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## Exempt Action: Final Regulation Agency Background Document

<b>Agency name</b>	State Water Control Board
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	9VAC25-880
<b>VAC Chapter title(s)</b>	General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges of Stormwater from Construction Activities
<b>Action title</b>	CH880 – Final 2024 Amendment and Reissuance of the VPDES Stormwater Construction General Permit Regulation
<b>Final agency action date</b>	February 23, 2024
<b>Date this document prepared</b>	January 8, 2024

This information is required for executive branch review pursuant to Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.*

This regulatory action is proposed to amend and reissue the existing general permit regulation which expires on June 30, 2024. This general permit regulation authorizes the discharge of stormwater from construction activities equal to or greater than one acre of land disturbance or less than one acre of land disturbance within a larger common plan of development or sale that results in one acre or more of land disturbance. This regulatory action is needed for existing and new construction activities to be covered under this general permit regulation. The revisions to the general permit made through this regulatory action amend and add requirements to be consistent with the reissued 2022 EPA Construction General Permit, change citations and references to be consistent with the new Virginia Erosion and Stormwater Management Regulation (9VAC25-875, effective July 1, 2024); improve the clarity and readability of

language in the permit; and update provisions to be consistent with other recently reissued VPDES permits.

### Mandate and Impetus

*Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."*

The impetus of the regulatory change is Virginia Code § 62.1-44.15:26(a) which states "All state permits issued by the Board under this article shall have fixed terms. The term of a state permit shall be based upon the projected duration of the project, the length of any required monitoring, or other project operations or permit conditions; however, the term shall not exceed five years." This general permit regulation expires on June 30, 2024, and must be reissued in order to make coverage available for discharges of stormwater from construction activities after June 30, 2024.

### Acronyms and Definitions

*Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.*

- BMP: Best Management Practice
- CGP: General VPDES Permit for Discharges of Stormwater from Construction Activities
- DEQ (or department): Department of Environmental Quality
- EPA (U.S. EPA): United States Environmental Protection Agency
- NOIRA: Notice of Intended Regulatory Action
- NPDES: National Pollutant Discharge Elimination System
- SWPPP: Stormwater Pollution Prevention Plan
- TAC: Technical Advisory Committee
- TMDL: Total Maximum Daily Load
- USC: United States Code
- VAC: Virginia Administrative Code VDOT: Virginia Department of Transportation
- VESMP: Virginia Erosion and Stormwater Management Program
- VPDES: Virginia Pollutant Discharge Elimination System
- WQS: Water Quality Standard

### Statement of Final Agency Action

*Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.*

On February 23, 2024, the State Water Control Board adopted 9VAC25-880, the Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Discharges of Stormwater from Construction Activities, as a final regulation and affirmed that the Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

### Legal Basis

*Identify (1) the agency or other promulgating entity, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the*

*promulgating entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity’s overall regulatory authority.*

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The basis of this regulation is Virginia Code § 62.1-44.15:25 which authorizes the Department under the Stormwater Management Act to issue, deny, revoke, terminate or amend stormwater permits and the State Water Control Board to adopt regulations for the control of stormwater discharges from regulated construction activities to state waters. These discharges are defined as stormwater discharges from large construction activity and stormwater discharges from small construction activity. Section 402 of the federal Clean Water Act (33 USC § 1251 et seq.) authorizes states to administer the NPDES permit program under state law. The Commonwealth of Virginia received such authorization in 1975 under the terms of a Memorandum of Understanding with the U.S. EPA. This Memorandum of Understanding was modified on May 20, 1991, to authorize the Commonwealth to administer a VPDES General Permit Program. Changes to this chapter of the Virginia Administrative Code are exempt from Article 2 of the Administrative Process Act (§ 2.2-4006 A 8).

**Purpose**

*Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it’s intended to solve.*

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This regulatory action protects water quality in the Commonwealth of Virginia which is essential to the health, safety and welfare of Virginia’s citizens and is needed in order to establish appropriate and necessary permitting requirements for discharges of stormwater from large and small construction activities. Under the federal Clean Water Act, these discharges are considered point source discharges and thus are subject to regulation under the VPDES permit program. The programmatic and technical requirements implemented by this general permit regulation are contained within the Virginia Stormwater Management Program Regulation (9VAC25-870-10 et seq.), which has been re-codified into the new Virginia Erosion and Stormwater Management Regulation (9VAC25-875) that becomes effective July 1, 2024. This regulatory action authorizes discharges of stormwater from large and small construction activities and establishes the best management practices and control measures necessary to control such discharges. This regulatory action also implements the post-development water quality and water quantity design criteria as required in the Virginia Stormwater Management Program Regulation. The primary issue that needs to be addressed is that the existing general permit regulation expires on June 30, 2024, and must be reissued to continue to authorize stormwater discharges from construction activities through general permit coverage. Failure to reissue this general permit would prevent any new construction activities from being covered by under the general permit after June 30, 2024.

**Substance**

*Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the “Detail of Changes” section below.*

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Changes to the existing general permit regulation include updating the effective dates of the general permit to July 1, 2024, through June 30, 2029, updating requirements to be consistent with EPA’s 2022 Construction General Permit, revisions to provide clarity to permit requirements, and correcting typographical errors.

**Issues**

*Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.*

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The advantages to the public and the agency are that a VPDES general permit will continue to be available to construction site operators to enable them to discharge safely to surface waters without the increased cost and more complicated application process associated with obtaining an individual VPDES permit. Clarifications to permit requirements will assist all stakeholders with understanding permit requirements. There are no known disadvantages to the public or the agency.

**Requirements More Restrictive than Federal**

*List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously reported information, include a specific statement to that effect.*

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There are no requirements that exceed applicable federal requirements.

**Agencies, Localities, and Other Entities Particularly Affected**

*List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously reported information, include a specific statement to that effect.*

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**Other State Agencies Particularly Affected**

The Virginia Department of Transportation (VDOT) is particularly affected because of the amount of construction activities that they undertake requiring a VPDES permit. The General VPDES Permit for Discharges of Stormwater from Construction Activities (CGP) provides VDOT with a streamlined permitting approach for construction activities that are covered by this permit. If this permit is not reissued prior to expiration, VDOT, like other entities would be required to obtain an individual permit for each construction project that disturbs one or more acres.

**Localities Particularly Affected**

There are no localities or other entities particularly affected by the proposed regulation. The CGP is applicable statewide to any operator of a construction activity that disturbs one acre or greater or less than one acre and part of a common plan of development that will disturb one or more acres. This general permit provides localities with a streamlined permitting approach for construction activities that are covered by this permit. If this permit is not re-issued prior to expiration, localities, like other entities would be required to obtain an individual permit for each construction project that disturbs one or more acres.

**Public Comment**

*Summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. Ensure to include all comments submitted: including any received on Town Hall, in a public hearing, or submitted directly to the agency or board. If no comment was received, enter a specific statement to that effect.*

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A Public Hearing on the Proposed 2024 General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges of Stormwater from Construction Activities (Construction General Permit) was held on September 7, 2023. Comments were made at the Public Hearing by David Sligh, Wild Virginia and Judson Pitman, Lennar. Written comments were received during the original Public Comment period which opened on August 14, 2023, and closed on October 13, 2023. Comments that were received through the Virginia Regulatory Town Hall Comment Forum included comments from: Brian Free; Kyla J. Wood, PhD, Applied Polymer Systems, Inc.; Seva Iwinski; Rich McLaughlin, North Carolina State University; Jerald S. Fifield, PhD, CISEC, HydroDynamics Incorporated; and Tom Witt, Virginia Transportation Construction Alliance. Additionally, comments were received via emails from Molly A. Parker, Dominion Energy Services; Whitney S. Katchmark, Hampton Roads, PDC; David Sligh, Wild Virginia (with Betsy Nicholas, Potomac Riverkeeper Network and Robin Broder, Waterkeepers Chesapeake); Patrick J. Fanning, Chesapeake Bay Foundation; and J. Alex Forasté, VDOT State Water

Resources Program Manager. Due to an issue with the contact email address failing to accept email message for part of the original comment period, DEQ extended the comment period until December 6, 2023. Additional comments received during this extended period included comments from: Dale Chestnut, James Madison University; Kristin Carter, University of Virginia; Thirty (30) Individuals - Organizations (Barbara Walsh – Rockbridge Conservation); Virginia Municipal Stormwater Association (VAMSA); Jesse E. Maines – City of Alexandria; Jared A. Webb – Appalachian Power; David Sligh – Wild Virginia (Supplement to Comments previously submitted by David Sligh, Wild Virginia (w/Betsy Nicholas, Potomac Riverkeeper Network and Robin Broder, Waterkeepers Chesapeake) and Andrew Clark, Home Builders Association of Virginia (HBAV). In addition, one additional Comment was received on the Virginia Regulatory Town Hall Comment Forum during the extended comment period from Alice Frei – Rivanna Conservation Alliance (RCA). Comments were also received from the US Environmental Protection Agency (EPA), Mid-Atlantic Region.

No.	Commenter	Comment	Agency response
1	David Sligh, Wild Virginia	<b>Turbidity benchmarks:</b> Agree with the inclusion of the new dewatering benchmarks. Turbidity benchmarks are meant to protect water quality, concern is that other sources of pollutants coming from a construction site have not been included as benchmarks in the proposed permit. Would like to see monitoring of additional pollutants.	<p>Comment noted.</p> <p>The general permit is consistent with the requirements for protection of water quality contained in EPA's 2022 construction general permit effective February 17, 2022. Please see the response to Comment 10.</p> <p>The CGP is not being revised in response to this comment.</p>
2	David Sligh, Wild Virginia	<b>Reasonable potential analysis:</b> Has an issue with the permit not being based on "reasonable potential analysis." Issue that proper review is not taking place of individual construction sites, so not convinced that water quality standards will be met.	Please see the response to Comment 10.
3	Judson Pitman, Lennar	<b>Turbidity benchmarks:</b> Benchmark of testing upstream and an end of pipe discharge are different parameters. Would be better to test upstream of discharge, then downstream of discharge. Voiced concern with numeric turbidity benchmark because they felt a narrative approach is more appropriate. Georgia, Illinois, and Minnesota have addressed this through a narrative approach.	The benchmark thresholds for Options 1 and 2 have been revised for consistency with other permits. In response to public comment DEQ added a third option consistent with EPA's 2022 weekly turbidity benchmark to provide additional flexibility. DEQ also added the option for an operator to request an alternative benchmark threshold.
4	Judson Pitman, Lennar	<b>BMP repairs:</b> Requirements for doing BMP repairs requiring corrective actions are an issue because there are a lot of reasons that a particular control may fail that does not have anything to do with the effectiveness of the BMP (ex., gets run over).	The requirements outlined in Part II F 3 do not require a specific corrective action, such as installing a new or different control measure, but instead require the operator to determine if the control measure is operating correctly and needs a

			corrective action or if it is indeed routine maintenance. Consistent with Part II F 3 b, if routine maintenance is the issue, it should be documented in the inspection report with the justification. The CGP is not being revised in response to this comment.
5	Judson Pitman, Lennar	<b>Timeline:</b> Has an issue with timeline for filing inspection reports. Would like to see DEQ use electronic reporting instead.	The department disagrees. The revisions to the general permit requiring inspection reports to be included in the SWPPP within 4 days is reasonable for operators. It does not create circumstances that prohibit operators from implementing corrective measures within 5 business days. Neither subsection 1 or 2 of Part II E requires a hard copy of the SWPPP, only that a copy of SWPP and all amendments, modifications, etc. are available. The CGP is not being revised as a result of this comment.
6	Patrick J. Fanning, Chesapeake Bay Foundation (CBF)	<b>Support for Proposed Changes:</b> We appreciate DEQ’s convening of a stakeholder advisory group to inform necessary changes to the permit, and we thank the staff involved in facilitating a robust discussion and incorporating our feedback. In particular, we support the proposed changes to the CGP that have been made to adapt the CGP to conform with the updates made by the U.S. EPA to its 2022 EPA CGP, and we encourage DEQ to continue to match the progress made in the 2022 EPA CGP by adopting additional EPA provisions.	Comment noted.
7	Patrick J. Fanning, CBF	<b>Additional Provisions – Stormwater Controls:</b> DEQ should add language requiring stormwater controls to account for recent precipitation and trends. Specifically, Virginia’s final CGP should include the following provision provided for in EPA’s 2022 CGP: “Stormwater controls must be designed using the most recent data available to account for recent precipitation patterns and trends.”	Design storms, frequencies, and sizing of stormwater and erosion controls is included in 9VAC25-875, which is incorporated by reference into the CGP, and the associated Virginia Stormwater Management Handbook, a guidance document that DEQ plans to issue concurrent with the reissuance of the CGP.  No changes are being made to the regulation in response to this comment.

8	Patrick J. Fanning, CBF	<p><b>Additional Provisions – Sites with a History of Major Storm Events:</b> DEQ should add language to the final CGP from EPA’s 2022 CGP regarding sites with a history of major storm events. EPA’s 2022 CGP provides that if a site “is exposed to or has previously experienced major storm, such as hurricanes, storm surge, extreme/heavy precipitation, and flood events,” that the site’s stormwater controls should include “consideration of and contingencies for whether implementing structural improvements, enhanced/resilient stormwater controls, and other mitigation measures may help minimize impacts from stormwater discharges from such major storm events.”</p>	Please see the response to Comment 7.
9	Patrick J. Fanning, CBF	<p><b>Additional Provisions – “wildlife-Friendly”:</b> DEQ should include a provision promoting the use of “wildlife-friendly” erosion control products in stabilization measures. EPA recommends the use of natural fiber, loose weave, and non-welded movable jointed netting products in vegetative stabilization projects to minimize the opportunities for bird species and reptiles to get caught.</p>	Please see the response to Comment 7.
10	David Sligh, Wild Virginia (w/Betsy Nicholas, Potomac Riverkeeper Network and Robin Broder, Waterkeepers Chesapeake)	<p><b>Oppose approval of GP in its present form:</b> Wild Virginia, Waterkeepers Chesapeake, and Potomac Riverkeeper Network oppose approval of the permit in its present form because available evidence does not show that its conditions will ensure compliance with Virginia’s water quality standards (WQS)... We now ask that the State Water Control Board (Board) deny approval of the amended regulation and require that DEQ prepare a new draft permit that satisfies the requirements of the Clean Water Act (CWA) and the State Water Control Law... The State Water Control Board must insist that this general permit, which authorizes thousands of discharges each year and affects every community in the state, be based on facts and not vague "expectations." We urge you to reject this draft and we will look forward to working with DEQ and the Board to produce a permit that truly protects Virginians</p>	<p>The general permit is consistent with the requirements for protection of water quality contained in EPA’s 2022 construction general permit effective February 17, 2022.</p> <p>EPA established effluent limitation guidelines (ELGs) and new source performance standards (NSPS) to control the discharge of pollutants from construction activities (see 40 CFR Part 450, referred to as the “Construction and Development Rule” or “C&amp;D Rule”). These requirements were published in the Federal Register on December 1, 2009 (74 FR 62996) and became effective on February 1, 2010 and contained numeric limitation on the allowable level of turbidity in discharges from certain construction sites. On November 5, 2010, EPA finalized a stay (75</p>

			<p>FR 68215), effective January 4, 2011, for 40 CFR Parts 450.22 (a) and (b) that contained the numeric turbidity limitations as the result of a petition. EPA published amendments to the C&amp;D Rule (79 FR 12661) on March 6, 2014, and May 4, 2014, (80 FR 25235) with an effective date of May 5, 2014. The amendments lifted the indefinite stay, withdrew the numeric discharge standards. As a result, numeric turbidity limitation and monitoring requirements are not required to be incorporated in to NPDES permits.</p> <p>The general permit requires construction activity operators to develop an erosion and sediment control plan consistent with the requirements of the Virginia Erosion and Stormwater Management Regulation. The permit also incorporates the narrative technology-based effluent limitations contained in 40 CFR Part 450. In addition, the general permit requires operators to select, install, implement, and maintain control measures at the construction site that minimize (i.e., reduce or eliminate) pollutants in the discharge as necessary to ensure that the operator's discharge does not cause or contribute to an excursion above any applicable water quality standard. Also, 9VAC25-875-1030.I of the Virginia Erosion and Stormwater Management Regulation allows for the use of best management practices to control or abate the discharge of pollutants from stormwater discharges and when numeric effluent limitations are infeasible. The general permit establishes the requirements necessary to protect water quality standards. No changes are being made to</p>
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			the regulation in response to this comment.
11	David Sligh, Wild Virginia (w/Betsy Nicholas, Potomac Riverkeeper Network and Robin Broder, Waterkeepers Chesapeake)	<b>No reasonable potential analysis conducted:</b> DEQ has not conducted the required reasonable potential analysis to determine whether activities covered under the permit are likely to result in WQS violations but has relied on assumptions that are unsupported by evidence or analysis.	Please see the response to Comment 10.
12	David Sligh, Wild Virginia (w/Betsy Nicholas, Potomac Riverkeeper Network and Robin Broder, Waterkeepers Chesapeake)	<b>Discharge of pollutants:</b> The scientific literature demonstrates that the levels of pollutants discharged from construction sites, even when technology-based limitations in the permit are met, will be harmful to some waterbodies and violate WQS.	Please see the response to Comment 10.
13	David Sligh, Wild Virginia (w/Betsy Nicholas, Potomac Riverkeeper Network and Robin Broder, Waterkeepers Chesapeake)	<b>Sampling requirements:</b> The permit does not require necessary sampling of discharges or in-stream conditions around the discharges, aside from those applied to dewatering operations	Please see the response to Comment 10.
14	David Sligh, Wild Virginia (w/Betsy Nicholas, Potomac Riverkeeper Network and Robin Broder, Waterkeepers Chesapeake)	<b>Compliance with WQS:</b> DEQ has not enforced the condition in the current permit which makes compliance with WQS a requirement of the permit; that condition should be revised to allow for citizen suit enforcement	The Virginia Erosion and Sediment Control Law and the Stormwater Management Act, and associated regulations, establish the requirements for compliance and enforcement of the programs. These requirements are being carried forward in the Virginia Erosion and Stormwater Management Act and Virginia Erosion and Stormwater Management Regulation, 9VAC25-875, both of which become effective July 1, 2024.
15	David Sligh, Wild Virginia (w/Betsy Nicholas, Potomac Riverkeeper Network and	<b>Pollution from construction sites:</b> We believe it is necessary to acknowledge that the requirements in place to control erosion and sediment discharges from construction sites have not been adequate to this point to prevent	Thank you for your comment, however, it is outside of the scope of this regulatory action. The Virginia Erosion and Sediment Control Law and the Stormwater Management Act,

	<p>Robin Broder, Waterkeepers Chesapeake)</p>	<p>widespread and significant degradation of state waters. While advancements have been made, unless the requirements are strengthened the permitted activities will continue to cause or contribute to impairments in our streams and reservoirs, and in the Chesapeake Bay... The most visible and widely recognized pollution impact from construction sites is caused by sediment discharges to waterbodies... Other pollution impacts, from nutrients, elevated temperature of runoff water, altered pH, and pollutants such as heavy metals and organic chemicals attached to sediments are also of great concern... Construction sites are a major source of the impairments to the Bay and its tributaries... the current regulatory regime for controlling pollution from construction sites is not working to prevent water quality degradation. The impairments are found throughout the state, as are the construction activities covered by the general construction stormwater (CSW) permit.</p>	<p>and associated regulations, establish the requirements for addressing erosion and sediment control, as well as administration and enforcement of the programs. These requirements are being carried forward in the Virginia Erosion and Stormwater Management Act and Virginia Erosion and Stormwater Management Regulation, 9VAC25-875, both of which become effective July 1, 2024. No changes are being made to the regulation in response to this comment.</p> <p>Please see the response to Comment 10.</p>
<p>16</p>	<p>David Sligh, Wild Virginia (w/Betsy Nicholas, Potomac Riverkeeper Network and Robin Broder, Waterkeepers Chesapeake)</p>	<p><b>No reasonable potential analysis conducted:</b> A so-called "reasonable potential analysis" is required for every permit issued under the Virginia Pollutant Discharge Elimination System (VPDES) program... Virginia operates the VPDES system under delegation from the U.S. Environmental Protection Agency (EPA), making the federal regulation binding on the state... We have searched in vain for a reasonable potential analysis to support the draft general CSW. No such analysis is contained in the "Agency Background Document" for this action... Thus, in place of the analysis required by law, DEQ has formed an expectation, relying on EPA's "construction general permitting approach." Despite the fact that DEQ and the State Water Control Board are the primary authorities on Virginia's WQS, as applied to state waters, our state officials have chosen to simply mirror EPA's actions... To know whether the degree of minimization is sufficient to protect water quality, it is necessary to look at the expected performance of the erosion and sediment control (ESC) systems - to predict what pollutants will be discharged and in what</p>	<p>The Fact Sheet includes information on how numeric effluent limitations and monitoring requirements were evaluated as part of this general permit.</p> <p>Additional information has been added to the Fact Sheet under Considerations outlining the overarching items evaluated as part of the permit reissuance.</p>

		amounts. There is no such discussion or supporting material with the EPA fact sheet that provides this kind of necessary information. Given these omissions from EPA's supporting materials, we cannot know what quality of effluent can be achieved with the various management practices and structures that are used on a site.	
17	David Sligh, Wild Virginia (w/Betsy Nicholas, Potomac Riverkeeper Network and Robin Broder, Waterkeepers Chesapeake)	<b>Monitoring requirements and benchmarks for dewatering activities:</b> We do support a significant change to Virginia's CSW general permit proposed in this draft. The requirements for turbidity benchmark monitoring at Part II.A.1. of the general permit and corrective actions II.H.2. are necessary and appropriate. In this case, DEQ's decision to mirror conditions in the EPA general permit, is supported by a reasoned explanation in EPA's Fact Sheet... This acknowledgement by EPA, and by DEQ through its adoption of EPA's approach, that turbidity levels of 50 NTU or a similar level in discharges will be necessary to protect aquatic life and meet water quality standards is important and should be acknowledged and adopted in controlling other discharges from Virginia construction sites.	Comment noted.  No changes are being made to the regulation in response to this comment.
18	David Sligh, Wild Virginia (w/Betsy Nicholas, Potomac Riverkeeper Network and Robin Broder, Waterkeepers Chesapeake)	<b>Meeting Water Quality Standards:</b> The Commonwealth of Virginia has been allowing thousands of discharges each year under the CSW general permit for decades. DEQ "expects" that the requirements in place will meet all water quality standards. The most obvious way to test whether that expectation is valid is for the state and/or the permitted party to conduct monitoring of the effluent and of the receiving stream to detect impacts. We can find no evidence that DEQ has conducted such monitoring or required any regulated party to conduct such monitoring. It appears that DEQ does not want to know whether its expectation is valid or not... The scarcity of data on effluent from sites with required ESC measures in place, as discussed by the Expert Panel and as is apparent from literature searches, can be and must be addressed... Just as the proposed general permit includes monitoring requirements from one discrete part of	Please see the response to Comment 10.

		<p>some construction sites - the dewatering operations - it must be amended to include requirements for monitoring of effluents from other sources.</p>	
<p>19</p>	<p>David Sligh, Wild Virginia (w/Betsy Nicholas, Potomac Riverkeeper Network and Robin Broder, Waterkeepers Chesapeake)</p>	<p><b>Failure to Enforce:</b> The draft permit retains a provision at Part I, paragraph G, stating that "[i]f it is determined by the department that the operator's discharges are causing, have reasonable potential to cause, or are contributing to an excursion above any applicable water quality standard, the department, in consultation with the VESMP authority, may take appropriate enforcement action." The draft permit outlines several specific actions that may be taken to address the problem, including requiring the operator to apply for an individual permit... However, there is no information in the record for this action, nor have we been able to obtain information from DEQ to show that such a finding has ever been made or that any enforcement action has been taken based on WQS...there is no evidence that DEQ has ever collected or reviewed water quality data or observations that would show whether standards are violated... DEQ has not exercised the authority to enforce the water quality standards regulation and we cannot assume that this situation will change upon issuance of the new permit. Therefore, we request that the Board simplify the wording of this provision to read as follows: "G. Virginia Water Quality Standards shall not be violated in any surface waters as a result of the project activities." This language is identical to that used in a permit issued by the State Water Control Board in December of 2021 (VWP Individual Permit Number 21-0416, Mountain Valley Pipeline). We believe this simplified version would be clearer and more easily enforced.</p>	<p>The language as written provides the department, in consultation with the local stormwater authority, to take the appropriate enforcement actions.</p> <p>No changes are being made to the regulation in response to this comment.</p>

<p>20</p>	<p>Thirty (30) Individuals - Organizations - (Barabara Walsh – Rockbridge Conservation) + Robert G. Burnley; Tom Blackburn (Audubon Society of Virginia); Richard Averitt (Rockfish Valley Investments, LLC); Ann Rogers (Blue Ridge Environmental Defense League); Cynthia Munley (Preserve Salem/Mothers Out Front Roanoke); Dan Crawford (Roanoke Group, Sierra Club); Jeeva Abbate (Yogaville Environmental Solutions); Donna Pitt (Preserve Giles County); Jeff Kelble (Ashby Gap Adventures); Brent Hunsinger (Friends of the Rappahannock); Chad Oba (Friends of Buckingham); B. Law (Preserve Franklin); Mary Eiserman (Friends of Nelson); Russell Chisholm (Protect Our Water, Heritage, Rights); Elizabeth M. Dudley (Cowpasture River Preservation</p>	<p><b>Support and Incorporate By-Reference Comments Submitted on October 13, 2023, by David Sligh, Wild Virginia (w/Betsy Nicholas, Potomac Riverkeeper Network and Robin Broder, Waterkeepers Chesapeake):</b>          Oppose approval of the permit in its present form because available evidence does not show that its conditions will ensure compliance with Virginia's water quality standards (WQS). While we support some aspects of the proposed regulation and general permit, as explained below, we object to its issuance as drafted, based on the following primary concerns.</p> <ul style="list-style-type: none"> <li>• DEQ has not conducted the required reasonable potential analysis to determine whether activities covered under the permit are likely to result in WQS violations but has relied on assumptions that are unsupported by evidence or analysis.</li> <li>• The scientific literature demonstrates that the levels of pollutants discharged from construction sites, even when technology-based limitations in the permit are met, will be harmful to some waterbodies and violate WQS.</li> <li>• The permit does not require necessary sampling of discharges or in-stream conditions around the discharges, aside from those applied to dewatering operations.</li> <li>• DEQ has not enforced the condition in the current permit which makes compliance with WQS a requirement of the permit; that condition should be revised to allow for citizen suit enforcement.</li> </ul>	<p>Please see the response to Comment 10.</p>
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<p>Association);          Anne Little (Tree          Fredericksburg);          Julie Bolthouse          (Piedmont          Environmental          Council); Lori          Keenan &amp; Ted          Lewis (Goose          Creek          Association);          Sandy Ma          (Center for          Progressive          Reform); Richard          Lambert          (Highlanders for          Responsible          Development);          Christopher          Leyen (Virginia          League of          Conservation          Voters); Philip          Latasa (Friends          of Accotink          Creek); Lynda          Majors (Preserve          Montgomery          County, VA);          Roberta          Bondurant          (Preserve Bent          Mountain);          Sharon Fisher          (The Clinch          Coalition); Lee          Anne Williams          (Green New Deal          Virginia);Victoria          Higgins          (Chesapeake          Climate Action          Network); and          Lisa Wittenborn          (Rivanna          Conservation          Alliance)</p>		
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21	David Sligh – Wild Virginia	<p><b>Opposition to Draft Permit:</b> We renew our opposition to the draft permit. We urge DEQ to perform the necessary analyses and prepare a revised draft permit designed to uphold water quality standards (WQS) and to open a new public comment period on that draft. If DEQ proposes issuance of the current draft permit to the State Water Control Board (Board) we urge the Board to deny issuance of the permit.</p>	Please see the response to Comment 10.
22	David Sligh – Wild Virginia	<p><b>Harmful Temperature Impacts Not Addressed:</b> Neither the draft permit nor supporting information referenced by DEQ addresses likely harmful temperature impacts on streams and the scientific literature indicates that such impacts are likely to occur, due to permitted activities, and result in WQS violations. It is very important that the WQS addressing temperature be strictly enforced, especially for those cold-water resources that are so highly valued and so sensitive to pollution impacts. DEQ's failure to address the issue in any way is inexcusable. Elevated stream temperatures can have a variety of detrimental effects on aquatic systems and species. Changes to the character of land surfaces and vegetation that occur during construction projects can raise runoff water temperatures substantially. Elevated temperature of stormwater runoff is of special concern in sites under development. Both fully developed and developing sites may have a significantly greater proportion of impervious surfaces than before construction began. In both cases vegetation will have been removed and surfaces will be heated. And in both cases these changes may deliver the stormwater to the stream more quickly and with greater intensity. All of these characteristics must be considered in assessing possible temperature impacts on runoff discharges and receiving streams. In addition to alterations of land use caused during development, engineering Best Management Practices (BMPs) put in place to combat runoff pollutants in both types of situations have been found to increase runoff temperatures. Studies have shown that detention basins are not only unsuccessful at mitigating thermal</p>	Please see the response to Comment 10.

