

Meeting Agenda begins on page 2.

Meeting Location Information - **DoubleTree by Hilton Richmond Airport**
Ballroom 1 and 2
445 International Center Drive
Sandston, Virginia 23150

Attendees are not entitled to be disorderly or disrupt the meeting from proceeding in an orderly, efficient, and effective fashion. Disruptive behavior may result in a recess or removal from the meeting.

Possession or use of any device that may disrupt the conduct of business is prohibited, including but not limited to: voice-amplification equipment; bullhorns; blow horns; sirens, or other noise-producing devices; as well as signs on sticks, poles or stakes; or helium-filled balloons.

Attendees shall not block or gather in exits, doors, or aisles.

All attendees are asked to be respectful of all speakers.

Rules will be enforced fairly and impartially not only to ensure the efficient and effective conduct of business, but also to ensure no interference with the business of the hotel, its employees and guests.

All violators are subject to removal.

TENTATIVE AGENDA AND MINIBOOK
STATE WATER CONTROL BOARD MEETING

MONDAY, APRIL 15, 2019

**DoubleTree by Hilton Richmond Airport
Ballroom 1 and 2
445 International Center Drive
Sandston, Virginia 23150**

Convene – 10:00 a.m.

AGENDA ITEM	DEPARTMENT PRESENTER
Introductions	
I. Minutes (December 13, 2018 and March 1, 2019))	
II. Fast-Track Regulations Closure Plan and Demonstration of Financial Capability (9VAC25-650) (page 4)	Porterfield
III. Regulation – Final Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Nonmetallic Mineral Mining (9VAC25-193) (page 4, comment summary - page 4, regulatory text - page 23)	Sherman
General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges of Storm Water Associated with Industrial Activity (9VAC25-151) (page 45, comment summary - page 45, regulatory text - page 78)	Richardson
General VPDES Permit for Discharges of Stormwater from Construction Activities (9VAC25-880) (page 175, comment summary - page 175, regulatory text - page 307)	Robb
IV. Significant Noncompliance Report (page 333)	Sadtler
V. Consent Special Orders - VPDES Tyson Farms, Inc., Temperanceville (Accomack Co.) (page 334)	Sadtler
VI. Public Forum (time for this item not to exceed 45 minutes)	
VII. Other Business Division Director's Report Future Meetings (June 27, September 6, December 13, 2019)	Schneider/Davenport

ADJOURN

NOTE: The Board reserves the right to revise this agenda without notice unless prohibited by law. Revisions to the agenda include, but are not limited to, scheduling changes, additions or deletions. Questions on the latest status of the agenda should be directed to Cindy M. Berndt at (804) 698-4378.

PUBLIC COMMENTS AT STATE WATER POLLUTION CONTROL BOARD MEETINGS: The Board encourages public participation in the performance of its duties and responsibilities. To this end, the Board has adopted public participation procedures for regulatory action and for case decisions. These procedures establish the times for the public to provide appropriate comment to the Board for its consideration.

For REGULATORY ACTIONS (adoption, amendment or repeal of regulations), public participation is governed by the Administrative Process Act and the Board's Public Participation Guidelines. Public comment is accepted during the Notice of Intended Regulatory Action phase (minimum 30-day comment period) and during the Notice of Public Comment Period on Proposed Regulatory Action (minimum 60-day comment period). Notice of these comment periods is announced in the Virginia Register, by posting to the Department of Environmental Quality and Virginia Regulatory Town Hall web sites and by mail to those on the Regulatory Development Mailing List. The comments received during the announced public comment periods are summarized for the Board and considered by the Board when making a decision on the regulatory action.

For CASE DECISIONS (issuance and amendment of permits), the Board adopts public participation procedures in the individual regulations which establish the permit programs. As a general rule, public comment is accepted on a draft permit for a period of 30 days. In some cases a public hearing is held at the conclusion of the public comment period on a draft permit. In other cases there may be an additional comment period during which a public hearing is held. In light of these established procedures, the Board accepts public comment on regulatory actions and case decisions, as well as general comments, at Board meetings in accordance with the following:

REGULATORY ACTIONS: Comments on regulatory actions are allowed only when the staff initially presents a regulatory action to the Board for final adoption. At that time, those persons who commented during the public comment period on the proposal are allowed up to 3 minutes to respond to the summary of the comments presented to the Board. Adoption of an emergency regulation is a final adoption for the purposes of this policy. Persons are allowed up to 3 minutes to address the Board on the emergency regulation under consideration.

CASE DECISIONS: Comments on pending case decisions at Board meetings are accepted only when the staff initially presents the pending case decision to the Board for final action. At that time the Board will allow up to 5 minutes for the applicant/owner to make his complete presentation on the pending decision, unless the applicant/owner objects to specific conditions of the decision. In that case, the applicant/owner will be allowed up to 15 minutes to make his complete presentation. The Board will then allow others who commented at the public hearing or during the public comment period up to 3 minutes to exercise their rights to respond to the summary of the prior public comment period presented to the Board. No public comment is allowed on case decisions when a FORMAL HEARING is being held.

POOLING MINUTES: Those persons who commented during the public hearing or public comment period and attend the Board meeting may pool their minutes to allow for a single presentation to the Board that does not exceed the time limitation of 3 minutes times the number of persons pooling minutes, or 15 minutes, whichever is less.

NEW INFORMATION will not be accepted at the meeting. The Board expects comments and information on a regulatory action or pending case decision to be submitted during the established public comment periods. However, the Board recognizes that in rare instances new information may become available after the close of the public comment period. To provide for consideration of and ensure the appropriate review of this new information, persons who commented during the prior public comment period shall submit the new information to the Department of Environmental Quality (Department) staff contact listed below at least 10 days prior to the Board meeting. The Board's decision will be based on the Department-developed official file and discussions at the Board meeting. In the case of a regulatory action, should the Board or Department decide that the new information was not reasonably available during the prior public comment period, is significant to the Board's decision and should be included in the official file, the Department may announce an additional public comment period in order for all interested persons to have an opportunity to participate.

PUBLIC FORUM: The Board schedules a public forum at each regular meeting to provide an opportunity for citizens to address the Board on matters other than those on the agenda, pending regulatory actions or pending case decisions. Those persons wishing to address the Board during this time should indicate their desire on the sign-in cards/sheet and limit their presentations to 3 minutes or less.

The Board reserves the right to alter the time limitations set forth in this policy without notice and to ensure comments presented at the meeting conform to this policy.

Department of Environmental Quality Staff Contact: Cindy M. Berndt, Director, Regulatory Affairs, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, Virginia 23218, phone (804) 698-4378; fax (804) 698-4346; e-mail: cindy.berndt@deq.virginia.gov.

REQUEST TO ADOPT FAST-TRACK AMENDMENTS CLOSURE PLAN AND DEMONSTRATION OF FINANCIAL CAPABILITY (9VAC25-650 ET SEQ.) REGULATION: DEQ will request the Board to accept final amendments to the Closure Plan and Demonstration of Financial Capability (9VAC25-650 et seq.) regulation. This regulatory amendment will be processed using the fast-track regulatory process established in Section 2.2-4012.1 of the Code of Virginia . Privately owned sewerage systems and sewerage treatment works that discharge more than 1,000 gallons per day and less than 40,000 gallons per day to develop closure plans and provide financial assurance for closure of the sewerage systems or sewage treatment works. Closure plans and financial assurance mechanisms are submitted to the department for approval.

This regulation is being amended to revise financial assurance requirements related to the transfer of the permit to a new owner or operator. Currently the previous owner or operator is required to provide financial assurance until the new owner or operator provides financial assurance. The regulation is being amended to require the new owner or operator to provide financial assurance prior to the transfer of the permit. This change is consistent with the requirement for an owner or operator of a new facility to provide financial assurance prior to the facility beginning to operate.

VPDES GENERAL PERMIT REGULATION NONMETALLIC MINERAL MINES (VAG 84); AMENDMENTS TO 9VAC25-190 AND FINAL REISSUANCE OF GENERAL PERMIT: The current VPDES General Permit Regulation for Nonmetallic Mineral Mining will expire on June 30, 2019 and the regulation establishing this general permit is being amended to reissue this general permit for another five-year term. The staff is bringing this final regulation before the Board to request adoption. This regulation took into consideration the recommendations of a technical advisory committee (TAC) formed for this regulatory action. The TAC consisted of industry representatives, a Department of Mines, Minerals and Energy (DMME) representative, and DEQ staff. Attempts to include NGO groups were unsuccessful.

The Board's authorization to hold a public hearing and receive public comments on the proposal was received at the September 20, 2018 meeting. A Notice of Public Comment (NOPC) was published and the comment period ran from October 29, 2018 to December 28, 2018. A public hearing was held on November 27, 2018. There were three attendees at the public hearing and one person provided comment. Public comments were received from 11 individuals or groups on the proposed changes to the general permit regulation.

Comments and Responses: The comments and responses are:

Eleven commenters submitted comments and most of these consisted of the same set of comments. The summary below combines comments that are the same and presents the Agency's response. (For those comments that are the same, VTCA's written comments are used unless noted). Comments marked with an * were also raised by VTCA at a more summary level at the public hearing held 11/27/2018.

Commenter	Affiliation	Comment – Response Identifier
Rob Lanham, Aggregates Program Manager	Virginia Transportation Construction Alliance	VTCA
Walter Beck III, Environmental Engineer	Vulcan Construction Materials	Vulcan
Thomas Harris, General Operations Manager	E. Dillion & Co.	E. Dillion
Mitch Scott, Environmental Manager, VA Dist.	Martin Marietta	Martin Marietta
Tim Mauzy, Engineer	Boxley Materials	Boxley
Ned Gumble, President	Virginia Vermiculite	Virginia Vermiculite
Mark Williams, Environmental Manager	Luck Stone Corp	Luck Stone
Tom Locher, Safety & Equipment Manager	Chemung Contracting Corp., Cedar Mountain Stone Corp.	Chemung
John Snoddy, Environmental & Safety Director	Kyanite Mining Corp.	Kyanite
Van Medlock, Director of Environmental Services	Rogers Group Inc.	Rogers
Mark Vigil	Luck Stone Corp	Luck Stone - Vigil

Commenter(s)	Comment(s)	Agency Response
(1) VTCA, Vulcan, E. Dillion, Martin Marietta, Boxley, Luck Stone, Chemung, Rogers, Luck Stone - Vigil	<p><u>VPDES GP 2018 DRAFT LINE 56 - 25-190-10 Definitions - Inactive Mining –</u></p> <p>There is not a definition of inactive mining in the permit. While Draft Line 471 Section I, B, 14 goes into great detail, this random sentence at the beginning of the permit is confusing and is not really a definition. In addition, Draft Line 806 notes training needs to be completed annually for "temporarily inactive sites." Some sites do not have active personnel, even at "temporarily inactive sites." We recommend altering the language.</p> <p><u>SUGGESTED ACTION:</u></p> <p>Provide the following as a definition, remove language within the parenthesis at line 56 and remove all language of "temporary inactive sites." This should include the removal of training requirements for "temporary inactive sites."</p> <p><i>Inactive Mining – DMME permitted mining or waived sites that are not being actively mined, but which have an identifiable owner/operator. Inactive sites do <u>not</u> include sites where claims are being maintained prior</i></p>	<p>The draft general permit regulation includes at the end of the definition of “[I]ndustrial activity” a description of “[I]nactive mining operations.” This description is verbatim from the definitions in 40 CFR 122.26(b)(14)(iii) (stormwater discharge associated with industrial activity, SICs 10-14).</p> <p>In the final general permit regulation DEQ has made the existing description of inactive mining operations into the following stand-alone definition:</p> <p>“Inactive mining operations” means mining sites that are not being actively mined, but which have an identifiable owner/operator; inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim.</p> <p>The language defining inactive mining operations remains unchanged, and thus</p>

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	<p><i>to disturbances associated with extraction, beneficiation, or processing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim.</i></p>	<p>consistent with 40 CFR 122.26(b)(14)(iii) and the ISWGP (9VAC25-151). In addition, it is substantially the same language as is suggested in the comment. This restructuring more clearly indicates that the term “inactive mining operations” is specifically defined, which should aid stakeholders in more fully understanding the permit requirements.</p> <p>The final permit maintains the two uses of the phrase “temporarily inactive” but with an additional qualification. The first use at I B 14 (waiver of monitoring and inspection for inactive and unstaffed facilities) is existing permit language that has not been changed for this reissuance. For clarity, in the heading the language in parentheses has been amended to say “(including temporarily inactive <u>and unstaffed facilities</u>).”</p> <p>The second use of this phrase regarding training has been amended slightly to better address the situation raised in the comment. The first sentence in Part II H 3 e now reads “Employee training shall be conducted at least annually at active mining <u>sites</u> and <u>at those temporarily inactive sites that are staffed</u>.” (Final changes are underlined). Training is an important element of stormwater management as evidenced by the fact that the 2015 MSGP requires training at active and temporarily inactive nonmetallic mineral mining sites (8.J.5.1, pg. 111).</p> <p>To ensure the permit is as clear as possible, DEQ has added a definition that provides that “temporarily inactive sites” means a site or portion of a site where nonmetallic mineral mining and/or milling occurred in the past but currently are not being actively undertaken, and the facility is covered by an active mining permit. This definition is based on the 2015 MSGP (8.J.3.6, pg. 102) and is consistent with comparable language in the VPDES industrial stormwater permit.</p>
<p>(2) VTCA, Vulcan, E. Dillion, Martin Marietta,</p>	<p><u>VPDES GP 2018 DRAFT LINE 364: Section I, A, 2a</u></p>	<p>DEQ agrees that this provision of the draft general permit regulation includes an extra word (In the second sentence of Part I A 2 a, the fourth use of “the” should</p>

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<p>Boxley, Luck Stone, Chemung, Luck Stone - Vigil</p>	<p>The language in this section is difficult to follow and should be corrected:</p> <p><i><u>(3) Refer to Part I B 12 should the TSS evaluation monitoring exceed 100 mg/l daily maximum. Permittees shall review the results of the TSS monitoring required by Part I A 2 a to determine if changes to the storm water pollution prevention plan (SWPPP) may be necessary. If the TSS monitoring results are greater than the evaluation value of 100 mg/l, then the permittee shall perform [sic]¹ a routine facility inspection within five days of becoming aware of the exceedance and maintain documentation as described in Part II H 3 d for that outfall. Any deficiencies noted during the inspection shall be corrected within 60 days of being identified.</u></i></p> <p>SUGGESTED ACTION:</p> <p>The suggested language is below:</p> <p><i><u>(3) Refer to Part I B 12 should the TSS evaluation monitoring exceed 100 mg/l daily maximum. Permittees shall review the results of the TSS monitoring required by Part I A 2 a to determine if changes to the storm water pollution prevention plan (SWPPP) may be necessary. If the TSS monitoring results are greater than the evaluation value of 100 mg/l, then the permittee shall perform a routine facility inspection within five days of becoming aware of the exceedance and maintain documentation as described in Part II H 3 d for that outfall. Any deficiencies noted during the inspection shall be corrected within 60 days of being identified.</u></i></p>	<p>be removed). The extra “the” has been removed in the final general permit regulation.</p>
<p>(3) VTCA, Vulcan, E. Dillion, Martin Marietta, Boxley, Luck Stone, Chemung, Rogers, Luck Stone - Vigil</p>	<p><u>VPDES GP 2018 DRAFT LINE 364: Section I, A, 2b</u></p> <p>Within this section, there is language asking for the "nature of the discharge." It is confusing as to why this is being requested if it can only be storm water. This seems to be unnecessary information and should be removed. As well, both the SWPPP and Registration Statement already requires that each outfall have a description of its type of discharge, so the nature of the discharge is already known and documented. Lastly, the storage of visual</p>	<p>In including “the nature of the discharge” as an item that must be documented for quarterly visual stormwater monitoring, DEQ is interested in whether the discharge is a result of runoff or snowmelt, which may have different characteristics (e.g., quantity, quality, timing). To clarify this, DEQ amended the relevant language to read “the nature of the discharge (i.e., runoff or snowmelt),”</p>

¹ The word “the” from the draft regulation is omitted in the original comment here.

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	<p>monitoring information should simply be within the SWPPP and not the "SWPPP Visual Monitoring Records." There is no reason to update an existing plan to move this documentation if these items already exist within the SWPPP.</p> <p><u><i>The permittee shall conduct calendar quarterly visual monitoring of storm water discharges associated with industrial activity. The monitoring shall include examination of storm water samples representative of storm event discharges from the facility and observation of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. Documentation of visual monitoring of storm water shall be maintained on-site in the SWPPP and include the discharge examination date and time, examination personnel, outfall location, the nature of the discharge, quality of the storm water discharge and probable sources of any observed storm water contamination. Part II A regarding monitoring instructions, Part II B regarding representative outfalls, and Part II C regarding sampling waivers shall apply to the taking of samples for visual monitoring except that (i) the documentation required by these sections shall be retained with the SWPPP visual monitoring records rather than submitted to the department. Calendar quarters equal the following three-month periods each year of permit coverage: January through March, April through June, July through September, and October through December.</i></u></p> <p>SUGGESTED ACTION:</p> <p>The suggested language is below:</p> <p><u><i>The permittee shall conduct calendar quarterly visual monitoring of storm water discharges associated with industrial activity. The monitoring shall include examination of storm water samples representative of storm event discharges from the facility and observation of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. Documentation of visual monitoring of storm water shall be maintained on-site in</i></u></p>	<p>Both the 2015 MSGP (3.2.2) and the ISWGP (I.A.1.a.3) require that visual assessments include documentation of the nature of the discharge (i.e., runoff or snowmelt). Neither the registration statement nor the SWPPP currently require this specific information (the current registration statement asks for the outfall type and source, while the SWPPP must include information describing the quality and quantity of stormwater discharges).</p> <p>With regard to the retention of visual monitoring documentation, DEQ agrees with the comment that visual monitoring can be documented in the SWPPP. The final permit has been changed to specify that such records must be retained in the SWPPP, which is consistent with the 2015 MSGP and ISWGP.</p>

Commenter(s)	Comment(s)	Agency Response
	<p><u>the SWPPP and include the examination date and time, examination personnel, outfall location, visual quality of the storm water discharge and probable sources of any observed storm water contamination. Part II A regarding monitoring instructions, Part II B regarding representative outfalls, and Part II C regarding sampling waivers shall apply to the taking of samples for visual monitoring except that (i) the documentation required by these sections shall be retained with the SWPPP rather than submitted to the department. Calendar quarters equal the following three-month periods each year of permit coverage: January through March, April through June, July through September, and October through December.</u></p>	
<p>(4) VTCA, Vulcan, E. Dillion, Martin Marietta, Boxley, Luck Stone, Chemung, Rogers, Luck Stone – Vigil</p>	<p><u>VPDES GP 2018 DRAFT LINE 377: Section I, B – Cationic Chemicals</u> *</p> <p>This permit is already utilized by some operators that use Cationic chemicals, for those permittees, the new language would be a dramatic change. It is suggested that the proposed language be deleted, and cationic chemical approvals be just as all other chemicals currently are, to ensure they are used appropriately. Currently the permit requires MSDS sheets for all chemicals to be submitted with the Registration Statement for approved use. If the DEQ decides the cationic chemical being submitted is a concern, then it can be reviewed and discussed during the permit application submittal process.</p> <p>If the language "No chemicals shall be added to the discharge,..." only applies to directly adding chemicals to treat water prior to discharging and does not mean that the Cationic chemicals cannot be used internally in the process, then this language is less concerning.</p> <p><u>3. There shall be no chemicals added to the discharge, other than those listed on the owner's approved registration statement, unless prior approval of the chemical is granted by the board. The use of cationic chemicals is ineligible for coverage under this permit unless such use is approved by the board based on a demonstration that the application or use will not result in aquatic toxicity.</u></p>	<p>DEQ has removed the draft language in I.B.3 that states “[t]he use of cationic chemicals is ineligible for coverage under this permit unless such use is approved by the board based on a demonstration that the application or use will not result in aquatic toxicity.” This language had been added to the draft permit based on language in the 2015 MSGP (8.J.4.1.8, pg. 104). That EPA language reflected EPA concerns regarding the aquatic toxicity of cationic chemicals, as discussed in the fact sheet to EPA’s 2012 Construction General Permit (Page 69 of the 2015 MSGP fact sheet references the 2017 CGP fact sheet, which adopts by reference the discussion at pages 20-28 of 2012 CGP fact sheet). The MSGP provisions in 8.J.4.1.8 focus on pre-mining, earth-disturbing activities. As discussed in the fact sheet for this permit, these activities are not addressed in VAG84 based on state law (§ 62.1-44.15:34 and 44.15:55) and existing mining regulations and permit requirements.</p> <p>The use of chemicals, including cationic chemicals, by nonmetallic mineral mining facilities remains a potential concern due to the aquatic toxicity of these chemicals in certain settings. The draft VAG84 permit at the proposed stage required that registration statements include a list of treatment chemicals added to wastewater or stormwater that could be discharged</p>

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	<p><u>SUGGESTED ACTION:</u></p> <p>Please see the proposed language below:</p> <p><i>3. There shall be no chemicals added to the discharge, other than those listed on the owner's approved registration statement.</i></p>	<p>and that Safety Data Sheets and maximum proposed dosing rates be provided. In addition, the final permit proposal requires that registration statements include a demonstration that the application or use of treatment chemicals will not result in aquatic toxicity. DEQ uses this information to evaluate the potential toxicity of chemicals being used by permitted facilities and to restrict or condition such use as appropriate. The permit further provides that no chemicals other than those on the approved registration statement may be used unless prior approval is obtained.</p> <p>The restriction on the addition of chemicals to a discharge applies to all chemicals that are added to wastewater or stormwater at the facility and that could be discharged from the facility. DEQ's principal concern is restricting the potential discharge of such chemicals at levels that pose aquatic toxicity. The restriction on the use of chemicals is not limited to only treating water prior to discharging. Treatment earlier in the process can also potentially result in a discharge. At the same time, the use of chemicals at an earlier point in the process may better support a demonstration of no aquatic toxicity in the discharge due to factors such as attenuation (see 9VAC25-190-60 C 8).</p>
(5) Virginia Vermiculite	<p>Current Language of 9VAC25-190-70-B-3: <i>There shall be no chemicals added to the discharge, other than those listed on the owner's approved registration statement.</i></p> <p>Proposed New Language of 9VAC25-190-70-B-3:</p> <p><i>There shall be no chemicals added to the discharge, other than those listed on the owner's approved registration statement, <u>unless prior approval of the chemical is granted by the board. The use of cationic chemicals is ineligible for coverage under this permit unless such use is approved by the board based on a demonstration that the application or use will not result in aquatic toxicity.</u></i></p>	See response to comment 4.

