to preclude the institution of
 1570 any legal action under, or relieve the operator from any responsibilities, liabilities, or penalties
 1571 established pursuant to any other state law or regulation or under authority preserved by § 510 of
 1572 the Clean Water Act. Except as provided in general permit conditions on "bypassing" ~~(~~ under Part

1573 III U) and "upset" (under Part III V), nothing in this general permit shall be construed to relieve
1574 the operator from civil and criminal penalties for noncompliance.

1575 P. Oil and hazardous substance liability. Nothing in this general permit shall be construed to
1576 preclude the institution of any legal action or relieve the operator from any responsibilities,
1577 liabilities, or penalties to which the operator is or may be subject under §§ 62.1-44.34:14 through
1578 62.1-44.34:23 of the State Water Control Law or § 311 of the Clean Water Act.

1579 Q. Proper operation and maintenance. The operator shall at all times properly operate and
1580 maintain all facilities and systems of treatment and control (and related appurtenances), which
1581 are installed or used by the operator to achieve compliance with the conditions of this general
1582 permit. Proper operation and maintenance also includes effective plant performance, adequate
1583 funding, adequate staffing, and adequate laboratory and process controls, including appropriate
1584 quality assurance procedures. This provision requires the operation of back-up or auxiliary
1585 facilities or similar systems, which are installed by the operator only when the operation is
1586 necessary to achieve compliance with the conditions of this general permit.

1587 R. Disposal of solids or sludges. Solids, sludges, or other pollutants removed in the course of
1588 treatment or management of pollutants shall be disposed of in a manner so as to prevent any
1589 pollutant from such materials from entering surface waters and in compliance with all applicable
1590 state and federal laws and regulations.

1591 S. Duty to mitigate. The operator shall take all steps to minimize or prevent any discharge in
1592 violation of this general permit that has a reasonable likelihood of adversely affecting human
1593 health or the environment.

1594 T. Need to halt or reduce activity not a defense. It shall not be a defense for an operator in an
1595 enforcement action that it would have been necessary to halt or reduce the permitted activity in
1596 order to maintain compliance with the conditions of this general permit.

1597 U. Bypass.

1598 1. "Bypass," as defined in ~~9VAC25-870-10~~ 9VAC25-875-850, means the intentional
1599 diversion of waste streams from any portion of a treatment facility. The operator may allow
1600 any bypass to occur that does not cause effluent limitations to be exceeded, but only if it
1601 also is for essential maintenance to ensure efficient operation. These bypasses are not
1602 subject to the provisions of Part III U 2 and U 3.

1603 2. Notice.

1604 a. Anticipated bypass. If the operator knows in advance of the need for a bypass, the
1605 operator shall submit prior notice to the department, if possible at least 10 days before
1606 the date of the bypass.

1607 b. Unanticipated bypass. The operator shall submit notice of an unanticipated bypass
1608 as required in Part III I.

1609 3. Prohibition of bypass.

1610 a. Except as provided in Part III U 1, bypass is prohibited, and the ~~board or~~ department
1611 may take enforcement action against an operator for bypass unless:

1612 (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property
1613 damage. Severe property damage means substantial physical damage to property,
1614 damage to the treatment facilities that causes them to become inoperable, or
1615 substantial and permanent loss of natural resources that can reasonably be expected
1616 to occur in the absence of a bypass. Severe property damage does not mean
1617 economic loss caused by delays in production;

1618 (2) There were no feasible alternatives to the bypass, such as the use of auxiliary
1619 treatment facilities, retention of untreated wastes, or maintenance during normal

1620 periods of equipment downtime. This condition is not satisfied if adequate back-up
 1621 equipment should have been installed in the exercise of reasonable engineering
 1622 judgment to prevent a bypass that occurred during normal periods of equipment
 1623 downtime or preventive maintenance; and

1624 (3) The operator submitted notices as required under Part III U 2.

1625 b. The department may approve an anticipated bypass, after considering its adverse
 1626 effects, if the department determines that it will meet the three conditions listed in Part
 1627 III U 3 a.

1628 V. Upset.

1629 1. An "upset," as defined in ~~9VAC25-870-10~~ 9VAC25-875-850, means an exceptional
 1630 incident in which there is unintentional and temporary noncompliance with technology-
 1631 based ~~state~~ permit effluent limitations because of factors beyond the reasonable control
 1632 of the operator. An upset does not include noncompliance to the extent caused by
 1633 operational error, improperly designed treatment facilities, inadequate treatment facilities,
 1634 lack of preventive maintenance, or careless or improper operation.