	<p>pollution, but can even further increase runoff temperatures. Another factor that is generally present in both developing and already developed areas producing stormwater discharges is an increase in turbidity over background levels. This is pertinent to concerns about temperature because substances that produce turbidity also can absorb heat and raise the temperature in the water managed in BMPs and then released to the streams. The effects of discharges from these construction sites also cannot be examined in isolation from other factors that will determine waterbody conditions. Temperature increases due to climate change are placing additional stressors on these sensitive ecosystems, making it even more important to regulate thermal pollution from human stormwater runoff. It is imperative that thermal pollution from stormwater runoff is monitored and addressed, especially in the cases where the receiving waters contain sensitive salmonid species. Without measures in place to protect cold water ecosystems from thermal pollution, the health of Virginia's aquatic environments is threatened. Strategies to reduce thermal pollution from stormwater runoff have been identified and should be implemented. Acute attention should be paid to the thermal state, size, and impairment levels of the receiving body as part of the permitting process. The negative effects of temperature will be more detrimental in small, intermittent streams and cold-water streams. There is a need for more careful implementation of individual permitting in sensitive or impaired waters due to the threat of temperature pollution to the sensitive stream ecosystem.</p>	
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<p>23</p>	<p>Alice Frei Rivanna Conservation Alliance (RCA)</p>	<p><b>Reject the Renewal Request:</b> I ask you to reject the renewal request for permit General VPDES Permit for Discharges of Stormwater from Construction Activities (9VAC25-880). Proper studies have not been done to meet the burden of proof that this permit protects Virginia waterways. Data shows that our waterways are becoming more and more polluted. This permit is not legal since data has not been analyzed and the permits assumption that “all is well” is not valid. Fine sediment runoff is one of the main causes of stream impairment. Sediment (including fertilizers and litter) can enter the water through agricultural use, urban runoff and construction sites. Fine sediment washes downstream covering water, rocks, and stream bottoms. This fine sediment clogs the breathing apparatuses of organisms in the stream and effectively “kills” stream life. In 2015, there were 23 Rivanna Watershed Streams considered by DEQ to be impaired. In 2022, there were 36 Rivanna Watershed streams considered by DEQ to be impaired. This is an increase of impairment of almost 40%. Where is this sediment coming from? Predominately agriculture and construction sites. Poor farming practices are definitely a source of sediment. However, in Virginia, farmland use has markedly decreased over the past 20 years, while construction has markedly increased. Since other sources of sediment have not changed or have decreased, one must consider the source is, to some degree, construction site runoff. The situation now is failure based on data. Please reject this permit.</p>	<p>Please see the response to Comment 10.</p>
<p>24</p>	<p>Andrew Clark, Home Builders Association of Virginia (HBAV)</p>	<p><b>Commend the Department:</b> We commend the Department for actively engaging a broad group of stakeholders in the process and for the time staff has dedicated to incorporating several amendments, improvements, and clarifications sought by the stakeholders over the course of the TAC’s four meetings.</p>	<p>Comment noted.</p>

<p>25</p>	<p>Andrew Clark - HBAV</p>	<p><b>Continued underinvestment in the Department of Environmental Quality will impact Virginia’s efforts to spur economic development and lower housing costs:</b> As you are aware, the Department plays a pivotal role in both safeguarding Virginia’s natural resources and spurring job growth and facilitating essential investments in economic development and community revitalization projects. As such, the effects of the agency’s longstanding budgetary and staffing constraints impact not only this specific permit, but a broad array of public- and private-stakeholders, as well as the Commonwealth’s initiatives to attract catalytic investments to rural, suburban, and urban areas of the state. The Home Builders Association of Virginia and its members across the state are increasingly concerned that continued underinvestment or disinvestment in the Department will further hinder its ability to deliver an efficient, modern regulatory system, and exacerbate the regulatory uncertainty which has played a leading role in driving up the cost of housing. We recognize that General Fund appropriations are the purview of the General Assembly and not the State Water Control Board, but we would recommend that, at a minimum, the Board receive a briefing on the pressing budgetary and staffing constraints facing the Department.</p>	<p>Comment noted.</p>
<p>26</p>	<p>Whitney S. Katchmark, Hampton Roads Planning District Commission (PDC)</p>	<p><b>9VAC25-880-1: Definition of “Construction Site”:</b> The definition of “construction site” in 9VAC25-880-1 was revised... We are concerned that the definition, with the addition of “or water area,” could be interpreted as expanding the oversight role of local VSMP Authorities for projects in waterways, such as dredging activities, when these projects currently fall under state and federal agency jurisdiction... In the draft Fact Sheet, DEQ indicated that the edits to the definition of “construction site” were made to make it consistent with the definition in EPA’s 2022 Construction GP; however, the impact of the addition of “or water area” was not explained. DEQ should clarify the intent of including “or water area” in the definition.</p>	<p>The definition of “construction site” in the EPA’s 2022 CGP is as follows:          “the land or water area where construction activities will occur and where stormwater controls will be installed and maintained. The construction site includes construction support activities, which may be located at a different part of the property from where the primary construction activity will take place, or on a different piece of property altogether.”           DEQ revised the definition of “construction site” for consistency with the EPA CGP.</p>

			The definition of “construction activity” is included in 9VAC25-875-20, which is incorporated into 9VAC25-880-1 by reference. Construction activities will continue to fall under the regulatory oversight of the appropriate agency. The additional language does not change or expand the oversight role of the authority. No changes are being made to the regulation in response to this comment.
27	Patrick J. Fanning, CBF	<b>Updated Definitions:</b> CBF appreciates the inclusion of new or expanded definitions for “construction dewatering,” “construction site,” “construction support activity, and revisions to “measurable storm event.” These definitions add clarity and provide certainty to permittees and the public.	Comment noted.
28	Patrick J. Fanning, CBF	<b>Definition of “Construction Activities”:</b> DEQ should consider incorporating EPA’s definition of “Construction Activities” as the General Permit repeatedly references “construction activities” but the term is not well-defined in the permit.	The definition of “construction activity” is included in 9VAC25-875, which is incorporated into 9VAC25-880-1 by reference.  No changes are being made to the regulation in response to this comment.
29	Kristin Carter, University of Virginia	<b>9VAC25-880-1 - Definition of Construction support activity:</b> Construction support activity – This newly added definition is broader than the use of support activity in the current CGP. Recommend the following additional description be added to the definition for consistency with existing CGP Part I.A.2: “The support activity is directly related to the construction activity that is required to have general permit coverage for discharges of stormwater from construction activities, and it is not a commercial operation, nor does it serve multiple unrelated construction activities by different operators.”	The definition for “construction support activity” was discussed with various stakeholders during the Technical Advisory Committee. The language presented is intended to be as flexible as EPA’s language and based on the type of construction support activities used throughout the Commonwealth. No changes are being made to the regulation in response to this comment.
30	Kristin Carter, University of Virginia	<b>9VAC25-880-1 – Definition of Final stabilization:</b> Final stabilization – This definition currently refers to “soil-disturbing” activities. Recommend replacing with “land-disturbing” activities for consistency with the majority of the regulation.	The use of the term “soil-disturbing” was not changed from the current CGP, only the addition of a hyphen. The definition for land-disturbing activities includes manmade changes to the land surface that has the potential to change runoff characteristics, which may

			include activities that do not require soil-disturbance. No changes are being made to the regulation in response to this comment.
31	Kristin Carter, University of Virginia	<b>9VAC25-880-1 – Definition of Immediately:</b> Immediately - This definition includes the statement “In the context of this general permit, ‘immediately’ is used to define the deadline for initiating stabilization measures.” The word ‘immediately’ is used for this purpose and other purposes in the CGP (one meaning physically adjacent, one regarding reporting unauthorized discharges, one regarding inspection frequency). Consider replacing some of the alternative uses of “immediately” and/or omit the sentence from the definition referenced above.	The use of immediately was not changed with this permit reissuance and is needed for compliance. No changes are being made to the regulation in response to this comment.
32	Jared A. Webb – Appalachian Power (APCO)	<b>9VAC25-880-1 – Definition of “Measurable Snow Event”:</b> The definition of a measurable storm event has been updated to include “snow melt from a snow event producing 3.25 inches or more of snow within a 24-hour period” and the permit indicates that the inspections for snowmelt occur “once the discharge of snowmelt occurs.” In our territory it is hard to measure exact snowfall at a site and there is often melting and refreezing due to temperatures normally staying at or above the freezing point during daytime. We are concerned with how we would measure the snowfall for a linear project and then how we would measure snowfall to understand how much has melted the next day to remain compliant under the permit. Often, we see sediment laden runoff only when construction activities are still taking place with snow cover or during melting. Perhaps the inspection could be contingent upon active construction?	Part II.G.2.b.(2).(b) and Part II.G.2.c outline when the operator is required to conduct an inspection from a snow melt and indicates that in areas that have been temporarily stabilized or land-disturbing construction activities will be suspended due to continuous frozen ground conditions and stormwater discharges are unlikely, the inspection frequency may be reduced until weather conditions make discharges likely.  The methodology used to identify measurable storm events has not changed with this revision. No changes are being made to the regulation in response to this comment.
33	Patrick J. Fanning, CBF	<b>Definition of “Operator”:</b> DEQ should consider incorporating EPA’s definition of “operator” as this term is currently undefined in the General Permit but used throughout.	The definition of operator is included in 9VAC25-875, which is incorporated into 9VAC25-880-1 by reference. No changes are being made to the regulation in response to this comment.

<p>34</p>	<p>Whitney S. Katchmark, Hampton Roads PDC</p>	<p><b>9VAC25-880-1:</b> Section 9VAC25-880-1 proposes a new definition for “qualified personnel,” which are the persons who are qualified to complete SWPPP inspections... it is our understanding that DEQ intends to develop the Construction GP Qualified Personnel certification program using the 2024 Construction GP and existing resources such as the Municipal Online Stormwater Training (“MOST”) course for construction sites. The HRPDC supports this initiative to develop a new course based on the new Construction GP and is interested in the schedule for development... The HRPDC suggests having the new Construction GP Qualified Personnel Certificate course available online and for a modest cost by January 2025 to ensure SWPPP inspectors will have time to take advantage of this option. We also suggest that DEQ further incentivize their Virginia-specific course by not including the EPA course as an option for “qualified personnel” and instead, limit the options to those courses approved by the department.</p>	<p>Multiple options were included within the proposed language to obtain certification for qualified personnel. The language has been expanded to include a certification from the department or VDOT. The EPA certification class is currently available for free and is included at the request of stakeholder input to provide a variety of on demand and low-cost options.</p> <p>DEQ’s Office of Training Services is already working on the training materials for Qualified Personnel certification option. This class will be online and offered at a reasonable cost.</p>
<p>35</p>	<p>J. Alex Forasté, Virginia Department of Transportation (VDOT)</p>	<p><b>Definition of “Qualified Personnel” – 9VAC25-880-1:</b> The proposed definition of the new term “qualified personnel” unduly limits eligible training and certification options. The Department supports DEQ’s efforts to ensure minimum expertise and knowledge for inspectors conducting CGP-mandated inspections. By unduly limiting the threshold of minimum qualification to (i) existing DEQ certifications, (ii) the Construction General Permit Qualified Personnel Certificate that has yet to be developed, or (iii) an equivalent EPA certification (which is not specific to Virginia law), the proposed regulation fails to recognize other comparable training and certification options such as the Department’s Erosion and Sediment Control Contractor Certification (ESCCC) program.</p>	<p>The definition of qualified personnel was revised to include a Construction General Permit Qualified Personnel Certificate administered by the department or VDOT.</p>
<p>36</p>	<p>J. Alex Forasté, VDOT</p>	<p><b>Definition of “Qualified Personnel” – 9VAC25-880-1 - Option 1:</b> On or after July 1, 2025, “qualified personnel” shall hold an unexpired certificate of competence for Project Inspector for Erosion and Sediment Control and an unexpired certificate of competence for</p>	<p>Please see the response to Comment 35.</p>

		Project Inspector for Stormwater Management, both issued by the department, a Construction General Permit Qualified Personnel Certificate administered by the department or VDOT, or an equivalent certification provided by EPA (currently titled Construction Inspection Training Course).”	
37	J. Alex Forasté, VDOT	<b>Definition of “Qualified Personnel” – 9VAC25-880-1 - Option 2:</b> On or after July 1, 2025, “qualified personnel” shall hold an unexpired certificate of competence for Project Inspector for Erosion and Sediment Control and an unexpired certificate of competence for Project Inspector for Stormwater Management, both issued by the department, a Construction General Permit Qualified Personnel Certificate administered by the department or an equivalent certification program approved by the department and delivered by an entity with approved standards and specifications, or an equivalent certification provided by EPA (currently titled Construction Inspection Training Course).”	Please see the response to Comment 35.
38	Kristin Carter, University of Virginia	<b>9VAC25-880-1 – Definition of Qualified personnel:</b> Qualified personnel – The changes to this definition are rather restrictive. The proposed regulation states: “On or after July 1, 2025, “qualified personnel” shall hold an unexpired certificate of competence for Project Inspector for Erosion and Sediment Control and an unexpired certificate of competence for Project Inspector for Stormwater Management, both issued by the department, a Construction General Permit Qualified Personnel Certificate, or an equivalent certification provided by EPA (currently titled Construction Inspection Training Course).”	Please see the response to Comment 34.

39	Kristin Carter, University of Virginia	<b>Certificates of Competence:</b> Requiring the qualified personnel to hold both a certificate of competence for ESC and SWM inspector seems like an excessive requirement. ESC inspector seems adequate, focusing on construction BMPs while the SWM inspector course focuses on post-construction BMPs. Projects that are part of a larger common plan of development or use regional SWM facilities may not involve the installation of a BMP, so requiring a SWM inspector certification is unnecessary.	Please see the response to Comment 34.
40	Kristin Carter, University of Virginia	<b>Construction General Permit Qualified Personnel Certificate:</b> What is a Construction General Permit Qualified Personnel Certificate? Is that a new certificate program DEQ plans to roll out? Is this an updated version of the RLD? Can the RLD certification be updated to meet the intent of the CGP qualified personnel certificate since VESMA already requires having an RLD be responsible for carrying out land disturbing activities in accordance with approved E&SC plans?	Please see the response to Comment 34.
41	Kristin Carter, University of Virginia	<b>Compliance with New Certification Requirements:</b> The proposed regulation only gives qualified personnel one year from the permit effective date to comply with the new certification requirements. This is a pretty short timeline to get staff that currently only have RLD certifications to pass these new requirements. I recommend giving three years to better match the RLD and inspector certificate effectiveness timeline. If the one-year deadline for new certifications is kept in the final CGP, consider offering a discount on course and test fees for people who have a valid RLD beyond that date.	Please see the response to Comment 34.
42	Andrew Clark - HBAV	<b>Delayed Enactment:</b> The proposed Construction General Permit includes a new defined term: "Qualified Personnel". The HBAV and other members of the TAC expressed support for the proposed definition, but also raised concerns about the availability of the training courses required to be certified as "qualified personnel". The "delayed enactment" of July 1, 2025 provides <i>some</i> assurance that the Department's training division	Please see the response to Comment 34.

		<p>will have sufficient time to develop and implement the necessary courses, the HBAV recommends that the compliance deadline be extended beyond July 1, 2025 in the event that staffing or budgetary constraints at the Department delay the timely rollout of those courses.</p>	
<p>43</p>	<p>Kristin Carter, University of Virginia</p>	<p><b>9VAC25-880-30 Authorization to Discharge – Implementation of CGP Fee Collection:</b> Section A.2 addresses a qualifying condition of paying all permit fees. In October 2021, I submitted comments on behalf of several state agency AS&amp;S holders during the Permit Fee NOIRA (attached for reference) to request a change in DEQ’s implementation of CGP fee collection. Lower permit registration fees and no maintenance fees apply to projects subject to department-approved standards and specifications (S&amp;S) for state agencies. The lower fee schedule is not currently provided to the private contractors working on behalf of these state agencies. As a result, state agencies are indirectly paying these higher fees as the contractors pass along these costs directly to our schools. We believe that since these contractors are working directly on behalf of a state agency with department-approved S&amp;S, the lower fee should be applicable to them. The CGP registration process includes submittal of a signed S&amp;S Entity Information Sheet that clearly links the private contractor’s registration statement to the corresponding state agency. The level of effort for DEQ’s oversight of construction activity on state property covered by S&amp;S is no different whether the S&amp;S entity themselves or their private contractor is the permit holder. We believe this change in invoicing could simply be addressed through different implementation practices by DEQ staff.</p>	<p>Permit fees are outlined in 9VAC25-875. The Construction General Permit regulation does not include the required permit fees. Any modifications to the permit and maintenance fees would require a regulatory action to amend 9VAC25-875.</p> <p>No changes are being made to the regulation in response to this comment.</p>



44	Andrew Clark - HBAV	<p><b>9VAC25-880-30: Maintenance Fees:</b>                  Several members of the regulated community have recognized the difficulty of tracking annual maintenance fees pursuant to 880-30 for both the regulated community and the Department. There have been inconsistencies in annual invoicing, challenges updating billing contact information after the submittal of the first registration statement, and most notably, difficulty obtaining verification from the Department about which sites owe fees and processing payments. The Home Builders Association of Virginia recommends that the Department invest in an electronic platform that would allow permittees to easily obtain information about outstanding project fees and to submit payment via credit card.</p>	<p>DEQ recognizes the benefit of an electronic platform and will be developing and implementing an electronic platform in the near future. No changes are being made to the regulation in response to this comment.</p>
45	Kristin Carter, University of Virginia	<p><b>9VAC25-880-30 F and 9VAC25-880-70 Part I E:</b> Recommend DEQ staff ensure this list of authorized nonstormwater discharges are consistent with the recently re-issued MS4 Phase II general permit and ISWGP for consistency.</p>	<p>The list of nonstormwater discharges provided in the general permit are specific to the type of discharges associated with construction activities and were already being revised for consistency with other general permits, as necessary. No additional changes are being made to the regulation in response to this comment.</p>
46	Jared A. Webb – Appalachian Power (APCO)	<p><b>9VAC25-880-30:</b> The addition of the text regarding “area of development and estimated area to be disturbed reported in the registration statement” is helpful. APCO is not sure we understand exactly what those terms mean and we have had questions on our registration statements with what acreage is included in Section C as that is the only location those terms show up. It would be great if DEQ could include definitions of each and describe how they are to be determined. We also would like to note that the text in the proposed registration statement section actually changes those terminologies in favor of “construction site”. If the registration statement will change to remove those terms we would be in favor of that decision. No registration statement was provided for review.</p>	<p>The “area or development” in Section C was revised to “area of the construction site” for consistency with the terminology used throughout the remainder of the permit.</p> <p>The definition for construction site is included in 9VAC25-880-1 and the area to be disturbed is based on the definition of land disturbance per 9VAC25-875, which is incorporated by reference.</p> <p>A final registration statement will be made available after approval of the regulation by the State Water Control Board.</p>

47	Patrick J. Fanning, CBF	<b>9VAC25-880-40:</b> In Section 9VAC25-880-40, the transfer of ownership language requiring a demonstration that the new operator will carry out long-term maintenance responsibilities should be restored in the final permit.	Long-term responsibility and maintenance requirements remain in Part I F of the general permit. The information was only removed from the requirements of the registration statement as it is typically handled prior to termination, not permit issuance. No changes are being made to the regulation in response to this comment.
48	Kristin Carter, University of Virginia	<b>9VAC25-880-50 Registration Statement – Section B.2:</b> When is an operation required to have a State Corporation Commission entity identification number?	The requirement to be registered is under the oversight of the State Corporation Commission ( <a href="http://www.scc.virginia.gov">www.scc.virginia.gov</a> ). The registration statement only requires the entity identification number if one is required per the SCC. No changes are being made to the regulation in response to this comment.
49	Kristin Carter, University of Virginia	<b>9VAC25-880-50 Registration Statement – Section C:</b> Recommend modifying this section as follows: “A stormwater pollution prevention plan (SWPPP) shall be prepared in accordance with this general permit prior to <del>commencement of land disturbance submitting the registration statement.</del> By signing the registration statement, the operator certifies that the SWPPP <u>will be prepared according to this schedule.</u> ” The SWPPP can be prepared while the department or VESMP authority is processing the permit. SWPPPs don’t require advance approval like the E&SC and SWM Plans, so requiring their preparation prior to submitting the registration statement just adds delays to the construction preparation process. If this recommendation is accepted, make the text in CGP Part II.A.1 consistent.	9VAC25-880-50 B17 (effective July 1, 2019) requires a SWPPP to be prepared prior to submitted the registration statement. The requirement in Subsection C of 9VAC25-880-50 is not new, it was merely moved to for clarify. No changes are being made to the regulation in response to this comment.
50	Andrew Clark - HBAV	<b>Existing Permit Coverage; Timeline to submit completed registration statements:</b> The Home Builders Association of Virginia would also recommend revising the proposed Construction General Permit to provide greater flexibility for permittees seeking to continue existing permit coverage. As proposed, permittees would be required to submit a completed registration statement at least ninety (90) days prior to the expiration of the permit, compared	There are more than 6,000 active construction general permits across the Commonwealth of Virginia. The department will have to review and process coverage for all registration statements received, including those received by local VSMP authorities.  Receipt of registration statements 90 days prior to

		<p>to the current requirement of sixty (60) days prior to the permit’s expiration. Rather than include a timeframe, we request that the following sections of the draft CGP be modified to read: i) <b>9VAC25-880-30.H.1:</b> <i>“Permit coverage shall expire at the end of its term. However, expiring permit coverages are automatically continued if an operator has submitted a complete registration statement <del>at least 90 days</del> prior to the expiration date of the permit, or a later submittal date established by the department and has paid all past due general permit maintenance fees...”</i> ii) <b>9VAC25-880-50.2.a.(1):</b> <i>“Submit a complete and accurate registration statement to the VESMP authority <del>at least 90 days</del> prior to the expiration date of the existing permit or a later submittal date established by the department;”</i> iii) <b>Part III.M:</b> <i>“Duty to reapply. If the operator wishes to continue an activity regulated by this general permit after the expiration date of this general permit, the operator shall submit a new registration statement <del>at least 90 days</del> before the expiration date of the existing general permit, unless permission for a later date has been granted by the department. The department shall not grant permission for registration statements to be submitted later than the expiration date of the existing general permit.”</i></p>	<p>expiration is the minimum amount of time needed to ensure all permits are reissued prior to expiration and is consistent with other VPDES general permits.</p> <p>No changes are being made to the regulation in response to this comment.</p>
51	Jared A. Webb – Appalachian Power (APCO)	<p><b>9VAC25-880-60:</b> We are concerned about the change in text relative to a Notice of Termination. Specifically, the change in text of “submittal” to “receipt” and the change from 60 days to 90 days. We look forward to DEQ creating an online system for submittal and tracking, but at this time when VDEQ is the VSMP Authority we rely on USPS to deliver a submittal package and are only documenting tracking/signatures of DEQ receipt from that delivery. Otherwise, we may not be notified that the full package was received or reviewed to determine completeness. APCO would recommend DEQ look into a better policy or procedure for submittal of required documents online or tracking of completeness review, if only for linear project owners. We also would like to hear more from DEQ about why 60 days</p>	<p>While the department understands the concerns regarding timely notification from the agency on termination packages, there are many instances where an operator indicates they submitted a package, but it was never received by the department as it was sent to an incorrect address or another regulatory agency. The notice of termination paperwork cannot be reviewed until it is received. In addition, the notice of termination paperwork often includes the review and recordation of easements, as well as the review of as-builts, which can include up to and exceed 100 stormwater facilities. The</p>

		<p>is not sufficient to understand the need for an operator to continue inspections and incur additional costs. We often are working on easement areas and our easement holders would like to have us off their property as soon as practicable.</p>	<p>additional time is needed to verify the required information is submitted and accurate. Please note, the department notifies operators of incomplete packages typically within two weeks of receipt of the termination package. Also, please note the department accepts scanned registration statements and notice of terminations packages electronically if the scanned document includes a wet signature. No changes are being made to the regulation in response to this comment.</p>
<p>52</p>	<p>Andrew Clark - HBAV</p>	<p><b>Termination of General Permit Coverage:</b> The proposed Construction General Permit proposed removing the following language from section 9VAC-25-880-60.B.3, and 9VAC25-880-70, Part I.F.d.4. : <i>“Authorization to discharge terminates at midnight on the date that the notice of termination is submitted for the conditions set forth in subdivisions A 2 through A 4 of this section unless otherwise notified by the VSMP authority or the department.”</i> Regarding the removal of section 9VAC-25-880-60.B.3, the Department no longer has a Notice of Termination effective date schedule for projects that meet the provisions of subdivisions A 2, A 3, and A 4 (i.e., another operator has assumed control; coverage obtained under an alternative VPDES permit; or completing final stabilization on individual lots in residential construction only). Therefore, we recommend that 9VAC25-880-60.B.2 be modified so that section 9VAC25-880-60.B.3 remains in the proposed Construction General Permit in its entirety. Additionally, we would recommend that section 9VAC25-880-70, Part I.F.4 remain in the draft CGP in its entirety.</p>	<p>The Notice of Termination effective date is now included in 9VAC25-880-60.B.2 and in Part I F 3 of 9VAC25-880-70, which states the following:  <i>“Termination of authorization to discharge shall be effective upon notification from the department that the provisions of subdivision 1 of this subsection have been met or 90 days after submittal of a complete and accurate notice of termination in accordance with 9VAC25-880-60 C, whichever occurs first, unless otherwise notified by the VESMP or the department.”</i></p> <p>As written, unless a registration statement was not required, if the permittee has not received notification from the department and or the VESMP authority, within 90 days after submittal of a complete and accurate notice of termination, the authorization to discharge terminates. No changes are being made to the regulation in response to this comment.</p>

53	Whitney S. Katchmark, Hampton Roads PDC	<b>Part II A 3: Permit Reference:</b> Part II.A.3 notes that if an operator had coverage under the existing Construction GP and wishes to continue coverage under this GP, the operator is required to update their SWPPP. The reference to the July 1, 2014, GP should be updated to the July 1, 2019, GP.	Revised as noted.
54	Patrick J. Fanning, CBF	<b>9VAC25-880-70(B)(1)(c):</b> We support the addition of language in 9VAC25-880-70(B)(1)(c) requiring the permittee to list the locations of areas where polymers, flocculants, or other stormwater treatment chemicals will be used or stored in the SWPPP.	Comment noted.
55	Patrick J. Fanning, CBF	<b>Concrete Wash Water Management:</b> CBF appreciates DEQ’s responsiveness to stakeholder input addressing this issue and supports the proposed language prohibiting the disposal of concrete wash water through infiltration or other disposal through the ground.	Comment noted.
56	Patrick J. Fanning, CBF	<b>Adopt EPA language for Concrete Wash Water:</b> In addition to the currently proposed language, DEQ should also adopt the language from EPA’s 2022 CGP to ensure that concrete wash water activities are located away from water bodies. EPA’s 2022 CGP requires that permittees must “[l]ocate any washout or cleanout activities as far away as possible from receiving waters, constructed or natural site drainage features, and storm drain inlets, and, to the extent feasible, designate areas to be used for these activities and conduct such activities only in these areas.” The Virginia CGP currently lists “locating activities away from surface waters” as one example of a way to “minimize the discharge of pollutants from vehicle and equipment washing, wheel wash water, and other types of washing;” however, this suggestive language is not sufficient to render this practice an enforceable provision of the permit.	The concrete wash water requirements were identified during the Technical Advisory Committee (TAC) meetings as needing clarification. The language in the regulation obtained consensus from the stakeholders to address the overarching issues seen throughout the Commonwealth due to the lack of clarity in the permit. The language is consistent with the intent of EPA’s CGP.  No changes are being made to the regulation in response to this comment.