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	<p>This additional language is concerning to Virginia Vermiculite because of the possible use of cationic chemicals in the mill to aid in vermiculite beneficiation. These chemicals are added to the process water in the mill. In some instances, this process water can be comingled with stormwater in the mine pits. Trace amounts of these chemicals could be present in our pond system. We assume DEQ's intent is to prohibit cationic chemicals for the use of sediment treatment prior to stormwater discharge (similar to EPA), and suggest the following language:</p> <p><i>There shall be no chemicals added directly to the discharge, other than those listed on the owner's approved registration statement.</i></p>	
(6) Virginia Vermiculite	<p>DEQ is proposing to amend another section of the VPDES GP as follows:</p> <p>Current Language of 9VAC25-190-60-C-8:</p> <p><i>The required registration statement shall contain the following information: List of any chemicals added to water that could be discharged;</i></p> <p>The proposed new language of 9VAC25-190-60-C-8 potentially narrows the scope of the required chemical list:</p> <p><i>List of any <u>treatment</u> chemicals added to water wastewater or stormwater that could be discharged.</i></p> <p>If DEQ's intent is to align this regulation with EPA's NPDES Multi-Sector General Permit (MSGP), Virginia Vermiculite suggests that DEQ amend the language to read:</p> <p><i>"List of any <u>treatment</u> chemicals added to water wastewater or stormwater for sediment control that could be discharged."</i></p>	<p>EPA's 2015 MSGP uses "sediment treatment chemicals" in the context of imposing seven minimum requirements intended to reduce the risk of using such chemicals.</p> <p>Although sediment control is a primary concern under this general permit, it is not the only potential pollutant of concern. Other chemicals could pose water quality concerns and DEQ is responsible for addressing compliance with all water quality standards. As such, DEQ does not believe it would be prudent to limit the identification of chemicals to those only used for sediment control.</p>
(7) Kyanite	<p><u>VPDES GP 2018 DRAFT Part I.B.3 — Cationic Chemicals</u></p> <p>DEQ has revised Part I.B.3 of the permit to read as follows (underlined wording represents revised language):</p>	<p>The language in I.B.3 has been revised consistent with the comment. As discussed above, DEQ has removed the draft language in I.B.3 that states "[t]he use of cationic chemicals is ineligible for coverage under this permit unless such use is approved by the board based on a</p>

Commenter(s)	Comment(s)	Agency Response
	<p>"3. There shall be no chemicals added to the discharge, other than those listed on the owner's approved registration statement, <u>unless prior approval of the chemical is granted by the board. The use of cationic chemicals is ineligible for coverage under this permit unless such use is approved by the board based on a demonstration that the application or use will not result in aquatic toxicity.</u>"</p> <p>Based on our reading of the first sentence of this condition, and DEQ's use of the words, "added to the discharge," it is our interpretation that this condition is intended to apply to treatment chemicals that are added to the water discharge and does not apply to chemicals that may be used during the facility's processing operations.</p> <p>However, the addition of the second sentence may provide confusion to this point. In addition, since the first sentence of this condition already requires the facility to submit for approval any treatment chemicals added to the discharge, either as part of the registration statement or as part of a specific request, we believe that the second sentence is redundant and unnecessary. Therefore, we request that Part I.B.3 of the draft permit be revised to read as follows:</p> <p>"3. There shall be no chemicals added to the discharge, other than those listed on the owner's approved registration statement, <u>unless prior approval of the chemical is granted by the board.</u>"</p> <p>Alternatively, we request that DEQ, at a minimum, add language clarifying that the prohibition of the use of cationic chemicals is specific to cationic chemicals used to treat water discharges. Example clarifying language is provided as follows (clarifying language included in bold and italicized font):</p> <p>3. There shall be no chemicals added to the discharge, other than those listed on the owner's approved registration statement, <u>unless prior approval of the chemical is granted by the board. The use of cationic chemicals <i>to treat discharges</i> is ineligible for coverage under this permit unless such use is approved by the</u></p>	<p>demonstration that the application or use will not result in aquatic toxicity."</p> <p>The restriction on the addition of chemicals to a discharge applies to all chemicals that are added to wastewater or stormwater at the facility and that could be discharged from the facility. DEQ's principal concern is restricting the potential discharge of such chemicals at levels that pose aquatic toxicity. The restriction on the use of chemicals is not limited to only treating water prior to discharging. Treatment earlier in the process can also potentially result in a discharge. At the same time, the use of chemicals at an earlier point in the process may better support a demonstration of no aquatic toxicity in the discharge due to factors such as attenuation.</p>

Commenter(s)	Comment(s)	Agency Response
	<p><u>board based on a demonstration that the application or use will not result in aquatic toxicity.</u></p>	
<p>(8) VTCA, Vulcan, E. Dillion, Martin Marietta, Boxley, Luck Stone, Chemung, Rogers, Luck Stone - Vigil</p>	<p><i>VPDES GP 2018 DRAFT LINE 572: Section II, B – Representative Outfalls *</i></p> <p>New language was added which requests information related to the "size of the drainage area and frequency of discharges" as methods of determining similar outfall, or representative outfall, status. As explained previously by industry in past meetings and permit reviews, all outfalls are sized according to the DMM Reclamation Regulations, which requires 0.125 acre-ft/acre of storage for each acre of drainage. This requirement is over 50% greater than that required of the Virginia Erosion & Sediment Control Regulation. No matter what size the drainage area, the designed sediment structure will have the same effective sediment storage capacity of .125 acre-ft/acre. For instance, if the disturbed area is 1 acre, the sediment structure will be designed to have .125 acre-ft/acre of storage capacity. Comparably, if the disturbed area is 10 acres the sediment structure will be designed to have 1.25 acre-ft/acre of storage capacity. Each disturbed acre is afforded the same amount of sediment storage capacity making the size of the drainage area not a factor in function. As discussed in the past, the main item at mining facilities that determines if outfalls are representative are if the type of activities that report to them are similar. For instance, outfalls that are all associated with overburden removal would be considered representative. Outfalls associated with storm water runoff from a Processing Plant, a shop facility, or a rail loadout facility would not be considered substantially identical outfalls to those built to control overburden removal areas even though their control structures were afforded the same .125 acre-feet/acre of sediment storage design.</p> <p>Secondly in this section, the permit is now requesting "An evaluation, including available monitoring data, indicating why the outfalls are expected to discharge substantially identical effluents..." This information is unnecessary and excessive. Some outfalls that have yet to be constructed will have no available monitoring data. The majority of existing</p>	<p>DEQ has removed the draft language specifying that the size of the drainage area must be assessed as part of determining representative discharges. The language had been added to the draft permit to be consistent with the language in the VPDES industrial stormwater general permit, however, as the commenters point out, the size of the drainage area is a less significant factor where applicable DMME regulations require that stormwater basins are sized based on the acres draining to the basin.</p> <p>The evaluation of available monitoring data language was added to the draft permit to be consistent with the language in the VPDES industrial stormwater general permit. The draft language requires monitoring data only if such data are available. If data are not available, for example because there are new outfalls or outfalls have been represented by other outfalls, evaluation of data is not required.</p> <p>The requirement that permittees list on the DMR of the outfall to be sampled those outfall locations that are represented by the sampled outfall is an existing provision in the general permit that was not altered in the draft permit. Permittees are, as observed in the comment, required to document representative outfalls on the registration statement. Including this existing information on the DMR, therefore, should not be excessively burdensome. At present, DEQ does not specify all representative outfalls in DMRs provided to permittees as a matter of standard practice. Yet, ensuring complete monitoring and reporting information is a core element of the VPDES program, so accounting for all outfalls is important. Sampling representative outfalls helps reduce the burden on the permitted facilities. As such, specifying that permittees provide this information is a reasonable approach to ensuring program compliance.</p>

Commenter(s)	Comment(s)	Agency Response
	<p>mining facilities holding general permits have many existing representative outfalls which have operated as such for 10 or more years; will these facilities now be required to provide monitoring data from other outfalls that they represent? This data likely does not exist and therefore the ability to set up representative outfalls will be initially impossible.</p> <p>Considering that each outfall, no matter what the drainage area, will be designed with the same amount of sediment storage control capabilities, the type of industrial activity should be the only major determining factor as to if they are substantially identical outfalls. Also, the type of discharge is already submitted during the registration statement and is included within the SWPPP.</p> <p>Lastly, this section continues to state that the permittee's DMR must list all locations that are represented by the discharge. The need to require this does not seem appropriate since the permittee is required to list representative outfalls on the Registration Statement and the DEQ will issue only those DMR's for those outfalls required to be sampled and submitted. DMR's are not issued for those that outfalls that are being represented. As well, currently most DEQ offices list the outfalls being represented on the DMR being issued during the permit issuance process after approving the representative outfall request. We do not see the need to provide this information on the DMR considering it is already approved. However, if the DEQ would like that information on the DMR, then it would be best for the agency to continue to provide the list of outfalls covered by the representative outfall on the DMR that they issue. Equally as important, making this a requirement of the permittee can lead to compliance issues that have nothing to do with the ultimate goal of protecting the environment. Someone innocently overlooking this permit requirement, due to it not being a clear requirement of the DMR, can lead to unwanted compliance issues. Under the circumstances of prior approval being obtained, it does not feel appropriate to subject requirements with potential compliance concerns on the permittee.</p>	

Commenter(s)	Comment(s)	Agency Response
	<p><i>B. Representative discharge outfalls. When a If a facility has two or more exclusively storm water outfalls that the permittee reasonably believes discharge substantially identical effluents, based on a consideration of similarity of industrial activity, significant materials, <u>size of the drainage areas, frequency of discharges</u> and management practices and activities within the area drained by the outfalls, then the permittee may submit information with the registration statement substantiating the request for only one DMR to be issued for the outfall to be sampled that represents one or more substantially identical outfalls. Also the The permittee <u>must shall</u> document representative outfalls in the SWPPP and <u>list on the DMR of the outfall to be sampled all outfall locations that are represented by the discharge.</u> The representative outfall monitoring provisions apply to Part I A 2 a monitoring and quarterly visual monitoring.</i></p> <p><i>The permittee must include the following information in the SWPPP:</i></p> <ol style="list-style-type: none"> <i>1. The locations of the outfalls;</i> <i>2. <u>An evaluation, including available monitoring data, indicating why the outfalls are expected to discharge substantially identical effluents; and</u></i> <i>3. <u>An estimate of the size of the drainage area (in acres).</u></i> <p><u>SUGGESTED ACTION:</u></p> <p>Please see the proposed language below:</p> <p><i>B. Representative discharge outfalls. When a If a facility has two or more exclusively storm water outfalls that the permittee reasonably believes discharge substantially identical effluents, based on a consideration of similarity of industrial activity, significant materials and management practices and activities within the area drained by the outfalls, then the permittee may submit information with the registration statement substantiating the request for only one DMR to be issued for the outfall to be sampled that represents one or more substantially identical outfalls. Also the The permittee <u>must shall</u> document representative outfalls in the SWPPP. The representative outfall monitoring</i></p>	

Commenter(s)	Comment(s)	Agency Response
	<p><i>provisions apply to Part I A 2 a monitoring and quarterly visual monitoring.</i></p> <p><i>The permittee must include the following information in the SWPPP:</i></p> <p><i>1. The locations of the outfalls;</i></p> <p><i>2. A description of the type of discharge for each storm water outfall</i></p>	
<p>(9) VTCA, Vulcan, E. Dillion, Martin Marietta, Boxley, Luck Stone, Chemung, Rogers, Luck Stone - Vigil</p>	<p><u>VPDES GP 2018 DRAFT LINE 806: Section II, H, 3e – Inactive and Unstaffed Facilities</u></p> <p>As detailed at the beginning of the comments, new wording suggests employee training shall be conducted annually at “temporarily inactive sites.” At this time, there is no definition for an inactive site, or a temporarily inactive site. Regarding the need for inactive sites to require training, current language suggests “spill response, good housekeeping and material management practices.” Requiring training for areas of which are not a concern for inactive sites is unnecessary.</p> <p><i>Employee training shall be conducted at least annually at active mining and temporarily inactive sites.</i></p> <p>SUGGESTED ACTION:</p> <p>Please see the proposed language below:</p> <p><i>Employee training shall be conducted at least annually at active mining sites.</i></p>	<p>See response to Comment 1.</p> <p>The general permit does not require training at inactive sites. At active and temporarily inactive sites, training must inform persons responsible for stormwater management, including implementation of activities identified in the SWPPP, of the components and goals of the SWPPP. Some training topics are suggested because they are addressed by the SWPPP provisions in the permit. Training promotes the effective implementation of the SWPPP, which is important since the SWPPP is a key mechanism required under the permit to achieve effective stormwater management. Given that temporarily inactive facilities pose potential stormwater concerns due to past mining and no complete closure, relevant staff need pertinent training.</p>
<p>(10) VTCA, Vulcan, E. Dillion, Martin Marietta, Boxley, Luck Stone, Chemung, Rogers, Luck Stone - Vigil</p>	<p><u>VPDES GP 2018 DRAFT LINE 847: Section II, H, 3, i, 8 – Authorized Non-Storm Water Discharges</u></p> <p>This addition was discussed during the TAC meeting process but does not match the exact language viewed and discussed at that meeting. In particular, the last sentence was added and states waters must be "managed" to prevent the discharge of pollutants. The big question is, “how do you manage an authorized discharge of paving wash waters that immediately exits the site?” It is understood that prior to washing that all materials capable of removal be cleaned using mechanical means prior to washing. It would be best if the agency worked with industry to agree on what is meant by “managing” an authorized non-storm water</p>	<p>The last sentence of draft II.I.8, which provides “[p]avement wash waters shall be managed to prevent the discharge of pollutants”, was added after adding a list of authorized non-stormwater discharges in response to TAC input, to ensure the protection of water quality and for consistency with other VPDES general permits. This sentence has been amended to say “[p]avement wash waters shall be managed in a manner to avoid an instream impact.” This wording is the same as in the VPDES industrial stormwater general permit, which was referenced in the TAC as including such a list, and is more compatible with an authorized discharge while still addressing the goal of protecting water quality.</p>

Commenter(s)	Comment(s)	Agency Response
	<p>discharge and add this information in the permit or fact sheet to better clarify what type of management will be needed.</p> <p><u>SUGGESTED ACTION:</u></p> <p>Discuss with industry and provide a better explanation of what management procedures are expected within the permit or fact sheet to make it clear what is expected.</p>	
<p>(11) VTCA, Vulcan, E. Dillion, Martin Marietta, Boxley, Luck Stone, Chemung, Rogers, Luck Stone - Vigil</p>	<p><u>NEW LANGUAGE - VPDES GP 2018 DRAFT LINE 494: Section I, B, 15 – Discharge of Quarry Pit Process Water during Large Storm Events *</u></p> <p>As initially detailed by multiple TAC group representatives during the TAC meeting on August 2 2018, it is requested that the permit be updated to allow for pit dewatering discharges with no DEQ effluent limitations in emergency situations when storm events in excess of 10yr/24hr events have resulted in excessive pit bottom flooding of storm water. This addition and proposed language was provided after the TAC meeting, but was not included in the draft language.</p> <p>According to the recent National Climate Assessment (NCA4), annual precipitation since the beginning of the last century has increased across most of the northern and eastern United States. In addition, observed increases in the frequency and intensity of events with greater than 3 inches of precipitation - in most parts of the United States are projected to continue. Data show that from 1900 to 2016 the number of days with heavy precipitation are increasing. In Virginia, the number of days of heavy precipitation at individual stations has increased for almost all stations particularly since the 1980s. Knowing this and with the rainfall occurrences seen in Virginia over the last year, it has been a struggle at many facilities to operate our facilities after many of these large events. Many mine sites within the state of Virginia utilize quarry pits for storm water storage during storm events; the quarry pit itself has no other choice but to store direct rainfall. This is usually preferred and very practical during smaller events as it allows facilities to collect storm water and eliminates the need to manage multiple storm water outfalls. However, during very large storm</p>	<p>DEQ recognizes that large storms can pose challenges to a range of permitted facilities, including nonmetallic mines. However, DEQ has not identified a basis to fully waive effluent limitations applicable to nonmetallic mineral mine dewatering for conditions created by such storms and such a waiver would be inconsistent with the long-established requirements under VAG84.</p> <p>The effluent limitations guidelines (ELGs) applicable to VAG84 include effluent limitations applicable to dewatering. Under 40 CFR 436 there are three federal ELG Subparts (which Virginia adopts by reference) that address nonmetallic mineral mining covered under VAG84 (Subparts B, C and R). These ELGs address process wastewater and dewatering. All three ELGs set pH limits for dewatering, and one sets TSS limits for dewatering. These Subparts also provide that these process wastewater and dewatering limits are not applicable to overflows from facilities designed, constructed and maintained to contain the volume of wastewater that would result from a 10-year, 24-hour storm.</p> <p>With regard to stormwater at in-scope nonmetallic mineral mines, the 2015 MSGP includes pH limits for dewatering discharges.</p> <p>VAG84 includes effluent limits for discharges of process wastewater and comingled stormwater associated with industrial activity. The general permit also defines mine pit dewatering as process wastewater (such water may comeingle with process wastewater and typically comes into contact with raw materials,</p>

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	<p>events of around 4 inches equaling about a 10yr/24hr storm event or larger, the quarry pit collects an exorbitant amount of water. This excess of water in the pit can delay mining for a facility by flooding active mining areas. Below is an example of a real-life type of Scenario:</p> <p>A facility operates a quarry pit with approximately 150 acres of drainage area reporting to the quarry pit. The storm water controls are via their quarry pit which would be the equivalent of approximately 15 additional outfalls at the facility if the storm water structures could be built to report to them. The facility tries to maintain multiple active working areas within the pit, but pit development has forced the majority of the extraction within the bottom pit level. During a busy month in August, a large storm event hits the site and dumps approximately 5.6 inches of rain overnight – the equivalent of a 10yr/24hr rain event for the region. The 0.5-acre pit sump is completely overwhelmed with over 2 million gallons of water and the pit bottom is flooded with approximately 13 million gallons of water. The active face is no longer accessible, and operations come to a halt.</p> <p>Upon completion of the storm event, the site decides to wait to discharge for two weeks to ensure they can meet their effluent limitations of the permit. At the end of the wait, they begin discharging the process water 24-hours a day via 1,000 GPM pump to their permitted process water outfall. It takes approximately 8 – 12 working days to drain the pit to allow access to the working face. During that time, approximately 13 million gallons of storm water were discharged, and the site has been down for an approximately a month.</p> <p>If allowed to report to DEQ and discharge, the pit could ideally discharge very soon after the storm event; operations could restart within 8-12 days instead of 3-4 weeks.</p> <p>As previously discussed, if these 10yr/24hr or larger storm event drainage waters reported directly to traditional storm water basins, then the water would be discharged immediately during the storm event in a shorter timeframe (usually a few hours) resulting in less retention</p>	<p>intermediate byproducts, finished products, and/or waste products that result in potential contamination).</p> <p>In VAG84, the most stringent of the applicable ELGs is applied to discharges of process wastewater (including dewatering) and comingled wastewaters. Process wastewater discharges are subject to pH limits based on federal effluent limitation guidelines and Virginia’s water quality standards. Process wastewater discharges are also subject to TSS limits based federal effluent guidelines for some of the industrial categories covered and levels that DEQ has determined will protect receiving waters from solids impacts based on experience with VPDES individual permits.</p> <p>VAG84 does not include the provision in 40 CFR 436 that provides that limits are not applicable to overflows from facilities designed, constructed and maintained to contain or treat the volume of wastewater that would result from a 10-year, 24-hour storm. VAG84 includes a “no discharge” facility provision under which no sampling or DMR is required for a discharge where a process wastewater system is designed to operate as a no discharge system except in storm events greater than the 25-year, 24-hour storm. This design threshold is based on best professional judgement and consistent with Virginia Pollution Abatement (VPA) no discharge permit requirements (9VAC25-32-30). DEQ notes that the overflow provision in Part 436 applies to treatment systems (i.e., impoundments) and by its terms is limited to overflows of properly designed and maintained ponds, it is not applicable to intentional mine pit dewatering discharges.</p> <p>The Texas stormwater general permit (TXR050000) mentioned in the comment does not alter the information presented above or provide a unique basis for waiving dewatering limits in Virginia. The Texas stormwater general permit, which includes limits for dewatering, largely reflects the federal MSGP. As</p>

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	<p>time and sediment settling than when compared to being collected in the quarry pit and then being pumped over an extended period of time (usually days or weeks). Would a basin with a much shorter retention time of a few hours be favorable to collecting in a sump and pumping slowly allowing for a longer retention and settling time of multiple days or weeks and therefore affording a cleaner discharge?</p> <p>The current permit already allows for designed process water ponds, which are true process water systems as they are water used in the processing of mined materials, to discharge without limits in a storm larger than a 25-year 24-hour storm event. Conversely, in most cases, pit dewatering involves pumping storm water with possible minimal amounts of infiltrating groundwater from the quarry pit. The water is more similar to storm water than process water since it is typically generated from an accumulation of storm runoff into the pit and in most cases no process water systems are located in the mining pit. The state of Texas, in fact, treats mine pit dewatering more like storm water than process water. In the Texas TPDES General Permit No. TXR050000, Mine Pit Dewatering only has an effluent limit and annual sample for pH. Otherwise water can be pumped and is treated like storm water collected in the bottom of the pit. In pits that are designed to hold or treat the volume of water from a 10-year 24-hour rain event, no effluent limits apply to the discharge from these systems.</p> <p>Please consider the below language regarding an allowance to discharge storm water collected in our pits under extremely unusual storm events. The language both assists mining facilities after these events while also keeping the DEQ informed during the discharge.</p> <p>SUGGESTED ACTION:</p> <p>Please see the proposed language below for Mine Pit Dewatering in case of flooded pit conditions</p> <p><i>Effluent limitations shall not apply to discharges associated with mine pit dewatering</i></p>	<p>such, the Texas stormwater general permit only covers discharges of industrial stormwater, not discharges of process wastewater, which are addressed under VAG84. In addition, under TXR050000, mine dewatering discharges consist solely of stormwater and non-contaminated groundwater. In contrast, VAG84 covers discharges of process wastewater and discharges of stormwater and, under VAG84, mine pit dewatering is defined as process wastewater. Unlike the MSGP, the Texas stormwater general permit does include a waiver that provides (similar to the ELGs) that numeric effluent limitations for mine dewatering do not apply to discharges that overflow from structural control facilities that are designed, constructed, and maintained to contain or treat the volume of mine dewatering wastewater that would result from a 10-year, 24-hour storm event. As discussed above, VAG84 includes a different design standard used as a no discharge management option based on BPJ and existing VPA regulations. Thus, the approach in the Texas stormwater general permit is not a substitute for VAG84.</p> <p>As part of considering this issue, DEQ inquired of several other states as to whether dewatering was given special treatment and researched existing state requirements.</p> <p>Information and responses from seven states (IN, MD, MN, MO, NC, OR, PA) did not identify a waiver of limits for dewatering following extreme storms. Rather, these states tend to reflect the federal ELG overflow provision. For example, North Carolina (which includes TSS, settleable solids, and flow limits applicable to dewatering for certain high quality waters, as well as turbidity and pH limits) indicated that they provide a conditional monitoring waiver for dewatering and process wastewater (i.e., “except for mine dewatering of clay pits, a grab sample is not required for these [limited] parameters from a basin/pond designed to contain or treat mine</p>