1635 2. An upset constitutes an affirmative defense to an action brought for noncompliance with
 1636 technology-based ~~state~~ permit effluent limitations if the requirements of Part III V 4 3 are
 1637 met. A determination made during administrative review of claims that noncompliance was
 1638 caused by upset, and before an action for noncompliance, is not a final administrative
 1639 action subject to judicial review.

1640 ~~3. An upset does not include noncompliance to the extent caused by operational error,~~
 1641 ~~improperly designed treatment facilities, inadequate treatment facilities, lack of~~
 1642 ~~preventative maintenance, or careless or improper operation.~~

1643 4. 3. An operator who wishes to establish the affirmative defense of upset shall
 1644 demonstrate, through properly signed, contemporaneous operating logs or other relevant
 1645 evidence that:

1646 a. An upset occurred and that the operator can identify the cause of the upset;

1647 b. The permitted facility was at the time being properly operated;

1648 c. The operator submitted notice of the upset as required in Part III I; and

1649 d. The operator complied with any remedial measures required under Part III S.

1650 ~~5.~~ 4. In any enforcement proceeding, the operator seeking to establish the occurrence of
 1651 an upset has the burden of proof.

1652 W. Inspection and entry. The operator shall allow the department ~~as the board's designee~~, the
 1653 ~~VSMP~~ VESMP authority, EPA, or an authorized representative of either entity (including an
 1654 authorized contractor), upon presentation of credentials and other documents as may be required
 1655 by law, to:

1656 1. Enter upon the operator's premises where a regulated facility or activity is located or
 1657 conducted; or where records shall be kept under the conditions of this general permit;

1658 2. Have access to and copy, at reasonable times, any records that shall be kept under the
 1659 conditions of this general permit;

1660 3. Inspect and photograph at reasonable times any facilities, equipment (including
 1661 monitoring and control equipment), practices, or operations regulated or required under
 1662 this general permit; and

1663 4. Sample or monitor at reasonable times, for the purposes of ensuring ~~state~~ permit
 1664 compliance or as otherwise authorized by the Clean Water Act or the Virginia Erosion and
 1665 Stormwater Management Act, any substances or parameters at any location.

1666 For purposes of this section, the time for inspection shall be deemed reasonable during
1667 regular business hours, and whenever the facility is discharging. Nothing contained herein shall
1668 make an inspection unreasonable during an emergency.

1669 X. ~~State permit~~ Permit actions. ~~State permit~~ Permit coverage may be modified, revoked and
1670 reissued, or terminated for cause. The filing of a request by the operator for a ~~state~~ permit
1671 modification, revocation and reissuance, or termination, or a notification of planned changes or
1672 anticipated noncompliance does not stay any ~~state~~ permit condition.

1673 Y. Transfer of ~~state~~ permit coverage.

1674 1. ~~State permits~~ Permits are not transferable to any person except after notice to the
1675 department. Except as provided in Part III Y 2, a ~~state~~ permit may be transferred by the
1676 operator to a new operator only if the ~~state~~ permit has been modified or revoked and
1677 reissued, or a minor modification made, to identify the new operator and incorporate such
1678 other requirements as may be necessary under the Virginia Erosion and Stormwater
1679 Management Act and the Clean Water Act.

1680 2. As an alternative to transfers under Part III Y 1, this ~~state~~ permit may be automatically
1681 transferred to a new operator if:

1682 a. The current operator notifies the department at least 30 days in advance of the
1683 proposed transfer of the title to the facility or property;

1684 b. The notice includes a written agreement between the existing and new operators
1685 containing a specific date for transfer of ~~state~~ permit responsibility, coverage, and
1686 liability between them; and

1687 c. The department does not notify the existing operator and the proposed new operator
1688 of its intent to modify or revoke and reissue the ~~state~~ permit. If this notice is not
1689 received, the transfer is effective on the date specified in the agreement mentioned in
1690 Part III Y 2 b.

1691 3. For ongoing construction activity involving a change of operator, the new operator shall
1692 accept and maintain the existing SWPPP, or prepare and implement a new SWPPP prior
1693 to taking over operations at the construction site.

1694 Z. Severability. The provisions of this general permit are severable, and if any provision of this
1695 general permit or the application of any provision of this ~~state~~ permit to any circumstance, is held
1696 invalid, the application of such provision to other circumstances and the remainder of this general
1697 permit shall not be affected thereby.