57	Kristin Carter, University of Virginia	<p><b>Standards and Specifications:</b> There are multiple lengthy references to E&amp;SC and SWM Plans being prepared in accordance with standards and specifications approved by the department. Such references are made in 9VAC25-880- 30.A.4.a and b; and 9VAC25-880-70 Part II.B.2.a and c, Part II.B.3.a, and Part II.G.3.h. Such plans are not just prepared in accordance with department-approved standards and specifications, they are approved by certified personnel per 9VAC25-875-820. Recommend eliminating special and longwinded references to department-approved S&amp;S and simply refer to approved plans regardless of whether the approval comes from a VESMP authority or S&amp;S entity.</p>	<p>Some minor revisions were made to the language referencing approved ESC and SWM plans prepared in accordance with department-approved standards and specifications for clarification. However, the overall lists of the types of approvals remain as written to prevent an operator from not understanding what is required and to provide clear enforceability by the VESMP authority.</p>
58	Kristin Carter, University of Virginia	<p><b>9VAC25-880-70 General Permit:</b> - Add reference to standards and specifications entity to the list of people who: • should get access to the SWPPP (Part II.E.2), • provide approval of corrective actions (if applicable) (Part II.H.1), • receive copies of permit records upon request (Part III.D), • be notified of unauthorized discharges or unusual or extraordinary discharges (Part III.G), and • be allowed entry to the site for inspection purposes (Part III.W). The S&amp;S entity is not always the operator for their projects. At the University of Virginia, we require our contractor to hold the permit as they have operational control of the construction site.</p>	<p>Any requirement by an operator to submit these documents to a standard and specification holder should be included in the contract or other mechanism between those two parties. No changes are being made to the regulation in response to this comment.</p>
59	Brian Free	<p><b>Guidance needed on the use of flocculants to meet NTU targets in stormwater discharges:</b> Virginia previously provided guidance for the use of flocculants such as anionic polyacrylamide for treating turbid stormwater on site prior to discharging but there does not appear to be any mention of this treatment technology in the new permit. Consider adopting language from the EPA's Construction General Permit to provide guidance to erosion and sediment control practitioners in Virginia.</p>	<p>Specifications and details for construction BMPs are currently included in the Virginia Erosion and Sediment Control Handbook. DEQ is currently working to update and combine stormwater guidance manuals and documents into one document, the Virginia Stormwater Management Handbook. This new handbook will include updated construction BMP specifications and details, and will become effective on July 1, 2024, the same date as the effective date for the reissued Construction General Permit. No changes are being made to the</p>

			regulation in response to this comment.
60	Kyla J. Wood, PhD, Applied Polymer Systems, Inc.	<b>Guidance needed on how to limit the discharge of sediment from construction activities to achieve proposed numeric turbidity limits:</b> Regulation and guidance that limits the discharge of sediment from construction activities is vital to maintain the health of our nation's water resources. Equally important is providing permittees the tools needed to meet those limits. As the Permit is currently written, in conjunction with details provided in Virginia's Erosion and Sediment Control Handbook, there is not sufficient information and guidance to allow these criteria to be met in certain cases.	Please see the response to Comment 59.
61	Kyla J. Wood, PhD, Applied Polymer Systems, Inc.	<b>Guidance needed on the use of flocculants to meet NTU targets in stormwater discharges:</b> Providing guidance on flocculants and how they can be used to meet the new proposed numeric turbidity limits should be included in the proposed permit to ensure permittees are able to meet the limits and maintain compliance.	Please see the response to Comment 59.
62	Seva Iwinski	<b>Guidance on how to meet numeric dewatering discharge limits is needed:</b> Many engineers and erosion control professionals in Virginia have expressed concern with meeting the proposed numeric dewatering discharge turbidity limits. The expressed concern is that they have a numeric discharge limit to meet but have no tools or direction as to how to meet these discharge limits. Guidance should be provided in the permit for those conducting dewatering projects in VA on how to meet low numeric discharge limits.	Please see the response to Comment 59.
63	Rich McLaughlin, North Carolina State University	<b>Turbidity Reduction Options are needed:</b> Suggest providing options for folks to reduce turbidity since achieving 50 NTU or lower will require chemical treatment (or possibly filtration although not usually practical).	Please see the response to Comment 59.
64	Jerald S. Fifield, PhD, CISEC, HydroDynamics Incorporated	<b>Achieving Dewatering Discharge Turbidity Requirements:</b> Strongly suggest the addition of the use of flocculants as an acceptable method to achieve desired turbidity values for dewatering discharges activities.	Please see the response to Comment 59.

65	Tom Witt – Virginia Transportation Construction Alliance (VTCA)	<p><b>Turbidity Benchmarks:</b> The proposed instantaneous or daily turbidity benchmarks significantly exceed the EPA’s established weekly average benchmark. The technical feasibility to meet the proposed turbidity benchmarks is not likely to be achieved on roadway construction projects without extensive, costly, and impractical control methods. It is recommended that the Department establish consistency with EPA and several other states that have successfully implemented a higher weekly benchmark and a more practical daily average benchmark.</p>	<p>The benchmark limits for Options 1 and 2 have been revised for consistency with other permits. In addition, a third option consistent with EPA’s 2022 weekly turbidity benchmark has been added to provide additional flexibility. Finally, the ability for an operator to request an alternative benchmark threshold has also been added to the permit language.</p>
66	Tom Witt - VTCA	<p><b>Turbidity Sampling:</b> Turbidity sampling at the dewatering point appears to be required regardless of distance from the dewatering location to the discharge location. Since discharge locations could include upland areas where the water may never reach a given tributary, sampling should only be required at the discharge point to a jurisdictional tributary, not at the dewatering location. This should be clarified in the proposed regulations.</p>	<p>If dewatering activities do not reach surface water (e.g., are allowed to infiltrate through a vegetated area) then no turbidity monitoring is required due to there not being a discharge. Additional information has been added to the fact sheet for clarity.</p>
67	Tom Witt - VTCA	<p><b>Use of Dewatering structures needed to achieve benchmark:</b> Achieving the benchmark will require the use of more extensive dewatering “structures” on construction sites. The structures will need more space to be placed and operate requiring additional easements unnecessarily impacting land that would otherwise be left undisturbed.</p>	<p>The permit does not require specific controls to meet the turbidity threshold. The operator through their approved erosion and sediment control plan may choose the control necessary to address the benchmark. The benchmark threshold acts as a warning sign to the operator that changes may be needed in the dewatering control to improve pollutant removal. In addition, ongoing exceedance of the benchmark does not constitute a permit violation, provided the operator verified the controls were in place, ensured the controls were properly maintained, and documented these corrective actions in the SWPPP. No changes are being made to the regulation in response to this comment.</p>
68	Tom Witt - VTCA	<p><b>Surface waters:</b> The proposed language adds all surface waters within the Chesapeake Bay watershed, which includes all wetlands, intermittent and ephemeral streams. These features will</p>	<p>Option 1, obtain an upstream grab sample, was included to provide flexibility to the operator. The operator does not need to select this option. Two additional</p>



		be difficult, and perhaps non-existent, to obtain “upstream” grab samples as required to assess the baseline conditions and should be excluded from the proposed regulation.	options are available for use if an upstream sample cannot be obtained. No changes are being made to the regulation in response to this comment.
69	Tom Witt - VTCA	<b>Compliance:</b> As written, achieving compliance on construction projects with dewatering needs would impose significant time and economic burden on monitoring and daily threshold limit would lead to frequent work stoppage and significant, costly project delays.	The language requires the operator to test a minimum of two times. An ongoing exceedance of a benchmark would not constitute a permit violation, provided the operator verified their controls were in place, ensured controls were being maintained, and documented corrective actions. Failure to verify controls or perform routine maintenance would constitute a permit violation. Additional information has been added to the Fact Sheet for clarity.
70	Tom Witt - VTCA	<b>Dewatering Requirements:</b> Although a Technical Advisory Group was established to support development of the proposed changes, we believe that the proposed construction dewatering requirements fall short in technical feasibility, practicality, and economic impact. We recommend that additional discussion with DEQ and industry partners be held to identify an efficient and practical balance to protect Virginia’s waters. We look forward to being a part of those discussions.	The general permit establishes the requirements, as well as provides consistency with the requirements contained in EPA’s 2022 construction general permit, for protection of water quality. The reissuance of the CGP is needed for existing and new construction activities to be covered under the general permit regulation. If the general permit is not re-issued, the regulated community will need to obtain coverage under an individual permit, which would result in construction delays, more burdensome permit conditions, and increased costs. No changes are being made to the regulation in response to this comment.
71	Whitney S. Katchmark, Hampton Roads PDC	<b>Part II A 8: Turbidity Benchmark Monitoring of Construction Dewatering Activities:</b> The most significant change from the current 2019 Construction GP to the proposed 2024 Construction GP is the requirement in Part II.A.8 to conduct turbidity benchmark monitoring of construction dewatering discharges to surface waters identified as sediment impaired. This change constitutes a fundamental shift away from the Commonwealth’s practice of utilizing approved technology-based	The general permit establishes the requirements, as well as provides consistency with the requirements contained in EPA’s 2022 construction general permit, for protection of water quality.  The benchmark limits for Options 1 and 2 have been revised for consistency with other permits. In addition, a third option consistent with EPA’s

		<p>controls and significantly burdens site operators and VSMP Authority inspectors...Changing the Construction GP requirements to require monitoring of these controls burdens all site operators instead of specifically addressing the instances of noncompliance...DEQ should update the specifications for ESC controls and maintain the existing treatment requirements for construction dewatering in the permit...The added requirement of turbidity benchmark monitoring is not warranted because the Commonwealth already has effective permitting programs and controls for regulating turbidity and sediment...The proposed benchmark monitoring also adds to the costs of construction and program administration...The requirements for turbidity benchmark monitoring proposed in Part II.A.8 would present an additional enforcement challenge for VSMP Authorities...the HRPDC strongly recommends that DEQ preserve the requirements in the 2019 Construction GP that authorizes the discharge of uncontaminated excavation dewatering that has been filtered, settled, or otherwise treated and remove the benchmark monitoring provisions...if DEQ retains the turbidity benchmark monitoring provisions, there will be a significant need for training site operators...The HRPDC recommends that DEQ develop training materials for turbidity benchmark monitoring that is required for site operators.</p>	<p>2022 weekly turbidity benchmark has been added to provide additional flexibility. Finally, the ability for an operator to request an alternative benchmark threshold has also been added to the permit language.</p> <p>Please note the operator is required to monitor construction dewatering and document corrective actions. The overall compliance and enforcement actions by the VESMP authority do not change with the new permit language. The VESMP should already be reviewing the SWPPP for the necessary inspection and correction action reports.</p>
72	Patrick J. Fanning, CBF	<p><b>Inclusion of New Turbidity Benchmark:</b> The turbidity monitoring requirements for dewatering activities included in the 2022 EPA CGP are important steps toward ensuring these construction activities do not increase turbidity levels in receiving waters to levels that would not be protective of all of Virginia’s water quality standards. Turbidity is a useful indicator of the effectiveness of water quality treatment controls at construction dewatering sites and is a welcome inclusion into the monitoring requirements of the CGP. CBF strongly supports the turbidity benchmarking approach in the draft CGP for construction dewatering discharges to sediment impaired waters or exceptional</p>	<p>Comment noted.</p>

		waters that closely mirrors the turbidity benchmark provided in the 2022 EPA CGP.	
73	Patrick J. Fanning, CBF	<b>Groundwater Dewatering:</b> We also support the inclusion of groundwater dewatering as requiring turbidity benchmark monitoring consistent with the 2022 EPA CGP.	Comment noted.
74	J. Alex Forasté, VDOT	<b>Turbidity Benchmark Monitoring and Corrective Action Requirements:</b> The new proposed Virginia turbidity numeric benchmark is more restrictive than the federal CGP requirements, may not be achievable with existing ESC controls, is not based on an established Water Quality Standard, is not consistent with EPA’s project location applicability, and imposes economic impacts, project stoppages, and time delays. The Department would like to express its significant concerns regarding the inclusion of a numeric benchmark for construction dewatering activities. DEQ suspended previous efforts to adopt a numeric standard due to inconclusive evidence that turbidity had a negative impact on Virginia water quality. As such, the Department strongly recommends that DEQ and the Board consider the utilization of existing regulatory mechanisms and a technology-based approach rather than introducing potentially arbitrary numeric monitoring requirements.	<p>The benchmark thresholds for Options 1 and 2 have been revised for consistency with other permits. In addition, a third option consistent with EPA’s 2022 weekly turbidity benchmark has been added to provide additional flexibility. Finally, the ability for an operator to request an alternative benchmark threshold has also been added to the permit language.</p> <p>The general permit establishes the requirements, as well as provides consistency with the requirements contained in EPA’s 2022 construction general permit, for protection of water quality.</p>
75	J. Alex Forasté, VDOT	<b>The Proposed Numeric Turbidity Benchmark Monitoring Corrective Action Trigger is More Restrictive than the Federal CGP:</b> The proposed numeric turbidity benchmark triggering corrective action at 50 NTU is based on a single instantaneous sampling event. This is significantly more restrictive than the federal CGP benchmark, which is based on a weekly average of monitoring results at 50 NTU. The proposed numeric Turbidity Benchmark Monitoring requirements will result in significantly more corrective action responses, including work stoppage, than the federal CGP.	Please see the response to Comment 74.
76	J. Alex Forasté, VDOT	<b>The Corrective Action Trigger represents a Technological Standard that may not be achievable:</b> The proposed CGP Turbidity Benchmark Monitoring includes two corrective action	Please see the response to Comment 74.

		<p>trigger options that an operator can employ to implement the permit requirements. The corrective action triggers are either (i) a discharge in which the turbidity exceeds that of the receiving water by more than 10 NTU, or (ii) the discharge turbidity exceeds 50 NTU. In order to comply with these turbidity levels, construction sites will likely be forced to implement passive coagulation techniques, at a minimum, and more than likely would be required to implement active treatment before discharge.</p>	
77	J. Alex Forasté, VDOT	<p><b>The Proposed Turbidity Benchmark Monitoring Action Trigger of 50 NTU is Not Based on Virginia Water Quality Standards:</b> Virginia has not established a numeric turbidity water quality standard to protect aquatic resources from interference, directly or indirectly, with the designated uses of state waters. Notably, DEQ suspended previous efforts to adopt a numeric standard due to inclusive evidence that turbidity had a negative impact on Virginia water quality.</p>	Please see the response to Comment 74.
78	J. Alex Forasté, VDOT	<p><b>Applying the proposed Turbidity Benchmark Monitoring Requirements to All projects in the Chesapeake Bay Watershed significantly expands the scope of regulated activities beyond Federal Standards:</b> The proposed Turbidity Benchmark Monitoring requirements would apply to projects that discharge to “all surface waters within the Chesapeake Bay watershed,” effectively all projects occurring on any of the 13.9 million acres in Virginia, or over 80% of the active construction projects with CGP coverage listed on DEQ’s construction webpage. The proposed Turbidity Benchmark Monitoring requirements are both more restrictive than those in the federal CGP and applicable to a greater geographic scope of projects. Significantly, Appendix A of the federal CGP states that the intended applicability of the Turbidity Benchmark Monitoring requirements is to only “the first water of the U.S. that receives the stormwater discharge from the storm sewer system.” By requiring construction dewatering activities monitoring on construction activities throughout the entire Chesapeake Bay</p>	Please see the response to Comment 74.

		watershed to implement construction dewatering activity monitoring, the proposed CGP expands the impacted regulated community beyond the defined federal regulated community, which is identified as the first water of the U.S. that receives stormwater runoff.	
79	J. Alex Forasté, VDOT	<b>The Proposed CGP Turbidity Benchmark Monitoring requirements are unrealistic and not cost-effective:</b> The requirement to conduct monitoring every day that dewatering occurs and implement corrective actions immediately based on those monitoring results will require mobilization of staff and contractors on days when active construction occurs. The requirement to cease Turbidity Benchmark Monitoring discharge upon exceedance of the instantaneous benchmark trigger can result in the stoppage of work on days during periods of active construction, leading to time delays of construction state transportation projects. Time delays can lead to economic impacts.	Please see the response to Comment 74.
80	J. Alex Forasté, VDOT	<b>Pump and Haul:</b> A pump and haul approach of stormwater is not a practicable option.	The regulation has been revised to add additional options to address construction dewatering. Please see the response to Comment 74.
81	J. Alex Forasté, VDOT	<b>Records of Monitoring Information and Corrective Actions:</b> The proposed CGP language requires the records regarding monitoring information and associated corrective actions to be recorded in the Stormwater Pollution Prevention Plan (SWPPP) and that the SWPPP be updated by a duly authorized individual no later than five (5) business days of the amendment or modification. This requirement regarding documentation will require dedication of significantly more human resource time for each project despite the unavailability of a workforce with the required specialized skillsets and training.	The regulation has been revised to add additional options to address construction dewatering. Please see the response to Comment 74.
82	J. Alex Forasté, VDOT	<b>Turbidity readings taken in compliance with the timeframe are not representative of the associated discharge:</b> Standard NPDES permit conditions require that samples must be representative of the discharge. The language in the proposed CGP requires that Turbidity Benchmark Monitoring occur within the first 15 minutes of its	The regulation has been revised to add additional options to address construction dewatering. Please see the response to Comment 74.

		<p>commencement. Studies have found, however, that the efficiency of some erosion and sediment control products are more efficient as time progresses. The requirement to monitor within the first 15 minutes of the discharge may not provide a representative assessment of the overall discharge. The requirement to cease the discharge while investigating corrective action responses will interrupt the filtering process and will reduce the overall effectiveness of the process. This monitoring schedule is not consistent with the federal Turbidity Benchmark Monitoring requirements, which establish a daily monitoring schedule and allow for the incorporation of local conditions to ensure a representative sample.</p>	
83	J. Alex Forasté, VDOT	<p><b>The Proposed CGP requirement to monitor the discharge from Construction Dewatering Activities is inconsistent with Part III A of the Proposed CGP:</b> Part III A. of the proposed CGP requires that “monitoring shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this general permit.” This requirement must be included in all VPDES permits as a condition of DEQ’s delegated NPDES authority. The proposed CGP language does not specify alternative procedures, only that the results of monitoring be compared against a defined benchmark. This creates conflicting CGP conditions by which the operator must attempt to comply.</p>	<p>The regulation has been revised to add additional options to address construction dewatering. Please see the response to Comment 74.</p>
84	J. Alex Forasté, VDOT	<p><b>A technology-based approach in lieu of numeric turbidity monitoring, with the inclusion of a more robust standard including secondary containment in the DEQ Stormwater Handbook, would be more effective, reduce uncertainty and compliance conflicts, and mitigate associated project delays and economic impacts:</b> VDOT requests that the numeric turbidity benchmark monitoring be removed from the proposed CGP and be replaced with technology-based ESC controls. Alternatively, DEQ should consider a third option be included allowing for the</p>	<p>The regulation has been revised to add additional options to address construction dewatering. Please see the response to Comment 74.</p>

		implementation of technology-based ESC controls in lieu of performing turbidity monitoring. The Virginia Erosion and Sediment Control Handbook currently includes a standard and specification for Dewatering Structures in Chapter 3.26. The Commonwealth is currently updating the DEQ Stormwater Handbook that will serve to supersede this existing ESC Handbook and Chapter with a timeline that coincides with the proposed 2024 CGP. This represents an opportunity to update the standard to be more robust and address specific issues.	
85	J. Alex Forasté, VDOT	<b>Reconvene the TAC:</b> If DEQ determines that an instantaneous numeric turbidity benchmark is necessary, VDOT requests that the TAC be reconvened to allow for discussion of the draft language as well as consideration of a numeric turbidity benchmark that is not based on an instantaneous sample and is comparable to, or less restrictive than, EPA’s weekly average of 50 NTU. VDOT is available to participate with these discussions as an active member of the TAC.	The regulation has been revised to add additional options to address construction dewatering. Please see the response to Comment 74.
86	Dale Chestnut, Stormwater Coordinator, James Madison University	<b>9VAC25-880-70 Part II.B.8:</b> We would request that the turbidity sampling requirement for dewatering activities be removed. Our suggested change would be to update the dewatering structure specification in the new Stormwater Handbook to meet expectations. Starting down the path of requiring testing for BMPs installed meeting specifications that are listed as high efficiency for sediment removal does not seem beneficial. Was there a specific practice or situation noted by EPA or DEQ to want to include turbidity testing? I believe that could be evaluated and addressed in the BMP specification without field sampling.	The regulation has been revised to add additional options to address construction dewatering. Please see the response to Comment 74.
87	Kristin Carter, University of Virginia	<b>9VAC25-880-70 Part II B 8 – Dewatering Discharge Requirements:</b> We are concerned about the considerable burden on our contractors to sample, test and document construction dewatering operations and inspectors to verify permit compliance is being met. There is nothing in the federal stormwater regulations that mandates a numeric turbidity requirement for dewatering discharges. EPA explains in	The regulation has been revised to add additional options to address construction dewatering. Please see the response to Comment 74.