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	<p><i>consisting of storm water and infiltrating ground water resulting from a storm equal to or greater than a 10-year, 24-hour storm event that has caused emergency flood conditions within the mine. Effluent limitations shall not apply until the flooding condition can be rectified or as deemed appropriate by the DEQ regional office. The operator must notify the DEQ of such conditions as an Unusual or Extraordinary discharge as described in Part III H of the permit. This discharge event may only occur during emergency operation scenarios where pit access is obstructed due to the severity of the storm. The facility shall provide a time period of expected discharge in order to rectify flooding conditions. These discharges may not contravene Virginia water quality standards.</i></p>	<p>dewatering wastewater that only discharges in response to rainfall in excess of the 10-yr, 24-hr storm). (See, See Table 7, footnote 2, and Table 8, NCG020000). Communication with NC DEQ staff indicated that the statement in footnote 2 only gives relief to obtaining a grab sample of overflows from a basin/pond designed to contain the 10yr/24hr storm that only discharges due to a rainfall in excess of that event. Otherwise, the dewatering is still subject to the effluent limitations of the permit. As discussed above, Virginia does not use the 10-year, 24-hour design standard in VAG84.</p> <p>Similarly, Minnesota offers a waiver of sampling for dewatering (TSS and pH limits) where a basin is designed/ confirmed by PE to control the 10-year, 24-hour storm, but this waiver is limited to overflows caused solely by direct rainfall and groundwater seepage. This does not include unauthorized non-stormwater discharges to surface waters. This waiver is for monitoring only; effluent limits still apply to the discharge and permittees must maintain compliance with the limits. (See sec. 2.6.87, MNG490000).</p> <p>With regard to existing state requirements, DEQ notes that under the VPDES Bypass regulation the term “severe property damage”, which is an exception to the prohibition of Bypass, is specifically defined such that it expressly excludes economic loss caused by delays in production. (9VAC25-31-190 M and 25-31-10).</p> <p>In summary, in researching permitting approaches in other states DEQ found that several states offer relief consistent with the provisions in 40 CFR 436 such that effluent limits and/or monitoring requirements do not apply to <u>overflows</u> from facilities designed to meet the 10-year, 24-hour storm event. None of these provisions appear to apply to the deliberate dewatering of a mine pit following a storm event.</p>

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(12) Kyanite	<p><u>NEW LANGUAGE - VPDES GP 2018: Section I.B.15 —Discharge of Quarry Pit Process Water During Large Storm Events</u></p> <p>Members of the Virginia Transportation Construction Alliance (VTCA) are providing detailed comments on this new condition. KMC supports the comments of the VTCA member companies and incorporates those comments as part of this submission, with one exception.</p> <p>Specifically, KMC requests that Part I.B.15 be revised consistent with the VTCA comments, except for clarifying language added to the last sentence. We request that this condition be revised as follows (note that we have placed in bold and underlined font, the sentence of the VTCA's proposed condition that we request be revised).</p> <p><i>"Effluent limitations shall not apply to discharges associated with mine pit dewatering consisting of storm water and infiltrating ground water resulting from a storm equal to or greater than a 10 year, 24-hour storm event that has caused emergency flood conditions within the mine. Effluent limitations shall not apply until the flooding condition can be rectified or as deemed appropriate by the DEQ regional office. The operator must notify the DEQ of such conditions as an Unusual or Extraordinary discharge as described in Part III H of the permit. This discharge event may only occur during emergency operation scenarios where pit access is obstructed due to the severity of the storm. The facility shall provide a time period of expected discharge in order to rectify flooding conditions. <u>These discharges may not cause a contravention of Virginia water quality standards in the receiving waters.</u>"</i></p>	<p>DEQ is not adopting the large storm dewatering waiver language suggested by VTCA for the reasons discussed above. See response to Comment 11.</p>
(13) Kyanite	<p><u>VPDES GP 2018 DRAFT Part I.B.10 Discharge Prohibitions</u></p> <p>DEQ has revised Part I.B.10 of the permit to include separate discharge prohibitions in Conditions I.B.10.a, b, and c. For example, Condition I.B.10.b now reads, in part, as follows:</p> <p>"There shall be no:</p>	<p>Under the VPDES program, discharge is normally understood to mean discharge of a pollutant from a point source, with outfalls normally constituting those point sources. (See the definition of “discharge” and “discharge of a pollutant” in 9VAC25-31-10).</p> <p>In Part I.B.10, subsections a and c address discharges and, thus, DEQ does not</p>

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	<p>b. Solids deposition to surface water as a result of industrial activity...."</p> <p>For clarity, KMC requests that Conditions I.B.10.a, b, & c be revised to clarify that these prohibitions apply to floating solids, visible foam, solids deposition, and oil sheens downstream of the facility's outfall(s). Proposed language is provided as follows (proposed changes underlined for emphasis):</p> <p>"There shall be no:</p> <p>a. Discharge of floating solids or visible foam <u>downstream of the outfall</u> in other than trace amounts from process water discharges;</p> <p>b. Solids deposition to surface water <u>downstream of the outfall</u> as a result of industrial activity; or</p> <p>c. Oil Sheen resulting from petroleum products discharged to surface water <u>downstream of the outfall</u> as a result of the industrial activity,"</p>	<p>believe further clarification is necessary. For purposes of clarification consistent with the comment, DEQ has amended subsection b to read as follows: "Solids deposition to surface water as a result of <u>a discharge associated with industrial activity;</u>" (final change underlined).</p>
(14) Kyanite	<p><u>VPDES GP 2018 DRAFT Part II.A.2.a – Sampling from Stormwater Management Structures</u></p> <p>Draft Permit Part II.A.2 provides procedures on "when and how to sample" stormwater discharges. DEQ has revised Part II.A.2.a of the permit to read as follows (underlined wording represents revised language):</p> <p>"a. In the case of snowmelt or a discharge from a stormwater management structure (a series of settling lagoons), a representative sample shall be taken at the time the discharge occurs."</p> <p>The DEQ has removed the parenthetical that previously read "(a series of settling lagoons)." The reason for the removal of this language is unclear. However, by removing this parenthetical language, we are concerned that the DEQ may have inadvertently implied that it does not consider "a series of settling lagoons" to be a stormwater management structure. We have also noted that the term "stormwater management structure" is not defined within the regulation. Therefore, if the DEQ removes the above-referenced parenthetical in Draft Permit Part II.A.2.a, we request that the term "stormwater management structure" be defined within the rule and include examples of</p>	<p>Removal of the parenthetical was done to promote consistency with the ISWGP (9VAC25-151). The change is not meant to imply that a series of settling ponds are not a stormwater management structure.</p> <p>The draft and final permit adds a definition of "control measure" that is consistent with 9VAC25-151 and provides that "[c]ontrol measure" means any best management practice or other method (including effluent limitations) used to prevent or reduce the discharge of pollutants to surface waters. 9VAC25-190-10. This definition does not include examples but does provide criteria that owners of regulated facilities can use to determine their status and corresponding permit requirements.</p>

Commenter(s)	Comment(s)	Agency Response
	stormwater management structures such as lagoons, settling basins, retention ponds, etc.	
VTCA (Public Hearing comment not addressed elsewhere)	DEQ and VTCA could have addressed comments through negotiations as part of additional TAC meetings but we are confident comments can and will be addressed.	<p>DEQ respects and values the dialogue achieved within the TAC process and acknowledges that, in this instance, the general permit development process proceeded quickly. This resulted from DEQ's need to reissue this general permit in a timely manner while satisfying all procedural requirements. DEQ did not want to have to administratively extend this general permit. If a general permit is not reissued in a timely manner and must be administratively extended, no new facilities can obtain coverage under that general permit.</p> <p>A TAC meeting was held on 8/2/2018. DEQ proposed the NMMM general permit regulation at the 9/20/18 Board meeting. A public hearing was held on 11/27/2018, and the public comment period extended from 10/29/2018-12/28-2018. Eleven interested parties submitted comments regarding the draft general permit. In response to industry concerns, DEQ held a call with industry representatives on 1/31/19 to discuss the remaining steps in the regulatory process. This document reflects DEQ's consideration and response to those comments. In several instances, the draft regulation has been altered in response to comments.</p>

Substantive changes to the existing regulation are:

- Section 10 – *Definitions*. Added North American Industry Classification System codes (NAICS) to provisions that include SIC codes. Added definitions of “control measure,” “minimize,” “NAICS,” “Temporarily inactive sites,” and “Virginia Environmental Excellence Program.” Removed definition of “Vehicle or equipment degreasing.” Made the description of “inactive mining operations” within the definition of “Industrial activity” into a stand-alone definition.
- Section 15 – *Applicability of incorporated references based on the dates that they became effective*. A statement was revised to update all Title 40 Code of Federal Regulations within the document to be those published as of July 1, 2018. This is a recommendation from the DEQ Office of Policy.
- Section 20 – *Purpose; delegation of authority; effective date of permit*. Updated the effective date to July 1, 2019 and the expiration date to June 30, 2024. Added NAICS codes that correspond to existing SIC codes (corrected two NAICS codes added to draft permit).

- Section 50 – *Authorization to discharge*. Clarified that permittees must have and maintain a DMME (mining) permit. Made continuation of permit language more generic (for use across most general permit [GPs]).
- Section 60 – *Registration Statement*. New facility registration statement must be submitted 60 days prior to discharge (was 45) to ensure consistent registration requirements across GP sectors. For existing facilities covered by an individual permit and seeking general permit coverage, changed registration submittal from 210 to 240 days prior to expiration of the individual permit. For existing facilities covered under the expiring general permit, removed the specific permit effective date (July 1, 2009) and provide that a complete registration statement must be submitted at least 60 days prior to permit expiration or as specified by the Board. For late registration, removed the June 30, 2014 date and replaced with after the expiration date of this permit. Removed the sentence pertaining to submission of registration after April 1, 2014.

Required discharge notification of the municipal separate storm sewer system (MS4) at the time of registration and inclusion of the notification with the registration statement. Removed the requirement to submit monitoring data associated with Special Standard m under the Water Quality Standards (9 VAC 25-260-310). This standard applies to discharges to the Chickahominy watershed and has been amended to apply to sources of organic nutrients only. Added a requirement that applicants provide a State Corporation Commission entity identification number if the facility is required to obtain an entity identification number by law. This ensures the correct entity is permitted and the permittee is authorized to conduct business in the state.

Include on registration statement a list of chemicals added to water that could be discharged, *including* Safety Data Sheets, the maximum proposed dosing rates, and a demonstration that the application or use will not result in aquatic toxicity to protect water quality in receiving streams.

Removed the requirement to provide the latitude and longitude of the facility. (Retain the latitude and longitude requirement for outfalls).

- Section 70 – *General Permit*. Revised the effective and termination dates of the general permit. Added that the discharge must be in accordance with the information submitted with the registration statement. This ensures the authorization is further conditioned on such information.

Removed TPH monitoring for process water outfalls from vehicle or equipment degreasing. Data levels have been predominantly below detection. Removed associated footnote 3.

Added I.A.2.b, which relocates visual monitoring requirement (with associated documentation) from routine inspection section. Clarified in response to comment that language in the draft permit that asks for documentation of the “nature of discharge” focuses on whether the discharge is the result of runoff or snowmelt. Specify that visual monitoring records are to be retained in the stormwater pollution prevention plan (SWPPP).

Replaced materials handling storage text with language from GM14-2003 VPDES guidance document (boilerplate). Added language clarifying that dust suppression shall not occur during a storm that results in an actual discharge.

Specified that if a facility exceeds the action threshold the permittee must conduct a routine facility inspection within 5 days of becoming aware of the exceedance, and correct any deficiency with 60 days of identification. Moved this from special conditions (I B) to I A 2 a.

Clarified in response to comment that the prohibition on solids deposition to surface water applies to *discharges* associated with industrial activity.

Deleted requirement to meet special Chickahominy water quality standard since the standard has been revised to apply to wastewater treatment facilities treating an organic nutrient source.

Added a new provision that requires the use of BMPs to ensure that contaminants do not enter surface waters as a result of blasting. One regional office identified a concern with ammonia associated with explosives.

The inactive and unstaffed facilities waiver for monitoring and inspections applies to temporarily inactive sites. Clarified in response to comment that this applies to temporarily inactive and unstaffed sites.

PART II

Revised and updated the representative outfall language. Removed in response to comment consideration of the size of drainage area in assessing representative outfalls. Narrowed sampling waiver language so it is only applicable to quarterly visual stormwater monitoring.

Changed updating SWPPP from within 90 days of coverage to 60 days to be consistent with other SWPPP revision/ update provisions in this and other related general permits.

Merged comprehensive site compliance evaluation into routine inspection provisions, consistent with the VPDES industrial stormwater general permit (ISW GP) and EPA 2015 Multisector General Permit (MSGP), and amended related references.

Added that employee training shall be conducted at least annually at active mining and at temporarily inactive sites that are staffed, consistent with ISW GP and EPA 2015 MSGP. Training must be documented in the SWPPP.

For housekeeping, added, "the permittee shall keep clean all exposed areas of the facility that are potential sources of pollutants in stormwater. The permittee shall sweep or vacuum paved surfaces of the site that are exposed to stormwater at regular intervals or use other equivalent measures, to minimize the potential discharge of these materials in stormwater. Indicate in the SWPPP the frequency of sweeping, vacuuming, or other equivalent measures." This language is for consistency with the ISW general permit and U.S. EPA MSGP.

Clarified follow up actions to be taken in response to routine facility inspections.

Added, "the requirement for routine facility inspections is waived for facilities that have maintained an active VEEP E3/E4 status." This is consistent with the ISW general permit. The VEEP program requires a fully implemented EMS, pollution prevention program, and demonstrated environmental compliance.

Added a list of authorized non-stormwater discharges consistent with the ISW general permit. Revised the entry addressing pavement wash waters in response to comment to specify that pavement wash waters shall be managed in a manner to avoid instream impacts.

2019 - Amend and Reissue Existing Nonmetallic Mineral Mining General Permit Regulation

9VAC25-190-10. Definitions.

The words and terms used in this chapter shall have the meanings defined in the State Water Control Law Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1 of the Code of Virginia and the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (9VAC25-31) unless the context clearly indicates otherwise. Additionally, for the purposes of this chapter:

"Best management practices" or "BMPs" means schedules of activities, practices (and prohibitions of practices), structures, vegetation, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to surface waters. BMPs also include treatment requirements, operating procedures, and practices to control plant site run-off, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

"Colocated facility" means an industrial activity other than mineral mining operating on a site where the primary industrial activity is mineral mining. Such an activity must have wastewater characteristics similar to those of the mineral mine and be located within the permitted mining area. The term refers to activities that are commonly found at mining

sites such as manufacturing of ready-mix concrete (SIC Code ~~3273~~ 3273, NAICS Code 327320), concrete products (SIC Codes ~~3271 and 3272~~ 3271 and 3272, NAICS Codes 327331, 327332, and 327390), and asphalt paving materials (SIC Code ~~2951~~ 2951, NAICS Code 324121) except asphalt emulsion manufacturing. It does not mean industrial activity that is specifically excluded from this permit.

"Control measure" means any best management practice or other method (including effluent limitations) used to prevent or reduce the discharge of pollutants to surface waters.

"Department" or "DEQ" means the Virginia Department of Environmental Quality.

["Inactive mining operations" means mining sites that are not being actively mined, but which have an identifiable owner or operator; inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim.]

"Industrial activity" means activity associated with mineral mining facilities generally identified by SIC Major Group 14 including active or inactive mining operations that discharge stormwater that has come into contact with any overburden, raw material, intermediate products, finished products, by-products or waste products located on the site of such operations. This includes activity at facilities or those portions of a facility where the primary purpose is classified as:

1. North American Industry Classification System (NAICS) Code 212311 - Dimension Stone Mining and Quarrying, and Standard Industrial Classification (SIC) Code 1411 - Dimension Stone;
2. NAICS Code 212312 - Crushed and Broken Limestone Mining and Quarrying, and SIC Code 1422 Crushed and Broken Limestone;
3. NAICS Code 212313 - Crushed and Broken Granite Mining and Quarrying, and SIC Code 1423 -Crushed and Broken Granite;
4. NAICS Code 212319 - Crushed and Broken Stone not elsewhere classified (NEC), and SIC Code 1429 Crushed and Broken Stone NEC;
5. NAICS Code 212321 - Construction Sand and Gravel, and SIC Code 1442 - Construction Sand and Gravel;
6. NAICS Code 212324 - Kaolin and Ball Clay Mining, and SIC Code 1455 - Kaolin and Ball Clay;
7. NAICS Code 212325 - Clay and Ceramic and Refractory Minerals Mining, and SIC Code 1459 -Clay and Related Minerals, NEC (excluding for purposes of both NAICS and SIC bentonite and magnesite mines);
8. NAICS Code 212392 - Phosphate Rock Mining, and SIC Code 1475 - Phosphate Rock; and
9. NAICS Codes 212399 - All Other Nonmetallic Mineral Mining, and SIC Code 1499 - Miscellaneous Nonmetallic Minerals, except fuels (excluding for purposes of both NAICS and SIC gypsum, graphite, asbestos, diatomite, jade, novaculite, wollastonite, Tripoli, or asphaltic mineral mines).

[~~(Inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator owner or operator; inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim.)~~] Industrial activity also includes facilities classified under other SIC codes that may be colocated within the mineral mine permit area, unless they are expressly excluded by this general permit.

"Minimize" means reduce or eliminate to the extent achievable using control measures, including best management practices, that are technologically available and economically practicable and achievable in light of best industry practice.

"Municipal separate storm sewer system" or "MS4" means a conveyance or system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains (i) owned or operated by a state, city, town, county, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under § 208 of the Clean Water Act that discharges to surface waters of the state; (ii) designed or used for collecting or conveying stormwater; (iii) that is not a combined sewer; and (iv) that is not part of a publicly owned treatment works (POTW).

"NAICS" means North American Industry Classification System, U.S. Office of Management and Budget, 2017.

"Permittee" means the owner of a nonmetallic mineral mine covered under this general permit.

"Process wastewater" means any wastewater used in the slurry transport of mined material, air emissions control, or processing exclusive of mining, and any other water that becomes commingled with such wastewater in a pit, pond, lagoon, mine, or other facility used for treatment of such wastewater. It includes mine pit dewatering, water used in the

process of washing stone, noncontact cooling water, wastewater from vehicle or equipment degreasing activities, vehicle washing and return water from operations where mined material is dredged and miscellaneous plant cleanup wastewaters.

"Run-off coefficient" means the fraction of total rainfall that will appear at the conveyance as run-off.

"SIC" means the Standard Industrial Classification Code or Industrial Grouping from the U.S. Office of Management and Budget Standard Industrial Classification Manual, 1987 Edition.

"Significant materials" includes, ~~but is not limited to,~~ raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials; hazardous substances designated under Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 USC § 9601 et seq.); any chemical the owner is required to report pursuant to Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) (42 USC § 11001 et seq.); fertilizers; pesticides; and waste products such as ashes, slag and sludge (including pond sediments) that have the potential to be released with stormwater discharges.

"Significant spills" includes, ~~but is not limited to,~~ releases of oil or hazardous substances in excess of reportable quantities under § 311 of the Clean Water Act (see 40 CFR 110.10 and 40 CFR 117.21) or § 102 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 USC § 9601 et seq.) (see 40 CFR 302.4).

"Stormwater" means stormwater run-off, snow melt run-off, and surface run-off and drainage.

"Stormwater discharge associated with industrial activity" means the discharge from any conveyance that is used for collecting and conveying stormwater and that is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the VPDES program under 9VAC25-31. For the categories of industries identified in the "industrial activity" definition, the term includes, ~~but is not limited to,~~ stormwater discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the mineral mine; material handling sites; refuse sites; sites used for the application or disposal of process wastewaters; sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and finished products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to stormwater. For the purposes of this paragraph, material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, by-product or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with stormwater drained from the above described areas.

["Temporarily inactive mineral mining facility" means a site or portion of a site where nonmetallic mineral mining and/or milling occurred in the past but currently are not being actively undertaken, and the facility is covered by an active mining permit issued by the applicable state or federal agency.]

"Total maximum daily load" or "TMDL" means a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards and an allocation of that amount to the pollutant's sources. A TMDL includes wasteload allocations (WLAs) for point source discharges, and load allocations (LAs) for nonpoint sources or natural background or both, and must include a margin of safety (MOS) and account for seasonal variations.

"Twenty-five-year, 24-hour storm event" means the maximum 24-hour precipitation event with a probable recurrence interval of once in 25 years as established by the National Weather Service or appropriate regional or state rainfall probability information.

~~"Vehicle or equipment degreasing" means the washing or steam cleaning of engines of a vehicle or piece of equipment and other drive components in which the purpose is to clean and degrease and clean petroleum products from the equipment for maintenance. Washing the vehicle exterior for the purpose of removing sediment is not considered vehicle or equipment degreasing.~~

"Virginia Environmental Excellence Program" or "VEEP" means a voluntary program established by the department to provide public recognition and regulatory incentives to encourage higher levels of environmental performance for program participants that develop and implement environmental management systems (EMSs). The program is based on the use of EMSs that improve compliance, prevent pollution, and utilize other measures to improve environmental performance.