		<p>the Preamble to its Proposed and Final 2022 Reissuance of the CGP that adopting water quality standard requirements like the turbidity benchmark is discretionary, not mandatory. We request these numeric-based requirements be replaced with non-numeric management practices and qualitative evaluation methods such as those provided in Section 2.4 of the 2022 EPA CGP.</p>	
<p>88</p>	<p>Kristin Carter, University of Virginia</p>	<p><b>If numeric-based requirements must be included in the 2024 Virginia CGP:</b> Please consider the following revisions or considerations in their implementation:</p> <ul style="list-style-type: none"> <li>• Recommend DEQ provide training sessions for contractors and authority/S&amp;S inspectors on how to sample, document and enforce the provisions of the turbidity monitoring requirements.</li> <li>• Exempt sites with an "agreement in lieu of a plan" and small construction activity from the turbidity monitoring requirements.</li> <li>• The proposed CGP specifies that grab samples of construction dewatering water be compared to the turbidity benchmark levels. Recommend following EPA's approach in their 2022 CGP of corrective actions being driven by the weekly average value or a single grab sample of 355 NTUs or higher.</li> <li>• Sample location – A silt bag is frequently used to control construction dewatering discharges. The water seeps out of the bag in a diffuse manner making collection of a grab sample challenging. Has DEQ successfully collected such samples without contaminating the sample container with soil from the underlying ground surface?</li> <li>• Sample location – Both turbidity benchmark options indicate that samples of the construction dewatering water should be collected prior to discharge to a stormwater conveyance system or surface water. Is sampling not required if the water is directed to an on-site sediment trap or basin, or would sampling be required at the trap or basin outlet only if it is discharging during construction dewatering activities?</li> <li>• Visual monitoring – Does someone need to watch the dewatering activity</li> </ul>	<p>The general permit establishes the requirements, as well as provides consistency with the requirements contained in EPA's 2022 construction general permit, for protection of water quality.</p> <p>The benchmark limits for Options 1 and 2 have been revised for consistency with other permits. In addition, a third option consistent with EPA's 2022 weekly turbidity benchmark has been added to provide additional flexibility. Finally, the ability for the permit to request an alternative benchmark threshold has also been added to the permit language.</p> <p>For clarity, the benchmark threshold for turbidity is not an effluent limit. As such, an exceedance of the benchmark threshold does not itself constitute a permit violation. Rather, the benchmark threshold acts as a warning sign to the operator that changes may be needed in the dewatering controls to improve pollutant removal and protect water quality. In addition, if dewatering activities do not reach surface water (e.g., are allowed to infiltrate through a vegetated area) then no turbidity monitoring is required due to there not being a discharge.</p> <p>The options have been broken out in detail in Part II.B.8 to prevent confusion and provide</p>



		<p>constantly or is this a periodic check for changes in the effluent discharge?</p> <ul style="list-style-type: none"> <li>• There are several identical requirements that apply to both turbidity benchmark options. I recommend pulling out the common requirements and state them first (and only once), rather than repeating them. For example, Part II.B.8.a.(1) and (2) are the same as Part II.B.8.b.(1) and (2).</li> <li>• Turbidity benchmark option 2 - Recommend omitting the last sentence with the corrective action criteria from the sample frequency description (Part II.B.8.b(3)(a)), since it is already and more appropriately stated in the corrective action description (Part II.B.8.b(3)(f)).</li> </ul>	<p>clarity on what is required for each option. Parts II.H.2-3 were revised to remove redundancy in the required corrective actions.</p>
89	Virginia Municipal Stormwater Association (VAMSA)	<p><b>SWPPP Requirements:</b> VAMSA continues to be concerned about new stormwater pollution prevention plan (SWPPP) requirements for construction dewatering discharges to sediment impaired or exceptional waters. We are concerned that the Proposed CGP includes an unattainable turbidity standard and that exceedances of the standard may not have anything to do with construction site discharges. As DEQ knows, instream turbidity levels fluctuate greatly for many reasons unrelated to stormwater discharges, including, for example, resuspension from rainstorms, aquatic species moving sediments around, and runoff from snowmelt. Local governments will be called upon to train our inspectors to recognize issues with sampling and dewatering. Once trained, the inspectors will be asked to determine whether a construction site has appropriately monitored for turbidity and taken necessary corrective action. This will not only happen more frequently, because the turbidity benchmarks are so low, but it will result in more in-field conversations with the regulated community about the cause for the exceedance. Frankly, enforcement in the field seems very difficult if not infeasible. We oppose establishing a program that will create an almost impossible task on the front end and back end.</p>	<p>The general permit establishes the requirements, as well as provides consistency with the requirements contained in EPA’s 2022 construction general permit, for protection of water quality.</p> <p>The benchmark limits for Options 1 and 2 have been revised for consistency with other permits. In addition, a third option consistent with EPA’s 2022 weekly turbidity benchmark has been added to provide additional flexibility. Finally, the ability for an operator to request an alternative benchmark threshold has also been added to the permit language.</p> <p>Please note the operator is required to monitor construction dewatering and document corrective actions. The overall compliance and enforcement actions by the VESMP authority do not change with the new permit language. The VESMP should already be reviewing the SWPPP for the necessary inspection and correction action reports.</p>

<p>90</p>	<p>Virginia Municipal Stormwater Association (VAMSA)</p>	<p><b>Impact on Private Construction Companies:</b> VAMSA also envisions serious impacts on private construction companies associated with the increased cost of purchasing turbidity equipment, hiring and/or training employees on the use of the equipment, and possibly engaging consulting/testing services.</p>	<p>The average cost of a standard turbidity meter ranges from \$970 to \$1,870.</p> <p>The language requires the operator to test a minimum of one time or two times if a benchmark is exceeded. An ongoing exceedance of a benchmark would not constitute a permit violation, provided the operator verified their controls were in place, ensured controls were being maintained, and documented corrective actions. Failure to verify controls or perform routine maintenance would constitute a permit violation. Thus, the only costs for stopping work would be if the controls are inadequate and must be repaired. Additional options for dewatering thresholds have been added to provide additional flexibility.</p>
<p>91</p>	<p>Virginia Municipal Stormwater Association (VAMSA)</p>	<p><b>Turbidity Monitoring Costs:</b> Requiring turbidity monitoring can add greatly to cost, which must then be passed on to our communities. VAMSA asks that DEQ consider whether the purported benefits to water quality can be shown to outweigh the costs of conducting extensive monitoring during public construction. VAMSA questions the Office of Regulatory Management’s Economic Review Form, which suggests the only cost associated with the new dewatering requirements would be the “cost of purchasing a turbidity meter for operators that do not currently have one, and the cost of any maintenance, repairs, or additional controls that may be necessary if the turbidity benchmark is exceeded.” Review Form, p. 4. This entirely ignores numerous costs that localities would incur, including the cost of having to stop a project mid-stream to address a turbidity issue that is likely not even related to our construction.</p>	<p>The Office of Regulatory Management’s Economic Review Form indicated that the direct costs associated with this change are the cost of purchasing a turbidity meter for operators that do not currently have one, and the cost of any maintenance, repairs, or additional controls that may be necessary if the turbidity benchmark is exceeded. It also stated that there are indirect costs associated with this change, which includes the time it takes to perform the turbidity test, take any necessary corrective act, and to train personnel on the use of a turbidity meter. As mentioned in the form, these are indirect costs and cannot be monetized at this time.</p> <p>As written, the operator is required to monitor construction dewatering and document corrective actions. The overall compliance and enforcement actions by the VESMP authority</p>

			<p>do not change with the new permit language as the VESMP authority should already be reviewing the SWPPP for the necessary inspection and correction action reports. Exceedance of the turbidity benchmark is not a violation. Failure to document the monitoring and corrective actions in the SWPPP would constitute a permit violation.</p>
<p>92</p>	<p>Virginia Municipal Stormwater Association (VAMSA)</p>	<p><b>Reconsider the Proposed Turbidity Provision – Consider Alternatives:</b>                  VAMSA respectfully requests that DEQ reconsider the proposed turbidity provision in the forthcoming CGP. 9VAC25-880-70, Part II B 8. VAMSA requests that DEQ consider the following alternatives before reissuing the CGP:                  i. Preferred Option (Pennsylvania). Strike the new numeric construction dewatering requirements. Instead, adopt best management practice (BMP) non-numeric requirements that address potential turbidity during dewatering discharges.                  ii. Alternative Option #1 (Georgia). Include turbidity monitoring as an alternative among other management options for addressing dewatering. In addition, exempt smaller construction sites from the requirement (e.g., development with under five (5) acres of disturbance) and vary the NTU requirement based on the site size for other permittees.                  iii. Alternative Option #2 (Georgia). Revise the Proposed CGP to clarify that no corrective actions are required even if a permittee exceeds the turbidity benchmark if the permittee confirms, based on an inspection, that BMPs are properly installed, operated, and maintained. In addition, exempt smaller construction sites from the benchmark monitoring requirement and vary the NTU requirement based on the site size for other permittees.                  iv. Alternative Option #3 (Oklahoma &amp; Vermont). Adopt a more reasonable standard based on seasonal base flow conditions. Include specific language that explains that elevated turbidity levels may be expected during, and for several</p>	<p>The benchmark limits for Options 1 and 2 have been revised for consistency with other permits. In addition, a third option consistent with EPA’s 2022 weekly turbidity benchmark has been added to provide additional flexibility. Finally, the ability for the permit to request an alternative benchmark threshold has also been added to the permit language.</p> <p>The general permit establishes the requirements, as well as provides consistency with the requirements contained in EPA’s 2022 construction general permit, for protection of water quality.</p>

		<p>days after, a runoff event. In addition, exempt smaller construction sites from the monitoring requirement and vary the NTU threshold based on the site size for other permittees.</p> <p>v. Alternative Option #4 (Maryland). Adopt a more reasonable standard based on a daily maximum of 150 NTU. In addition, exempt smaller construction sites from the monitoring requirement and vary the NTU threshold based on the site size for other permittees.</p>	
93	Virginia Municipal Stormwater Association (VAMSA)	<p><b>Adopting Construction Dewatering Requirements is Premature:</b> The development of turbidity standards is widely understood to be a technically difficult process—perhaps even more so than the development of nutrient-related criteria. The Board suspended previous efforts to adopt numeric turbidity standards due to inconclusive evidence that turbidity had a negative impact on Virginia water quality. In 2009, EPA promulgated Effluent Limitations Guidelines and Standards for the Construction and Development (C&amp;D) Point Source Category. (74 FR 62996). The rule included a 280 NTU maximum daily discharge limit for turbidity from construction sites disturbing 10 or more acres at one time. After a lawsuit was filed, EPA revised the 2009 in 2014 and, in part, removed the numeric limits. VAMSA acknowledged during RAP discussions and still holds the view that adopting numeric turbidity criteria is a thorny and scientifically difficult issue. Our view in 2021 was, and still is, that the State would be better served by reviewing how to improve construction practices in lieu of a numeric requirement, whether that be in the State’s water quality standards or in the CGP. DEQ recently removed sediment reductions from the VPDES General Permit for Stormwater Discharges from Small Municipal Storm Sewer Systems. The turbidity requirement in the Proposed CGP is inconsistent with this approach, which was blessed by the Chesapeake Bay Principals’ Staff Committee.</p>	<p>The VPDES General Permit for Discharges from Construction Activities is specifically related to construction activities across the Commonwealth of Virginia and not just the Chesapeake Bay Watershed. The dewatering discharge turbidity thresholds apply to discharges to surface waters that are: i) identified as impaired in the 2022 § 305(b)/303(d) Water Quality Assessment Integrated Report for Benthic Macroinvertebrates Bioassessments; (ii) with an applicable TMDL wasteload allocation established and approved prior to the term of this general permit for sediment or a sediment-related parameter (i.e., total suspended solids or turbidity) including all surface waters within the Chesapeake Bay Water; or (iii) identified in 9VAC25-260-30 A 3 c as an exceptional water. Dewatering discharges from construction site dewatering activities may contain pollutants that exceed applicable water quality standards and contribute to downstream erosion, if not managed by appropriate controls. No changes are being made to the regulation in response to this comment.</p>
94	Virginia Municipal Stormwater	<p><b>The CGP Dewatering Requirements are Unworkable:</b> The Proposed CGP includes a new requirement that directs</p>	<p>Please see the response to Comment 92.</p>

	<p>Association (VAMSA)</p>	<p>permittees who are discharging to sediment-impaired or exceptional waters to monitor dewatering discharges using one of two methods. The first option is to take a grab sample upstream of the discharge and at the discharge point. The second option is to take a grab sample at the discharge point.<sup>5</sup> If the turbidity level is greater 50 NTUs/FTUs, the permittee must take corrective action. VAMSA is worried that the 10 and 50 NTU thresholds are so low that construction sites across the Commonwealth will be disrupted continuously because of stream conditions that are unrelated to construction activities. That is a concern for VAMSA Members' own projects, as well as for the additional burden it will place on VSMP Authorities' inspection and compliance staff. VAMSA questions how many waterbodies in Virginia could comply with a 10 or 50 NTU standard even without any external influences. Until we have a better understanding of the science, and of the variability of natural levels of turbidity in the State's waterbodies, we should exercise caution about setting an artificially low, and likely impossible-to-meet standard for construction sites that are already regulated by an extensive set of management requirements under the CGP.</p>	
<p>95</p>	<p>Virginia Municipal Stormwater Association (VAMSA)</p>	<p><b>Virginia is Not Required to Adopt a Numeric benchmark:</b> VAMSA acknowledges that EPA's 2022 CGP reissuance includes a 50 NTU weekly average benchmark (more generous than what DEQ is proposing). Regardless, Virginia is not required to follow EPA's lead on this point. EPA explains in the Preamble to its Proposed and Final 2022 Reissuance of the CGP that adopting WQS requirements like the turbidity benchmark is discretionary, not mandatory. NPDES permits for construction stormwater must include technology-based effluent limits based on CWA §301, and where applicable, CWA §306. (Preamble, Proposed 2022 Reissuance of CGP, 86 FR 26023, 26026-26027 (May 12, 2021); Preamble, Final 2022 Reissuance of CGP, 87 FR 3522, 3524 (Jan. 24, 2022).</p>	<p>Please see the response to Comment 92.</p>

<p>96</p>	<p>Virginia Municipal Stormwater Association (VAMSA)</p>	<p><b>Federal Stormwater Regulations:</b> There is nothing in the federal stormwater regulations that mandates a numeric turbidity requirement for dewatering discharges. 40 C.F.R. §122.26(c) includes the application requirements for stormwater discharges from industrial activity and small construction activity. The requirements only apply to an individual permit, and, in any case, there are no turbidity requirements.</p>	<p>Please see the response to Comment 92.</p>
<p>97</p>	<p>Virginia Municipal Stormwater Association (VAMSA)</p>	<p><b>Better Alternatives to the Proposed Dewatering Requirements:</b> VAMSA researched federal and other state requirements for turbidity in a construction stormwater general permit. We offer the following as alternative options for DEQ to consider should the Department decide to press forward with a construction dewatering requirement.</p> <p>i. Pennsylvania’s 2019 CGP includes a prohibition on discharges to surface waters that are impaired for siltation, suspended solids, turbidity, etc. “unless the discharges will be managed with a non-discharge alternative or ABACT [Antidegradation Best Available Combination of Technologies] BMPs.” The CGP also states the permittee may not discharge “Floating solids, scum...and foam or substances that produce an observable change in the color, taste, odor or turbidity of the receiving water.” Pennsylvania’s State WQS includes one numeric turbidity criterion based on special studies for the Neshaminy Creek Basin (100 NTU limit or seasonal limit from May 15-Sept. 15 or 40 NTU, for Sept. 16-May 14, 100 NTU, depending on the stretch). (25 Pa. Code §93.6).</p> <p>ii. Maryland’s 2023 CGP includes turbidity benchmark monitoring for sites discharging dewatering water to Tier II or Waters listed as impaired for sediment or a sediment related parameter. However, in Maryland the benchmark threshold for turbidity is a daily maximum of 150 NTUs. The Construction Dewatering Requirement from the CGP leans heavily on non-numeric management measures.</p> <p>iii. North Carolina does have a numeric turbidity requirement in its WQS. However, it includes “safe harbor”</p>	<p>Please see the response to Comment 92.</p>

		<p>language that links BMPs to full compliance.</p> <p>iv. Georgia has language similar to North Carolina in its WQS.</p> <p>v. Colorado does not have numeric turbidity requirements.</p> <p>vi. Massachusetts does not have numeric turbidity requirements.</p> <p>vii. Oklahoma does have numeric turbidity requirements, but they apply to seasonal base flow conditions.</p> <p>viii. Vermont: From Subchapter 3, § 29A-302 (4), Vermont Water Quality Standards: (A) Class A (1) and A (2) Waters for Any Use or Cold-Water Fish Habitat. Turbidity levels not to exceed 10 NTU (nephelometric turbidity units) as an annual average under dry weather base-flow conditions. (B) All Other Waters. Turbidity levels not to exceed 25 NTU as an annual average under dry weather base-flow conditions.</p>	
98	Virginia Municipal Stormwater Association (VAMSA)	<p><b>EPA's 2022 CGP:</b> EPA's 2022 CGP (Section 3.3.2, Turbidity benchmark) allows a permittee to request an alternative benchmark threshold: a. The benchmark threshold for turbidity for this permit is 50 NTUs (referred to elsewhere in this permit as the "standard 50 NTU benchmark") unless EPA has authorized the use of an alternate benchmark in accordance with Part 3.3.2b. b. Request for alternate benchmark threshold. i. At any time prior to or during your coverage under this permit, you may request that EPA approve a benchmark for your site that is higher than 50 NTUs if you have information demonstrating the higher number is the same as your receiving water's water quality standard for turbidity. Unless EPA approves an alternate benchmark, you will be required to use the standard 50 NTU benchmark...</p>	An alternative benchmark option has been added as requested to Part II.B.8.c of the permit language.
99	Jesse E. Maines – City of Alexandria	<p><b>9VAC25-880-70 Part II (B) (8):</b> The City is concerned that the turbidity limits in the Stormwater Pollution Prevention Plan (SWPPP) requirements for construction dewatering discharges to sediment impaired waters or exceptional waters in 9VAC25-880-70, Part II(B)(8), are unattainable and may have no bearing on the types of activities or controls that are installed on the construction site.</p>	The benchmark threshold for turbidity is not an effluent limit. As such, an exceedance of the benchmark threshold does not itself constitute a permit violation. Rather, the benchmark threshold acts as a warning sign to the operator that changes may be needed in the dewatering controls to improve pollutant removal and protect

			<p>water quality. In addition, if dewatering activities do not reach surface water (e.g., are allowed to infiltrate through a vegetated area) then no turbidity monitoring is required due to there not being a discharge. Please also see the response to Comment 92.</p>
<p>100</p>	<p>Jesse E. Maines – City of Alexandria</p>	<p><b>Turbidity Benchmark Options:</b> The City is also concerned that the turbidity benchmark options that assign numeric turbidity standards of the upstream/downstream difference of +10 NTU/FTU and 50 NTU/FTU directly from the dewatering discharge, respectively, do not consider the geological or physiographic conditions of the Commonwealth. For instance, upstream/downstream monitoring in Turbidity benchmark option 1 is concerning because in-stream turbidity may be impacted by factors unrelated to construction activities such as upstream discharges, channel erosion, and in-stream processes. Additionally, naturally occurring iron-concentrated groundwater in many localities throughout the Atlantic Coastal Plain already exceeds the proposed 50 NTU benchmark in Turbidity benchmark option 2. In their suspended form (i.e., at the point of discharge), iron particles render most, if not all, conventional filtration practices totally ineffective. Therefore, the proposed turbidity standard risks implementing a numeric benchmark that 1) places a value that is lower than natural conditions currently present and 2) cannot be feasibly met through corrective action measures. Outside of establishing a numeric criterion based on acceptable scientific research on natural turbidity levels in the waters of the Commonwealth, the City respectfully requests the consideration of approaches in neighboring states such as Pennsylvania and Maryland that use a non-numeric requirement to address potential turbidity during dewatering.</p>	<p>The regulation has been revised which allows the operator to request an alternative benchmark threshold from the Department. The additional language provides further flexibility to the operator and is consistent with EPA’s 2022 CGP. Please also see the responses to Comments 74 and 92.</p>



101	Jesse E. Maines – City of Alexandria	<b>Impact on Staff Resources:</b> The City is also concerned about the additional amount of effort required by staff to enforce the turbidity requirements through ‘periodic’ inspections required under the VSMP regulations and how to enforce these requirements. This includes ensuring that equipment calibrations are done correctly, that exceedances are addressed properly. This will potentially require additional inspections beyond those required in regulation to meet this new standard of compliance.	As written, the operator is required to monitor construction dewatering and document corrective actions. The overall compliance and enforcement actions by the VESMP authority do not change with the new permit language as the VESMP authority should already be reviewing the SWPPP for the necessary inspection and correction action reports. Exceedance of the turbidity benchmark is not a violation. Failure to document the monitoring and corrective actions in the SWPPP would constitute a permit violation. No changes are being made to the regulation in response to this comment.
102	Jesse E. Maines – City of Alexandria	<b>Standard Method of Turbidity Testing:</b> While the City appreciates flexibility in permit regulations, there is concern that the omission of a standard method of turbidity testing will lead to confusion on the part of the construction site operators to properly collect and analyze the samples and thereby leading to an inconsistent approach to enforcement by local VSMP authorities charged with enforcing the proposed permit requirements.	As the turbidity benchmark is a benchmark and not an effluent limit, there is no need to identify a standard testing method. The operator needs only to purchase a standard turbidity meter and follow the manufacturer’s instructions for use. The VESMP authority is not required to verify the results or calibrate the turbidity meter. No changes are being made to the regulation in response to this comment.
103	Jared A. Webb – Appalachian Power (APCO)	<b>“Construction Dewatering Discharges to Surface Waters”:</b> APCO assumes that the statement “construction dewatering discharges to surface waters” includes only dewatering operations that have visible flow of water to a surface water defined as a Water of the Commonwealth by DEQ VWWP and those located within the construction site. If turbidity benchmark options are required outside of the construction site at adjacent surface waters, then we have concerns about legal rights or ability to access and conduct inspections and sampling.	If dewatering activities do not reach surface water (e.g., are allowed to infiltrate through a vegetated area) then no turbidity monitoring is required due to there not being a discharge. Additional information has been added to the fact sheet to clarify this intent. Please also refer to the responses to Comments 74 and 92.
104	Andrew Clark - HBAV	<b>9VAC25-880-70, Part II B 8: SWPPP Requirement for Turbidity Benchmark Monitoring:</b> The Home Builders Association of Virginia shares the Department’s commitment to balancing the state’s economic development and	The benchmark limits for Options 1 and 2 have been revised for consistency with other permits. In addition, a third option consistent with EPA’s 2022 weekly turbidity benchmark

		<p>water quality protection objectives, but strongly urge the Department to reconsider its decision to include the new requirements for construction dewatering discharges to sediment impaired or exceptional waters (9VAC25-880-70, Part II B 8). For the reasons cited below, the Home Builders Association of Virginia respectfully requests the requirement be removed from the proposed permit, in its entirety, prior to being considered by the State Water Control Board: i) <b>Lack of consensus among stakeholders</b> (While the TAC devoted a substantial amount of time to discussing the turbidity standard, the significant impact of such a regulation on a broad array of public and private entities warrants a more rigorous review prior to moving forward.); ii) <b>Stringency of proposed benchmarking requirement</b> (The Home Builders Association of Virginia concurs with the assessment of the Virginia Municipal Stormwater Association and other stakeholders that, given the low thresholds of both proposed benchmarking options, public and private construction projects would face constant disruptions to construction activity due to exceedances stemming from conditions unrelated to the construction activity or outside the permittee’s control. Residential land development projects are particularly sensitive to regulatory delays of this nature and frequency due to the impact such delays can have on final lot prices and ultimately, the cost to the homeowner.); iii) <b>Adoption of numeric thresholds in the CGP is unnecessary</b> (The Department has not provided the regulated community with a rational for creating a turbidity benchmark of 50 NTUs in the proposed Construction General Permit, particularly given that the Commonwealth’s exiting surface water quality standards (9VAC25-260) only contain a narrative standard for turbidity.); iv.) <b>No requirement to adopt numeric turbidity benchmarks</b> (The Home Builders Association of Virginia believes that the Commonwealth has greater flexibility to establish requirements more appropriate to our</p>	<p>has been added to provide additional flexibility. Finally, the ability for the permit to request an alternative benchmark threshold has also been added to the permit language.</p> <p>For clarity, the benchmark threshold for turbidity is not an effluent limit. As such, an exceedance of the benchmark threshold does not itself constitute a permit violation. Rather, the benchmark threshold acts as a warning sign to the operator that changes may be needed in the dewatering controls to improve pollutant removal and protect water quality. In addition, if dewatering activities do not reach surface water (e.g., are allowed to infiltrate through a vegetated area) then no turbidity monitoring is required due to there not being a discharge.</p> <p>The language requires the operator to test a minimum of one time or two times if a benchmark is exceeded. An ongoing exceedance of a benchmark would not constitute a permit violation, provided the operator verified their controls were in place, ensured controls were being maintained, and documented corrective actions. Failure to verify controls or perform routine maintenance would constitute a permit violation.</p> <p>The general permit establishes the requirements, as well as provides consistency with the requirements contained in EPA’s 2022 construction general permit, for protection of water quality.</p>
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		state, and therefore, is not required to adopt or replicate the EPA's numeric turbidity benchmark provision.).	
105	Andrew Clark - HBAV	<p><b>Alternatives to SWPPP Requirement for Turbidity Benchmark Monitoring:</b></p> <p>At the request of staff, we have also included two more pragmatic, alternative approaches to address turbidity in dewatering discharges. We believe these alternatives would be a vast improvement over the current proposal and less burdensome to the housing industry, and ultimately homebuyers and renters. However, the inclusion of these alternatives in our formal comments should not be viewed as the industry's endorsement or support: i) Several members of the TAC suggested that the Department evaluate the adoption of best management practices (BMPs) non-numeric requirements that address potential turbidity during dewatering discharges, rather than using adopting stringent numeric construction dewatering requirements; ii) Maryland, which shares many of Virginia's water quality goals and is also located in the Chesapeake Bay watershed, has recently implemented its 2023 Construction General Permit which includes a turbidity benchmark monitoring requirement with a turbidity threshold of a daily maximum of 150 NTUs ("The benchmark threshold for turbidity for this permit is a daily maximum of 150 NTUs (referred to elsewhere in this permit as the "standard 150 NTU benchmark").</p>	Please see the response to Comment 104.
106	Kristin Carter, University of Virginia	<p><b>9VAC25-880-70 Part II B 10, Part II C 5, Part II G 4 m:</b> - The proposed permit has added certification requirements in addition to authorized signatures to all SWPPP amendments, modification and updates and routine inspection reports. The certification requirement seems excessive given the number of things that must be updated in the SWPPP. In inspecting SWPPPs, frequently the authorized representative signs their name besides the updated information (e.g., identification of contractors, dates of major grading activities). Adding a certification statement beside every minor update isn't feasible and will make maintaining the SWPPP challenging.</p>	This requirement was added as there are several instances where changes are made to the SWPPP or inspections have resulted in compliance issues which were identified or completed by a third-party consultant. As it is the operator's responsibility to comply with the permit, they are ultimately responsible for all SWPPP changes and overall compliance. No changes are being made to the regulation in response to this comment.

		Recommend DEQ make it easier for the construction site operators to comply with SWPPP requirements, not harder, especially with documentation requirements that do nothing to improve water quality.	
107	Kristin Carter, University of Virginia	<b>9VAC25-880-70 Part D – Public notification:</b> Recommend the SWPPP coverage letter be posted until the time when the notice of termination is submitted. If the construction site has reached the point that it meets the termination criteria, there is nothing of concern for the public to see.	SWPPP requirements are effective until such time that permit coverage is terminated. In order to meet the public notification requirements, signage must stay in place until permit termination has occurred. No changes are being made to the regulation in response to this comment.
108	Whitney S. Katchmark, Hampton Roads PDC	<b>Part II F 3: SWPPP Implementation – Repairs to Controls:</b> Part II.F.3 includes new documentation requirements for "...making the same repairs more than two times to the same control at the same location." Operators are to "fix any subsequent repeat occurrences of this same problem" or document "why the specific reoccurrence of this same problem should still be addressed as a routine maintenance fix." ... The HRPDC recommends deleting Part II.F.3 in the proposed Construction GP because documenting modifications to controls in the SWPPP is already required.	Part II F 3 incorporates requirements from EPA's 2022 CGP for what an operator must do in the event they have to repeatedly repair the same stormwater control at the same location. The requirements outlined in Part II F 3 do not require a specific corrective action, such as installing a new or different control measure, but instead require the operator to determine if the control measure is operating correctly and needs a corrective action or if it is indeed routine maintenance. Per Part II F 3 b, if routine maintenance is the issue, it should be documented in the inspection report with the justification. Implementation and updates of SWPPPs with this information is vital to ensuring that adequate controls are being used for the protection of state water from construction sites. No changes are being made to the regulation in response to this comment.
109	Patrick J. Fanning, CBF	<b>9VAC25-880-70(F)(3):</b> CBF supports the language added in 9VAC25-880-70(F)(3) regarding when an operator must make the same repairs more than two times to the same control at the same location.	Comment noted.  No changes are being made to the regulation in response to this comment.

110	Kristin Carter, University of Virginia	<b>9VAC25-880-70 Part II F 3:</b> The proposed language regarding additional documentation regarding E&S controls that need repeat fixes is an excessive recordkeeping requirement, especially if the items are truly routine maintenance. If this requirement stays in the final permit, recommend that there be a time element applied as construction projects can go on for months and years and tracking two of the same repairs in the same location will be challenging to track. For example, "If the operator must make the same repairs more than two times to the same control at the same location <u>within two months...</u> "	Please see the response to Comment 108.
111	Andrew Clark, HBAV	<b>9VAC25-880-70, Part II F 3 - Corrective Actions Procedures:</b> Under the proposed requirements of Part II F 3, operators who has made more than two repairs to the "same control at the same location" would be required to either (i) complete work to fix any subsequent repeat occurrences of this same problem under the corrective action procedures in Part II H, including the documentation requirements Part II C; or (ii) document in the inspection report under Part II G why the specific reoccurrence of this same problem should still be addressed as a routine maintenance fix." In addition to questions regarding the practicality of enforcing this requirement, the proposed language overlooks the fact that the need for repairs to a particular stormwater control doesn't necessarily mean that it's inherently ineffective, and that repairs may needed multiple times over the course of a construction project due to a various factors like heavy precipitation, construction activities, or unforeseen events. The proposed requirements contained in Part II F 3 would subject operators to added regulatory burdens with limited discernable environmental benefit. While the HBAV would recommend striking the requirement in its entirety, we are willing to work with staff to refine the language to accomplish the desired outcome in a manner that doesn't subject operator's to added regulatory burdens for minor, fixable issues.	Please see the response to Comment 108.
112	Patrick J. Fanning, CBF	<b>9VAC25-880-70(G)(2):</b> CBF appreciates the added clarity in 9VAC25-880-	Comment noted.

		70(G)(2) regarding the need for and frequency of inspections after measurable storm events.	No changes are being made to the regulation in response to this comment.
113	Kristin Carter, University of Virginia	<b>9VAC25-880-70 Part II G 2:</b> Recommend adding a stipulation that inspections can cease once construction activity is concluded and the site is fully stabilized. It can be weeks or months between this time and when the documentation is available to submit the Notice of Termination and have the permit terminated. Our DEQ inspector has stated that we need to continue inspecting during this time because the regulations do not have a provision for stopping before permit termination. These continued inspection requirements once the construction site is stable is an unnecessary waste of resources.	In accordance with Part II C 4 c of the existing permit language, as well as the proposed permit language, those areas of a site that have reached final stabilization no longer require SWPPP inspections. No changes are being made to the regulation in response to this comment.
114	Kristin Carter, University of Virginia	<b>9VAC25-880-70 Part II.G.2.b(2)(b):</b> For consistency with Part II.G.2.b(2)(a), reiterate the threshold at which the inspections are to begin for snowmelt. Recommended revision to the first sentence as follows: “A discharge caused by snow melt <u>from a snow event producing 3.25 inches or more of snow within a 24-hour period.</u> ”	The regulatory language was revised to provide additional clarity, as requested.
115	Kristin Carter, University of Virginia	<b>9VAC25-880-70 Part II.G.3.d:</b> Please clarify what “discharge locations” are with respect to a construction site. Are these point discharges from sediment traps/basins? Do they include sheet flow/diffuse discharges such as those that pass-through silt fence or from a vegetated area? What if a discharge is not observable such as the water passing through a gravel and wire mesh drop inlet sediment filter?	The definition of discharge is included in 9VAC25-875, which is incorporated by reference. The locations of all discharges referenced in Part.II.G.3.d should be shown on the approved erosion and sediment control plans. If a discharge is not observed, it can be documented in the inspection report. No changes are being made to the regulation in response to this comment.
116	Kristin Carter, University of Virginia	<b>9VAC25-880-70 Part II.G.3.j:</b> There is a proposed added requirement for the qualified personnel to report any pollutant generating activities not identified in the pollution prevention plan. To whom is the qualified personnel supposed to report this information? To the operator/authorized representative so they can update the SWPPP accordingly?	This information is to be included within the inspection report.  No changes are being made to the regulation in response to this comment.
117	Kristin Carter, University of Virginia	<b>9VAC25-880-70 Part II.G.4.m:</b> If the intent was to move requirements from Part II.G.6 of the existing CGP to this	This requirement was added as there are several instances where changes are made to the

		<p>location, specify that the certification is only required where an inspection report does not identify any incidents of noncompliance. Recommend eliminating the certification requirement for these routine inspection reports.</p>	<p>SWPPP or inspections have resulted in compliance issues which were identified or completed by a third-party consultant. As it is the operator's responsibility to comply with the permit, they are ultimately responsible for all SWPPP changes and overall compliance. No changes are being made to the regulation in response to this comment.</p>
<p>118</p>	<p>Andrew Clark - HBAV</p>	<p><b>9VAC25-880-70, Part II G5 - Inspection Reports:</b> The HBAV recognizes that the mandate to include a copy of the inspection report in the SWPPP within four business days (Part II G 5) is not new to this permit, but given the Youngkin Administration's commitment to innovative regulatory relief, we wanted to highlight an existing requirement which the housing industry has felt is an unnecessary and arduous regulatory burden that provides a negligible environmental benefit. Many permittees and third-party inspection firms in the Commonwealth use online inspection management software tools which allow the permittees to maintain inspection reports electronically until there is a need for a hard copy. Allowing for the electronic storage of inspection reports minimizes wastage by eliminating the need to print hard copies of the same inspection report. Furthermore, the proposed Construction General Permit provides permittees five (5) business days to implement any corrective actions identified in the inspection reports. Considering the Department's requirement to print the inspection report within four (4) business days after the inspection is complete, and the proposed permit allowing permittees five (5) business days to complete the items, there is potential for be inspection reports printed from the online inspection software that are incomplete. In cases where permittees have outstanding action items to complete on the fifth business day in the online inspection software, the permittee would be required to re-print the inspection report and add it to the SWPPP. Lastly, the U.S. EPA's Construction General Permit</p>	<p>Implementation and updates of SWPPPs are vital to ensuring that the protection of state water from construction sites. The revisions to the general permit requiring inspection reports to be included in the SWPPP within 4 days is not burdensome to operators nor creates circumstances that prohibit operators from implementing corrective measures within 5 business days.</p> <p>Please note Part II E includes the requirements for SWPPP availability. Per subsection 1 "Operators with day-to-day operational control over SWPPP implementation shall have a copy of the SWPPP available at a central location on-site for use by those identified as having responsibilities under the SWPPP whenever they are on the construction site." Per subsection 2, "The operator shall make the SWPPP and all amendments, modifications, and updates available upon request to the department, the <u>VESMP</u> authority, EPA, the <u>VESCP</u> authority, local government officials, or the operator of a municipal separate storm sewer system receiving discharges from the construction activity...." Neither subsection 1 or 2 require a hard copy of the SWPPP, only that a copy of SWPP and all amendments, modifications, etc. are available.</p>

		<p>allows for the use and retention of electronic reports (Part 4.7.3).The HBAV would ask that the Department consider amending the proposed permit to facilitate the use of efficient electronic document storage by making the following revisions to Part II G 5 of the Construction General Permit:                  Strike: <del>“The inspection report shall be included into the SWPPP no later than four business days after the inspection is complete.”</del> Replace with: <u>“You must keep a copy of all inspection reports in the SWPPP or at an easily accessible location, so that it can be made immediately available at the time of an on-site inspection or upon request by the Department. Inspection reports may be prepared, signed, and kept electronically, rather than in paper form, if the records are: (a) in a format that can be read in a similar manner as a paper record; (b) legally dependable with no less evidentiary value than their paper equivalent; and (c) immediately accessible to the inspector during an inspection to the same extent as a paper copy stored at the site would be, if the records were stored in paper form.”</u></p>	<p>No changes are being made to the regulation in response to this comment.</p>
119	Kristin Carter, University of Virginia	<p><b>9VAC25-880-70 Part II.H.2 and 3:</b> There is no need to reiterate the turbidity levels that trigger corrective action in this section. Section II.H.1 doesn’t reiterate every possible reason corrective actions may be necessary. Recommend sections H.2 and H.3 be consolidated into one section to avoid the duplication in corrective action steps. The consolidated section can state: <u>“When any construction dewatering discharge turbidity measurement exceeds the corrective action levels in Part II.B.8 or where visual monitoring indicates a change in the characterization of effluent discharge, the operator shall:”</u>.</p>	<p>This section has been revised to provide clarity and remove redundancy.</p>
120	Kristin Carter, University of Virginia	<p><b>9VAC25-880-70 Part III Conditions Applicable to All VPDES Permits:</b> Add a note to the introductory paragraph that turbidity monitoring of construction dewatering is not subject to the requirements of this part.</p>	<p>The conditions in Part III Conditions Applicable to All VPDES Permits reflect the regulatory requirements from 9VAC25-870-430 that apply to all state permits. Turbidity benchmark requirements are not included within all VPDES permits; therefore, it does not need to be referenced in Part III.</p>



			No changes are being made to the regulation in response to this comment.
121	Molly A. Parker, Dominion Energy Services, Inc.	<b>Part III, Section J 3:</b> Dominion Energy is concerned about the impact of the revised language that prohibits commencing or continuing work affected by plan changes prior to completion of the review period...Removing this option in the proposed changes would be counter to the Annual Standards and Specifications intended purpose...The Company recommends adding language that would allow the ability to proceed at-risk once the modification has been submitted...The Company understands that any work carried out prior to formal approval of a plan modification is subject to comment and adjustment based on the input of the plan reviewing authority. For this reason, any work undertaken prior to approval of the proposed modification is at the risk of the permittee. Dominion Energy believes it can continue to coordinate plan changes with the DEQ and perform work at-risk while still satisfying the intent of the regulation.	Additional language was added to Part III, Section J 3 to clarify that if the operator chooses to move forward without approval of any modified plans, it would be at their own risk, and they may be subject to compliance.

Additionally, the following significant comments were received from EPA. The Agency responses provided below were reviewed and accepted by EPA.

No.	Commenter	Comment	Agency response
1	Jennifer Fulton, US EPA Mid-Atlantic Region	<b>Fact Sheet – Summary of Changes:</b> The fact sheet is not consistent with requirements at 40 CFR 124.8. The fact sheet must meet the requirements of 40 CFR 124.8 to "briefly set forth the principal facts and significant factual, legal, and methodological and policy questions considered in preparing the draft permit". A lot of this fact sheet is merely listing permit requirements. This fact sheet is supposed to explain how DEQ came up with these permit conditions and why they were incorporated into the permit. 40 CFR 124.8(b)(6) requires that the fact sheet include a description of the procedures for reaching a final decision on the permit including: comment period beginning and ending dates, procedures for requesting a public hearing, and name and phone number for a POC to obtain additional information.	Additional information has been added to the fact sheet accordingly.  The considerations and additional information detailing the proposed changes have been outlined in previous sections. The majority of the conditions have been in the Virginia CGP for the last 5-10 plus years and were not changed with this revision.  Public notice information was added to the beginning of the fact sheet and a callout was added to clarify the DEQ staff contact.

2	Jennifer Fulton, US EPA Mid-Atlantic Region	<p><b>Fact Sheet – Authorization for single-family homes:</b> The fact sheet should include additional language to provide clarification that the overall common plan of development for the single-family home registration exemption is subject to the small construction 5-acre threshold. Suggest additional language be added to “Administrative” section of the fact-sheet to read: ...However, in accordance with § 62.1-44.15:28 9 e of the Code of Virginia, the submission of a registration statement for the construction of single-family detached residential structures <u>associated with small construction activity</u> within a common plan of development or sale is not required...</p>	<p>Several revisions were made throughout both the draft permit language and the fact sheet to provide clarification on the requirements for both small and large construction activities for single family detached residential structures.</p>
3	Jennifer Fulton, US EPA Mid-Atlantic Region	<p><b>Permit - Authorization for single-family homes:</b> There are instances in the draft permit where we have questions concerning authorization for single family home construction without submitting a registration statement. There are a few instances in the permit that we want to ensure do not improperly relieve these permittees from compliance with parts of the permit. Without a registration statement how are small single family residential sites authorized?</p>	<p>Several revisions were made throughout both the draft permit language and the fact sheet to provide clarification on the requirements for both small and large construction activities for single family detached residential structures.</p>
4	Jennifer Fulton, US EPA Mid-Atlantic Region	<p><b>SWPPP:</b> Where the permit requires the SWPPP to identify selected and implemented practices or revised inspection schedules to address impairments/TMDLs, EPA is concerned that this is improperly allowing the permittee to determine whether the discharge is in compliance with water quality requirements rather than DEQ making that determination as the NPDES permitting authority. EPA recommends that the SWPPP in these limited instances be required to be reviewed by DEQ prior to permit authorization.</p>	<p>In Virginia, the SWPPP includes (1) an approved erosion and sediment control plan, (2) an approved stormwater management plan, and (3) a pollution prevention plan. The erosion and sediment control plan and stormwater management plan must be approved by DEQ and/or the local VESMP authority; however, the pollution prevention plan is not required to be submitted for review, only completed prior to the submittal of the registration statement. In the coverage letter, DEQ indicates to the permittee if the site may discharge to waters identified as impaired or exception and provides the additional requirements. The formal reviews of the full SWPPP are completed by DEQ and/or the local VESMP</p>

			authority during compliance inspections.
5	Jennifer Fulton, US EPA Mid-Atlantic Region	<b>9VAC25-880-1 - Definitions:</b> EPA recommends that a few additional terms be defined in the permit, such as "small construction activity", "common plan of development", and "construction support activity". Terms that are defined currently defined in the Fact-Sheet including "Large construction activity" and "Small construction activity" should also be defined in the permit.	The definitions for "common plan of development", "small construction activity" and "large construction activity" are included within 9VAC25-875, which is incorporated in the general permit regulation by reference. The definition of "construction support activity" was included.
6	Jennifer Fulton, US EPA Mid-Atlantic Region	<b>9VAC25-880-1 – Definition “Final Stabilization” - Vegetative Coverage Requirement:</b> It is further recommended that a percentage of vegetative cover be added to determine final stabilization. In EPA's 2022 CGP, 70% cover is used and would be EPA's recommended language to incorporate.	Language was incorporated as requested.
7	Jennifer Fulton, US EPA Mid-Atlantic Region	<b>9VAC25-880-1 – Definition “Initiation of stabilization activities”:</b> Confusing to include the term "final" in the definition of "initiation": “5. Finalizing arrangements to have the stabilization product...”	This is intended to require arrangements for obtaining stabilization to be finalized as part of starting the initiation process. This language is in the current Virginia CGP and has been successfully implemented.
8	Jennifer Fulton, US EPA Mid-Atlantic Region	<b>Dewatering Requirements:</b> Of special note, EPA is pleased that the draft permit included requirements for dewatering consistent with changes made to the 2022 EPA CGP along with corrective actions in the event that benchmark monitoring is exceeded. These requirements will help to ensure that sediment discharges during dewatering activities are limited to further VA's water quality goals.	Comment noted.
9	Jennifer Fulton, US EPA Mid-Atlantic Region	<b>Fact Sheet – Additional Reference:</b> Recommend adding reference to the Chesapeake Bay Total Maximum Daily Load section note on incorporation of “the established effluent limitation guidelines and new source performance standards for construction activities into the general permit” as to where these provisions are included in the permit.	These provisions were deleted to prevent misinterpretation as this was part of previous permit revisions and the provisions for nutrient reductions and future growth are incorporated into the stormwater regulations, not the CGP.
10	Jennifer Fulton, US EPA Mid-Atlantic Region	<b>9VAC25-880-30 A 3:</b> “The operator complies with the applicable requirements of 9VAC25-880-70;” 9VAC25-880-70 states "Any operator whose registration statement is accepted by the board will receive the following general permit and shall comply with the requirements contained therein and be	Additional language was provided in 9VAC25-880-70 in the introductory paragraph and Part I A to clarify that small construction activity of single-family detached residential structure must meet the

		subject to all requirements of 9VAC25-870" so if they are not required to submit a registration statement does none of 9VAC25-870 apply?	requirements of the general permit.
11	Jennifer Fulton, US EPA Mid-Atlantic Region	<b>9VAC25-880-30 A 4 b:</b> It appears as if this sentence needs rewording? There may be a word(s) missing? "Except as specified in 9VAC25-880-70 Part II B 3 b, a stormwater management plan from the appropriate <del>Virginia Stormwater Management Program (VSMP)</del> <u>VESMP</u> authority as authorized under the <del>VSMP Regulation (9VAC25-870)</del> , unless the operator receives from the <del>VSMP</del> <u>VESMP</u> authority an "agreement in lieu of a stormwater management plan" as defined in <del>9VAC25-870-10</del> <u>9VAC25-875-20</u> or prepares the stormwater management plan in accordance with <del>annual</del> -standards and specifications approved by the department, and"	Revised to provide additional clarity.
12	Jennifer Fulton, US EPA Mid-Atlantic Region	<b>9VAC25-880-30 C:</b> Recommend leaving the examples in the permit. "C. This general permit also authorizes stormwater discharges from <u>construction</u> support activities (e.g., concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, borrow pits) located on-site or off-site provided that..."	The examples are included in the new definition provided in 9VAC25-880-1.
13	Jennifer Fulton, US EPA Mid-Atlantic Region	<b>9VAC25-880-30 C:</b> Is there a VA regulatory reference for this section?	9VAC25-880 is a regulation; therefore, by including it here it is a regulatory reference.
14	Jennifer Fulton, US EPA Mid-Atlantic Region	<b>9VAC25-880-30 C 4:</b> " <b>4.</b> The support activity is <del>identified</del> <u>reported</u> in the registration statement at the time of general permit coverage <u>or reported in a modified registration statement once the need for the support activity is known;</u> " Should language similar to this be added here? " <u>Or a new registration statement is submitted for a single-family detached residence where it may not have been required previously.</u> "	In these cases, a new registration statement must be submitted. 9VAC25-880-30 A covers this in general; however, additional information has been added to the fact sheet to provide further clarity.
15	Jennifer Fulton, US EPA Mid-Atlantic Region	<b>9VAC25-880-30 H:</b> Recommend adding a #3 under this Section H that specifies the process if no registration statement is required. Would the permittee be required to recertify that they are still under 5 acres? Or not subject to a new TMDL?	Currently, construction associated with a single family detached residential structure is not required to submit a registration statement; however, they are required to have a SWPPP. With this permit, any large construction activity of a single family detached structure will be required to submit a

			<p>registration statement. Small construction activity of a single family detached residential structure is not required to submit a registration statement; however, they are required to have a SWPPP. For existing activities, they are allowed 60 days after the effective date of the permit to update the SWPPP. DEQ and/or local authority staff review the SWPPP to verify it has been updated as part of the compliance inspection.</p>
16	Jennifer Fulton, US EPA Mid-Atlantic Region	<p><b>9VAC25-880-50 A 2 a (2) – Registration statement:</b> The clause “60 days after the date of coverage” doesn’t appear to be consistent with the statement below that the SWPPP should be completed prior to the submission of the registration statement.</p>	<p>This applies to existing construction activities that are currently covered by a permit, which will already have a SWPPP on-site. Once the new permit is effective, the operator has 60 days to update their SWPPP. For new construction activities, the SWPPP should be completed prior to the submission of the registration statement.</p>
17	Jennifer Fulton, US EPA Mid-Atlantic Region	<p><b>9VAC25-880-50 A 3 – Registration statement:</b> Why were the ownership and long-term maintenance responsibilities removed? It seems important to this section. There is no discussions for this change in the Fact Sheet.</p>	<p>Demonstration of long-term maintenance is part of the termination process; therefore, to provide clarity and remove redundancy, it was deleted from the registration statement requirements. Long-term maintenance is discussed in 9VAC25-880-60.</p>
18	Jennifer Fulton, US EPA Mid-Atlantic Region	<p><b>9VAC25-880-50 C:</b> Recommend the addition of “or updated”, for those covered under the previous permit. <u>“C. A stormwater pollution prevention plan (SWPPP) shall be prepared in accordance with this general permit prior to submitting the registration statement. By signing the registration statement, the operator certifies that the SWPPP has been prepared.”</u></p>	<p>Per 9VAC25-880-50 A 2 a (2), for existing permittees, once the new permit is effective, the operator has 60 days to update their SWPPP. For new construction activities, the SWPPP should be completed prior to the submission of the registration statement.</p>
19	Jennifer Fulton, US EPA Mid-Atlantic Region	<p><b>9VAC25-880-60 A – Termination of general permit coverage:</b> Recommend that previous language be reiterated here for consistency: “A. Requirements. The operator of the construction activity shall submit a complete and accurate notice of termination, unless a registration statement was not required to be submitted in accordance with</p>	<p>The regulatory language was revised as requested.</p>

		9VAC25-880-50 A 1 c or A 2 b for <del>single-family detached residential structures a stormwater discharge associated with a small construction activity of a single-family detached residential structure within or outside a common plan of development or sale to the VSMP</del> <u>VESMP</u> authority after one or more of the following conditions have been met:"	
20	Jennifer Fulton, US EPA Mid-Atlantic Region	<b>9VAC25-880-70 – General Permit:</b> “Any operator whose registration statement is accepted by the <del>board</del> <u>department</u> will receive the following general permit and shall comply with the requirements contained <del>therein</del> <u>in this general permit</u> and be subject to all requirements of <del>9VAC25-870</del> <u>9VAC25-875.</u> ” Does this mean that for those small sites that are not required to submit a registration statement they are not subject to <u>all</u> the requirements in this permit?	Revised to include a statement for small construction activity of a single-family detached residential structure, within or outside a common plan of development or sale.
21	Jennifer Fulton, US EPA Mid-Atlantic Region	<b>9VAC25-880-70 Part I B 4 a – General permit:</b> “...unless the operator develops, implements, and maintains a stormwater pollution prevention plan (SWPPP) in accordance with Part II B 5 of this permit...” Does this SWPPP have to be submitted to DEQ to ensure that it meets this requirement? It is the responsibility of the permitting authority to ensure that the plan required by the permit is consistent with the assumptions and requirements of an applicable WLA, not the permittee.	In Virginia, the SWPPP includes (1) an approved erosion and sediment control plan, (2) an approved stormwater management plan, and (3) a pollution prevention plan. The erosion and sediment control plan and stormwater management plan must be approved by DEQ and/or the local VESMP authority; however, the pollution prevention plan is not required to be submitted for review, only completed prior to the submittal of the registration statement. In the coverage letter, DEQ indicates to the permittee if the site may discharge to waters identified as impaired or exception and provides the additional requirements. The formal reviews of the full SWPPP are completed by DEQ and/or the local VESMP authority during compliance inspections.
22	Jennifer Fulton, US EPA Mid-Atlantic Region	<b>9VAC25-880-70 Part 1 G 1 – General Permit:</b> 1. “The operator shall select, install, implement, and maintain control measures as identified in the SWPPP at the construction site ...” Is this SWPPP required to be reviewed by DEQ to ensure water quality is being protected?	As mentioned above portions of the SWPPP are reviewed by DEQ and/or the local VESMP authority. The pollution prevention plan portion is not required to be reviewed prior to issuance of the CGP, only completed. It is reviewed as part

			of the compliance inspections performed by DEQ and/or the VESMP authority.
23	Jennifer Fulton, US EPA Mid-Atlantic Region	<b>9VAC25-880-70 Part II A 1 – General Permit – Stormwater Pollution Prevention Plan:</b> 1. “A stormwater pollution prevention plan (SWPPP) shall be developed prior to submission of a registration statement...” If single family home sites do not submit registration statements, when is their SWPPP required? (It is assumed that a SWPPP is still required for those sites because it says here that the SWPPP shall be developed for construction activity covered by this general permit.)	Revised to include a statement for small construction activity of a single-family detached residential structure, within or outside a common plan of development or sale.
24	Jennifer Fulton, US EPA Mid-Atlantic Region	<b>9VAC25-880-70 Part II A 3 – General Permit – Stormwater Pollution Prevention Plan:</b> 3. “Any operator that was authorized to discharge under the general permit...shall update its stormwater pollution prevention plan to comply with the requirements of this general permit no later than 60 days after the date of coverage under this general permit.” Why is this required after the date of coverage when everyone else is required to have a SWPPP before applying for coverage? Seems inconsistent. Should the SWPPP be required for existing permittees with their renewal application?	Per the current, active permit, permittees are required to complete a SWPPP prior to submittal of the registration statement. Per this requirement, they are required to update their existing SWPPP within 60 days after the coverage of the permit in order to incorporate the new permit language, which will not be effective until July 1, 2024. The new regulatory requirements cannot be incorporated into the SWPPP until they become effective.
25	Jennifer Fulton, US EPA Mid-Atlantic Region	<b>9VAC25-880-70 Part II B 2 a – General Permit – Stormwater Pollution Prevention Plan:</b> Recommend addition of language: “a. An erosion and sediment control plan designed and approved... <u>is required for construction activity authorized by this general permit.</u> ”	Incorporated into the leading subsection for clarity.
26	Jennifer Fulton, US EPA Mid-Atlantic Region	<b>9VAC25-880-70 Part II B 3 a – General Permit – Stormwater Pollution Prevention Plan:</b> Recommend addition of language: “a. Except for those projects... <u>is required for construction activity authorized by this general permit.</u> ”	Incorporated into the leading subsection for clarity.
27	Jennifer Fulton, US EPA Mid-Atlantic Region	<b>9VAC25-880-70 Part II B 4 – General Permit – Stormwater Pollution Prevention Plan:</b> Recommend addition of language: “4. Pollution prevention plan. A pollution prevention plan...shall be prepared.”	The leading subsection indicates these items must be contained within the SWPPP, so this addition appears to be redundant.