9VAC25-190-15. Applicability of incorporated references based on the dates that they became effective.

Except as noted, when a regulation of the U.S. Environmental Protection Agency set forth in Title 40 of the Code of Federal Regulations is referenced or adopted herein in this chapter and incorporated by reference that regulation shall be as it exists and has been published as of July 1, ~~2013~~ 2018.

9VAC25-190-20. Purpose; delegation of authority; effective date of permit.

A. The purpose of this chapter is to establish General Permit Number VAG84 to regulate wastewater ~~discharge and~~ stormwater discharges to surface waters from nonmetallic mineral mines as follows:

1. For active and inactive nonmetallic mineral mining facilities in SIC Major Group 14, this general permit covers discharges composed entirely of stormwater associated with industrial activity.
2. This general permit authorizes the discharge of process wastewater as well as stormwater associated with industrial activity from active and inactive mineral mines classified under:
 - a. ~~SIC Codes Code 1411 - NAICS Code 212311,~~
 - b. ~~SIC Code 1422 - NAICS Code [21312212312],~~
 - c. ~~SIC Code 1423 - NAICS Code 212313,~~
 - d. ~~SIC Code 1429 - NAICS Code 212319,~~
 - e. ~~SIC Code 1442 - NAICS Code [212421212321],~~
 - f. ~~SIC Code 1455 - NAICS Code 212324,~~
 - g. ~~SIC Code 1459 - NAICS Code 212325,~~ excluding bentonite and magnesite mines,
 - h. ~~SIC Code 1475 - NAICS Code 212392,~~ and
 - i. ~~SIC Code 1499 - NAICS Code 212399,~~ excluding gypsum, graphite, asbestos, diatomite, jade, novaculite, wollastonite, tripoli or asphaltic mineral mines.

3. Coal mining, metal mining, and oil and gas extraction are not covered by this general permit.

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

C. This general permit will become effective on July 1, ~~2014~~ 2019, and will expire June 30, ~~2019~~ 2024. For any covered owner, this general permit is effective upon compliance with all the provisions of 9VAC25-190-50 and the receipt of this general permit.

9VAC25-190-50. Authorization to discharge.

A. Any owner governed by this general permit is authorized to discharge process wastewater and stormwater as described in 9VAC25-190-20 A 1 and 2 to surface waters of the Commonwealth of Virginia provided that:

1. The owner submits a registration statement in accordance with 9VAC25-190-60, and that registration statement is accepted by the board;
2. The owner submits the required permit fee;
3. The owner complies with the applicable effluent limitations and other requirements of 9VAC25-190-70;
4. The owner has and maintains during such authorization a mineral mining permit for the operation to be covered by this general permit that has been approved by the Virginia Department of Mines, Minerals and Energy, Division of Mineral Mining (or an associated waived program, locality, or state agency) under provisions and requirements of Title 45.1 of the Code of Virginia. Mineral mines located in bordering states with discharges in Virginia shall provide documentation that they have a mining permit from the appropriate state authority. Mineral mines owned and operated by governmental bodies not subject to the provisions and requirements of Title 45.1 of the Code of Virginia are exempt from this requirement; and
5. The board has not notified the owner that the discharge is not eligible for coverage in accordance with subsection B of this section.

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

1. The owner is required to obtain an individual permit in accordance with 9VAC25-31-170 B 3 of the VPDES Permit Regulation;
2. The owner is proposing to discharge to state waters specifically named in other board regulations that prohibit such discharges;
3. The discharge violates or would violate the antidegradation policy in the water quality standards at 9VAC25-260-30; or
4. The discharge is not consistent with the assumptions and requirements of an approved TMDL.

C. Compliance with this general permit constitutes compliance for purposes of enforcement with §§ 301, 302, 306, 307, 318, 403, and 405(b) of the federal Clean Water Act and the State Water Control Law, with the exceptions stated in 9VAC25-31-60 of the VPDES Permit Regulation. Approval for coverage under this general permit does not relieve any owner of the responsibility to comply with any other applicable federal, state, or local statute, ordinance, or regulation.

D. Continuation of permit coverage.

1. ~~Any owner that was authorized to discharge under the nonmetallic mineral mining general permit issued in 2009 and that submits a complete registration statement before July 1, 2014, is authorized to continue to discharge under the terms of the 2009 general permit~~ Permit coverage shall expire at the end of the applicable permit 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:

- a. Issues coverage to the owner under this general permit; or
 - b. Notifies the owner that the discharge is not eligible for coverage under this general permit.
2. When the owner that was covered under the expiring or expired general permit has violated or is violating the conditions of that permit, the board may choose to do any or all of the following:
- a. Initiate enforcement action based upon ~~coverage under the 2009~~ the general permit coverage that has been continued;
 - b. Issue a notice of intent to deny coverage under the reissued general permit. If the general permit coverage is denied, the owner would then be required to cease the discharges authorized by the continued coverage under the 2009 continued general permit or be subject to enforcement action for discharging without a permit;
 - c. Issue an individual permit with appropriate conditions; or
 - d. Take other actions authorized by the VPDES Permit Regulation (9VAC25-31).

9VAC25-190-60. Registration statement.

A. ~~The~~ Any owner seeking coverage under this general permit shall submit a complete VPDES general permit registration statement in accordance with this section, which shall serve as a notice of intent for coverage under the VPDES general ~~VPDES~~ permit for nonmetallic mineral mining facilities.

1. New facilities. Any owner proposing a discharge shall submit a complete registration statement at least ~~45~~ 60 days prior to the date planned for commencement of the discharge or a later submittal date established by the board.

2. Existing facilities.

a. Any owner covered by an VPDES individual ~~VPDES~~ permit that is proposing to be covered by this general permit shall submit a complete registration statement at least ~~210~~ 240 days prior to the expiration date of the individual VPDES permit.

b. Any owner that was authorized to discharge under the expiring VPDES general permit for nonmetallic mineral mining ~~that became effective on July 1, 2009,~~ and that intends to continue coverage under this general permit shall submit a complete registration statement to the board ~~on or before April 1, 2014~~ at least 60 days prior to the expiration of the existing permit or a later submittal date established by the board.

B. Late registration statements. Registration statements for existing facilities covered under subdivision A 2 b of this section will be accepted after ~~June 30, 2014~~ the expiration date of this permit, but authorization to discharge will not be retroactive. ~~Owners described in subdivision A 2 b of this section that submit registration statements after April 1, 2014, are authorized to discharge under the provisions of 9VAC25-190-50 D if a complete registration statement is submitted before July 1, 2014.~~

C. The required registration statement shall contain the following information:

1. Facility owner and operator or other contact name, address, email address, and telephone number;
2. Facility name, county, [and] location [~~, latitude, and longitude~~];
3. Description of mining activity;
4. Primary and secondary SIC codes;
5. Discharge information including:
 - a. A list of outfalls identified by outfall numbers;
 - b. Characterization of the type of each listed outfall's discharge as either process wastewater, stormwater, or process wastewater commingled with stormwater;
 - c. Characterization of the source of each listed outfall's discharge as either mine pit dewatering, stormwater associated with industrial activity (see definition in 9VAC25-190-10), stormwater not associated with industrial activity, ~~ground water~~ groundwater infiltration, wastewater from vehicle or equipment degreasing activities, vehicle washing and return water from operations where mined material is dredged, mined material washing, noncontact cooling water, miscellaneous plant cleanup wastewater, colocated facility

discharges (identify the colocated facility), other discharges not listed here (describe), or any combination of the above;

d. The receiving stream, including wetlands for each outfall listed;

e. The latitude and longitude for each outfall listed; and

f. Indicate which stormwater outfalls will be representative outfalls that require a single discharge monitoring report (DMR). For stormwater outfalls that are to be represented by other outfall discharges, provide a description of the activities associated with those outfalls and explain why they are substantially the same as the representative outfall to be sampled;

6. Indicate if the facility has a current VPDES permit and the permit number if it does;

7. Description of wastewater treatment ~~or reuse/recycle~~, reuse or recycle systems, or both;

8. List of any treatment chemicals added to water wastewater or stormwater that could be discharged. Include safety data sheets [;] [and] the maximum proposed dosing rates; [and a demonstration that application or use will not result in aquatic toxicity.]

9. List of colocated facilities;

10. Indicate if the facility is a hazardous waste treatment, storage, or disposal facility;

11. Schematic drawing showing water flow from source to water-using industrial operations to waste treatment and disposal, and disposal of any solids removed from wastewater;

12. Aerial photo or scale map that clearly shows the property boundaries, plant site, drainage areas associated with each outfall, locations of all mine pit dewatering, existing, significant sources of materials exposed to precipitation, stormwater or process wastewater outfalls and the receiving streams;

13. Evidence, such as the permit-license to operate a mine page, that the operation to be covered by this general permit has a mining permit that has been approved by the Virginia Department of Mines, Minerals and Energy, Division of Mineral Mining (or associated waived program) under the provisions and requirements of Title 45.1 of the Code of Virginia (or appropriate bordering state authorization). Mineral mines owned and operated by governmental bodies not subject to the provisions and requirements of Title 45.1 of the Code of Virginia are exempt from this requirement;

14. Mining permit number;

15. Whether the permitted [outfall facility] will discharge to a municipal separate storm sewer system (MS4). If so, provide the name of the MS4 owner. The yes, the facility owner of the facility shall notify the MS4 owner in writing of the existence of the discharge within 30 days of coverage under the general permit and shall copy the DEQ regional office with the notification at the time of registration under this permit and include that notification with the registration statement. The notification shall include the following information: the name of the facility, a contact person and ~~phone number~~ contact information, the location of the discharge, the nature of the discharge, and the facility's VPDES general permit number if assigned by DEQ;

16. Indicate if there are vehicle or equipment degreasing activities performed on site. If yes, indicate if there is any process wastewater generated from these activities;

17. ~~Monitoring data to determine compliance with 9VAC25-260-310 m (Chickahominy special standards) as per Part I B 14 of this permit;~~

18. Provide certification that the process water wastewater system is designed to operate as "no discharge" if special condition Part I B 15 is to apply to the facility. Identify the emergency outfall number;

18. [~~For applicants other than a sole proprietor, the~~] State Corporation Commission entity identification number [if the facility is required to obtain an entity identification number by law]; and

19. The following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

D. The registration statement shall be signed in accordance with 9VAC25-31-110.

E. Where to submit. The registration statement ~~may~~ shall be delivered to the department by either postal or electronic mail and shall be submitted to the DEQ regional office serving the area where the industrial facility is located.

9VAC25-190-70. General permit.

Any owner whose registration statement is accepted by the board will receive coverage under the following general permit and shall comply with the requirements in ~~the general permit~~ and be subject to all requirements of ~~the VPDES permit regulation, 9VAC25-31-190.~~

General Permit No.: VAG84

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

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

**GENERAL PERMIT FOR NONMETALLIC MINERAL MINING
AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA POLLUTANT DISCHARGE ELIMINATION
SYSTEM AND THE VIRGINIA STATE WATER CONTROL LAW**

In compliance with the provisions of the Clean Water Act, as amended, and pursuant to the State Water Control Law and regulations adopted pursuant to it, owners of nonmetallic mineral mines are authorized to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those specifically named in board regulations that prohibit such discharges.

The authorized discharge shall be in accordance with the information submitted with the registration statement, this cover page, Part I - Effluent Limitations, Monitoring Requirements, and Special Conditions, Part II - Stormwater Management, and Part III - Conditions Applicable to All VPDES Permits, as set forth ~~herein~~ in this permit.

Part I

Effluent Limitations, Monitoring Requirements, and Special Conditions

A. Effluent limitations and monitoring requirements.

1. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge process wastewater and commingled stormwater associated with industrial activity from ~~outfall(s)~~ outfalls.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS			MONITORING REQUIREMENTS	
	Monthly Average	Daily Minimum	Daily Maximum	Frequency ⁽¹⁾	Sample Type
Flow (MGD)	NL	NA	NL	1/3 Months	Estimate
Total Suspended Solids (mg/l)	30	NA	60	1/3 Months	Grab
pH (standard units) ⁽²⁾	NA	6.0	9.0	1/3 Months	Grab
Total Petroleum Hydrocarbons (mg/l) (³)	NA	NA	NL	1/3 Months	Grab

NL = No Limitation, monitoring required

NA = Not Applicable

⁽¹⁾1/3 Months equals the following three-month periods each year of permit coverage: January through March, April through June, July through September, and October through December. Discharge Monitoring Reports (DMRs) of quarterly monitoring shall be submitted to the DEQ regional office no later than the 10th day of April, July, October, and January.

⁽²⁾Where the Water Quality Standards (9VAC25-260) establish alternate standards for pH, those standards shall be the minimum and maximum pH effluent limits.

~~⁽³⁾Monitoring for total petroleum hydrocarbons is only required for outfalls that contain process wastewater from vehicle or equipment degreasing activities. Total petroleum hydrocarbons shall be analyzed using EPA SW 846 Method 8015 B (1996), 8015C (2000), 8015C (2007), 8015 D (2003) for diesel range organics, or EPA 40 CFR 136.~~

2. During the period beginning with the permittee's coverage under the general permit and lasting until the permit's expiration date, the permittee is authorized to discharge stormwater associated with industrial activity that does not combine with other wastewaters prior to discharge from ~~outfall(s)~~ outfalls.

a. Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS	MONITORING REQUIREMENTS
--------------------------	-----------------------	-------------------------

	Monthly Average	Daily Minimum	Daily Maximum	Frequency ⁽¹⁾	Sample Type
Flow (MG)	NA	NA	NL	1/Year	Estimate ⁽²⁾
Total Suspended Solids (mg/l)	NA	NA	NL ⁽³⁾	1/Year	Grab
pH (standard units)	NA	NL	NL	1/Year	Grab

NL = No Limitation, monitoring required

NA = Not applicable

⁽¹⁾Discharge Monitoring Reports (DMRs) of yearly monitoring (January 1 to December 31) shall be submitted to the DEQ regional office no later than the 10th day of January.

⁽²⁾ Estimate of the total volume of the discharge during the storm event.

⁽³⁾~~Refer to Part I B 12 should the TSS evaluation monitoring exceed 100 mg/l daily maximum.~~ Permittees shall review the results of the TSS monitoring required by Part I A 2 a to determine if changes to the stormwater pollution prevention plan (SWPPP) may be necessary. If the TSS monitoring results are greater than the evaluation value of 100 mg/l, then the permittee shall perform [the] a routine facility inspection within five days of becoming aware of the exceedance and maintain documentation as described in Part II H 3 d for that outfall. Any deficiencies noted during the inspection shall be corrected within 60 days of being identified.

b. The permittee shall conduct calendar quarterly visual monitoring of stormwater discharges associated with industrial activity. The monitoring shall include examination of stormwater samples representative of storm event discharges from the facility and observation of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of stormwater pollution. Documentation of visual monitoring of stormwater shall be maintained onsite in the SWPPP and include the examination date and time, examination personnel, outfall location, the nature of the discharge [(i.e., runoff or snowmelt)], visual quality of the stormwater discharge and probable sources of any observed stormwater contamination. Part II A regarding monitoring instructions, Part II B regarding representative outfalls, and Part II C regarding sampling waivers shall apply to the taking of samples for visual monitoring except that the documentation required by these sections shall be retained with the SWPPP [visual monitoring records] rather than submitted to the department. Calendar quarters equal the following three-month periods each year of permit coverage: January through March, April through June, July through September, and October through December.

B. Special conditions.

1. Vehicles and equipment utilized during the industrial activity on a site must be operated and maintained in such a manner as to prevent the potential or actual point source pollution of the surface or groundwaters of the state. Fuels, lubricants, coolants, and hydraulic fluids, or any other petroleum products, shall not be disposed of by discharging on the ground or into surface waters. Spent fluids shall be disposed of in a manner so as not to enter the surface or groundwaters of the state and in accordance with the applicable state and federal disposal regulations. Any spilled fluids shall be cleaned up and disposed of in a manner so as not to allow their entry into the surface or groundwaters of the state.
2. No sewage shall be discharged from this mineral mining activity except under the provisions of another VPDES permit specifically issued for that purpose.
3. There shall be no chemicals added to the discharge, other than those listed on the owner's approved registration statement, unless prior approval of the chemical is granted by the board. [The use of cationic chemicals is ineligible for coverage under this permit unless such use is approved by the board based on a demonstration that the application or use will not result in aquatic toxicity.]
4. The permittee shall submit a new registration statement if the mining permit approved by the Division of Mineral Mining (or associated waived program, or bordering state mine authority) is modified or reissued in any way that would affect the outfall location or the characteristics of a discharge covered by this general permit. Government owned and operated mines without mining permits shall submit the registration statement whenever outfall location or characteristics are altered. The new registration statement shall be filed within 30 days of the outfall relocation or change in the characteristics of the discharge.
5. The permittee shall notify the department as soon as they know or have reason to believe:
 - a. That any activity has occurred or will occur that would result in the discharge, on a routine or frequent basis, of any toxic pollutant that is not limited in this permit, if that discharge will exceed the highest of the following notification levels:

- (1) One hundred micrograms per liter (100 µg/l) of the toxic pollutant;
 - (2) Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
 - (3) Five times the maximum concentration value reported for that pollutant in the permit application; or
 - (4) The level established by the board.
- b. That any activity has occurred or will occur that would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant that is not limited in this permit, if that discharge will exceed the highest of the following notification levels:
- (1) Five hundred micrograms per liter (500 µg/l) of the toxic pollutant;
 - (2) One milligram per liter (1 mg/l) for antimony;
 - (3) Ten times the maximum concentration value reported for that pollutant in the permit application; or
 - (4) The level established by the board in accordance with 9VAC25-31-220 F.
6. ~~Except as expressly authorized by this permit, no product, materials, industrial wastes, or other wastes resulting from the purchase, sale, mining, extraction, transport, preparation, or storage of raw or intermediate materials, final product, by-product or wastes, shall be handled, disposed of, or stored so as to permit a discharge of such product, materials, industrial wastes, or other wastes to state waters. Any and all product, materials, industrial wastes, or other wastes resulting from the purchase, sale, mining, extraction, transport, preparation, or storage of raw or intermediate materials, final product, by-product, or wastes shall be handled, disposed of, or stored in such a manner and consistent with best management practices, so as not to permit a discharge of such product, materials, industrial wastes, or other wastes to state waters, except as expressly authorized.~~
7. There shall be no discharge of process wastewater pollutants from colocated asphalt paving materials operations. For the purposes of this special condition, process wastewater pollutants are any pollutants present in water used in asphalt paving materials manufacturing that come into direct contact with any raw materials, intermediate product, by-product or product related to the asphalt paving materials manufacturing process.
8. Process water may be used on site for the purpose of dust suppression. Dust suppression shall be carried out as a best management practice but not as a wastewater disposal method provided that ponding or direct run-off from the site does not occur during or immediately following its application. Dust suppression shall not occur during a storm event that results in an actual discharge from the site.
9. Process water from mine dewatering may be provided to local property owners for beneficial agricultural use.
10. There shall be no ~~discharge~~:
- a. Discharge of floating solids or visible foam in other than trace amounts from process water discharges; ~~There shall be no solids;~~
 - b. Solids deposition to surface water as a result of [a discharge associated with industrial] [industrial] activity; or
 - ~~oil~~ c. Oil sheen resulting from petroleum products discharged to surface water as a result of the industrial activity.
11. The permittee shall report at least two significant digits for a given parameter. Regardless of the rounding convention used (i.e., five always rounding up or to the nearest even number) by the permittee, the permittee shall use the convention consistently and shall ensure that consulting laboratories employed by the permittee use the same convention.
12. ~~Stormwater monitoring total suspended solids (TSS) evaluation. Permittees that monitor stormwater associated with industrial activity that does not combine with other wastewaters prior to discharge shall review the results of the TSS monitoring required by Part I A 2 to determine if changes to the stormwater pollution prevention plan (SWPPP) may be necessary. If the TSS monitoring results are greater than the evaluation value of 100 mg/l, then the permittee shall perform the inspection and maintain documentation as described in Part II H 3 d for that outfall. Any deficiencies noted during the inspection shall be corrected in a timely manner.~~
13. Discharges to waters subject to TMDL wasteload allocations. Owners of facilities that are a source of the specified pollutant of concern to waters for which a total maximum daily load (TMDL) wasteload allocation has been approved prior to the term of this permit shall incorporate measures and controls into the SWPPP required by Part II that are consistent with the assumptions and requirements of the TMDL. The department will provide written notification to the owner that a facility is subject to the TMDL requirements. If the TMDL establishes a numeric wasteload allocation that applies to discharges from the facility, the owner shall perform any required monitoring in accordance with Part I A and implement measures necessary to meet that allocation.

~~14. Discharges in the entire Chickahominy watershed above Walker's Dam (excluding discharges consisting solely of stormwater) shall also meet the effluent limitations in 9VAC25-260-310 m (special standards and requirements) of the January 6, 2011, water quality standards regulation. These limitations are BOD₅ (6.0 mg/l average and 8.0 mg/l maximum), total suspended solids (TSS) (5.0 mg/l average and 7.5 mg/l maximum), total phosphorus (0.10 mg/l average), ammonia as nitrogen (2.0 mg/l average), and settleable solids (0.1 mg/l average). These parameters, except for TSS, shall be monitored once per calendar year and the data submitted with the next registration statement (for the 2019 reissuance). TSS data shall be monitored and submitted with the Part I A DMR.~~

~~15. 13.~~ The discharges authorized by this permit shall be controlled as necessary to meet applicable water quality standards.

~~16. 14.~~ Inactive and unstaffed facilities [~~(including temporarily inactive sites)~~(including temporarily inactive and unstaffed facilities)].

a. A waiver of the process and stormwater monitoring and routine inspections may be exercised by the board at a facility that is both inactive and unstaffed as long as the facility remains inactive and unstaffed. Such a facility is required to conduct an annual ~~comprehensive~~ site inspection in accordance with the requirements in Part II H 4 d 3. No DMR reports will be required to be submitted when a facility is approved as inactive and unstaffed.

b. An inactive and unstaffed sites waiver request shall be submitted to the board for approval and shall include the name of the facility; the facility's VPDES general permit registration number; a contact person, phone number, and email address (if available); the reason for the request; and the date the facility became or will become inactive and unstaffed. The waiver request shall be signed and certified in accordance with Part III K. If this waiver is granted, a copy of the request and the board's written approval of the waiver shall be maintained with the SWPPP.

c. To reactivate the site the permittee shall notify the department within 30 days or an alternate timeframe if written approval is received in advance from the board, and all process and stormwater monitoring and routine inspections shall be resumed immediately. This notification must be submitted to the department, signed in accordance with Part III K, and retained on site at the facility covered by this permit in accordance with Part III B.

d. The board retains the authority to revoke this waiver when it is determined that the discharge causes, has a reasonable potential to cause, or contributes to a water quality standards violation.