28	Jennifer Fulton, US EPA Mid-Atlantic Region	<b>9VAC25-880-70 Part II B 5 – General Permit – Stormwater Pollution Prevention Plan:</b> Recommend adding a link or other info for permittees to use to find the 303(d) list or list of applicable TMDLs. “5. SWPPP requirements for discharges to nutrient and sediment impaired...with an applicable TMDL wasteload allocation...”	DEQ prefers not to include links in the actual permits, as it may change over time and modifying the permit may require a regulatory change. A link has been provided in the Fact Sheet.
29	Jennifer Fulton, US EPA Mid-Atlantic Region	<b>9VAC25-880-70 Part II H 2 &amp; 3– General Permit – Stormwater Pollution Prevention Plan – Corrective actions:</b> Recommend including a timeframe here. Five business days may not be appropriate since dewatering activities can be more short-term in nature. “H. 2. <u>When using turbidity benchmark option 1, the operator shall implement corrective actions when...</u> ” “H. 3. <u>When using turbidity benchmark option 2, the operator shall implement corrective actions when...</u> ”	Added regulatory language to address.
30	Jennifer Fulton, US EPA Mid-Atlantic Region	In Part II.H.1, there is language related to corrective actions being implemented as soon as practicable, but no later than 5 business days. In Parts H.2 and H.3, EPA recommended adding a timeframe similar to paragraph H.1 for corrective actions associated with dewatering discharges. Our comment specified that a number less than five business days be used since dewatering discharges are usually shorter in duration. VA DEQ added only the term “as soon as practicable” without including a maximum timeframe similar to H.1. EPA reiterates our recommendation that more specific and measurable language be included in these sections.	Part II.H.2 was revised for consistency with the language used in EPA’s 2022 CGP. Part II.H.3 was removed for clarity and to prevent redundancy.

**Details of Changes Made Since the Previous Stage**

List all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. \* Put an asterisk next to any substantive changes.

Current chapter-section number	New chapter-section number, if applicable	New requirement from previous stage	Updated new requirement since previous stage	Change, intent, rationale, and likely impact of updated requirements
9VAC25- 880-1. Definitions		1. All soil-disturbing	1. All soil-disturbing activities	Added clarification on the required minimum



<p>“Final Stabilization”</p>		<p>activities at the construction site have been completed and a permanent vegetative cover has been established on denuded areas not otherwise permanently stabilized. Permanent vegetation shall not be considered established until a ground cover is achieved that is uniform (e.g., evenly distributed), mature enough to survive, and will inhibit erosion.</p> <p>2. For individual lots in residential construction, final stabilization can occur by either:</p> <p>a. The homebuilder completing permanent stabilization as specified in subdivision 1 of this definition; or</p> <p>b. The homebuilder establishing temporary soil stabilization, including perimeter controls for an individual lot prior to occupation of the home by the homeowner, and providing written notification to the homeowner of the need for, and benefits of, permanent stabilization as</p>	<p>at the construction site have been completed and a permanent vegetative cover has been established on denuded areas not otherwise permanently stabilized. Permanent vegetation shall not be considered established until a ground cover is achieved that is uniform (e.g., evenly distributed) <u>to provide 75 percent or more vegetative cover with no significant bare areas</u>, mature enough to survive, and will inhibit erosion.</p> <p>2. For individual lots in residential construction, final stabilization can occur by either:</p> <p>a. The homebuilder completing <del>permanent</del> stabilization as specified in subdivision 1 of this definition; or</p> <p>b. The homebuilder establishing temporary soil stabilization, including perimeter controls for an individual lot prior to occupation of the home by the homeowner, and providing written notification to the homeowner of the need for, and</p>	<p>percentage of vegetative cover and allowable bare area size to be classified as uniform for the purposes of final stabilization. The language is based on the definition for final stabilization in EPA’s 2022 CGP, as well as stakeholder input in the final stabilization specification with the Virginia Stormwater Management Handbook.</p> <p>This change was made in response to EPA comments.</p> <p>Also, removed the word “final” in front of stabilization in subdivisions 2.a, 2.b, and 3 to remove redundancy.</p> <p>No significant impact is expected due to this revision.</p>
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		<p>specified in subdivision 1 of this definition. The homebuilder shall maintain a copy of the written notification and a signed statement certifying that the information was provided to the homeowner in accordance with the stormwater pollution prevention plan recordkeeping requirements as specified in Part II G 6 of 9VAC25-880-70.</p> <p>3. For construction activities on land used for agricultural purposes, permanent stabilization may be accomplished by returning the disturbed land area to its preconstruction agricultural use. Disturbed areas that were not previously used for agricultural activities, such as buffer strips immediately adjacent to surface waters, and areas that are not being returned to their preconstruction agricultural use shall meet the permanent stabilization criteria specified in subdivision 1 or 2 of this definition.</p>	<p>benefits of, <del>permanent</del> stabilization as specified in subdivision 1 of this definition. The homebuilder shall maintain a copy of the written notification and a signed statement certifying that the information was provided to the homeowner in accordance with the stormwater pollution prevention plan recordkeeping requirements as specified in Part II G 6 of 9VAC25-880-70.</p> <p>3. For construction activities on land used for agricultural purposes, <del>final</del> <u>final</u> <del>permanent</del> stabilization may be accomplished by returning the disturbed land area to its preconstruction agricultural use. Disturbed areas that were not previously used for agricultural activities, such as buffer strips immediately adjacent to surface waters, and areas that are not being returned to their preconstruction agricultural use shall meet the <del>permanent</del> stabilization criteria specified in</p>	
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<p>9VAC25- 880-1. Definitions "Qualified Personnel"</p>		<p>"Qualified personnel" means a person knowledgeable in the principles and practices of erosion and sediment and stormwater management controls who possesses the skills to assess conditions at the construction site for the operator that could impact stormwater quality and quantity and to assess the effectiveness of any sediment and erosion control measures or stormwater management facilities selected to control the quality and quantity of stormwater discharges from the construction activity. On or after July 1, 2025, "qualified personnel" shall hold an unexpired certificate of competence for Project Inspector for Erosion and Sediment Control and an unexpired certificate of competence for Project Inspector for Stormwater Management, both issued by the department, a Construction General Permit</p>	<p>subdivision 1 or 2 of this definition. "Qualified personnel" means a person knowledgeable in the principles and practices of erosion and sediment and stormwater management controls who possesses the skills to assess conditions at the construction site for the operator that could impact stormwater quality and quantity and to assess the effectiveness of any sediment and erosion control measures or stormwater management facilities selected to control the quality and quantity of stormwater discharges from the construction activity. On or after July 1, 2025, "qualified personnel" shall hold an unexpired certificate of competence for Project Inspector for Erosion and Sediment Control and an unexpired certificate of competence for Project Inspector for Stormwater Management, both issued by the department, a Construction General Permit</p>	<p>Added clarification that the Construction General Permit Qualified Personnel Certification must be issued by the department or the Virginia Department of Transportation.</p> <p>This change was made in response from comments received during the public comment period.</p> <p>No significant impact is expected due to this revision.</p>
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		Qualified Personnel Certificate, or an equivalent certification provided by EPA (currently titled Construction Inspection Training Course).	Qualified Personnel Certificate <u>issued by the department or the Virginia Department of Transportation</u> , or an equivalent certification provided by EPA (currently titled Construction Inspection Training Course).	
9VAC25-880-30. Authorization to discharge. A.4.a		a. An erosion and sediment control plan from the appropriate Virginia Erosion and Stormwater Management Program (VESMP) authority or Virginia Erosion and Sediment Control Program (VESCP) authority, unless the operator receives from the VESCP authority an "agreement in lieu of a plan" as defined in 9VAC25-875-20 and 9VAC25-875-210, respectively, or prepares the erosion and sediment control plan in accordance with standards and specifications approved by the department; and	a. An erosion and sediment control plan from the appropriate Virginia Erosion and Stormwater Management Program (VESMP) authority or Virginia Erosion and Sediment Control Program (VESCP) authority, unless the operator receives from the VESCP authority an "agreement in lieu of a plan" as defined in 9VAC25-875-20 and 9VAC25-875-210, respectively, or <del>prepares the</del> <u>prepares the</u> erosion and sediment control plan in accordance with standards and specifications approved by the department; and	Revised to provide clarity and improve readability.  This change was made in response to EPA comments.  No significant impact is expected due to this revision.
9VAC25-880-30. Authorization to discharge. A.4.b		b. Except as specified in 9VAC25-880-70 Part II B 3 b, a stormwater management plan from the appropriate	b. Except as specified in 9VAC25-880-70 Part II B 3 b, a stormwater management plan from the appropriate	Revised to provide clarity and improve readability.  This change was made in response to EPA comments.

		VESMP authority, unless the operator receives from the VESMP authority an "agreement in lieu of a stormwater management plan" as defined in 9VAC25-875-20, or prepares the stormwater management plan in accordance with standards and specifications approved by the department; and	VESMP authority, unless the operator receives from the VESMP authority an "agreement in lieu of a <del>stormwater management plan</del> " as defined in 9VAC25-875-20, or <del>prepares the stormwater management plan</del> in accordance with standards and specifications approved by the department; and	Also, removed "stormwater management" from agreement in lieu of a plan for consistency with 9VAC25-875.  No significant impact is expected due to this revision.
9VAC25-880-3. Authorization to discharge. D		D. Stormwater discharges from an off-site construction support activity may be authorized under another state or VPDES permit. Where stormwater discharges from an off-site construction support activity are not authorized under this general permit, the land area of the off-site construction support activity shall not be included in determining the total land area of development and estimated area to be disturbed reported in the registration statement.	D. Stormwater discharges from an off-site construction support activity may be authorized under another state or VPDES permit. Where stormwater discharges from an off-site construction support activity are not authorized under this general permit, the land area of the off-site construction support activity shall not be included in determining the total land area of <del>development</del> <u>the construction site</u> and estimated area to be disturbed reported in the registration statement.	Revised "area of development" to "area of the construction site" for consistency with the terminology used throughout the remainder of the general permit.  This change was made in response from comments received during the public comment period.  No significant impact is expected due to this revision.
9VAC25-880-60. Termination of general permit coverage. A		A. Requirements. The operator of the construction activity shall submit a complete and accurate	A. Requirements. The operator of the construction activity shall submit a complete and accurate	Revised the language relating to single-family detached structures for consistency with 9VAC25-880-50.A.1.c

		<p>notice of termination, unless a registration statement was not required to be submitted in accordance with 9VAC25-880-50 A 1 c or A 2 b for single-family detached residential structures, to the VESMP authority after one or more of the following conditions have been met:</p>	<p>notice of termination, unless a registration statement was not required to be submitted in accordance with 9VAC25-880-50 A 1 c or A 2 b for <u>a stormwater discharge associated with a small construction activity of a single-family detached residential structure, within or outside a common plan of development or sale</u><del>single-family detached residential structures</del>, to the VESMP authority after one or more of the following conditions have been met:</p>	<p>and the remainder of the permit.</p> <p>This change was made in response to EPA comments.</p> <p>No significant impact is expected due to this revision.</p>
	<p>9VAC25-880-70. General permit.</p>		<p><u>Any operator with a stormwater discharge associated with a small construction activity of a single-family detached residential structure, within or outside a common plan of development or sale, is authorized to discharge under the following general permit and shall comply with the requirements contained in this general permit and be subject to all requirements of 9VAC25-875.</u></p>	<p>Added language to include any operator with a stormwater discharge associated with a single-family detached residential structure, within or outside a common plan of development or sale, as covered under the general permit.</p> <p>This change was made in response to House Bill 1848 and Senate Bill 1168, passed during the 2023 Session of the General Assembly, as well as in response to EPA comments.</p> <p>No significant impact is expected due to this revision.</p>

	<p>9VAC25-880-70. General permit. AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA EROSION AND STORMWATER MANAGEMENT PROGRAM AND THE VIRGINIA EROSION AND STORMWATER MANAGEMENT ACT</p>		<p><u>For stormwater discharge associated with a small construction activity of a single-family detached residential structure, within or outside a common plan of development or sale, the authorized discharge shall be in accordance with this cover page, Part I - Discharge Authorization and Special Conditions, Part II - Stormwater Pollution Prevention Plan, and Part III - Conditions Applicable to All VPDES Permits as set forth in this general permit.</u></p>	<p>This language was added to include stormwater discharge associated with a single-family detached residential structure, within or outside a common plan of development or sale, as a discharge authorized under the general permit.</p> <p>This change was made in response to House Bill 1848 and Senate Bill 1168, passed during the 2023 Session of the General Assembly, as well as in response to EPA comments.</p> <p>No significant impact is expected due to this revision.</p>
<p>9VAC25-880-70. General permit. Part I.B.5</p>		<p>5. Exceptional waters limitation. Discharges of stormwater from construction activities not previously covered under the general permit effective on July 1, 2014, to exceptional waters identified in 9VAC25-260-30 A 3 c are not eligible for coverage under this general permit unless the operator develops, implements, and maintains a SWPPP in accordance with Part II B 7 of this permit and implements an inspection</p>	<p>5. Exceptional waters limitation. Discharges of stormwater from construction activities not previously covered under the general permit effective on July 1, <del>2014</del><u>2019</u>, to exceptional waters identified in 9VAC25-260-30 A 3 c are not eligible for coverage under this general permit unless the operator develops, implements, and maintains a SWPPP in accordance with Part II B 7 of this permit and implements an inspection</p>	<p>Corrected the effective date of the permit.</p> <p>No significant impact is expected due to this revision.</p>

<p>9VAC25-880-70. General permit. Part II.A.1</p>		<p>frequency consistent with Part II G 2 a.</p> <p>1. A stormwater pollution prevention plan (SWPPP) shall be developed prior to the submission of a registration statement and implemented for the construction activity, including any construction support activity, covered by this general permit. SWPPPs shall be prepared in accordance with good engineering practices. Construction activities that are part of a larger common plan of development or sale and disturb less than one acre may utilize a SWPPP template provided by the department and need not provide a separate stormwater management plan if one has been prepared and implemented for the larger common plan of development or sale.</p>	<p>frequency consistent with Part II G 2 a.</p> <p>1. A stormwater pollution prevention plan (SWPPP) shall be developed prior to the submission of a registration statement and implemented for the construction activity, including any construction support activity, covered by this general permit. <u>For a small construction activity of a single-family detached residential structure, within or outside a common plan of development or sale, a SWPPP shall be developed and implemented prior to the initiation of the construction activity, including any construction support activity covered by this general permit.</u></p>	<p>Language was added to clarify that for a small construction activity of a single-family detached residential structure, within or outside a common plan of development or sale, a SWPPP shall be developed and implemented prior to the initiation of the construction activity. In addition, the general language regarding SWPPP preparation was moved to a new subdivision to improve readability.</p> <p>This change was made in response to House Bill 1848 and Senate Bill 1168, passed during the 2023 Session of the General Assembly, as well as in response to EPA comments.</p> <p>No significant impact is expected due to this revision.</p>
<p>9VAC25-880-70. General permit. Part II.A.1</p>	<p>9VAC25-880-70. General permit. Part II.A.2</p>		<p>2. SWPPPs shall be prepared in accordance with good engineering practices. Construction activities that are part of a larger common plan of development or</p>	<p>This language was moved from subsection 1 to subsection 2 to provide clarity and improve readability.</p> <p>No significant impact is expected due to this revision.</p>



			sale and disturb less than one acre may utilize a SWPPP template provided by the department and need not provide a separate stormwater management plan if one has been prepared and implemented for the larger common plan of development or sale.	
9VAC25-880-70. General permit. Part II.A.2	9VAC25-880-70. General permit. Part II.A.3			The language of the permit was not changed, the regulatory citation was updated.  No significant impact is expected due to this revision.
9VAC25-880-70. General permit. Part II.A.3	9VAC25-880-70. General permit. Part II.A.4	3. Any operator that was authorized to discharge under the general permit effective July 1, 2014, and that intends to continue coverage under this general permit, shall update its stormwater pollution prevention plan to comply with the requirements of this general permit no later than 60 days after the date of coverage under this general permit.	4. Any operator that was authorized to discharge under the general permit effective July 1, <del>2014</del> 2019, and that intends to continue coverage under this general permit; shall update its stormwater pollution prevention plan to comply with the requirements of this general permit no later than 60 days after the date of coverage under this general permit.	Corrected the effective date of the permit and updated the regulatory citation.  No significant impact is expected due to this revision.
9VAC25-880-70. General permit. Part II.B.2		2. Erosion and sediment control plan.	2. Erosion and sediment control plan <u>for the construction activity authorized</u>	Additional language was added to clarify the erosion and sediment control plan must be for the construction activity

			<u>by this general permit.</u>	<p>authorized under the permit.</p> <p>This change was made in response to EPA comments.</p> <p>No significant impact is expected due to this revision.</p>
9VAC25-880-70. General permit. Part II.B.3		3. Stormwater management plan.	3. Stormwater management plan <u>for the construction activity authorized by this general permit.</u>	<p>Additional language was added to clarify the stormwater management plan must be for the construction activity authorized under the permit.</p> <p>This change was made in response to EPA comments.</p> <p>No significant impact is expected due to this revision.</p>
9VAC25-880-70. General permit. Part II.B.4		4. Pollution prevention...	4. Pollution prevention plan <u>for the construction activity authorized by this general permit....</u>	<p>Additional language was added to clarify the pollution prevention plan must be for the construction activity authorized under the permit.</p> <p>This change was made in response to EPA comments.</p> <p>No significant impact is expected due to this revision.</p>
9VAC25-880-70. General permit. Part II.B.8.a.(3).(f)		(f) Corrective action. If (i) any turbidity measurement of the construction dewatering discharge exceeds the upstream grab sample of the receiving stream by more than 10 NTUs/FTUs or (ii) visual monitoring indicates a change	(f) Corrective action. If (i) any turbidity measurement of the construction dewatering discharge exceeds the upstream grab sample of the receiving stream by more than <del>10</del> <u>50</u> NTUs/FTUs or (ii) visual monitoring indicates a change	<p>Revised the turbidity benchmark threshold that requires a corrective action from more than 10 NTUs/FTUs above the upstream grab sample turbidity measurement to more than 50 NTUs/FTUs above the upstream grab sample turbidity measurement.</p>

		in the characterization of effluent discharge, corrective action shall be taken in accordance with Part II H 2 of this general permit; and	in the characterization of effluent discharge, corrective action shall be taken in accordance with Part II H 2 of this general permit; and	<p>This change was made in response to comments received during the public comment period.</p> <p>No significant impact is expected due to this revision.</p>
9VAC25-880-70. General permit. Part II.B.8.b.(3).(a)		(a) Sample frequency. At least one grab sample shall be collected from each construction dewatering discharge when the first discharge at that location occurs, daily thereafter until the dewatering discharge stops, and after any installation of new controls or routine maintenance activity of existing controls. Grab samples shall be tested to confirm a turbidity measurement of equal to or less than 50 NTUs/FTUs from the construction dewatering discharge;	(a) Sample frequency. At least one grab sample shall be collected from each construction dewatering discharge when the first discharge at that location occurs, daily thereafter until the dewatering discharge stops, and after any installation of new controls or routine maintenance activity of existing controls. Grab samples shall be tested to confirm a turbidity measurement of equal to or less than <u>150</u> NTUs/FTUs from the construction dewatering discharge;	<p>Revised the turbidity benchmark for option 2 from 50 NTUs/FTUs to 150 NTUs/FTUs.</p> <p>This change was made in response to comments received during the public comment period.</p> <p>No significant impact is expected due to this revision.</p>
9VAC25-880-70. General permit. Part II.B.8.b.(3).(f)		(f) Corrective action. If (i) any turbidity measurement of the construction dewatering discharge exceeds 50 NTUs/FTUs or (ii) visual monitoring indicates a change in the characterization of effluent discharge, corrective action	(f) Corrective action. If (i) any turbidity measurement of the construction dewatering discharge exceeds <u>150</u> NTUs/FTUs or (ii) visual monitoring indicates a change in the characterization of effluent discharge, corrective action	<p>Revised the turbidity benchmark threshold for option 2 that requires a corrective action from 50 NTUs/FTUs to 150 NTUs/FTUs.</p> <p>This change was made in response to comments received during the public comment period.</p>

		shall be taken in accordance with Part II H 2 of this general permit; and	shall be taken in accordance with Part II H 2 of this general permit; and	No significant impact is expected due to this revision.
9VAC25-880-70. General permit. Part II.B.8.b.(3).(g)		(g) Recordkeeping. Turbidity monitoring information (i.e., location, date, sample collection time, and turbidity measurement) and any necessary corrective actions taken shall be recorded in the SWPPP.	(g) Recordkeeping. Turbidity monitoring information (i.e., location, date, sample collection time, and turbidity measurement) and any necessary corrective actions taken shall be recorded in the SWPPP; <u>or</u>	Added “or” to reflect the addition of a third turbidity option in subsection 8.c.  This change was made in response to comments received during the public comment period.  No significant impact is expected due to this revision.
	* 9VAC25-880-70. General permit. Part II.B.8.c		<u>c. Turbidity benchmark option 3:</u> <u>(1) Identify the location of all construction dewatering discharges in the SWPPP;</u> <u>(2) Select, install, implement, and maintain control measures at each dewatering location that minimize pollutants, including suspended solids, in construction dewatering discharges prior to discharging into a stormwater conveyance system or surface water; and</u> <u>(3) Provide documentation in the SWPPP that:</u> <u>(a) Sample frequency. At least one grab sample shall be collected</u>	Added language to provide a third turbidity benchmark option. The additional language provides an additional option and flexibility to the operator and is consistent with EPA’s 2022 CGP.  Although this language is new, it does not add new requirements to the general permit. Instead, it provides a third option to the operator for achieving compliance with the original proposed turbidity benchmark. This change was made in response to comments received during the public comment period.  No significant impact is expected due to this revision.

		<p><u>from each construction dewatering discharge when the first discharge at that location occurs, daily thereafter until the dewatering discharge stops, and after any installation of new controls or routine maintenance activity of existing controls. Grab samples shall be tested to confirm a turbidity measurement of equal to or less than 50 NTUs/FTUs, based on a weekly average, from the construction dewatering discharge;</u></p> <p><u>(b) Sample timing. Grab samples of the construction dewatering discharge shall be collected during the first 15 minutes of the construction dewatering discharge and daily thereafter until the dewatering discharge stops;</u></p> <p><u>(c) Sample location. Grab samples shall be collected after the construction dewatering water has been filtered, settled, or similarly treated and prior to its discharge into a stormwater conveyance</u></p>	
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			<p><u>system or surface water;</u></p> <p><u>(d) Test methods. Grab samples taken as required by this subdivision 8 shall be measured using a turbidity meter that reports results in nephelometric turbidity units (NTUs) or formazin turbidity unit (FTUs), and conduct a turbidity meter calibration verification prior to each day's use, consistent with manufacturer recommendations;</u></p> <p><u>(e) Visual monitoring. All dewatering discharges shall be visually monitored for changes in the characterization of effluent discharge;</u></p> <p><u>(f) Corrective action. If (i) the weekly average of the turbidity measurements of the construction dewatering discharge exceeds 50 NTUs/FTUs or (ii) visual monitoring indicates a change in the characterization of effluent discharge, corrective action shall be taken in accordance with Part II H 2 of this general permit The weekly average is the sum of all turbidity samples taken during a monitoring week</u></p>	
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			<p><u>(starting on Monday and ending on Sunday) divided by the number of samples measures during that week; and</u></p> <p><u>(g) Recordkeeping. Turbidity monitoring information (i.e., location, date, sample collection time, and turbidity measurement) and any necessary corrective actions taken shall be recorded in the SWPPP.</u></p>	
	<p>* 9VAC25-880-70. General permit. Part II.B.8.d</p>		<p><u>d. Request for alternative benchmark threshold:</u></p> <p><u>(1) At any time prior to or during coverage under this permit, a request may be submitted to the department to approve a benchmark that is higher than turbidity benchmark options 1, 2, and 3 if information is available demonstrating the higher number is the same as the receiving water's water quality standard for turbidity. To request approval of an alternate benchmark, the operator must submit the following to the department:</u></p>	<p>Added language which allows the operator to request an alternative benchmark threshold from the Department. The additional language provides an additional option and flexibility to the operator and is consistent with EPA's 2022 CGP.</p> <p>Although this language is new, it does not add new requirements to the general permit. Instead, it provides an additional option and flexibility to the operator for achieving compliance with the original proposed turbidity benchmark. This change was made in response to comments received during the public comment period.</p> <p>No significant impact is expected due to this revision.</p>

			<p><u>(a) the current turbidity water quality standard that applies to the receiving water; and (b) information on the natural or background turbidity level to determine the specific standard for the receiving water, including available data that can be used to establish the natural turbidity levels of the receiving water.</u></p> <p><u>(2) The department will inform notify the operator of its decision on whether to approve the requested alternate benchmark within 30 days. Until the department approves an alternate benchmark, the operator is required to use the option 1, option 2, or option 3 turbidity benchmark and take any required corrective actions if an exceedance occurs.</u></p>	
<p>9VAC25-880-70. General permit. Part II.G.2.b.(2).(b)</p>		<p>(b) A discharge caused by snow melt...</p>	<p>(b) A discharge caused by snow melt from a snow event producing 3.25 inches or more of snow within a 24-hour period...</p>	<p>Added language to clarify the inspection schedule for a discharge associated with a snow melt.</p> <p>This change was made in response to comments received during the public comment period.</p>



				<p>No significant impact is expected due to this revision.</p>
<p>9VAC25-880-70. General permit. Part II.H.(1)</p>		<p>1. The operator shall implement the corrective actions identified as a result of an inspection as soon as practicable but no later than five business days after discovery or a longer period as approved by the VESMP authority...</p>	<p>1. <u>Except as required in Part II.H.2,</u> the operator shall implement the corrective actions identified as a result of an inspection as soon as practicable but no later than five business days after discovery or a longer period as approved by the VESMP authority...</p>	<p>Added language to clarify the corrective action schedule for exceedances of the turbidity benchmark threshold.</p> <p>This change was made in response to EPA comments.</p> <p>No significant impact is expected due to this revision.</p>
<p>9VAC25-880-70. General permit. Part II.H.2</p>		<p>2. When using turbidity benchmark option 1, the operator shall implement corrective actions when any construction dewatering discharge turbidity measurement exceeds the upstream grab sample of the receiving stream by more than 10 NTUs/FTUs or where visual monitoring indicates a change in the characterization of effluent discharge. The operator shall:</p>	<p>2. When using <del>turbidity benchmark option 4</del> <u>any turbidity measurement of the construction dewatering discharge exceeds the selected turbidity benchmark option or visual monitoring indicates a change in the characterization of effluent discharge, as outlined in Part II B 8,</u> the operator shall <del>implement corrective actions when any construction dewatering discharge turbidity measurement exceeds the upstream grab sample of the receiving stream by more than 10 NTUs/FTUs or where visual monitoring indicates a change in the</del></p>	<p>The language was revised to represent the corrective action requirements when any turbidity measurement of construction dewatering exceeds the selected turbidity benchmark option or visual monitoring indicates a change in the characterization of effluent discharge. This revision combined regulatory language related to the corrective action scenarios in the draft regulation, provide clarity, and removes redundancy.</p> <p>This change was made in response to comments received during the public comment period.</p> <p>No significant impact is expected due to this revision.</p>

			<p>characterization of effluent discharge. The operator shall:</p>	
<p>9VAC25-880-70. General permit. Part II.H.2.a</p>		<p>a. Cease the construction dewatering discharge at the location that exceeds upstream grab sample or where visual monitoring indicates a change in the characterization of effluent discharge;</p>	<p>a. <u>Immediately Cease</u> <del>cease</del> the construction dewatering discharge at the location that exceeds <del>upstream grab sample</del> <u>the turbidity benchmark</u> or where visual monitoring indicates a change in the characterization of effluent discharge;</p>	<p>Added language to clarify the corrective action schedule for exceedances of the turbidity benchmark threshold and revised per the consolidation of the corrective actions into one subsection.</p> <p>This change was made in response to EPA comments.</p> <p>No significant impact is expected due to this revision.</p>
<p>9VAC25-880-70. General permit. Part II.H.2</p>		<p>...Once these corrective action steps are completed and any necessary adjustments, additions, repairs, or replacements are made, the operator may resume its construction dewatering discharge and shall sample for turbidity within 15 minutes of the construction dewatering discharge commencing.</p>	<p>...Once these corrective action steps are completed and any necessary adjustments, additions, repairs, or replacements are made, the operator may resume its construction dewatering discharge and shall sample for turbidity within 15 minutes of the construction dewatering discharge commencing. <u>No additional correction action items are required beyond recording the results in the SWPPP.</u></p>	<p>Added language to clarify that once the corrective actions have been completed and after the dewatering discharge is sampled within 15 minutes, no additional corrective actions are required beyond recording the turbidity results in the SWPPP.</p> <p>This change was made in response to comments received during the public comment period.</p> <p>No significant impact is expected due to this revision.</p>
<p>9VAC25-880-70. General permit. Part II.H.3-5</p>	<p>9VAC25-880-70. General permit. Part II.H.3-4</p>			<p>Deleted subdivision 3 in its entirety to remove redundancy and renumbered 4 to 3 and 5 to 4.</p>

				<p>This change was made in response to public comments.</p> <p>No significant impact is expected due to this revision.</p>
<p>9VAC25-880-70. General permit. Part III.I.4</p>		<p>4. The immediate (within 24 hours) reports required in Part III G, H and I may be made to the department and the VESMP authority. Reports may be made by telephone, email, or online at <a href="https://www.deq.virginia.gov/get-involved/pollution-response">https://www.deq.virginia.gov/get-involved/pollution-response</a>. For reports outside normal working hours, leaving a recorded message shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Management maintains a 24-hour telephone service at 1-800-468-8892.</p>	<p>4. The immediate (within 24 hours) reports required in Part III G, H, and I may be made to the department and the VESMP authority. Reports may be made by telephone, email, or online at <a href="https://www.deq.virginia.gov/get-involvedour-programs/pollution-response">https://www.deq.virginia.gov/get-involvedour-programs/pollution-response</a>. For reports outside normal working hours, leaving a recorded message shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Management maintains a 24-hour telephone service at 1-800-468-8892.</p>	<p>Corrected the website link to reflect an accurate website.</p> <p>No significant impact is expected due to this revision.</p>
<p>9VAC25-880-70. General permit. Part III.J.3</p>		<p>3. The operator may continue construction activities based on the information provided in the original registration statement and SWPPP but must wait until the review period has ended before commencing or continuing</p>	<p>3. The operator may continue construction activities based on the information provided in the original registration statement and SWPPP but must wait until the review period has ended before commencing or continuing construction</p>	<p>Added language to clarify that if an operator proceeds forward without obtaining approval, they are proceeding at their own risk and are subject to compliance actions.</p> <p>This change was made in response from comments received during the public comment period.</p>

		construction activities on any portion of the construction site that would be affected by any of the planned changes or modifications.	activities on any portion of the construction site that would be affected by any of the planned changes or modifications. <u>Any operator that chooses to proceed with unapproved construction activities while plans are being reviewed is proceeding at their own risk and subject to compliance actions, if the plan is determined to be inadequate.</u>	No significant impact is expected due to this revision.
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**Details of All Changes Proposed in this Regulatory Action**

*List all changes proposed in this action and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. \* Put an asterisk next to any substantive changes.*

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
9VAC25-880-1. Definitions.		Definitions.	<p>The introductory paragraph was revised to improve readability and incorporate the new title and citation of the Virginia Erosion and Stormwater Management Regulation, which will become effective on July 1, 2024.</p> <p>Minor changes were made to terms throughout this section to ensure consistent use of terminology, improve readability, and correct grammatical errors. These minor changes did not alter, narrow, or expand the meaning of terms.</p> <p>No significant impact is expected due to this revision.</p>
9VAC25-880-1 Definitions.		Definitions	<p>“Construction dewatering” is a new definition added to provided clarity for a new dewatering discharge section in the</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
			<p>permit. This new definition incorporates language from EPA’s dewatering definition along with proposed language from the TAC.</p> <p>No significant impact is expected due to this revision.</p>
9VAC25-880-1 Definitions.		<p>"Construction site" means the land where any land-disturbing activity is physically located or conducted, including any adjacent land used or preserved in connection with the land-disturbing activity.</p>	<p>"Construction site" definition was revised to include water area, which conforms with the EPA’s definition construction site. Language was added to clarify that "construction site" includes construction support activities located on-site or offsite.</p> <p>No significant impact is expected due to this revision.</p>
9VAC25-880-1 Definitions.		Definitions	<p>"Construction support activity" is a new definition was that added based on the definition from EPA’s 2022 Construction General Permit (CGP). This term was previously used in Virginia’s CGP but was not defined.</p> <p>No significant impact is expected due to this revision.</p>
9VAC24-880-1 Definitions.		<p>"Final stabilization" means that one of the following situations has occurred:</p> <ol style="list-style-type: none"> <li>1. All soil disturbing activities at the site have been completed and a permanent vegetative cover has been established on denuded areas not otherwise permanently stabilized. Permanent vegetation shall not be considered established until a ground cover is achieved that is uniform (e.g., evenly distributed), mature enough to survive, and will inhibit erosion.</li> <li>2. For individual lots in residential construction, final stabilization can occur by either:                             <ol style="list-style-type: none"> <li>a. The homebuilder completing final stabilization</li> </ol> </li> </ol>	<p>Added "to provide 75 percent or more vegetative cover with no significant bare areas" to the definition of final stabilization to provide clarification on the required minimum percentage of vegetative cover and allowable bare area size to be classified as uniform for the purposes of final stabilization.</p> <p>The language is based on the definition for final stabilization in EPA’s 2022 CGP, as well as stakeholder input in the final stabilization specification with the Virginia Stormwater Management Handbook.</p> <p>Also, removed the word "final" in front of stabilization in subdivisions 2.a, 2.b, and 3 to remove redundancy.</p> <p>No significant impact is expected due to this revision.</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		<p>as specified in subdivision 1 of this definition; or</p> <p>b. The homebuilder establishing temporary soil stabilization, including perimeter controls for an individual lot prior to occupation of the home by the homeowner, and providing written notification to the homeowner of the need for, and benefits of, final stabilization. The homebuilder shall maintain a copy of the written notification and a signed statement certifying that the information was provided to the homeowner in accordance with the stormwater pollution prevention plan recordkeeping requirements as specified in Part II G 6.</p> <p>3. For construction projects on land used for agricultural purposes, final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to surface waters, and areas that are not being returned to their preconstruction agricultural use shall meet the final stabilization criteria specified in subdivision 1 or 2 of this definition.</p>	
<p>9VAC24-880-1 Definitions.</p>		<p>"Measurable storm event" means a rainfall event producing 0.25 inches of rain or greater over 24 hours.</p>	<p>Added "or snow melt from a snow event producing 3.25 inches or more of snow within a 24-hour period" to comply with the addition of snow melt in EPA's 2022 CGP.</p> <p>No significant impact is expected due to this revision.</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
9VAC25-880-1 Definitions.		Definitions	<p>“Qualified personnel” is a new definition that was added to address the new stormwater team requirements in EPA’s 2022 CGP. The bulk of the definition is pulled from 9VAC25-870-10. Additional language was developed by the department and added to detail certification options for qualified personnel.</p> <p>The previous proposed language did not specify the issuing agency for the Construction General Permit Qualified Personnel Certificate option provided in the definition. The revision adds language to clarify the certificate must be issued by the department or the Virginia Department of Transportation.</p> <p>No significant impact is expected due to this revision.</p>
9VAC25-880-10. Purpose		<p>This general permit regulation governs stormwater discharges from regulated construction activities. For the purposes of this chapter, these discharges are defined as stormwater discharges associated with large construction activity, and stormwater discharges associated with small construction activity. Stormwater discharges associated with other types of industrial activity shall not have coverage under this general permit. This general permit covers only discharges through a point source to surface waters or through a municipal or nonmunicipal separate storm sewer system to surface waters. Stormwater discharges associated with industrial activity that originate from construction activities that have been completed and the site has undergone final stabilization</p>	<p>This general permit regulation governs stormwater discharges from regulated construction activity, which includes large construction activity, small construction activity, or construction support activity, through a point source to surface waters or through a municipal or nonmunicipal separate storm sewer system to surface waters. Stormwater discharges associated with regulated industrial activity that originate from a construction site that have been completed and the site has undergone final stabilization are not authorized by this general permit.</p> <p>Existing language has been removed and replaced with new language to improve the clarity and readability of this section.</p> <p>No significant impact is expected due to this revision.</p>

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		are not authorized by this general permit.	
9VAC25-880-15. Applicability of incorporated by references based on the dates that they became effective.		Except as noted, when a regulation of the United States set forth in the Code of Federal Regulations is referenced and incorporated herein, that regulation shall be as it exists and has been published in the July 1, 2018, update.	A change was made to update the reference to the Code of Federal Regulations incorporated by reference.  No significant impact is expected due to this revision.
9VAC25-880-20. Effective date of general permit.		This general permit is effective on July 1, 2019. The general permit will expire on June 30, 2024. This general permit is effective for any covered operator upon compliance with all provisions of 9VAC25-880-30.	Updated the dates that the general permit is effective to reflect the July 1, 2024 to June 30, 2029 permit term.  No significant impact is expected due to this revision.
9VAC25-880-30. Authorization to discharge.		Authorization to discharge	Minor changes were made throughout this section to ensure consistent use of terms, improve readability, and correct grammatical errors. These minor changes did not alter the requirements of this section.  No significant impact is expected due to this revision.
9VAC25-880-30. Authorization to discharge. A.2		2. The operator submits any permit fees, unless not required, in accordance with 9VAC25-870-700 et seq.;	Language added to clarify that permit fees includes all outstanding permit maintenance fees.  No significant impact is expected due to this revision.
9VAC25-880-30. Authorization to discharge. A.4.a		a. An erosion and sediment control plan from the appropriate Virginia Erosion and Sediment Control Program (VЕСP) authority as authorized under the Erosion and Sediment Control Regulations (9VAC25-840), unless the operator receives from the VЕСP authority an "agreement in lieu of a plan" as defined in 9VAC25-840-10 or prepares the erosion	Removed the word annual from standards and specifications approved by the department to reflect the Virginia Erosion and Stormwater Management Regulation.  The previous proposed language was revised to remove "or prepares the erosion and sediment control plan" and replace with "or an erosion and sediment control plan" in reference to standards and specifications. This change was revised to provide clarity and improve readability.



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		and sediment control plan in accordance with annual standards and specifications approved by the department; and	No significant impact is expected due to this revision.
9VAC25-880-30. Authorization to discharge. A.4.b		b. Except as specified in 9VAC25-880-70 Part II B 3 b, a stormwater management plan from the appropriate Virginia Stormwater Management Program (VSMP) authority as authorized under the VSMP Regulation (9VAC25-870), unless the operator receives from the VSMP authority an "agreement in lieu of a stormwater management plan" as defined in 9VAC25-870-10 or prepares the stormwater management plan in accordance with annual standards and specifications approved by the department; and	<p>Removed the word annual from standards and specifications approved by the department to reflect the Virginia Erosion and Stormwater Management Regulation.</p> <p>The previous proposed language was revised to remove "or prepares the stormwater management plan" and replace with "or a stormwater management plan" in reference to standards and specifications. Also, removed "stormwater management" from agreement in lieu of a plan for consistency with 9VAC25-875. These changes provide clarity and improve readability.</p> <p>No significant impact is expected due to this revision.</p>
9VAC25-880-30. Authorization to discharge. C.4		4. The support activity is identified in the registration statement at the time of general permit coverage;	<p>The support activity is reported in the registration statement at the time of general permit coverage or reported in a modified registration statement once the need for the support activity is known.</p> <p>Language added to allow for reporting new support activities in a modified registration statement once the need for the additional support activity is known.</p> <p>No significant impact is expected due to this revision.</p>
9VAC25-880-30. Authorization to discharge. D		D. Support activities located off-site are not required to be covered under this general permit. Discharges of stormwater from off-site support activities may be authorized under another state or VPDES permit. Where stormwater discharges from off-site support activities are not authorized under this general permit, the land area	<p>Language added to clarify that off-site construction support activities that are not authorized under the CGP shall not be included in calculating total land area of development and estimated area to be disturbed in the registration statement.</p> <p>The previous proposed language referenced the total land area of development. The revisions change this phrase to total land area of the construction site for consistency with</p>

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		of the off-site support activity need not be included in determining the total land disturbance acreage of the construction activity seeking general permit coverage.	<p>the terminology used throughout the remainder of the general permit.</p> <p>No significant impact is expected due to this revision.</p>
9VAC25-880-30. Authorization to discharge. F		<p>F. Authorized nonstormwater discharges. The following nonstormwater discharges from construction activities are authorized by this general permit:</p> <ol style="list-style-type: none"> <li>1. Discharges from firefighting activities;</li> <li>2. Fire hydrant flushings;</li> <li>3. Water used to wash vehicles or equipment where soaps, solvents, or detergents have not been used and the wash water has been filtered, settled, or similarly treated prior to discharge;</li> <li>4. Water used to control dust that has been filtered, settled, or similarly treated prior to discharge;</li> <li>5. Potable water source, including uncontaminated waterline flushings, managed in a manner to avoid an instream impact;</li> <li>6. Routine external building wash down where soaps, solvents, or detergents have not been used and the wash water has been filtered, settled, or similarly treated prior to discharge;</li> <li>7. Pavement wash water where spills or leaks of toxic or hazardous materials have not occurred (or where all spilled or leaked material has been removed prior to washing); where soaps, solvents, or detergents have not been used; and where the wash water has been filtered, settled, or similarly treated prior to discharge;</li> </ol>	<p>This section was revised to be consistent with the authorized nonstormwater discharge sections in other recently issued general permits. These changes were made to ensure consistency across permits.</p> <p>No significant impact is expected due to this revision.</p>

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		<p>8. Uncontaminated air conditioning or compressor condensate;                      9. Uncontaminated groundwater or spring water;                      10. Foundation or footing drains where flows are not contaminated with process materials such as solvents;                      11. Uncontaminated, excavation dewatering, including dewatering of trenches and excavations that have been filtered, settled, or similarly treated prior to discharge; and                      12. Landscape irrigations.</p>	
<p>9VAC25-880-30. Authorization to discharge. H.1</p>		<p>1. Permit coverage shall expire at the end of its term. However, expiring permit coverages are automatically continued if the owner has submitted a complete registration statement at least 60 days prior to the expiration date of the permit, or a later submittal date established by the board, which cannot extend beyond the expiration date of the permit. The permittee is authorized to continue to discharge until such time as the board either:</p>	<p>Changed the timeline for submitting a completed registration statement from 60 days to 90 days prior to the expiration date of the permit. This change is meant to grant more time in reviewing registration statements for continuation of general permit coverage.</p> <p>Added a requirement that all past due general maintenance fees must be paid prior to continuation of a general permit. This is intended to ensure that these fees are paid.</p> <p>No significant impact is expected due to this revision.</p>
<p>9VAC25-880-40</p>		<p>Delegation of authorities to state and local programs.</p>	<p>Minor changes were made throughout this section to ensure consistent use of terms, improve readability, and correct grammatical errors. These minor changes did not alter the requirements of this section.</p> <p>No significant impact is expected due to this revision.</p>
<p>9VAC25-880-50</p>		<p>Registration statement.</p>	<p>Minor changes were made throughout this section to ensure consistent use of terms, improve readability, and correct grammatical errors. These minor changes did not alter the requirements of this section.</p> <p>No significant impact is expected due to this revision.</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
9VAC25-880-50. Registration statement. A.2.a.(1)		(1) Submit a complete and accurate registration statement to the VSMP authority at least 60 days prior to the expiration date of the existing permit or a later submittal date established by the board; and	Change in the timeline for submitting a completed registration statement from 60 days to 90 days prior to the expiration date of the permit. This change is meant to grant more time in reviewing registration statements for continuation of general permit coverage.  No significant impact is expected due to this revision.
9VAC25-880-50. Registration statement. A.3		3. For stormwater discharges from construction activities where the operator changes, the new operator shall submit a complete and accurate registration statement or transfer agreement form and any other documents deemed necessary by the VSMP authority to the VSMP authority to demonstrate transfer of ownership and long-term maintenance responsibilities for stormwater management facilities, as required, has occurred prior to assuming operational control over site specifications or commencing work on-site.	Changes were made to the title of this subsection, unnecessary language was removed, and other language was updated. These changes are meant to improve clarity and readability.  No significant impact is expected due to this revision.
	9VAC25-880-50. Registration statement. B.2		Requirement to include a State Corporation Commission entity identification number was added to ensure consistency with the department's other general permits.  No significant impact is expected due to this revision.
9VAC25-880-50. Registration statement. B.2	9VAC25-880-50. Registration statement. B.3	2. Name and physical location address of the construction activity, when available, to be covered under this general permit, including city or county, and latitude and longitude in decimal degrees (six digits - ten-thousandths place);	Subsection reformatted to improve readability and clarity.  No significant impact is expected due to this revision.
9VAC25-880-50. Registration statement	9VAC25-880-50. Registration	3. A site map (in an 8.5 inch by 11 inch format) showing the location of the existing or proposed land-disturbing	Changed requirement for submitting an 8.5-inch by 11-inch format site map to a legible site map. This was done to grant flexibility for submitting site maps while

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statement. B.3	statement. B.4	activities for which the operator is seeking permit coverage, the limits of land disturbance, construction entrances, on-site support activities, and all water bodies receiving stormwater discharges from the site;	still ensuring the contents are readable. Also, reformatted to improve readability and clarity.  No significant impact is expected due to this revision.
9VAC25-880-50. Registration statement. B.4	9VAC25-880-50. Registration statement. B.5	4. If off-site support activities will be used, the name and physical location address, when available, of all off-site support activities, including city or county; latitude and longitude in decimal degrees (six digits - ten-thousandths place); and whether or not the off-site support activity will be covered under this general permit or a separate VPDES permit;	Subsection reformatted to improve readability and clarity, as well as revised terminology to be consistent with the remainder of the permit.  No significant impact is expected due to this revision.
9VAC25-880-50. Registration statement. B.5	9VAC25-880-50. Registration statement. B.6	5. If excavated material (i.e., fill) will be transported off site for disposal, the name and physical location address, when available, of all off-site excavated material disposal areas, including city or county; latitude and longitude in decimal degrees (six digits – ten-thousandths place); and the contents of the excavated material;	Added “the construction” before site for disposal to provide clarity. Also, reformatted to improve readability and clarity.  No significant impact is expected due to this revision.
9VAC25-880-50. Registration statement. B.6	9VAC25-880-50. Registration statement. B.7	6. Status of the construction activity: federal, state, public, or private;	Subsection reformatted to improve readability and clarity.  No significant impact is expected due to this revision.
9VAC25-880-50. Registration statement. B.7	9VAC25-880-50. Registration statement. B.8	7. Nature of the construction activity (e.g., commercial, industrial, residential, agricultural, oil and gas, etc.);	Subsection reformatted to improve readability and clarity.  No significant impact is expected due to this revision.
9VAC25-880-50. Registration statement. B.8	9VAC25-880-50. Registration statement. B.9	8. If stormwater management plans for the construction activity have been approved by an entity with department approved annual standards and	Added “or erosion and sediment control plans” to account for the consolidation of 9VAC25- 840 and 9VAC25-870. Also, reformatted to improve readability and clarity.

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		specifications, the name of the entity with the department approved annual standards and specifications. A copy of the annual standard and specification entity form shall be submitted with the registration statement;	No significant impact is expected due to this revision.
9VAC25-880-50. Registration statement. B.9	9VAC25-880-50. Registration statement. B.10	9. If the construction activity was previously authorized to discharge under the general permit effective July 1, 2014, the date of erosion and sediment control plan approval for the estimated area to be disturbed by the construction activity during this permit term;	Subsection reformatted to improve readability and clarity.  No significant impact is expected due to this revision.
9VAC25-880-50. Registration statement. B.10	9VAC25-880-50. Registration statement. B.11	10. If the construction activity was previously authorized to discharge under the general permit effective July 1, 2014, whether land disturbance has commenced;	Subsection reformatted to improve readability and clarity.  No significant impact is expected due to this revision.
9VAC25-880-50. Registration statement. B.11	9VAC25-880-50. Registration statement. B.12	11. Name of the receiving waters and sixth order Hydrologic Unit Code (HUC);	Subsection reformatted to improve readability and clarity.  No significant impact is expected due to this revision.
9VAC25-880-50. Registration statement. B.12	9VAC25-880-50. Registration statement. B.13	12. If the discharge is through a municipal separate storm sewer system (MS4), the name of the MS4 operator;	Subsection reformatted to improve readability and clarity.  No significant impact is expected due to this revision.
9VAC25-880-50. Registration statement. B.13	9VAC25-880-50. Registration statement. B.14	13. Estimated project start date and completion date;	Subsection reformatted to improve readability and clarity.  No significant impact is expected due to this revision.
9VAC25-880-50. Registration statement. B.14	9VAC25-880-50. Registration statement. B.15	14. Total land area of development and estimated area to be disturbed by the construction activity during this permit term (to the nearest one-hundredth of an acre);	Subsection reformatted to improve readability and clarity.  No significant impact is expected due to this revision.

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9VAC25-880-50. Registration statement. B.15	9VAC25-880-50. Registration statement. B.16	15. Whether the area to be disturbed by the construction activity is part of a larger common plan of development or sale;	Subsection reformatted to improve readability and clarity.  No significant impact is expected due to this revision.
9VAC25-880-50. Registration statement. B.16	9VAC25-880-50. Registration statement. B.17	16. If nutrient credits are to be used to demonstrate compliance with the water quality technical criteria as allowed in 9VAC25-870-65 F, a letter of availability from an appropriate nutrient bank that nonpoint source nutrient credits are available;	Subsection reformatted to improve readability and clarity.  No significant impact is expected due to this revision.
9VAC25-880-50. Registration statement. B.17	9VAC25-880-50. Registration statement. C	17. A stormwater pollution prevention plan (SWPPP) shall be prepared in accordance with the requirements of the General VPDES Permit for Stormwater Discharges from Construction Activities prior to submitting the registration statement. By signing the registration statement, the operator certifies that the SWPPP has been prepared; and	Subsection B.17 was moved to a newly created subsection C because the contents deal with preparing a stormwater pollution prevention plan (SWPPP) rather than the contents of a registration statement.  No significant impact is expected due to this revision.
9VAC25-880-60		Termination of general permit coverage.	Minor changes were made throughout this section to ensure consistent use of terms, improve readability, and correct grammatical errors. These minor changes did not alter the requirements of this section.  No significant impact is expected due to this revision.
9VAC25-880-60. Termination of general permit coverage. A		A. Requirements. The operator of the construction activity shall submit a complete and accurate notice of termination, unless a registration statement was not required to be submitted in accordance with 9VAC25-880-50 A 1 c or A 2 b for single-family detached residential structures, to the VSMP authority after one or more of the following conditions have been met:	Replaced "single-family detached residential structures" with "a stormwater discharge associated with a small construction activity of a single-family detached residential structure, within or outside a common plan of development or sale" for consistency with 9VAC25-880-50.A.1.c and the remainder of the permit.  No significant impact is expected due to this revision.