~~17. 15.~~ Process ~~water~~ wastewater systems designed to operate as "no discharge" shall have no discharge of wastewater or pollutants, except in storm events greater than a 25-year, 24-hour storm event. In the event of such a discharge, the permittee shall report an unusual or extraordinary discharge per Part III H of this permit. No sampling or DMR is required for these discharges as they are considered to be discharging in emergency discharge conditions. These discharges shall not contravene the Water Quality Standards (9VAC25-260), as adopted and amended by the board, or any provision of the State Water Control Law. Any other discharge from this type of system is prohibited, and shall be reported as an unauthorized discharge per Part III G of this permit.

~~18. 16.~~ Best management practices for blasting. The permittee shall utilize best management practices to ensure that contaminants do not enter surface water as a result of blasting at the site.

17. Notice of termination.

a. The owner may terminate coverage under this general permit by filing a complete notice of termination. The notice of termination may be filed after one or more of the following conditions have been met:

(1) Operations have ceased at the facility and there are no longer discharges of process wastewater or stormwater associated with the industrial activity;

(2) A new owner has assumed responsibility for the facility (~~NOTE: A notice of termination does not have to be submitted if a VPDES Change of Ownership Agreement Form has been submitted~~) submitted;

(3) All discharges associated with this facility have been covered by an VPDES individual ~~VPDES~~ permit or an alternative VPDES permit; or

(4) Termination of coverage is being requested for another reason, provided the board agrees that coverage under this general permit is no longer needed.

b. The notice of termination shall contain the following information:

(1) Owner's name, mailing address, telephone number, and email address (if available);

(2) Facility name and location;

(3) VPDES general permit registration number for the facility; and

- (4) The basis for submitting the notice of termination, including:
- (a) A statement indicating that a new owner has assumed responsibility for the facility;
 - (b) A statement indicating that operations have ceased at the facility, ~~a closure plan has been implemented according to the O & M Manual~~, and there are no longer discharges from the facility;
 - (c) A statement indicating that all discharges have been covered by an VPDES individual ~~VPDES~~ permit; or
 - (d) A statement indicating that termination of coverage is being requested for another reason (state the reason).

c. The following certification:

"I certify under penalty of law that all wastewater and stormwater discharges from the identified facility that are authorized by this VPDES general permit have been eliminated, or covered under a VPDES individual or alternative permit, or that I am no longer the owner of the facility, or permit coverage should be terminated for another reason listed above. I understand that by submitting this notice of termination, that I am no longer authorized to discharge nonmetallic mineral mining wastewater or stormwater in accordance with the general permit, and that discharging pollutants to surface waters is unlawful where the discharge is not authorized by a VPDES permit. I also understand that the submittal of this notice of termination does not release an owner from liability for any violations of this permit or the Clean Water Act."

d. The notice of termination shall be submitted to the ~~department~~ DEQ regional office serving the area where the facility discharge is located and signed in accordance with Part III K.

Part II

Stormwater Management

A. Monitoring instructions.

1. Collection and analysis of samples. Sampling requirements shall be assessed on an outfall-by-outfall basis. Samples shall be collected and analyzed in accordance with the requirements of Part III A.

2. When and how to sample.

a. In the case of snowmelt or a discharge from a stormwater management structure (~~a series of settling lagoons~~), a representative sample shall be taken at the time the discharge occurs.

b. For all other types of stormwater discharges, a minimum of one grab sample shall be taken resulting from a storm event that results in ~~an actual~~ a discharge from the site (defined as a "measurable storm event"), providing the interval from the preceding measurable storm event is at least 72 hours. The 72-hour storm interval is waived if the permittee is able to document with the discharge monitoring report (DMR) that less than a 72-hour interval is representative for local storm events during the sampling period. The grab sample shall be taken during the first 30 minutes of the discharge. If it is not practicable to take the sample during the first 30 minutes, the sample may be taken during the first three hours of discharge provided that the permittee explains with the DMR why a grab sample during the first 30 minutes was impracticable and maintains that documentation with the SWPPP.

B. Representative discharge outfalls. ~~When a~~ If a facility has two or more exclusively stormwater outfalls that ~~the permittee reasonably believes~~ discharge substantially identical effluents, based on ~~a consideration~~ of similarity of industrial activity, significant materials, [~~size of the drainage areas,~~] frequency of discharges, and management practices and activities within the area drained by the outfalls, then the permittee may submit information with the registration statement substantiating the request for only one DMR to be issued for the outfall to be sampled that represents one or more substantially identical outfalls. ~~Also the~~ The permittee must shall document representative outfalls in the SWPPP and list on the DMR of the outfall to be sampled all outfall locations that are represented by the discharge. The representative outfall monitoring provisions apply to Part I A 2 a monitoring and quarterly visual monitoring.

The permittee must include the following information in the SWPPP:

1. The locations of the outfalls;

2. An evaluation, including available monitoring data, indicating why the outfalls are expected to discharge substantially identical effluents; and

3. An estimate of the size of the drainage area in acres.

C. Sampling waivers. When a permittee is unable to conduct quarterly stormwater monitoring required under Part I A 2 b within the specified sampling period due to no measurable storm event or adverse weather conditions, documentation shall be submitted explaining the permittee's inability to conduct the stormwater monitoring. The documentation must include the dates and times that the outfalls were viewed and sampling was attempted. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous

conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.). Acceptable documentation includes ~~but is not limited to~~ National Climatic Data Center weather station data, local weather station data, facility rainfall logs, and other appropriate supporting data. All documentation shall also be maintained with the SWPPP. This waiver is not applicable to annual monitoring required under Part I A 2 a.

D. Stormwater pollution prevention plans (SWPPP). An SWPPP shall be developed and implemented for the facility. The plan shall include best management practices (BMPs) that are reasonable, economically practicable, and appropriate in light of current industry practices. The BMPs shall be selected, designed, installed, implemented, and maintained in accordance with good engineering practices to eliminate or reduce the pollutants in all stormwater discharges from the facility. The SWPPP shall also include all control measures necessary for the stormwater discharges to meet applicable water quality standards.

The SWPPP requirements of this general permit may be fulfilled, in part, by incorporating by reference other plans or documents such as an erosion and sediment control plan, a mine drainage plan as required by the Virginia Division of Mineral Mining, a spill prevention control and countermeasure (SPCC) plan developed for the facility under § 311 of the federal Clean Water Act or BMP programs otherwise required for the facility provided that the incorporated plan meets or exceeds the ~~plan~~ SWPPP requirements of Part II H (contents of ~~plan~~ SWPPP). All plans incorporated by reference into the SWPPP become enforceable under this permit. If a plan incorporated by reference does not contain all of the required elements of Part II H, the permittee must develop the missing SWPPP elements and include them in the required ~~plan~~ SWPPP.

E. Deadlines for ~~plan~~ SWPPP preparation and compliance.

1. Owners of existing facilities that were covered under the ~~2009~~ 2014 Nonmetallic Mineral Mining General Permit that are continuing coverage under this general permit shall update and implement any revisions to the SWPPP within ~~90~~ 60 days of the board granting coverage under this permit.
2. Owners of new facilities, facilities previously covered by an expiring individual permit, and existing facilities not currently covered by a VPDES permit that elect to be covered under this general permit shall prepare and implement the SWPPP prior to submitting the registration statement.
3. Where the owner of an existing facility that is covered by this permit changes, the new owner of the facility shall update and implement any revisions to the SWPPP within 60 days of ownership change.
4. Upon a showing of good cause, the director may establish a later date in writing for the preparation and compliance with the SWPPP.

F. Signature and ~~plan~~ SWPPP review.

1. The SWPPP shall be signed in accordance with Part III K (signatory requirements), and be retained on site at the facility covered by this permit in accordance with Part III B (records) of this permit. When there are no on-site buildings or offices in which to store the plan, it shall be kept at the nearest company office.
2. The permittee shall make the SWPPP, ~~annual site compliance~~ routine inspection report documentation, or other information available to the department upon request.
3. The director, or an authorized representative, may notify the permittee at any time that the SWPPP, BMPs, or other components of the facility's stormwater program do not meet one or more of the requirements of this part. Such notification shall identify specific provisions of the permit that are not being met and may include required modifications to the stormwater program, additional monitoring requirements, and special reporting requirements. Within 60 days of such notification from the director, or as otherwise provided by the director, or an authorized representative, the permittee shall make the required changes to the plan and shall submit to the department a written certification that the requested changes have been made.

G. Maintaining an updated SWPPP. The permittee shall review and amend the SWPPP as appropriate whenever:

1. There is construction or a change in design, operation, or maintenance that has a significant effect on the discharge or the potential for the discharge of pollutants to surface waters;
2. Routine inspections ~~or compliance evaluations~~ determine that there are deficiencies in the BMPs;
3. Inspections by local, state, or federal officials determine that modifications to the SWPPP are necessary;
4. There is a spill, leak, or other release at the facility; or
5. There is an unauthorized discharge from the facility.

SWPPP modifications shall be made within ~~30~~ 60 calendar days after discovery, observation, or an event requiring an SWPPP modification. Implementation of new or modified BMPs (distinct from regular preventive maintenance of existing BMPs described in Part II H 3 b (preventative maintenance) shall be initiated before the next storm event if possible, but no later than 60 days after discovery, or as otherwise provided or approved by the director. The amount of time taken to modify a BMP or implement additional BMPs shall be documented in the SWPPP.

If the SWPPP modification is based on a release or unauthorized discharge, include a description and date of the release, the circumstances leading to the release, actions taken in response to the release, and measures to prevent the recurrence of such releases. Unauthorized releases and discharges are subject to the reporting requirements of Part III G of this permit.

H. Contents of ~~plan~~ SWPPP. The ~~plan~~ SWPPP shall include, at a minimum, the following items:

1. Pollution prevention team. Each plan shall identify the staff individuals by name or title who comprise the facility's stormwater pollution prevention team. The pollution prevention team is responsible for assisting the facility or plant manager in developing, implementing, maintaining, revising, and ensuring compliance with the facility's SWPPP. Specific responsibilities of each staff individual on the team shall be identified and listed.

2. Summary of potential pollutant sources. The ~~plan~~ SWPPP shall identify where industrial materials or activities at the facility are exposed to stormwater. The description shall include:

a. Site map. The site map shall document:

(1) An outline of the drainage area of each stormwater outfall that are within the facility boundaries, each existing structural control measure to reduce pollutants in stormwater run-off, surface water bodies, locations where materials are exposed to precipitation, locations where major spills or leaks identified under Part II H 2 c (spills and leaks) of this permit have occurred, and the locations of the following activities where such activities are exposed to precipitation: fueling stations, vehicle or equipment degreasing, cleaning areas, ~~loading/unloading areas~~ loading or unloading, locations used for the treatment, storage or disposal of wastes and wastewaters, liquid storage tanks, processing areas, and storage areas. The map must indicate all outfall locations. The types of discharges contained in the drainage areas of the outfalls must be indicated either on the map or in an attached narrative.

(2) For each area of the facility that generates stormwater discharges associated with industrial activity ~~with a potential for containing significant amounts of pollutants~~, locations of stormwater conveyances, including ditches, pipes, swales, and inlets, and the directions of stormwater flow and an identification of the types of pollutants that are likely to be present in stormwater discharges associated with industrial activity. Factors to consider include the toxicity of the chemicals; quantity of chemicals used, produced or discharged; the likelihood of contact with stormwater; and history of significant spills or leaks of toxic or hazardous pollutants. Flows with a potential for causing erosion shall be identified.

b. Inventory of exposed materials. A list of the industrial materials or activities, including ~~but not limited to~~ material handling equipment or activities, industrial machinery, raw materials, industrial production and processes, intermediate products, by-products, final products, and waste products. Material handling activities include ~~but are not limited to~~ the storage, loading and unloading, transportation, disposal, or conveyance of any raw material, intermediate product, final product, or waste product.

c. Spills and leaks. A list of significant spills and leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a stormwater conveyance at the facility after the date of three years prior to the date of coverage under this general permit. Such list shall be updated as appropriate during the term of the permit.

d. Sampling data. A summary of existing stormwater sampling data taken at the facility. The summary shall include, at a minimum, any data collected during the previous three years.

3. Stormwater controls. ~~BMPs~~ Control measures shall be implemented for all areas identified in Part II H 2 b (inventory of exposed materials) to prevent or control pollutants in stormwater discharges from the facility. All reasonable steps shall be taken to control or address the quality of discharges from the site that may not originate at the facility. The SWPPP shall describe the type, location, and implementation of all BMPs for each area where industrial materials or activities are exposed to stormwater. The BMPs shall also address the following minimum components, including a schedule for implementing such controls:

a. Good housekeeping. Good housekeeping requires the clean and orderly maintenance of areas that may contribute pollutants to stormwater discharges ~~in a clean, orderly manner~~. The ~~plan~~ SWPPP shall describe procedures performed to minimize contact of materials with stormwater run-off. Particular attention should be paid to areas where raw materials are stockpiled, material handling areas, storage areas, liquid storage tanks, vehicle fueling and maintenance areas, ~~and loading/unloading~~ loading or unloading areas, and vehicle entrance and exits. The permittee shall keep clean all exposed areas of the facility that are potential sources of pollutants in stormwater. The permittee shall sweep or vacuum paved surfaces of the site that are exposed to stormwater at regular intervals or use other equivalent measures to minimize the potential discharge of

these materials in stormwater. Indicate in the SWPPP the frequency of sweeping, vacuuming, or other equivalent measures.

b. Preventive maintenance. A preventive maintenance program shall involve regular inspection, testing, maintenance, and repairing of all industrial equipment and systems to avoid breakdowns or failures that could result in leaks, spills, and other releases. All BMPs identified in the SWPPP shall be maintained in effective operating condition. The SWPPP shall include a description of procedures and a regular schedule for preventive maintenance and observation of all BMPs and shall include a description of the back-up practices that are in place should a run-off event occur while a BMP is off line or not operating effectively. The effectiveness of nonstructural BMPs shall also be maintained by appropriate means (e.g., spill response supplies available and personnel trained). If site inspections required by Part II H 3 d (routine facility inspections) ~~or Part II H 4 (comprehensive site compliance evaluation)~~ identify BMPs that are not operating effectively, repairs or maintenance shall be performed before the next anticipated storm event. If maintenance prior to the next anticipated storm event is not possible, maintenance shall be scheduled and accomplished as soon as practicable. Documentation shall be kept with the SWPPP of maintenance and repairs of BMPs, including the ~~date(s) dates~~ of regular maintenance, ~~date(s) dates~~ of discovery of areas in need of repair or replacement, ~~date(s) dates~~ for repairs, ~~date(s) dates~~ that the ~~BMP(s) BMPs~~ returned to full function, and the justification for an extended maintenance or repair schedules. The maintenance program shall require periodic removal of debris from discharge diversions and conveyance systems. Permittees using settling basins to control their effluents must provide maintenance schedules for such basins in the ~~pollution prevention plan~~ SWPPP.

c. Spill prevention and response procedures. The ~~plan~~ SWPPP shall describe the procedures that will be followed for preventing and responding to spills and leaks, including barriers between material storage and traffic areas, secondary containment provisions, procedures for material storage and handling, response procedures for notification of appropriate facility personnel, emergency agencies, and regulatory agencies and procedures for stopping, containing, and cleaning up spills. Measures for cleaning up hazardous material spills or leaks shall be consistent with applicable RCRA regulations at 40 CFR Part 264 and 40 CFR Part 265. Employees who may cause, detect, or respond to a spill or leak shall be trained in these procedures and have necessary spill response equipment available. If possible, one of these individuals shall be a member of the pollution prevention team. Contact information for individuals and agencies that must be notified in the event of a spill shall be included in the SWPPP and in other locations where it will be readily available.

d. Routine facility inspections.

(1) ~~Facility personnel~~ Personnel who are familiar with the mining activity, the best management practices, and the ~~stormwater pollution prevention plan~~ SWPPP shall be identified to ~~inspect~~ conduct routine facility inspections. Such inspections must include all areas where industrial materials or activities are exposed to stormwater as identified in Part II H 2 b (inventory of exposed materials), including material storage and handling areas, including but not limited to areas where aggregate is stockpiled outdoors, liquid storage tanks, hoppers or silos, material handling vehicles, equipment, and processing areas; off-site tracking of industrial or waste materials or sediment where vehicles enter or exit the site; to inspect vehicle and equipment maintenance areas and cleaning and fueling areas; to inspect best management practices; and to conduct visual examinations of stormwater associated with industrial activity discharge points.

(2) The inspection frequency shall be specified in the ~~plan~~ SWPPP based upon a consideration of the level of industrial activity at the facility, but shall be a minimum of quarterly. Inspections of best management practices shall include inspection of stormwater discharge diversions, conveyance systems, sediment control and collection systems, containment structures, vegetation, serrated slopes, and benched slopes to determine their adequacy and effectiveness, the integrity of control structures, if soil erosion has occurred, or if there is evidence of actual or potential discharge of contaminated stormwater.

(3) ~~Quarterly visual examinations of stormwater discharges associated with industrial activity shall include examination of stormwater samples representative of storm event discharges from the facility and observation of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of stormwater pollution.~~

(4) Site inspection, and best management practices inspection ~~and visual examination~~ results must be documented and maintained on-site with the SWPPP. ~~Documentation for visual examinations of stormwater shall include the examination date and time, examination personnel, outfall location, the nature of the discharge, visual quality of the stormwater discharge and probable sources of any observed stormwater~~

contamination. ~~Part II A regarding monitoring instructions, Part II B regarding representative discharges, and Part II C regarding sampling waivers shall apply to the taking of samples for visual examination except that (i) the documentation required by these sections shall be retained with the SWPPP visual examination records rather than submitted to the department, and (ii) substitute sampling for waived sampling is not required if the proper documentation is maintained.~~

~~(5) (4) A set of tracking or followup procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Such actions must include updating pollution sources, updating pollution prevention measures and controls, and updating the SWPPP as appropriate based on information developed during the inspections.~~

~~(5) The requirement for routine facility inspections is waived for facilities that have maintained an active VEEP E3/E4 status.~~

e. Employee training. Employee training shall be conducted at least annually at active mining and [temporarily inactive sites, at those temporarily inactive sites that are unstaffed.] Employee training programs shall inform personnel responsible for implementing activities identified in the ~~stormwater pollution prevention plan~~ SWPPP or otherwise responsible for stormwater management at all levels of responsibility of the components and goals of the stormwater pollution prevention plan. Training should address topics such as spill response, good housekeeping and material management practices. ~~A pollution prevention plan shall identify periodic dates for such training. All employee training shall be documented in the SWPPP.~~

f. Recordkeeping and internal reporting procedures. A description of incidents such as spills, or other discharges, along with other information describing the quality and quantity of stormwater discharges shall be included in the ~~plan~~ SWPPP required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the ~~plan~~ SWPPP. Ineffective best management practices must be recorded and the date of their corrective action noted in the SWPPP.

g. Sediment and erosion control. The plan shall identify areas that, due to topography, land disturbance (e.g., construction, landscaping, site grading), or other factors, have a potential for soil erosion. The permittee shall identify and implement structural, vegetative, or stabilization BMPs to prevent or control on-site and off-site erosion and sedimentation.

h. Management of run-off. The ~~plan~~ SWPPP shall describe the stormwater run-off management practices (i.e., permanent structural BMPs) for the facility. These types of BMPs are typically used to divert, infiltrate, reuse, or otherwise reduce pollutants in stormwater discharges from the site. Appropriate measures may include: vegetative swales and practices, reuse of collected stormwater (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, and wet ~~detention/retention~~ detention or retention devices.

4. Comprehensive site compliance evaluation. Facility personnel who are familiar with the mining activity, the BMPs, and the SWPPP shall conduct site compliance evaluations at appropriate intervals specified in the plan, but in no case less frequently than once a year. Evaluations shall include all areas where industrial materials or activities are exposed to stormwater as identified in Part II H 2 b (inventory exposed materials). Such evaluations shall include the following:

a. Areas contributing to a stormwater discharge associated with industrial activity, including material storage and handling areas (e.g., areas where aggregate is stockpiled outdoors, liquid storage tanks, hoppers or silos, material handling vehicles, equipment, and processing areas); vehicle and equipment maintenance areas and cleaning and fueling areas; off-site tracking of industrial or waste materials or sediment where vehicles enter or exit the site; tracking or blowing of raw, final, or waste materials from areas of no exposure to exposed areas; and residue or trash shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural stormwater management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made. A review of training performed, routine inspections completed, visual examinations completed, maintenance performed, and effective operation of BMPs, shall be made.

b. Based on the results of the evaluation, the summary of potential pollutant sources identified in the plan in accordance with Part II H 2 (summary of potential pollutant sources) of this permit and pollution prevention

~~measures and controls identified in the plan in accordance with Part II H 3 (stormwater controls) of this permit shall be revised as appropriate within 14 days of such inspection and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 90 days after the inspection.~~

~~e. A report summarizing the scope of the inspection, personnel making the inspection, the dates of the inspection, observations relating to the implementation of the SWPPP, including the elements stipulated in Part II H 4 a, and actions taken in accordance with Part II H 4 b of this permit shall be made and retained as required in Part III B (records). The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the SWPPP and this permit. The report shall be signed in accordance with Part III K (signatory requirements) of this permit and retained as required in Part III B.~~

~~d. Where compliance evaluation schedules overlap with inspections required under Part II H 3 d (inspections), the compliance evaluation may be conducted in place of one such inspection.~~

I. Authorized nonstormwater discharges. The following nonstormwater discharges are authorized by this permit:

1. Discharges from emergency firefighting activities;
2. Fire hydrant flushing, managed in a manner to avoid an instream impact;
3. Potable water, including water line flushing, managed in a manner to avoid instream impact;
4. Uncontaminated condensate from air conditioners, coolers, and other compressors and from the outside storage of refrigerated gases or liquids;
5. Irrigation drainage;
6. Landscape watering, provided all pesticides, herbicides, and fertilizers have been applied in accordance with approved labeling;
7. Routine external building washdown that does not use detergents or hazardous cleaning products;
8. Pavement wash waters where no detergents or hazardous cleaning products are used and no spills or leaks of toxic or hazardous materials have occurred (unless all spilled material has been removed). Pavement wash waters shall be managed [~~to prevent the discharge of pollutants in a manner to avoid instream impacts~~];
9. Uncontaminated groundwater or spring water;
10. Foundation or footing drains where flows are not contaminated with process materials; and
11. Incidental windblown mist from cooling towers that collects on rooftops or adjacent portions of the facility, but not intentional discharges from the cooling tower (e.g., "piped" cooling tower blowdown or drains).