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
9VAC25-880-60. Termination of general permit coverage. B.2		2. Termination of authorization to discharge for the conditions set forth in subdivision A 1 of this section shall become effective upon notification from the department that the provisions of subdivision A 1 of this section have been met or 60 days after submittal of a complete and accurate notice of termination, whichever occurs first.	<p>Changed the timeline for which the termination of authorization to discharge from 60 days to 90 days after receipt of a notice of termination. This change was made to comply with § 62.1-44.15:26.1 of the Code of Virginia. Language was added to clarify the timeline for the termination of permit coverage does not apply if the operator is notified of an issue by the VESMP authority or the department.</p> <p>No significant impact is expected due to this revision.</p>
9VAC25-880-70.		General permit.	<p>Minor changes were made throughout this section to ensure consistent use of terms, improve readability, and correct grammatical errors. These minor changes did not alter the requirements of this section.</p> <p>No significant impact is expected due to this revision.</p>
	9VAC25-880-70. General Permit.		<p>Added language to include any operator with a stormwater discharge associated with a single-family detached residential structure, within or outside a common plan of development or sale, as covered under the general permit.</p> <p>No significant impact is expected due to this revision.</p>
	9VAC25-880-70. General Permit. AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA EROSION AND STORMWATER MANAGEMENT PROGRAM AND THE VIRGINIA EROSION AND STORMWAT		<p>Added language to include stormwater discharge associated with a single-family detached residential structure, within or outside a common plan of development or sale, as a discharge authorized under the general permit.</p> <p>No significant impact is expected due to this revision.</p>



Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
	ER MANAGEMENT ACT		
9VAC25-880-70. General permit. Part I.A.2.d		d. The support activity is identified in the registration statement at the time of general permit coverage;	Language added to allow for reporting new support activities in a modified registration statement once the need for the additional support activity is known.  No significant impact is expected due to this revision.
9VAC25-880-70. General permit. Part I.A.4.a-b		a. Nutrient and sediment impaired waters. Discharges of stormwater from construction activities to surface waters identified as impaired in the 2016 § 305(b)/303(d) Water Quality Assessment Integrated Report or for which a TMDL wasteload allocation has been established and approved prior to the term of this general permit for (i) sediment or a sediment-related parameter (i.e., total suspended solids or turbidity) or (ii) nutrients (i.e., nitrogen or phosphorus) are not eligible for coverage under this general permit unless the operator develops, implements, and maintains a stormwater pollution prevention plan (SWPPP) in accordance with Part II B 5 of this permit that minimizes the pollutants of concern and, when applicable, is consistent with the assumptions and requirements of the approved TMDL wasteload allocations and implements an inspection frequency consistent with Part II G 2 a. b. Polychlorinated biphenyl (PCB) impaired waters. Discharges of stormwater from construction activities that include the demolition of any structure with at least 10,000 square feet of floor	Updated the references to the Water Quality Assessment Integrated Report, including correcting the date to the most recent report and including a reference to surface water identified in the report for Benthic Macroinvertebrates Bioassessments. Also, clarified the TMDL wasteload allocation includes all surface waters within the Chesapeake Bay Watershed. These changes did not alter the requirements of this section and provide clarity.  No significant impact is expected due to this revision.

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		<p>space built or renovated before January 1, 1980, to surface waters identified as impaired in the 2016 § 305(b)/303(d) Water Quality Assessment Integrated Report or for which a TMDL wasteload allocation has been established and approved prior to the term of this general permit for PCB are not eligible for coverage under this general permit unless the operator develops, implements, and maintains a SWPPP in accordance with Part II B 6 of this permit that minimizes the pollutants of concern and, when applicable, is consistent with the assumptions and requirements of the approved TMDL wasteload allocations, and implements an inspection frequency consistent with Part II G 2 a.</p>	
<p>9VAC25-880-70. General permit. Part I.B.5</p>		<p>5. Exceptional waters limitation. Discharges of stormwater from construction activities not previously covered under the general permit effective on July 1, 2014, to exceptional waters identified in 9VAC25-260-30 A 3 c are not eligible for coverage under this general permit unless the operator develops, implements, and maintains a SWPPP in accordance with Part II B 7 of this permit and implements an inspection frequency consistent with Part II G 2 a.</p>	<p>Corrected the effective date of the permit.</p> <p>No significant impact is expected due to this revision.</p>
<p>9VAC25-880-70. General permit. Part I.E</p>		<p>E. Authorized nonstormwater discharges. The following nonstormwater discharges from construction activities are authorized by this general permit when</p>	<p>This section was revised to be consistent with the authorized nonstormwater discharge sections in other recently issued general permits. These changes were made to ensure consistency across permits.</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		<p>discharged in compliance with this general permit:</p> <ol style="list-style-type: none"> <li>1. Discharges from firefighting activities;</li> <li>2. Fire hydrant flushings;</li> <li>3. Waters used to wash vehicles or equipment where soaps, solvents, or detergents have not been used and the wash water has been filtered, settled, or similarly treated prior to discharge;</li> <li>4. Water used to control dust that has been filtered, settled, or similarly treated prior to discharge;</li> <li>5. Potable water sources, including uncontaminated waterline flushings, managed in a manner to avoid an instream impact;</li> <li>6. Routine external building wash down where soaps, solvents or detergents have not been used and the wash water has been filtered, settled, or similarly treated prior to discharge;</li> <li>7. Pavement wash waters where spills or leaks of toxic or hazardous materials have not occurred (or where all spilled or leaked material has been removed prior to washing); where soaps, solvents, or detergents have not been used; and where the wash water has been filtered, settled, or similarly treated prior to discharge;</li> <li>8. Uncontaminated air conditioning or compressor condensate;</li> <li>9. Uncontaminated ground water or spring water;</li> <li>10. Foundation or footing drains where flows are not contaminated with process materials such as solvents;</li> <li>11. Uncontaminated excavation dewatering,</li> </ol>	<p>No significant impact is expected due to this revision.</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		including dewatering of trenches and excavations that have been filtered, settled, or similarly treated prior to discharge; and 12. Landscape irrigation.	
9VAC25-880-70. General permit. Part I.F.3		3. Termination of authorization to discharge for the conditions set forth in subdivision 1 a of this subsection shall be effective upon notification from the department that the provisions of subdivision 1 a of this subsection have been met or 60 days after submittal of a complete and accurate notice of termination in accordance with 9VAC25-880-60 C, whichever occurs first.	<p>Changed the timeline for which the termination of authorization to discharge from 60 days to 90 days after receipt of a notice of termination. This change was made to comply with § 62.1-44.15:26.1 of the Code of Virginia.</p> <p>Language was added to clarify the timeline for the termination of permit coverage does not apply if the operated is notified of an issue by the VESMP authority or the department.</p> <p>No significant impact is expected due to this revision.</p>
9VAC25-880-70. General permit. Part I.F.4		4. Authorization to discharge terminates at midnight on the date that the notice of termination is submitted for the conditions set forth in subdivisions 1 b through 1 d of this subsection unless otherwise notified by the VSMP authority or department.	<p>This subsection was deleted since language was added to Part I.F.3 to improve clarity about which sections of the permit must be followed when submitting a notice of termination.</p> <p>No significant impact is expected due to this revision.</p>
9VAC25-880-70. General permit. Part II.A.1		1. A stormwater pollution prevention plan (SWPPP) shall be developed prior to the submission of a registration statement and implemented for the construction activity, including any support activity, covered by this general permit. SWPPPs shall be prepared in accordance with good engineering practices. Construction activities that are part of a larger common plan of development or sale and disturb less than one acre may utilize a SWPPP template provided by the department and need not provide a separate	<p>Language was added to clarify that for a small construction activity of a single-family detached residential structure, within or outside a common plan of development or sale, a SWPPP shall be developed and implemented prior to the initiation of the construction activity. In addition, the general language regarding SWPPP preparation was moved to a new subdivision to improve readability.</p> <p>No significant impact is expected due to this revision.</p>

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		stormwater management plan if one has been prepared and implemented for the larger common plan of development or sale.	
9VAC25-880-70. General permit. Part II.A.1	9VAC25-880-70. General permit. Part II.A.2	SWPPPs shall be prepared in accordance with good engineering practices. Construction activities that are part of a larger common plan of development or sale and disturb less than one acre may utilize a SWPPP template provided by the department and need not provide a separate stormwater management plan if one has been prepared and implemented for the larger common plan of development or sale.	This language was moved from subsection 1 to subsection 2 to provide clarity and improve readability.  No significant impact is expected due to this revision.
9VAC25-880-70. General permit. Part II.A.2	9VAC25-880-70. General permit. Part II.A.3	2. The SWPPP requirements of this general permit may be fulfilled by incorporating by reference other plans such as a spill prevention control and countermeasure (SPCC) plan developed for the site under § 311 of the federal Clean Water Act or best management practices (BMP) programs otherwise required for the facility provided that the incorporated plan meets or exceeds the SWPPP requirements of Part II B. All plans incorporated by reference into the SWPPP become enforceable under this general permit. If a plan incorporated by reference does not contain all of the required elements of the SWPPP, the operator shall develop the missing elements and include them in the SWPPP.	The language of the permit was not changed, only the regulation citation was updated.  No significant impact is expected due to this revision.
9VAC25-880-70.	9VAC25-880-70. General permit.	3. Any operator that was authorized to discharge under the general permit	Corrected the effective date of the permit and updated the subdivision.

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General permit. Part II.A.3	Part II.A.4	effective July 1, 2014, and that intends to continue coverage under this general permit, shall update its stormwater pollution prevention plan to comply with the requirements of this general permit no later than 60 days after the date of coverage under this general permit.	No significant impact is expected due to this revision.
9VAC25-880-70. General permit. Part II.B.1. e		e. A legible site plan identifying: (1) Directions of stormwater flow and approximate slopes anticipated after major grading activities; (2) Limits of land disturbance including steep slopes and natural buffers around surface waters that will not be disturbed; (3) Locations of major structural and nonstructural control measures, including sediment basins and traps, perimeter dikes, sediment barriers, and other measures intended to filter, settle, or similarly treat sediment, that will be installed between disturbed areas and the undisturbed vegetated areas in order to increase sediment removal and maximize stormwater infiltration; (4) Locations of surface waters; (5) Locations where concentrated stormwater is discharged; (6) Locations of any support activities, including (i) areas where equipment and vehicle washing, wheel wash water, and other wash water is to occur; (ii) storage areas for chemicals such as acids, fuels, fertilizers, and other lawn care chemicals; (iii) concrete wash out areas;	Revisions were made to existing language to improve readability and to add additional detail and clarity to what must be included in the construction site map.  Added new language that requires listing the locations of areas where polymers, flocculants, or other stormwater treatment chemicals are used or stored. This language is from previous EPA permits but is new to Virginia's permit.  No significant impact is expected due to this revision.

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		(iv) vehicle fueling and maintenance areas; (v) sanitary waste facilities, including those temporarily placed on the construction site; and (vi) construction waste storage; and (7) When applicable, the location of the on-site rain gauge or the methodology established in consultation with the VSMP authority used to identify measurable storm events for inspection as allowed by Part II G 2 a (1) (ii) or 2 b (2).	
9VAC25-880-70. General permit. Part II.B.2		2. Erosion and sediment control plan.	Additional language was added to clarify the erosion and sediment control plan must be for the construction activity authorized under the permit.  No significant impact is expected due to this revision.
9VAC25-880-70. General permit. Part II.B.2. c		c. An approved erosion and sediment control plan, "agreement in lieu of a plan," or erosion and sediment control plan prepared in accordance with department-approved annual standards and specifications, implemented to: (1) Control the volume and velocity of stormwater runoff within the site to minimize soil erosion; (2) Control stormwater discharges, including peak flow rates and total stormwater volume, to minimize erosion at outlets and to minimize downstream channel and stream bank erosion; (3) Minimize the amount of soil exposed during the construction activity; (4) Minimize the disturbance of steep slopes; (5) Minimize sediment discharges from the site in a	Subsection B 2 c: Revisions were made to improve readability and incorporate new defined terms. New language was added to subsections B 2 c (6)-(8). These additions provide additional clarity on where directing stormwater to vegetated areas, minimizing soil compaction, and preserving topsoil would be considered infeasible. The new language in these subsections comes from EPA's permit.  No significant impact is expected due to this revision.

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		<p>manner that addresses (i) the amount, frequency, intensity, and duration of precipitation; (ii) the nature of resulting stormwater runoff; and (iii) soil characteristics, including the range of soil particle sizes present on the site;</p> <p>(6) Provide and maintain natural buffers around surface waters, direct stormwater to vegetated areas to increase sediment removal, and maximize stormwater infiltration, unless infeasible;</p> <p>(7) Minimize soil compaction and, unless infeasible, preserve topsoil;</p> <p>(8) Ensure initiation of stabilization activities, as defined in 9VAC25-880-1, of disturbed areas immediately whenever any clearing, grading, excavating, or other land-disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 days; and</p> <p>(9) Utilize outlet structures that withdraw stormwater from the surface (i.e., above the permanent pool or wet storage water surface elevation), unless infeasible, when discharging from sediment basins or sediment traps.</p>	
<p>9VAC25-880-70. General permit. Part II.B.3</p>		<p>3. Stormwater management plan.</p>	<p>Additional language was added to clarify the stormwater management plan must be for the construction activity authorized under the permit.</p> <p>No significant impact is expected due to this revision.</p>
<p>9VAC25-880-70.</p>		<p>4. Pollution prevention...</p>	<p>Additional language was added to clarify the pollution prevention plan must</p>



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General Permit. Part II.B.4			<p>be for the construction activity authorized under the permit.</p> <p>No significant impact is expected due to this revision.</p>
9VAC25-880-70. General permit. Part II.B.4. e.(4) – (5)		<p>(4) Minimize the discharge of pollutants from vehicle and equipment washing, wheel wash water, and other types of washing (e.g., locating activities away from surface waters and stormwater inlets or conveyance and directing wash waters to sediment basins or traps, using filtration devices such as filter bags or sand filters, or using similarly effective controls);</p> <p>(5) Direct concrete wash water into a leak-proof container or leak-proof settling basin. The container or basin shall be designed so that no overflows can occur due to inadequate sizing or precipitation. Hardened concrete wastes shall be removed and disposed of in a manner consistent with the handling of other construction wastes. Liquid concrete wastes shall be removed and disposed of in a manner consistent with the handling of other construction wash waters and shall not be discharged to surface waters;</p>	<p>Revisions were made to incorporate changes in terms from EPA’s 2022 CGP.</p> <p>New language was added to clarify that concrete wash water cannot be disposed of through infiltration or otherwise disposed of on the ground. This new language is in response to issues raised through NOIRA public comments and during the TAC.</p> <p>No significant impact is expected due to this revision.</p>
	* 9VAC25-880-70. General permit. Part II.B.8	General Permit. Part II	<p>This is a new subsection that is being added to Virginia’s 2024 CGP. This section is in response to new EPA requirements for controlling construction dewatering discharges. The department followed EPA’s concept of creating a turbidity benchmark that is not an effluent limitation.</p> <p>The previous proposed language included two benchmark options. Both of these turbidity benchmark thresholds</p>

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			<p>were revised based on comments received during the public comment period.</p> <p>Added language to provide a third turbidity benchmark option, as well as language which allows an operator to request an alternative benchmark threshold from the department. The additional language provides an additional option and flexibility to the operator and is consistent with EPA's 2022 CGP.</p> <p>Although this language is new, it does not add new requirements to the general permit. Instead, it provides additional options and flexibility to the operator for achieving compliance with the original proposed turbidity benchmark. This change was made in response from comments received during the public comment period.</p> <p>No significant impact is expected due to this revision.</p>
<p>9VAC25-880-70. General permit. Part II.B.8</p>	<p>9VAC25-880-70. General permit. Part II.B.9</p>	<p>8. Identification of qualified personnel. The name, phone number, and qualifications of the qualified personnel conducting inspections required by this general permit.</p>	<p>Updated citations due to other modifications. No changes to the permit language.</p> <p>No significant impact is expected due to this revision.</p>
<p>9VAC25-880-70. General permit. Part II.B.9</p>	<p>9VAC25-880-70. General permit. Part II.B.10</p>	<p>9. Delegation of authority. The individuals or positions with delegated authority, in accordance with Part III K, to sign inspection reports or modify the SWPPP.</p>	<p>Revisions change “delegation of authority” to “duly authorized representative.” This change creates consistency with other sections of the permit and clarifies whose information needs to be included in the SWPPP.</p> <p>In addition, new language was added directing permittees to the provisions in the permit detailing signature and certification requirements. This was done to make the permit easier to navigate.</p> <p>No significant impact is expected due to this revision.</p>
<p>9VAC25-880-70. General</p>	<p>9VAC25-880-70.</p>	<p>10. SWPPP signature. The SWPPP shall be signed and</p>	<p>Language was added clarifying that the SWPPP must contain a signature and certification and directing permittees to</p>

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permit. Part II.B.10	General permit. Part II.B.11	dated in accordance with Part III K.	the provisions in the permit detailing signature and certification requirements. This was done to add clarity around requirements and to make the permit easier to navigate.  No significant impact is expected due to this revision.
9VAC25-880-70. General permit. Part II.C.5		5. Amendments, modifications, or updates to the SWPPP shall be signed in accordance with Part III K.	Language was added directing permittees to the provisions in the permit detailing signature and certification requirements.  No significant impact is expected due to this revision.
9VAC25-880-70. General permit. Part II.D		D. Public notification. Upon commencement of land disturbance, the operator shall post conspicuously a copy of the notice of coverage letter near the main entrance of the construction activity. For linear projects, the operator shall post the notice of coverage letter at a publicly accessible location near an active part of the construction project (e.g., where a pipeline crosses a public road). The operator shall maintain the posted information until termination of general permit coverage as specified in Part I F.	Revisions were made, and new language was added to clarify requirements for where a notice of coverage letter must be posted.  No significant impact is expected due to this revision.
9VAC25-880-70. General permit. Part II.F.2		2. If site inspections required by Part II G identify an existing control measure that needs to be modified or if an additional or alternative control measure is necessary for any reason, implementation shall be completed prior to the next anticipated measurable storm event. If implementation prior to the next anticipated measurable storm event is impracticable, then additional or alternative control measures shall be implemented as soon as	“Seven days” replaced with “five business days” to create consistency throughout the permit. Language was revised to add the need for routine maintenance as a trigger for this subsection.  No significant impact is expected due to this revision.

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		practicable, but no later than seven days after discovery or a longer period as established by the VSMP authority.	
	9VAC25-880-70. General permit. Part II.F.3		This is a new subsection incorporating new EPA requirements for what an operator must do in the event that they have to repeatedly repair the same stormwater control at the same location.  No significant impact is expected due to this revision.
9VAC25-880-70. General permit. Part II.G.1		1. Personnel responsible for on-site and off-site inspections. Inspections required by this general permit shall be conducted by the qualified personnel identified by the operator in the SWPPP. The operator is responsible for ensuring that the qualified personnel conduct the inspection.	Language was added to clarify that the qualified personnel conducting inspections may be a person on the operator's staff or a third party hired to conduct inspections.  No significant impact is expected due to this revision.
	9VAC25-880-70 . General permit. Part II.G.2 b.(2)		New language was added from EPA's 2022 CGP that adds more detail around when an inspection must take place in the event of a measurable storm event.  The proposed language was unclear based on comments received during the public comment period; therefore, additional language was added to clarify the inspection schedule for a discharge associated with a snow melt.  No significant impact is expected due to this revision.
9VAC25-880-70. General permit. Part II.G.3		3. Inspection requirements.	Revisions made to fix numbering issues that existed in past permits and to account for new defined terms.  No significant impact is expected due to this revision.
	9VAC25-880-70. General permit. Part II.G.3.d – e		Subsections d and e were added to incorporate language from EPA's permit stating that all stormwater discharge locations and all construction dewatering discharge locations must be inspected. This language existed in previous EPA permits but is new to Virginia's CGP. At the request of the

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			<p>TAC, this language was altered from the EPA requirement to state that documentation of the visual quality and other characteristics of discharges are only required when an inspection indicates that pollutants are being discharged.</p> <p>No significant impact is expected due to this revision.</p>
<p>9VAC25-880-70. General permit. Part.II.G.4</p>		<p>4. Inspection report. Each inspection report shall include the following items:</p> <ul style="list-style-type: none"> <li>a. The date and time of the inspection and, when applicable, the date and rainfall amount of the last measurable storm event;</li> <li>b. Summarized findings of the inspection;</li> <li>c. The locations of prohibited discharges;</li> <li>d. The locations of control measures that require maintenance;</li> <li>e. The locations of control measures that failed to operate as designed or proved inadequate or inappropriate for a particular location;</li> <li>f. The locations where any evidence identified under Part II G 3 a (6) exists;</li> <li>g. The locations where any additional control measure is needed;</li> <li>h. A list of corrective actions required (including any changes to the SWPPP that are necessary) as a result of the inspection or to maintain permit compliance;</li> <li>i. Documentation of any corrective actions required from a previous inspection that have not been implemented; and</li> <li>j. The date and signature of the qualified personnel and the operator or its duly authorized representative.</li> </ul>	<p>Revisions made to account for new defined terms.</p> <p>No significant impact is expected due to this revision.</p>

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	9VAC25-880-70 Part II.G.4.c - d		<p>Subsections c and d were added to incorporate language from EPA's permit stating that all stormwater discharge locations and all construction dewatering discharge locations must be inspected. This language existed in previous EPA permits but is new to Virginia's CGP. At the request of the TAC, this language was altered from the EPA requirement to state that documentation of the visual quality and other characteristics of discharges are only required when an inspection indicates that pollutants are being discharged.</p> <p>No significant impact is expected due to this revision.</p>
	9VAC25-880-70. General permit. Part II.4.l-m		<p>New language was added in subsection l to require reporting of incidents of noncompliance or a certification that the construction activity is in compliance with the SWPPP. In addition, new language was added to subsection m directing permittees to the provisions in the permit detailing signature and certification requirements.</p> <p>No significant impact is expected due to this revision.</p>
9VAC25-880-70. General permit. Part II.H.1		<p>1. The operator shall implement the corrective actions identified as a result of an inspection as soon as practicable but no later than seven days after discovery or a longer period as approved by the VSMP authority. If approval of a corrective action by a regulatory authority (e.g., VSMP authority, VESCP authority, or the department) is necessary, additional control measures shall be implemented to minimize pollutants in stormwater discharges until such approvals can be obtained.</p>	<p>Revision was made to change "seven days" to "five business days" to create consistency throughout the permit.</p> <p>The previous proposed language was unclear with regards to the schedule for corrective actions relating to the construction dewatering turbidity benchmark; therefore, "Except as required in Part II.H.2" was added to the beginning of the subsection to provide clarity.</p> <p>No significant impact is expected due to this revision.</p>
	9VAC25-880-70.	General Permit Part II	<p>Subsection 2 was added to detail corrective actions that must be taken if required by the new construction</p>

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	General permit. Part II.H.2		<p>dewatering turbidity benchmark in 9VAC25-880-70 B 8.</p> <p>The original proposed language separated the corrective actions based on the two original proposed turbidity benchmark options. Due to the addition of a third option and to provide clarity and remove redundancy, the corrective actions were consolidated into one subsection. In addition, language was added to clarify the corrective action schedule for exceedances of the construction dewatering turbidity benchmark threshold. Finally, language was also added to clarify that once the corrective actions have been completed and after the dewatering discharge is sampled within 15 minutes, no additional corrective actions are required beyond recording the turbidity results in the SWPPP.</p>
9VAC25-880-70. General permit. Part II.H.3-5	9VAC25-880-70. General permit. Part II.H.3-4		<p>Deleted subdivision 3 in its entirety to remove redundancy and renumbered 4 to 3 and 5 to 4.</p> <p>No significant impact is expected due to this revision.</p>
9VAC25-880-70 Part III.H		<p>H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge including a "bypass" or "upset," as defined in this general permit, should occur from a facility and the discharge enters or could be expected to enter surface waters, the operator shall promptly notify, in no case later than within 24 hours, the department and the VSMP authority by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse effects on aquatic life and the known number of fish killed. The operator shall reduce the report to writing</p>	<p>Subsection H: Revision was made to change "five days" to "five calendar days." This was done to create a clear distinction from the use of "five business days" in other parts of the permit.</p> <p>No significant impact is expected due to this revision.</p>

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		and shall submit it to the department and the VSMP authority within five days of discovery of the discharge in accordance with Part III I 2. Unusual and extraordinary discharges include any discharge resulting from:	
9VAC25-880-70. General permit. Part III.I		I. Reports of noncompliance. The operator shall report any noncompliance which may adversely affect surface waters or may endanger public health.	This subsection was updated to ensure consistency with other recently reissued general permits in Virginia. The changes from this section come from the recently reissued General Permit for Vehicle Wash Facilities and Laundry Facilities (9VAC25-194-70). The revisions include changing "surface waters" to "state waters," minor linguistic.  No significant impact is expected due to this revision.
9VAC25-880-70. General permit. Part III.I.3 Note	9VAC25-880-70. General permit. Part III.I.4	NOTE: The reports required in Part III G, H and I shall be made to the department and the VSMP authority. Reports may be made by telephone or email. For reports outside normal working hours, leaving a recorded message shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Management maintains a 24-hour telephone service at 1-800-468-8892.	Corrected the website link to reflect an accurate website.  No significant impact is expected due to this revision.
	9VAC25-880-70. General Permit. Part III.J.3		New language was added to provide clarification in instances where the permittee has requested a planned changed and is awaiting a response from the review authority. This new language is in response to issues raised through NOIRA public comments and during the Technical Advisory Committee meetings.  The proposed language was unclear on if an operator chose to proceed at their own risk; therefore, additional language was added to clarify that if an operator proceeds forward without obtaining approval, they are proceeding at their



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			<p>own risk and are subject to compliance actions, if the plan is determined to be inadequate.</p> <p>No significant impact is expected due to this revision.</p>
9VAC25-880-70. General permit. Part III.K		K. Signatory requirements.	<p>Revision made to add notices of termination to the types of documents requiring signatures.</p> <p>No significant impact is expected due to this revision.</p>
9VAC25-880-70. General permit. Part III.M		M. Duty to reapply. If the operator wishes to continue an activity regulated by this general permit after the expiration date of this general permit, the operator shall submit a new registration statement at least 60 days before the expiration date of the existing general permit, unless permission for a later date has been granted by the board. The board shall not grant permission for registration statements to be submitted later than the expiration date of the existing general permit.	<p>Changed the timeline for submitting a completed registration statement from 60 days to 90 days prior to the expiration date of the permit. This change makes this subsection consistent with the requirements of 9VAC25-880-50 A 2 a (1).</p> <p>No significant impact is expected due to this revision.</p>

Changes are made throughout this regulation to update citations and references to the Erosion and Sediment Control Regulations (9VAC25-840), Erosion and Sediment Control and Stormwater Management Certification Regulations (9VAC25-850), and Virginia Stormwater Management Program Regulation (9VAC25-870) to reflect the consolidation of these three chapters into the Virginia Erosion and Stormwater Management Regulation (9VAC25-875). Additionally, the term “board” was changed to “department” throughout the regulation in response to Chapter 356 of the 2022 Acts of Assembly.

**Regulatory Flexibility Analysis**

*Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.*

The reissuance of the General VPDES Permit for Discharges of Stormwater from Construction Activities accomplishes the objectives of applicable law and minimizes the costs to construction site operators and simplifies the application process. Without the general permit, operators would be required to obtain an individual permit which would increase the complexity of a permit application, time to obtain permit coverage, and permit costs.

### **Family Impact**

*In accordance with § 2.2-606 of the Code of Virginia, please assess the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

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This regulation will have no direct impact on the institution of the family or family stability.