Part III

Conditions Applicable to All VPDES Permits

A. Monitoring.

1. Samples and measurements taken as required by this permit shall be representative of the monitored activity.
2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this permit.
3. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.
4. Samples taken as required by this permit shall be analyzed in accordance with 1VAC30-45, Certification for Noncommercial Environmental Laboratories, or 1VAC30-46, Accreditation for Commercial Environmental Laboratories.

B. Records.

1. Records of monitoring information shall include:
 - a. The date, exact place, and time of sampling or measurements;
 - b. The ~~individual(s)~~ individuals who performed the sampling or measurements;
 - c. The ~~date(s)~~ dates and ~~time(s)~~ times analyses were performed;
 - d. The ~~individual(s)~~ individuals who performed the analyses;
 - e. The analytical techniques or methods used; and
 - f. The results of such analyses.
2. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the registration statement for this permit, for a period of at least three years from the date of the sample, measurement, report or request for coverage. This

period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the board.

C. Reporting monitoring results.

1. The permittee shall submit the results of the monitoring required by this permit not later than the 10th day of the month after monitoring takes place, unless another reporting schedule is specified elsewhere in this permit. Monitoring results shall be submitted to the department's regional office.

2. Monitoring results shall be reported on a discharge monitoring report (DMR) or on forms provided, approved or specified by the department.

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

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

D. Duty to provide information. The permittee shall furnish to the department, within a reasonable time, any information that the board may request to determine whether cause exists for ~~modifying, revoking and reissuing, or~~ terminating coverage under this permit or to determine compliance with this permit. The board may require the permittee to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from its discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of the State Water Control Law. The permittee shall also furnish to the department, upon request, copies of records required to be kept by this permit.

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

F. Unauthorized discharges. Except in compliance with this permit or another permit issued by the board, it shall be unlawful for any person to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or

2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses.

G. Reports of unauthorized discharges. Any permittee who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters in violation of Part III F (unauthorized discharges); or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Part III F, shall notify the department of the discharge immediately upon discovery of the discharge, but in no case later than 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the department within five days of discovery of the discharge. The written report shall contain:

1. A description of the nature and location of the discharge;

2. The cause of the discharge;

3. The date on which the discharge occurred;

4. The length of time that the discharge continued;

5. The volume of the discharge;

6. If the discharge is continuing, how long it is expected to continue;

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

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

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

H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge including a bypass or upset should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify (see NOTE in Part III I), in no case later than 24 hours, the department 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 permittee shall reduce the report to writing and shall submit it to

the department within five days of discovery of the discharge in accordance with Part III I 2. Unusual and extraordinary discharges include ~~but are not limited to~~ any discharge resulting from:

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

I. Reports of noncompliance.

1. The permittee shall report any noncompliance that may adversely affect state waters or may endanger public health.

~~1.~~ a. An oral report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The following shall be included as information that shall be reported within 24 hours under this subdivision:

~~a.~~ (1) Any unanticipated bypass; and

~~b.~~ (2) Any upset that causes a discharge to surface waters.

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

~~a.~~ (1) A description of the noncompliance and its cause;

~~b.~~ (2) The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and

~~c.~~ (3) Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

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

~~3.~~ 2. The permittee shall report all instances of noncompliance not reported under Parts III I 1 or 2, in writing, at the time the next monitoring reports are submitted. The reports shall contain the information listed in Part III I 2.

NOTE: The immediate (within 24 hours) reports required in ~~Parts Part~~ Part III G, H and I may be made to the department's regional office. Reports may be made by telephone, FAX, or online at <http://www.deq.virginia.gov/Programs/PollutionResponsePreparedness/MakingaReport.aspx>. For reports outside normal working hours, leave a message and this shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Services maintains a 24-hour telephone service at 1-800-468-8892.

J. Notice of planned changes.

1. The permittee shall give notice to the department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

a. The permittee plans alteration or addition to any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

(1) After promulgation of standards of performance under § 306 of the federal Clean Water Act that are applicable to such source; or

(2) After proposal of standards of performance in accordance with § 306 of the federal Clean Water Act that are applicable to such source, but only if the standards are promulgated in accordance with § 306 within 120 days of their proposal;

b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are subject neither to effluent limitations nor to notification requirements specified elsewhere in this permit; or

c. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit ~~application~~ registration process or not reported pursuant to an approved land application plan.

2. The permittee shall give advance notice to the department of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements.

K. Signatory requirements.

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

a. For a corporation: by a responsible corporate officer. For the purposes of this section, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- making or decision-

making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit ~~application~~ registration requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

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

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

2. Reports, ~~etc~~ and other information. All reports required by permits, and other information requested by the board, shall be signed by a person described in Part III K 1 or by a duly authorized representative of that person.

A person is a duly authorized representative only if:

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

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

c. The written authorization is submitted to the department.

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

4. Certification. Any person signing a document under Part III K 1 or 2 shall make the following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

L. Duty to comply. The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the State Water Control Law and the federal Clean Water Act, except that noncompliance with certain provisions of this permit may constitute a violation of the State Water Control Law but not the federal Clean Water Act. Permit noncompliance is grounds for enforcement action~~s~~, for permit coverage termination, ~~revocation and reissuance, or modification~~; or for denial of permit coverage.

M. Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall apply for and obtain coverage under a new permit. All permittees with currently effective permit coverage shall submit a new registration statement at least ~~210~~ 60 days before the expiration date of the existing 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 permit.

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

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

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

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

R. Disposal of solids or sludges. Solids, sludges or other pollutants removed in the course of treatment or management of pollutants shall be disposed of in a manner so as to prevent any pollutant from such materials from entering state waters.

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

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

U. Bypass.

1. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. The permittee may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provisions of Parts III U 2 and U 3.

2. Notice.

a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, prior notice shall be submitted if possible at least 10 days before the date of the bypass.

b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part III I (reports of noncompliance).

3. Prohibition of bypass.

a. Bypass is prohibited, and the board may take enforcement action against a permittee for bypass, unless:

(1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and

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

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

V. Upset.

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

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

a. An upset occurred and that the permittee can identify the ~~cause(s)~~ cause of the upset;

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

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

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

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

W. Inspection and entry. The permittee shall allow the director or an authorized representative, upon presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
4. Sample or monitor at reasonable times, for the purposes of ensuring permit compliance or as otherwise authorized by the federal Clean Water Act and the State Water Control Law, any substances or parameters at any location.

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

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

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

~~Permits are~~ 1. Permit coverage is not transferable to any person except after notice to the department.

2. Coverage under this permit may be automatically transferred to a new permittee if:

- ~~1.~~ a. The current permittee notifies the department at least 30 days in advance of the proposed transfer of the title to the facility or property unless permission for a later date has been granted by the department;
- ~~2.~~ b. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
- ~~3.~~ c. The board does not notify the existing permittee and the proposed new permittee of its intent to deny the permittee coverage under the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part III Y 2 b.

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

VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM (VPDES) GENERAL PERMIT FOR DISCHARGES OF STORMWATER ASSOCIATED WITH INDUSTRIAL ACTIVITY, 9VAC25-151:

The current VPDES Industrial Stormwater General Permit will expire on June 30, 2019 and the regulation establishing this general permit is being amended to reissue another five-year permit. The staff is bringing this final regulation before the Board to request adoption. This regulation took into consideration the recommendations of a technical advisory committee (TAC) formed for this regulatory action. The technical advisory committee consisted of industry representatives, consultants, local government representatives, environmental groups, and DEQ staff.

The Board's authorization of the proposal was received at the September 20, 2018 meeting. A Notice of Public Comment Period (NOPC) was issued on October 29, 2018 and the comment period ran from October 29, 2018 to December 28, 2018 with public hearings on November 27 and 28, 2018. Six members of the public attended the November 27, 2018 public hearing held in Glen Allen with two persons commenting on the proposed regulation. Nine members of the public attended the November 28, 2018 public hearing held in Roanoke with one person commenting on the proposed regulation. Numerous written public comments were received during the comment period.

The comments and responses are summarized below:

Commenter	Comment	Agency response
Melissa Johnson, Citizen, Volunteer for	Comment made at 11/28/2018 Public Hearing- paraphrased by staff: -Requests quarterly monitoring for all sites	- DEQ staff believes that permittees that met the industrial stormwater general permit Bay monitoring requirements have

<p>Chesapeake Bay Foundation</p>	<p>-Requests that sites that have nutrient loads greater than allowed in the Bay TMDL be issued individual VPDES stormwater permits</p>	<p>reasonably quantified their loads to the Chesapeake Bay. - Permittees have until June 30, 2024 to meet the necessary nutrient load reductions as documented through the required TMDL action plans. At that point, if DEQ determines that adequate reductions have not been achieved, DEQ may pursue compliance action or require individual permit coverage with site-specific conditions to achieve the reductions.</p>
<p>Kelly Boyle, Fredericksburg Scrap and Virginia Auto Recyclers Association</p>	<p>Comment made at 11/27/2018 Public Hearing- paraphrased by staff: -Disagrees that further nutrient monitoring requirements beyond the 2014 Industrial Stormwater General Permit would be beneficial in relation to Virginia’s commitment under the Chesapeake Bay TMDL restoration -Requests that permittees who demonstrated and obtained benchmark monitoring waivers under the 2014 Industrial Stormwater General Permit should have those waivers continued under the proposed regulation without the need to further demonstrate the conditions under which the permittee obtained the benchmark waiver</p>	<p>- The proposed regulation only contains additional nutrient monitoring requirements for new facilities, permittees who did not meet the monitoring requirements in the 2014 general permit, or facilities that have made changes to their site. - Benchmark monitoring targets pollutants known or suspected to be present in association with the specific industrial activity covered under each sector. DEQ staff believes that further demonstrating the conditions under which the waiver was granted each permit term is not an excessive burden due to the potential for the pollutant to be present at or above the benchmark and the financial benefit gained by receiving the waiver.</p>
<p>Logan Kendle, Citizen</p>	<p>As a concerned citizen I would like to see the reissued permit still contain water quality testing, particularly for N, P, and sediment. There most definitely should be testing of the most egregious violators. Anyone found to have violated the standards previously should also be required to test their outflow. I hope that continued testing, more enforcement, and stronger reprimands for violations will continue to help Virginia clean up its many impaired waterways.</p>	<p>The Virginia DEQ is dedicated to meeting the Commonwealth of Virginia’s commitment to restoration of the Chesapeake Bay. Staff believes that permittees that met the industrial stormwater general permit Bay monitoring requirements have reasonably quantified their loads to the Chesapeake Bay. However, the proposed regulation does contain additional provisions applicable to industrial dischargers within the Chesapeake Bay watershed. In the proposed regulation, facilities who discharge TP, TN, or TSS in exceedance of the loading rates in the regulation shall submit an</p>

		Action Plan that details a schedule to achieve reductions by June 30, 2024.
Catherine Lukaszewicz, Citizen	<p>This general permit is vital in continuing to make progress in the clean up of the Chesapeake Bay & for clean water in Virginia. Clean water and a health Bay is an important positive resource for Virginia's economy and indeed for the quality of life of Virginians.</p> <p>The existing permit for the first time included nitrogen, phosphorous and sediment monitoring for these facilities. The data collected was extremely useful and identified about 15 facilities with extremely high loads of 10-200 times their target levels. Without such monitoring these facilities would not have been identified.</p> <p>Unfortunately, the proposal does not continue this monitoring or sampling even for those facilities with extremely high loads. Please include some level of nutrient and sediment monitoring for all permittees with higher frequency requirements at facilities where elevated loads have been found to be high. Monitoring data is helpful for demonstrating where issues arise, as has clearly been shown here and should not be looked at as a 1- time event. You can't confirm improvements or identify problems if you don't measure!</p>	<p>The Virginia DEQ is dedicated to meeting the Commonwealth of Virginia's commitment to restoration of the Chesapeake Bay. The proposed regulation contains provisions applicable to industrial stormwater dischargers within the Chesapeake Bay watershed. In the proposed regulation, facilities who discharge TP, TN, or TSS in exceedance of the loading rates in the regulation shall submit an Action Plan that details a schedule to achieve reductions by June 30, 2024. DEQ staff believes that permittees who comply with the proposed general permit have reasonably characterized their nutrient loads.</p>
Catherine Lukaszewicz, Citizen	<p>Also, facilities producing load more than 10 times higher than the WLA-basis should be required to have Individual Permits. These facilities play a significant role in the overall pollutant load, and represent a critical opportunity to achieve nutrient reductions in a very difficult sector. As such, these permits deserve extra attention.</p>	<p>In the proposed regulation permittees have until June 30, 2024 to meet the necessary nutrient reductions as documented through the required TMDL action plans. At that point, if DEQ determines that adequate reductions have not been achieved, DEQ may pursue compliance action or require individual permit coverage with site-specific conditions to achieve the reductions.</p>
Emily Goodwin, Associate Scientist, SLR International Corporation	<p>Part I.A.1.a.(1) of the permit states that "The visual examination shall be made during normal working hours, where practicable, and when considerations for safety and feasibility allows." We request that this or similar language be added to Part I.A.1.a.(2) or Part I.A.1.b.(3) so that the collection of analytical samples is also limited to normal working</p>	<p>DEQ staff believes that due to Virginia's climate, and the fact that each monitoring period requiring an analytical sample is six months, there is ample opportunity for permittees to plan and collect analytical samples during the monitoring period</p>

	<p>hours. This change would provide for consistency in the rule and mirror other state permit such as the Oregon Department of Environmental Quality 1200-Z (Part B.2.d), Washington Department of Ecology General Industrial Stormwater Permit (Part S4.B.1e) and many other which do not require sampling outside of normal business hours or when conditions are unsafe.</p>	<p>under safe conditions. In addition, the permit does provide an adverse climatic conditions waiver (Part I.A.3), allowing a substitute sample to be collected in the following monitoring period. DEQ staff does not believe a change to the proposed regulation is necessary.</p>
<p>Robert Goode, Environmental Permitting Assistance, LLC</p>	<p>First, I believe elimination of the annual comprehensive site evaluation is a good thing. It appeared to be a redundant effort with no added value.</p>	<p>DEQ staff agrees with the comment and have removed the provision from the proposed regulation.</p>
<p>Robert Goode, Environmental Permitting Assistance, LLC</p>	<p>Second, I do not understand the reasoning behind facilities that have gone from some benchmark monitoring to none; there seems to be no rhyme or reason. For examples: I find it odd that small bulk oil storage terminals retained monitoring for TSS yet refineries, which typically have a lot of bulk oil storage, have been exempt from all monitoring (unless, of course, all their discharges from these areas go through an outfall with treated wastewater). Anyway, if refineries are exempt, I would think that the bulk oil facilities would be exempt also. I would think that cut stone and stone products (3281) would have dust associated with it, even with wet cutting, thus TSS monitoring. Most of the industries dealing with wood (2411, 2421, 2426, 2429, 2431-2433, 2435-2439, 2441, 2448, 2449, 2451 and 2452) retained monitoring for TSS while industries like wood kitchen cabinets (2434) along with pulp and paper mills (2611, 2621) and paperboard products (2652-2657) have no monitoring. If it comes down to the sawing operations then I would think that 2434 would get monitoring also. I'm sure the response will be because that is what was reflected in the EPA multisector permit and that's fine...I understand. My biggest issue is really with the bulk oil storage facilities; I would be surprised if Virginia data supported the need for TSS monitoring as I would think that most bulk facilities, if not all, discharge from their bermed areas through an oil-water separator. And yes, I realize they can request a waiver based on monitoring data but the two facilities (refineries and bulk facilities) do not seem to be on an equal footing.</p>	<p>DEQ staff has not removed benchmark monitoring requirements from any of the facilities referenced in the comment. It should be noted that some facilities (SIC Codes) have been moved to new sectors that aligned with monitoring requirements.</p>

<p>Joe Wood, Ph.D., Virginia Staff Scientist & Margaret L. Sanner, Virginia Assistant Director & Senior Attorney, Chesapeake Bay Foundation</p>	<p>It should be noted that Joe Wood, Ph.D. provided verbal comment during the 11/27/2018 Public Hearing on behalf of the Chesapeake Bay Foundation. Dr. Wood’s verbal comments were substantively similar to the written comments provided and summarized in the following.</p> <p>1. Recommendation # 1: Require continued nutrient monitoring for all facilities with enhanced monitoring requirements for facilities with higher documented loads; and require individual permits for facilities which demonstrate clear water quality problems (i.e. facilities with loads greater than ten times the WLA basis).</p> <p>In the most recent issuance of this permit, which was the first issuance since the adoption of the Chesapeake Bay TMDL, the State Water Control Board (“Board” hereafter) required all permittees to collect four water quality samples at each stormwater outlet over the course of 5 years to be analyzed for nitrogen, phosphorous and sediment. CBF appreciates this requirement and the data acquired as a result of this effort provides critical insights for identifying facilities with the largest impact to water quality. This information will help DEQ effectively reduce pollution loads at the highest pollutant loading facilities.</p> <p>This data set indicates current protections at most facilities (~2/3 of all monitored facilities) are resulting in loading rates consistent with the sector’s aggregate current Waste Load Allocation (WLA) of 12.3 lbs. per acre for nitrogen 1.5 lbs. per acre for phosphorous and 440 lbs. per acre for TSS, which represents a positive evaluation of current management. However, a substantial proportion of facilities (~1/3 of all monitored facilities) have pollution loading rates above the WLA and further, a small subset of facilities (<1% of all monitored facilities) have pollution loads that are substantially (>10x) greater than the WLA. This small proportion of high loading facilities accounts for 29% of the overall phosphorous load and 20% of the overall nitrogen load of all facilities despite accounting for less than 1% of the overall acreage of facilities covered under this permit. These facilities discharge approximately one third of the overall nitrogen and phosphorous load (Figure 1)</p>	<p>Virginia is the only state in the Chesapeake Bay watershed that has required all industrial stormwater general permittees in the Bay to collect and analyze stormwater samples in an effort to quantify loads. DEQ staff believes that permittees that met the industrial stormwater general permit Bay monitoring requirements have reasonably quantified their loads to the Chesapeake Bay. The proposed regulation also contains new provisions that would require industrial facilities that modify their sites to collect samples to further quantify these new loads and adjust or develop action plans if additional reductions are required.</p> <p>In addition, EPA’s Chesapeake Bay TMDL aggregated industrial stormwater with other regulated stormwater for the purpose of assigning a waste load allocation (WLA). The proposed permit requires development of a TMDL action plan for any permittees that individually exceed the loading assumptions that contributed to the aggregate WLA. With two thirds of the monitored facilities currently demonstrating loading rates below the TMDL assumptions, reducing loads from the remaining one third of facilities to the assumed loads will result in a total load for the sector significantly less than the aggregate WLA. DEQ staff believes the Bay requirements in the proposed regulation go above and beyond other Bay states and demonstrate Virginia’s commitment to achieving reductions from the industrial stormwater sector in an effort to meet the goals of a restored Chesapeake Bay.</p> <p>Permittees have until June 30, 2024 to meet the necessary reductions as documented through required TMDL action plans. At</p>
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<p>corresponding to more than 8,000 lbs. P per year above the WLA. To put this number into context, Virginia’s total Stormwater Local Assistance Fund grant program, which represents an investment of over \$120,000,000 in local and state tax dollars, have achieved only approximately 14,000 lbs. of P reductions since its inception with an average cost efficiency of \$8–15,000 per lb P.1 Governor Northam just announced that \$50 Million would be included in his budget for 2020 in the coming session. If this investment were to achieve 8,000 lbs, of phosphorous reductions it would be widely viewed as a success. And yet these water quality monitoring results demonstrate actions at just 6 facilities could achieve similar results.</p> <p>Thus the pollutant loads coming from these facilities are substantial relative to the state’s overall efforts to address stormwater pollution and will produce a benefit that has tremendous value for Chesapeake Bay clean-up efforts. Even if there is capacity to address these pollutant loads via credit acquisition (as suggested by DEQ at TAC Meetings), such an action would deplete available credits and thus exacerbate challenges for storm water entities working to address pollutant loading. Further, addressing problematic facilities which are accounting for a large proportion of the sector’s WLA will help ensure sufficient allocations to allow for future growth. Now that these facilities have been identified, there is a clear plan for addressing these loads through TMDL action plans. However, it is important to recognize that water quality monitoring was an essential part of this process. The small proportion of high loading facilities across N P & S. represents 20 different Standard Industrial Classification (SIC) codes across the state, and there would have been no obvious way to identify these facilities in the absence of this data. Simply put, the state would not know about these highly concentrated pollution sources in the absence of facility wide monitoring. This clearly demonstrates the value that comprehensive water quality monitoring of stormwater can provide.</p> <p>These monitoring results are a promising start to effective management of this permit, but over the next 5 years and subsequent permit cycles, innumerable factors which don’t</p>	<p>that point, if DEQ determines that adequate reductions have not been achieved, DEQ may pursue compliance action or require individual permit coverage with site-specific conditions to achieve the reductions.</p>
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qualify facilities for new required monitoring (i.e. facility operating procedures and conditions, precipitation patterns, etc.) will change and have the potential to alter stormwater discharges in ways that cannot be predicted. As such, the data collected to date will become outdated and less effective at guiding the state, unless it is supplemented with continued monitoring. Continued efforts to monitor effluent can be used to identify where problematic changes to nutrient loads occur. Furthermore, for facilities which must develop TMDL action plans, monitoring has the capacity to comprehensively ground truth the success of clean-up efforts and improve the precision of the reduction target.

In summary, monitoring results indicate several attributes about the role industrial stormwater plays in nutrient and sediment loads to Chesapeake Bay. First, it is clear that industrial facilities of many different types have the capacity to operate under conditions that are consistent with the WLA established for this sector in the Chesapeake Bay TMDL. Second, this limited frequency of sampling has provided meaningful results despite substantial variability across date, facility type, and individual operations. Finally, the distribution of data demonstrates that a small number of problematic facilities can substantially influence the overall pollutant loading associated with this permit thus highlighting the importance of reducing pollution at these facilities and continued screening of facilities through nutrient monitoring to identify future problematic facilities.

Despite the critical insights provided by this data, the current proposed draft permit does not include any nutrient monitoring requirements for any facility that has already collected samples required in the previous permit, including those facilities which have documented very high loads. The lack of continued monitoring in these permits is highly problematic and will negatively impact the state's ability to effectively manage nutrient loads from these facilities going forward. Water quality monitoring results, as demonstrated here, clearly provides a critical and unreplaceable tool for the state to utilize in managing future pollution reductions from industrial stormwater.

	<p>As such, CBF recommends the Board require nutrient monitoring for all facilities in this permit with variable frequency on the basis of previous results (see table 1). An explanation for how we derived this list of sampling frequencies is found in the attached memo as discussed at a meeting with the Technical Advisory Committee for this permit. This would result in only a single sample per outfall for all facilities which have previously demonstrated low potential for pollutant loading rates (which represents the majority of facilities). For facilities with higher loading rates, increased monitoring should be used to refine TMDL action plan targets and to ensure progress. Finally, we recommend facilities with extremely high nutrient loads (>10x WLA basis) be transitioned to individual permits. Management of such facilities is critical to the states effort to reduce pollution and thus should receive more dedicated, individualized attention due to their propensity for impacting water quality.</p>	
<p>Joe Wood, Ph.D., Virginia Staff Scientist & Margaret L. Sanner, Virginia Assistant Director & Senior Attorney, Chesapeake Bay Foundation</p>	<p>2. Develop SIC specific guidance on managing nutrient loads for SIC codes with high loading rates and for highly impervious facilities.</p> <p>While no combination of the monitored factors fully explained high pollutant loads, there were a few factors that correlated with higher pollutant loading rates. Several SIC codes had average loading rates well above the WLA basis across all facilities (See Table 2, averages above 5x WLA). The data suggests a select number of industry types (i.e. SIC Codes) produce loading rates that present higher risks (Figure 3). These facility types represent a large proportion of the overall pollution load covered under this permit (Figure 4). As such we recommend DEQ provides specific guidance for management strategies that might be utilized at such facilities.</p> <p>Facilities with high proportions of impervious surfaces also had higher pollutant loading rates across facilities (Figure 5). While this is not a surprising finding, imperviousness clearly represent a risk factor which can be used to improve management of these facilities. As such, we recommend DEQ provides specific guidance for how to best prevent nutrient loading rates under conditions of high imperviousness (i.e. > 60% impervious) and also recommend efforts to</p>	<p>It is DEQ staff's intention to develop tools to assist permittees with permit compliance in the future. Although guidance is outside the scope of this regulatory action, DEQ staff appreciates CBF's input and will take the suggestions into consideration.</p>

	validate reporting data related to imperviousness, through maps and other means necessary.	
Joe Wood, Ph.D., Virginia Staff Scientist & Margaret L. Sanner, Virginia Assistant Director & Senior Attorney, Chesapeake Bay Foundation	<p>3. Enhanced enforcement is needed to ensure compliance with permits; a large proportion of facilities did not submit monitoring data however this did not result in any known enforcement action.</p> <p>In review of the data submitted by permittees, perhaps the most striking finding was the number of facilities which simply did not submit data despite the permit requirements. This was referenced several times by our industrial partners in the technical advisory committee who requested for DEQ to step up enforcement actions against facilities not complying with the current permit. In response, DEQ has enhanced what calculations will be required to be submitted in the next permit cycle, however, there needs to be a stronger response from the agency to ensure all appropriate facilities are covered under and comply with the permits. As a result of this non-compliance, the state lacks valuable information for managing pollution loads from these facilities.</p>	<p>DEQ staff recognizes the permit compliance concerns presented by CBF. DEQ permitting staff has relayed these concerns to DEQ compliance and enforcement management.</p> <p>The proposed regulation will require all permittees with Chesapeake Bay TMDL monitoring requirements to submit nutrient loading calculations to DEQ. This requirement is proposed as an effort to increase compliance with the Chesapeake Bay TMDL requirements in the general permit.</p> <p>DEQ staff oversees compliance for over 12,000 NPDES permitted entities, of which 1,265 are industrial stormwater. The agency uses a risk-based strategy to manage inspection and compliance resources.</p>
Trenton M. Clark, P.E., Executive Vice President, Virginia Asphalt Association	<p>Overall, VAA is pleased with the proposed revisions, which clarify and streamline many aspects of the permit. VAA is particularly supportive of the proposed changes to the Chesapeake Bay total maximum daily load ("TMDL") monitoring requirements in 9 VAC 25-151-70, Part I (B)(8). VAA supports the proposal to cease monitoring for total suspended solids ("TSS"), total nitrogen ("TN"), and total phosphorus ("TP") once four samples have been collected that demonstrate that a TMDL action plan is not triggered. Further, VAA supports the flexibility provided for those facilities that did not complete all four samples during the 2014 permit term to be able to use those samples towards satisfying the four sample requirement in the next permit term.</p> <p>This approach offers a practical way to ensure that facilities with discharges that impact compliance with the Bay TMDL are identified, while reducing unnecessary monitoring costs and regulatory burdens for those that do not. It is unlikely that a facility's stormwater discharges are likely to demonstrably change unless a modification has occurred at the facility. In instances where "monitoring is no longer representative of the</p>	Noted.

	<p>modified facility" the Permit rightfully requires additional monitoring. This solution prevents facilities with no changes from being subject to duplicative monitoring while capturing the few facilities where a change in stormwater discharges relative to TSS, TN, and TP is likely to have occurred.</p> <p>This approach was thoroughly vetted during the TAC meetings. VAA, along with the other members of the TAC, agreed that the proposed changes to the Bay TMDL monitoring requirements are appropriate and beneficial.</p>	
<p>Trenton M. Clark, P.E., Executive Vice President, Virginia Asphalt Association</p>	<p>VAA seeks clarification or modification of several minor issues that will further improve the Permit. In 9 VAC 25-151-60 (C)(13)(c) requiring the registration statement to include a site map depicting certain information including "[a]ll water bodies or MS4 conveyances, labeled with names if applicable, receiving stormwater discharges from the site," VAA requests that DEQ simplify this requirement to only apply to the receiving water bodies and not the MS4 conveyances. Many affected facilities have a multitude of stormwater conveyances that would be difficult to accurately map when the focus is really on the outfalls and the waterbodies to which the outfalls discharge (both of which require labeling under Section 13(c)). VAA requests that the requirement in the Stormwater Pollution Prevention Plan ("SWPPP") at 9 VAC 25-151-80(B)(2)(b)(8)(d) be similarly limited. Also in the SWPPP, VAA requests that DEQ consider modifying the requirement at 9 VAC 25-151-80(B)(2)(b)(8)(c) to only require submission of longitude and latitude information for each outfall if such information is already available by the permittee.</p>	<p>The MS4 conveyance information and latitude/ longitude requirements referenced in the comment are necessary for DEQ staff to issue general permit coverage to facilities. In an effort to mitigate regulatory burden, DEQ staff has updated the registration statement for the proposed regulation and has provided detailed instructions including links to websites where MS4 information and latitude/ longitude can be obtained free of charge.</p>
<p>Frederick W. Cornell, Business Partner, SIMS Metal Management</p>	<p>PROPOSED LANGUAGE: 9VAC25-151-50.C.4.a. Authorized nonstormwater discharges. The following "nonstormwater" discharges are authorized by this permit: a. Discharges from emergency firefighting activities.</p> <p>SMM COMMENT #1: The proposal includes the addition of "emergency". SMM's disagrees with the prohibition of non-emergency firefighting water discharges. Effective emergency firefighting requires practice activities. Therefore, by prohibiting non-emergency firefighting water discharges, we substantially restrict the readiness of our</p>	<p>The proposed regulation contains language ("Discharges from emergency firefighting activities") which is equivalent to requirements in EPA's 2015 Multi-Sector General Permit ("Discharges from emergency/unplanned fire-fighting activities"). DEQ staff does not believe a change to the proposed regulation is appropriate given the federal permit. .</p>

	<p>firefighting force. SMM offers its facilities to the local fire department for firefighting practice. The proposed change would prohibit SMM from providing this public service. SMM's opinion is that this broad prohibition for non-emergency firefighting discharges creates an immediate danger to human life and safety. SMM recommends either:</p> <ul style="list-style-type: none"> •Not making the change, or •Explicitly stating that discharges from non-emergency firefighting activities are authorized, provided the discharge is managed in a manner that avoids an adverse instream impact. This qualifying statement is similar to that used to authorize fire hydrant flushing. 	
<p>Frederick W. Cornell, Business Partner, SIMS Metal Management</p>	<p>SMM COMMENT #2: SMM recommends the addition of the following definition in 9VAC25-151-10 Definitions.</p> <p>"Pollution control equipment and facilities" shall mean any stormwater control used to prevent or abate stormwater pollution at the facility in accordance with the designated facility's storm water pollution prevention plan (SWPPP), which controls may include real or personal property, equipment, facilities, or devices, used primarily for the purpose of abating or preventing pollution of waters of the Commonwealth, which may be evidenced by the control's description or depiction in (a) the facility's SWPPP as a best management practice (BMP) or (b) site map as a means for controlling the direction of or channeling storm water toward a storm water treatment system (e.g. sedimentation pond or oil-water separator) or diverting stormwater from a potential pollution source, in each case by such means as curbs, berms, or concrete or asphalt surfacing graded to direct storm water toward such treatment system, whereby such controls also include piping, drain inlets and/or treatment systems intended for such stormwater control.</p> <p>The rationale for this request pertains to VA Code § 58.1-609.3 which exempts "certified pollution control equipment and facilities" from state and local sales taxes in the Commonwealth. The technical portion of the definition relevant to this permit is "any property, including real or personal property, equipment, facilities, or devices, used primarily for the purpose of abating or preventing pollution of...waters of the Commonwealth...". The definition is clearly broad and would include any items purchased</p>	<p>DEQ staff believes the definition found in § 58.1-3660 is satisfactory and has no intention to define "Pollution control equipment and facilities" in the proposed regulation.</p>

	<p>to implement any stormwater best management practices (BMPs) that would be implemented as part of this permit. By including this definition in the permit, we make the applicability of this provision more transparent, which will provide the regulated community with more funds for stormwater pollution prevention projects and encourage companies to invest in structural and non-structural BMPs to prevent stormwater pollution in the Commonwealth.</p>	
<p>Brooks M. Smith, Andrea W. Wortzel, Patrick J. Fanning, Counsel to Virginia Manufacturers Association Water Subcommittee</p>	<p>The proposed amendments streamline the Permit by reorganizing the sector-specific provisions. This is a beneficial change that minimizes confusion and redundancy. VMA supports the reorganization of the Permit as proposed.</p>	<p>Noted.</p>
<p>Brooks M. Smith, Andrea W. Wortzel, Patrick J. Fanning, Counsel to Virginia Manufacturers Association Water Subcommittee</p>	<p>VMA also supports the proposed changes to the Chesapeake Bay total maximum daily load (“TMDL”) monitoring requirements in 9 VAC 25-151-70, Part I (B)(8). These proposed changes allow permittees to cease Bay TMDL-related monitoring once four samples have been collected that demonstrate that a TMDL action plan is not triggered. This provision ensures that facilities contributing total suspended solids (“TSS”), total nitrogen (“TN”), and total phosphorus (“TP”) are identified and subject to an action plan, protecting water quality and aquatic life. At the same time, it removes the burden and cost of continuing such sampling from facilities that demonstrate that they do not trigger an action plan. The approach also ensures that, where there are modifications to a facility in the Bay watershed, and the original monitoring is no longer representative of the facility’s discharge, additional monitoring is triggered.</p>	<p>Noted.</p>
<p>Brooks M. Smith, Andrea W. Wortzel, Patrick J. Fanning, Counsel to Virginia Manufacturers Association</p>	<p>Additionally, VMA supports the flexibility provided to facilities that did not complete all four samples during the 2014 permit term, allowing the samples that were collected during the 2014 permit term to be counted toward the four-sample requirement in the next permit term.</p>	<p>Noted.</p>

Water Subcommittee		
Brooks M. Smith, Andrea W. Wortzel, Patrick J. Fanning, Counsel to Virginia Manufacturers Association Water Subcommittee	In addition to monitoring clarifications, VMA also supports the addition of the waiver provision in 9 VAC 25-151-70, Part I (B)(8)(h). This provision enables facilities to request a waiver to the annual Bay TMDL monitoring requirements if they implement certain BMPs or purchase perpetual nonpoint source credits.	Noted.
Brooks M. Smith, Andrea W. Wortzel, Patrick J. Fanning, Counsel to Virginia Manufacturers Association Water Subcommittee	There are several comments VMA raised during the TAC process that were not directly addressed by the amendments. While VMA is not seeking changes to the amendments regarding these topics, they are noted here for future consideration, particularly if DEQ issues guidance regarding implementation and compliance with the amended Permit. First, the amended Permit includes a list of authorized non-stormwater discharges. 9 VAC 25-151-50. This provision is of critical importance to manufacturers, because it recognizes incidental discharges that may commingle with stormwater and provides flexibility in the management of such discharges. Preserving this list and the related flexibility it provides is paramount. Second, VMA remains concerned about the conservative approach taken in the development of benchmark criteria. While it is understood that the benchmarks derive from the EPA multisector general permit, there is increasing concern about the fact that the benchmarks, given their conservative basis, go beyond the desired goal of protecting water quality (determined by attaining water quality standards and designated uses). EPA itself acknowledges that exceedance of benchmarks does not indicate that a discharge is causing or contributing to a violation of a water quality standard. EPA 2015 Multi-Sector General Permit Fact Sheet, page 54. The conservative nature of the benchmarks should factor in to how they are applied to determine when a stormwater pollution prevention plan should be modified or, conversely, when a sampling waiver may be granted. VMA would be interested in seeing this addressed in any implementation or compliance guidance developed for the amended Permit.	Noted. DEQ VPDES Guidance and Regulation staff will add these comments to the file of materials to be addressed during the next general permit reissuance process.

	<p>Third, as discussed during the TAC, VMA is concerned about how and when reference is made in the amended Permit to “eliminating discharges” as compared to “minimizing discharges.” There are several instances in the housekeeping portion of the regulation where the term “eliminate” is used. However, the term “minimize” is defined to encompass the elimination of discharges and, particularly in the context of stormwater, is the term that is most appropriate to use. The understanding reached on the TAC was that the reference to “eliminate” relates to attempting to eliminate to the extent possible. This is another clarification that it may be helpful to include in any implementation guidance.</p>	
<p>Sandra Collins, Principal Conservator, Friends of Accotink Creek</p>	<p>1. Permittees with demonstrated high nutrient and sediment loads being discharged to surface waters should be required to monitor more frequently than the 4 times required for the current Industrial General Permit but should instead be required to monitor for each permit reissuance. In this way, it can be determined what discharges may not be in compliance with a TMDL and contributing to failures in meeting nutrient and sediment water quality standards for the receiving water body, and where modifications in a SWPPP may be necessary.</p> <p>2. Permittees generating loads 10-fold higher than the Waste Load Allocation should not be regulated under the General Permit and should instead be required to apply for coverage under an Individual Permit as they contribute a significant portion of the overall pollutant load to the receiving water body.</p>	<p>1. DEQ staff believes that facilities that comply with the monitoring requirements of the proposed regulation have reasonably characterized their nutrient loads. It should be noted that Chesapeake Bay TMDL did not assign industrial stormwater dischargers individual wasteload allocations for compliance purposes.</p> <p>2. In the proposed regulation permittees have until June 30, 2024 to meet the necessary nutrient reductions. At that point, if DEQ determines that adequate reductions have not been achieved, DEQ may pursue compliance action or require individual permit coverage with site-specific conditions to achieve the reductions.</p>
<p>Phillip Musegaas, Vice President of Programs and Litigation, Potomac Riverkeeper Network</p>	<p>PRKN supports many of the proposed revisions of the Industrial Stormwater General Permit (“Industrial GP”), including changes made to ensure consistency with the U.S. Environmental Protection Agency’s 2015 Multi-Sector General Permit (“EPA MSGP”). We also appreciate the input provided by the Technical Advisory Committee (TAC) during the development of these revisions, and formally support the comments provided by the Chesapeake Bay Foundation in writing and during the TAC process. As detailed in our comments below, PRKN also has significant concerns about the sufficiency of</p>	<p>DEQ recognizes PRKN’s support of many of the changes in the proposed regulation and PRKN’s support of CBF’s comments.</p>

	<p>permit requirements relating to discharges of nutrients and sediment from permitted facilities located in the Chesapeake Bay watershed, and thus governed by the Chesapeake Bay TMDL.</p> <p>The timing of this permit reissuance also presents certain challenges that should be considered by DEQ before finalizing the Industrial GP.</p> <p>First, the Agency Background Document for this permit reissuance states that the Industrial GP was developed and is being revised consistent with Virginia’s 2010 Phase 1 Chesapeake Bay TMDL Watershed Implementation Plan (“WIP 1”).</p> <p>While the 2019 Industrial GP would require current dischargers within the Chesapeake Bay watershed to submit loading calculations to DEQ based on 4 sampling events during the 2014 Industrial GP permit term, there is no requirement for all permittees to continue sampling under the 2019 Industrial GP. DEQ appears content to rely on the limited data generated by 4 sampling events at each permitted facility over a five year permit term as a basis for determining whether the loading targets for industrial stormwater facilities are being met.</p> <p>In addition, there is no mention, much less discussion of Virginia’s WIP 3, currently under development and due for public release in spring of 2019. The WIP 3 is the final phase of the state’s plan to meet the 2025 goals of the Chesapeake Bay TMDL, and is supposed to reflect the most current scientific and regulatory data on the progress made by Bay states to reduce nutrient and sediment pollution, along with revised targets to ensure the 2025 goals are met. Given the fact that pollution loads from stormwater are actually projected to increase, not decrease, it is critically important that DEQ has the best available loading data, and that sampling data on industrial stormwater discharges continue to be collected during this crucial, final phase of the Chesapeake Bay TMDL implementation. At a minimum, DEQ should include a reopener clause in the 2019 Industrial GP, that requires reopening and modifying the permit if Virginia’s WIP 3 determines that additional reductions of stormwater pollution are needed, beyond what was forecast in the 2010 WIP 1.</p>	<p>1.) (“First”) The proposed regulation was developed prior to Virginia’s WIP III. The proposed regulation will be in effect for a 5-year term. Any necessary changes due to the to-be-released WIP III will be addressed in the reissuance of the next iteration of the general permit (2024-2029).</p>
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	<p>Second, DEQ should take note of the National Academy of Science’s (NAS) pending study of the 2015 EPA MSGP, which is tentatively slated for public release in 2019.4 The Water Science and Technology Board was tasked with assessing how to improve the MSGP, with a focus on improvements to the benchmark monitoring requirements.5 Within this focus area, the study is looking at increasing the frequency of monitoring, the scope of industrial pollutants being monitored, and adjusting the benchmark threshold levels of pollutants.6</p> <p>Given the fact that Virginia’s Industrial GP must be consistent with EPA’s MSGP, PRKN urges DEQ to carefully consider the recommendations of the final study and use them to inform any future modifications of the 2019 Industrial GP, or reissuance of the permit in 2024.</p>	<p>2.) (“Second”) The NAS study referenced in PRKN’s comment was not completed and published during the development of the proposed regulation. According to EPA, they will be potentially utilizing information from the NAS study during the development of EPA’s MSGP. Typically, DEQ uses the current version of EPA’s MSGP as a template for the general permit. Any changes made to EPA’s MSGP due to suggestions made in the NAS study will be considered by DEQ during the next general permit reissuance (2024-2029).</p>
<p>Phillip Musegaas, Vice President of Programs and Litigation, Potomac Riverkeeper Network</p>	<p>The 2019 Industrial GP should continue requiring benchmark monitoring for nutrients and sediment for all facilities covered by this permit. The 2019 Industrial GP discontinues the nutrient and sediment benchmark monitoring requirement for dischargers within the Chesapeake Bay watershed, as long as they have completed the sampling requirement of the 2014 Industrial GP – four samples over the permit term. Permittees who did not complete the sampling during the current permit term, for whatever reason, are allowed to complete the sampling regimen during the 2019 Industrial GP term. However, DEQ provides no rationale or discussion of why the limited sampling conducted under the 2014 Industrial GP is deemed sufficient to accurately project pollution loading over the next five year permit term. PRKN disagrees with DEQ’s decision to discontinue nutrient and sediment sampling requirements for several reasons.</p> <p>First is the issue of timing – the Chesapeake Bay TMDL is at the midpoint assessment stage, when it is critically important for the Bay states, EPA and local governments to accurately assess the progress they’ve made, refine the pollution reduction targets to meet the 2025 goals, and develop a WIP 3 that commits the state to achieving those targets. Presumably the accuracy of these reduction targets depends on having the best, most current data available on pollution loading</p>	<p>(“First”) Virginia is the only state in the Chesapeake Bay watershed that has required all industrial stormwater general permittees in the Bay to collect and analyze stormwater samples in an effort to quantify loads. DEQ staff believes that permittees that met the industrial stormwater general permit Bay monitoring requirements have reasonably</p>

	<p>from all sectors, including industrial stormwater. DEQ's decision to relax sampling requirements for dischargers in the Bay watershed is baffling, to say the least, and contrary to the Commonwealth's oft stated goals of using the best science and data available to inform its permitting decisions.</p> <p>Second, reliance on an extremely limited sampling dataset to project future pollution loading is scientifically suspect, and may result in either under- or overestimating discharges of nutrients from industrial facilities. It also fails to take into account changing regional precipitation patterns due to climate change, particularly the increasing trend of intense, localized high precipitation events that could result in severe stormwater runoff and pollution from industrial facilities into Virginia's waterways. For example, 2018 was the wettest year on record for the District of Columbia, and among the top five wettest years for Virginia.⁸ The EPA Chesapeake Bay Program modeling of climate change impacts conducted as part</p>	<p>quantified their loads to the Chesapeake Bay. The proposed regulation also contains new provisions that require industrial facilities that modify their sites to collect samples to further quantify any new loads and adjust or develop action plans if additional reductions are required. . EPA's Chesapeake Bay TMDL aggregated industrial stormwater with other regulated stormwater for the purposed of assigning a waste load allocation. The proposed permit requires development of a TMDL action plan for any permittees that individually exceed the loading assumptions that contributed to the aggregate WLA. With two thirds of the monitored facilities currently demonstrating loading rates below the TMDL assumptions, reducing loads from the remaining one third of facilities to the assumed loads will result in a total load for the sector significantly less than the aggregate WLA. DEQ staff believes the Bay requirements in the proposed regulation go above and beyond other Bay states and demonstrate Virginia's commitment to achieving reductions from the industrial stormwater section in an effort to meet the goals of a restored Chesapeake Bay. ("Second") DEQ staff believes that the data analysis of all industrial discharges, when taken as a whole and aggregated, as EPA did with sector in the Bay TMDL, reasonably quantifies the industrial stormwater discharges to the Bay. The rainfall data used for the load calculations in the permits was a Virginia average rainfall value used to simplify and normalize the calculation for permittees. The proposed regulation does not relax the necessary load reductions facilities must meet by 2024 if monitoring</p>
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	<p>of the 2017 Midpoint Assessment found that an additional 9 million pounds of nutrients would be discharged to the Bay under updated rainfall scenarios.⁹</p> <p>Bay states, including Virginia, committed to updating their pollution reduction targets to reflect the increased loading, in each states' WIP 3. In this context, it makes little sense for DEQ to relax sampling of nutrient and sediment discharges and rely only on data collected from 2014-2018 to inform future permitting requirements, particularly for stormwater pollution. PRKN urges DEQ to revise the 2019 Industrial GP to reflect this reality, and require ongoing sampling of nutrient and sediment discharges from all industrial sites governed by this general permit.</p>	<p>indicated facilities were above the nutrient loading rates in the proposed regulation.</p>
<p>Phillip Musegaas, Vice President of Programs and Litigation, Potomac Riverkeeper Network</p>	<p>DEQ should require individual discharge permits for any facilities found to have nutrient and sediment loading rates that are significantly higher than the relevant Wasteload Allocation (WLA) targets under the Chesapeake Bay TMDL.</p> <p>Results from the 2014 Industrial GP nutrient and sediment sampling showed that while many facilities' loading was within limits, there were a small number that exceeded wasteload targets by orders of magnitude. These facilities have a disproportionate impact on local and downstream water quality, and conversely, ratcheting down their stormwater pollution through individual permit limits could lead to significant reductions in stormwater pollution from the industrial sector as a whole. As a result, DEQ should require individual stormwater discharge permits for facilities that reported pollution loading significantly higher than the wasteload target.</p>	<p>Permittees have until June 30, 2024 to meet the necessary nutrient load reductions as documented through the required TMDL action plans. At that point if DEQ determines that adequate reductions have not been achieved, DEQ may pursue compliance action or require individual permit coverage with site specific conditions to achieve the reductions</p>
<p>Phillip Musegaas, Vice President of Programs and Litigation, Potomac Riverkeeper Network</p>	<p>Determination of outfalls to be "substantially identical" for purposes of compliance with sampling and monitoring discharges should be limited to outfalls discharging to the same receiving waters. The current language in the draft GP is ambiguous and must be clarified. Under the current proposal, permittees may be allowed to sample only one of two outfalls found to be "substantially identical" under the regulatory definition, and apply the monitoring results of the sampled outfall to both outfalls.¹⁰</p>	<p><i>Representative outfalls – substantially identical discharges</i> are characterized based on <i>substantially identical effluents</i> independent of any receiving stream considerations. If a facility utilized the representative outfall provision, and discharged to two unique receiving streams, each discharge would be held to the impairment requirements of each unique receiving stream.</p>

	<p>While PRKN generally does not oppose this provision as long as the factors are met (substantially identical effluents, frequency of discharges, etc.), the regulation does not specify that the two outfalls must be discharging in proximity, into the same receiving water. In order to accurately measure industrial stormwater discharges into local waterways that are often impaired, DEQ must make it clear that this provision only applies to discharges into the same receiving water.</p> <p>The 2019 Industrial GP should specify how a permittee will verify that purchase of nutrient credits to offset exceedances of the facility's loading limit will not result in unregulated discharges of other pollutants (e.g. metals) that would typically be carried in sediment, in a way that would cause or contribute to a contravention of water quality standards, or contribute to the impairment of the receiving waters.</p>	
<p>Phillip Musegaas, Vice President of Programs and Litigation, Potomac Riverkeeper Network</p>	<p>The 2019 Industrial GP allows permittees to utilize any nutrient credit trading or offset program currently available under Virginia state law. 9 VAC25-151.70(7)(c)(iii). However, the use of nutrient credit trading by industrial facilities to offset exceedances of their nutrient loading limits runs the risk of allowing unregulated and unmonitored discharges of other pollutants that are typically carried by sediment runoff into receiving waters. Unless DEQ is able to verify that exceedances of sediment discharge loading limits would not result in other pollutants being discharged in the sediment, industrial facilities should not be allowed to utilize the nutrient credit trading provisions available to other dischargers such as wastewater treatment plants, where the effluent is treated to remove other pollutants in addition to sediment prior to discharge.</p>	<p>Permittees are required to comply with applicable metals limits or benchmark monitoring independent of the required Bay nutrient monitoring and applicable reductions. DEQ staff may utilize tools such as TMDLs or individual permits to address local water quality issues. Additionally, the proposed regulation contains new Sector AD language (<i>The board shall establish any additional monitoring requirements for your facility prior to authorizing coverage under this permit.</i>) that was added in an effort to require monitoring not adequately addressed in other sectors.</p>
<p>Henry R. Pollard, V Chairman, Environmental Affairs Committee, Virginia Maritime Association</p>	<p>1. Reorganize sectors, including moving SIC codes with no analytical sampling requirements to a new Sector AE and facilities with only total suspended solids (TSS) sampling requirements to new Sector AF. COMMENT: The Association supports clearer organization of industry sector classifications that help make it easier to understand the relative duties of members of different industry sectors pursuant to the ISWGP.</p>	<p>1. Noted.</p> <p>2. The requirement to notify MS4s of discharges to their systems is a cooperative effort between DEQ</p>

	<p>2. Require permittees to notify municipal separate storm sewer systems of discharges at time of registration. COMMENT: This new requirement seems to put the cart before the horse. Until coverage under the ISWGP is confirmed by the Department or becomes effective by passage of time pursuant to the ISWGP regulation, it appears premature to notify the MS4 of the industrial stormwater discharge. The Association believes it is best to retain the current requirement that notification to the MS4 occur within 30 days of filing the registration with the Department. At most, at the time of registration, the facility owner or operator can only inform the MS4 of its intent to discharge and that it has filed or is filing its registration for ISWGP coverage.</p> <p>3. Remove benchmark parameters that are not required in the U.S. Environmental Protection Administration (EPA) Multisector General Permit (MSGP) for Stormwater Discharges Associated with Industrial Activity and where data analysis from the current permit term determines that these constituents are not a water quality concern. COMMENT: The Association supports these revisions.</p> <p>4. Require all dischargers with a Chesapeake Bay total maximum daily load to submit calculations to regional permit staff. Those that are above TSS, total nitrogen, or total phosphate loading values must submit and implement an action plan with annual reporting requirements. Reductions must be met by June 30, 2024. COMMENT: The Association agrees that meeting Bay TMDL objectives is a very important step toward a cleaner Bay. However, the Association is concerned about the practicality and potential for misalignment of regulatory burdens associated with implementation of several facets of the newly proposed requirement to prepare calculations of nutrient loads and action plans and submit them to regional permit staff Chief among these concerns are the following:</p> <p>a. 9 VAC 25-151-70.13.8 — 60-day/90-day deadline for submission of waste load calculations and action plans for Bay TMDL Facilities. Such calculations and action plans are proposed to be submitted within (i) 60 days of coverage under the new permit for facilities with four samples taken for TSS,</p>	<p>and local governments. It should be noted that this requirement is being inserted in each VPDES general permit as they are reissued.</p> <p>3. Noted</p> <p>4. a. DEQ staff believes the time requirements for action plan submittal are reasonable and were discussed at length during the TAC meetings. TAC membership did not demonstrate concern with the proposed requirements. In addition, action plans will be prepared on a form to be provided</p>
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	<p>TN, and TP during the 2014 industrial stormwater general permit term; (ii) 90 days of completion of four monitoring periods under the new ISWGP coverage; or (iii) 90 days of completion of four monitoring periods after modification to a facility that is expected to change the nutrient loading of the facility. These time periods are likely too short for many Association members covered by the ISWGP. In particular, more time will be needed in many cases to consider alternative steps to be pursued and incorporated into the action plan based on the results of the load calculations. By example, if on-site nutrient reduction using BMPs cannot be achieved (an evaluation that can take some time in its own right), time will be needed to determine availability of nutrient credits or whether the area of industrial activity at the facility can be reduced. Securing funding for the appropriate mix of action plan options also takes time. For complex facilities, this evaluation and funding process can take several months before the action plan can be properly developed and submitted. The Association requests that the action plan deadline be changed from 60 days/90 days, respectively, to 180 days so that a reasonable assessment of cost-effective options and acquisition of any needed funding for a proposed action plan can occur.</p> <p>b. 9 VAC 25-151-70.B.8 — Need for exemption from nutrient and sediment monitoring, waste load calculations, action plan submissions and annual reporting for action plan implementation for Bay TMDL Facilities. A facility that is not reasonably expected to contribute to nutrient and sediment loading in excess of the assumed loading rates set forth in 9 VAC 25-151-70.B.8.c(1) should not be compelled to incur the costs and procedural regulatory compliance risk associated with the monitoring, load calculation, action plan development, and action plan implementation reporting obligations. Indeed, imposing such obligations and costs on facilities that are not expected to create such loads results in unfair and arbitrary misallocation of regulatory burdens and costs. Therefore, in addition to the proposed waiver from annual reporting requirements noted in item 5 below, there should be an exemption or waiver from the monitoring, waste load calculations, action plan submissions and annual reporting for</p>	<p>by the department. This form will be as brief as possible in an effort to reduce regulatory burden while providing the required action plan elements. The action plans are intended to be “living documents” that may be modified annually as BMP implementation dictates with required reductions being met in 2024.</p> <p>4.b. Nutrient discharges occur off all lands. DEQ does not believe the required nutrient load demonstration to be overly burdensome to permittees and is an essential piece of Virginia’s commitment to Chesapeake Bay restoration. It should be noted that the proposed regulation does not require additional monitoring or reductions for permittees who have demonstrated they are not contributing nutrient loads to the Bay in excess of the assumptions of the TMDL.</p>
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	<p>action plan implementation for facilities that are not reasonably expected to discharge nutrients and sediment at levels exceeding the assumed levels in 9 VAC 25-151-70.B.8.c(1). This exemption or waiver could be based on a demonstration by the facility of the reasonable expectation that loadings of these pollutants will not exceed the assumed levels in 9 VAC 25-151-70.B.8.c(1). This demonstration could be based on facility industry type, facility design, operational measures and/or other relevant factors. Such an approach would reflect a reasonable balancing of regulatory and Bay cleanup objectives and practical and economic considerations. It would also minimize unnecessary administrative burdens on the Department by reducing paperwork and review time for facilities that do not warrant the proposed level of oversight.</p> <p>5. Add new waiver conditions for an annual reporting requirement. Waivers are for installing and maintaining the Chesapeake Bay program or best management practice (BMP) clearinghouse BMPs, purchasing perpetual credits, or other BMPs where four samples are used to demonstrate a facility has met required reductions. COMMENT: The Association generally supports the waiver concept as proposed in 9 VAC 25-151-70.B.8.h. However, the waiver for annual reporting should also be allowed in cases of facility reliance on purchase of term nutrient credits applicable to that reporting year to achieve nutrient loading and limit requirements. Emerging nutrient credit options involving term credits can play an important role in facility compliance and should be incorporated into the waiver provision. Also, see item 4.b above.</p> <p>6. Add new e-reporting requirements to meet 9 VAC 25-31-1020. COMMENT: The Association is generally amenable to these proposed changes.</p> <p>7. Require new housekeeping language in conformance with the 2015 EPA MSGP (waste disposal, material storage, minimize material exposure to stormwater, and eliminate discharge of plastics). COMMENT: The Association is generally amenable to these proposed revisions to the degree necessary to maintain consistency with the 2015 EPA MSGP. However, see comments for item 11 below. Also, the Association has the following concerns</p>	<p>5. Permittees may use annual/term credits to meet compliance with the Chesapeake Bay TMDL reduction requirements. Due to the annual nature of annual/term credits, and the fact that these credits must be generated on an annual basis, DEQ staff has determined that these credit transactions shall be reported on an annual basis and the documentation may serve as the required annual report.</p> <p>6. Noted</p> <p>7. As referenced in the comment, (“Unless infeasible, the facilities shall implement the following:...”) requirements were added to align the proposed regulation with EPA’s Multi-Sector General Permit. Per the Multi-Sector General Permit “The term <i>infeasible</i> means not technologically possible or not economically practicable and achievable in light of the best</p>
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	<p>associated with the proposed addition of the following language to 9 VAC 25-151-80.B.4.b(2): "Unless infeasible, facilities shall implement the following: (a) Use grading, berming, or curbing to prevent runoff of contaminated flows and divert run-on away from potential sources of pollutants; . . ." This new clause (a) appears to require such measures unless they are "infeasible." Of course, what may be "infeasible" for purposes of this provision should be a case-by-case determination based on site-specific factors. Regardless, however, facility owners and operators should not be compelled to make capital improvements such as these, even if feasible, if other on-site measures are sufficient to keep stormwater from contacting potential sources of pollutants at the site. Even if these measures were feasible, grading, berming or curbing may not be the most effective or cost-efficient measures, but the current proposed language does not appear to allow for any deviation from this requirement in such cases. This language should be revised to allow facilities to use other means and methods to achieve the goals contemplated by this section, particularly where grading, berming or curbing are not effective or cost-efficient.</p> <p>8. Add new control measures language in conformance with the 2015 EPA MSGP (prevent or divert run-on, contain or divert spills before discharge, clean up spills immediately, store leaking equipment under cover, use overflow protection, and perform vehicle maintenance under cover). COMMENT: The Association is amenable to these proposed revisions to the degree necessary to maintain consistency with the 2015 EPA MSGP. However, see comments for item 11 below.</p> <p>9. Remove comprehensive site compliance evaluation per 2015 EPA MSGP, which was found to be redundant, and add additional language to routine site inspection. COMMENT: The Association is amenable to these changes.</p> <p>10. Remove sector specific and stormwater pollution protection plan requirement redundant language. COMMENT: The Association supports these revisions to the degree they help to avoid confusion in implementation of the ISWGP.</p>	<p>industry practices". DEQ staff believes the proposed language allows regulatory flexibility and is not unduly burdensome to permittees. Permittees that provide an infeasibility analysis to the department may be afforded compliance discretion in relation to the requirement on a case-by-case basis.</p> <p>8. Noted</p> <p>9. Noted</p> <p>10. Noted</p> <p>11. The additional language in the proposed regulation was added in</p>
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	<p>or "BMP" reflect such efforts by the Department and the Board, the Association notes that these amendments, while improving the definition, only clarify that "structural and nonstructural practices" that "prevent or reduce the discharge of pollutants to surface waters" are allowed. These amendments still fail to account for the use of BMPs that result in in-situ removal of nutrients from state waters (e.g., "shellfish aquaculture, algal harvesting, and other established or innovative methods of nutrient control or removal") and generation of and reliance upon nutrient credits generated by such BMPs, as is contemplated by the State Water Control law at Va. Code §§ 62.1-44.19:20.B.1.b, 62.1-44.19:20.C, 62.1-44.19:21 and 62.1-44.19:21.1. Ensuring that these emerging options for in-situ removal of nutrients may also be considered as BMPs within the scope of the ISWGP will allow regulated dischargers, including Association members, to utilize the full range of authorized BMPs and nutrient credit options to achieve compliance with ISWGP nutrient limits and contribute to meeting Bay TMDL goals.</p> <p>b. 9 VAC 25-151-70.A.1 — Effluent limitations and monitoring requirements. The Association appreciates this change to reduce redundant sampling obligations so that one sample may be used to satisfy multiple testing needs.</p> <p>c. 9 VAC 25-151-70.A.6.b — Corrective actions. The Association supports the proposed revision to seek consistency in using 60 days as the timeline for updates to the Stormwater Pollution Prevention Plan.</p>	<p>programs. As noted in Part I.B.8,h of the proposed general permit, DEQ intends to accept reductions generated by any BMP approved by the Chesapeake Bay Program, which includes aquaculture.</p> <p>12. b. Noted</p> <p>12. c. Noted</p>
<p>Bill Bukevicz, Executive Vice President, Davis Industries, Inc</p>	<p>For your review, if we could add the following definition to 9VAC25-151-10 Definitions section of the new permit regulations.</p> <p>Add the definition: "Pollution control equipment and facilities" shall mean any stormwater control used to prevent or abate stormwater pollution at the facility in accordance with the designated facility's storm water pollution prevention plan (SWPPP), which controls may include real or personal property, equipment, facilities, or devices, used primarily for the purpose of abating or preventing pollution of waters of the Commonwealth, which may be evidenced</p>	<p>DEQ staff believes the definition found in § 58.1-3660 is satisfactory and has no intention define "Pollution control equipment and facilities" in the proposed regulation.</p>

	<p>by the control’s description or depiction in (a) the facility’s SWPPP as a best management practice (BMP) or (b) site map as a means for controlling the direction of or channeling storm water toward a storm water treatment system (e.g. sedimentation pond or oil-water separator) or diverting stormwater from a potential pollution source, in each case by such means as curbs, berms, or concrete or asphalt surfacing graded to direct storm water toward such treatment system, whereby such controls also include piping, drain inlets and/or treatment systems intended for such stormwater control.</p>	
<p>Jamie Brunkow, James Riverkeeper and Sr. Advocacy Manager, James River Association</p>	<p>Virginia recently passed the midpoint of the Chesapeake Bay Cleanup and is crafting the phase III Watershed Implementation Plan for meeting our Total Maximum Daily Load (TMDL) goals by 2025. Reducing pollution in stormwater runoff is a challenging but critical component to meeting the TMDL and restoring water quality. As an organization dedicated to connecting Virginians with a healthy James River, we understand the impact that runoff pollution has on Virginia’s water, its wildlife, and its outdoor recreation industry. This proposed permit, which will cover a wide array of industrial activities through 2024, is an opportunity to demonstrate the importance of the data gathered during the previous permit cycle and apply the lessons learned to ensure future stormwater runoff reductions.</p> <p>Under the Industrial General Permit in effect from 2014-2019, the Department of Environmental Quality took a valuable step forward in stormwater monitoring by requiring industrial facilities across the Commonwealth to sample each stormwater outlet for nitrogen, phosphorous, and TSS a total of four times over the 5 year period of the permit. Notwithstanding the variability inherent in this monitoring regime, the data collected has proven insightful and essential towards the Chesapeake Bay cleanup effort. During the Technical Advisory Committee meetings convened for the reissuance of this general permit, both DEQ and the Chesapeake Bay Foundation presented summaries of the nitrogen, phosphorus and TSS data collected by permittees over the previous permit cycle. We were pleased to find that almost two thirds of monitored facilities recorded waste loads below the industrial sector’s allocation. But</p>	<p>Noted</p>

	<p>about one third remain above pollution levels set in Virginia’s aggregate Waste Load Allocation (12.3 lb/ac nitrogen, 1.5 lb/ac phosphorus and 440 lb/ac TSS) and a smaller subset of these facilities were found to be discharging well-above these loads. In effect, less than 1% of all monitored facilities discharge approximately one third of the overall nitrogen and phosphorous load for the entire sector, and more than 8,000 pounds of phosphorous per year above the WLA. We are grateful that under the Industrial General Permit, these facilities are on a path to reducing these loads through Total Maximum Daily Load action plans. These reductions, given the size of the loads, will be a substantial contribution to ensuring that Virginia meets its clean-up goals within the stormwater sector. And we owe much of this result to DEQ’s industrial water quality monitoring requirement.</p>	
<p>Jamie Brunkow, James Riverkeeper and Sr. Advocacy Manager, James River Association</p>	<p>To meet Virginia’s goals under the Chesapeake Bay Cleanup plan, DEQ and the industrial sector will need every tool available to effectively manage stormwater runoff from these facilities. Water quality monitoring has proven to be one such tool. We recommend that DEQ continue to require nitrogen, phosphorus and TSS testing for industrial facilities covered by the proposed General Permit, with particular attention to enhanced monitoring of facilities with documented waste loads above the aggregate WLA. Continued monitoring of all facilities would strengthen DEQ’s ability to identify if conditions at a particular facility have changed its stormwater discharges in a way that needs to be addressed by a TMDL action plan. Moreover, enhanced monitoring of high load facilities under a TMDL action plan would better allow the agency to determine if the action plan is adequate to reduce loads or if additional action is needed. We recommend that DEQ take steps to require individual industrial stormwater permits for facilities which have shown to far exceed their WLA.</p>	<p>Virginia is the only state in the Chesapeake Bay watershed that has required all industrial stormwater general permittees in the Bay to collect and analyze stormwater samples in an effort to quantify loads. DEQ staff believes that permittees that met the industrial stormwater general permit Bay monitoring requirements have reasonably quantified their loads to the Chesapeake Bay. The proposed regulation also contains new provisions that would require industrial facilities that modify their sites to collect samples to further quantify these new loads adjust or develop action plans if additional reductions are required.. EPA’s Chesapeake Bay TMDL aggregated industrial stormwater with other regulated stormwater for the purpose of assigning a waste load allocation (WLA). The proposed permit requires development of a TMDL action plan for any permittees that individually exceed the loading assumptions that contributed to the aggregate WLA. Because two thirds of the monitored facilities</p>

		<p>demonstrated loading rates below the TMDL assumptions, this practice of individual accountability for an aggregate WLA results in aggregate reductions below the established WLA. DEQ staff believes the Bay requirements in the proposed regulation go above and beyond other Bay states and demonstrate Virginia's commitment to achieving reductions from the industrial stormwater section in an effort to meet the goals of a restored Chesapeake Bay. Permittees have until June 30, 2024 to meet the necessary reductions as documented through required TMDL action plans. At that point if DEQ determines that adequate reductions have not been achieved, DEQ may pursue compliance action or require individual permit coverage with site specific conditions to achieve the reductions.</p>
<p>Jamie Brunkow, James Riverkeeper and Sr. Advocacy Manager, James River Association</p>	<p>We further recommend that DEQ strengthen its enforcement of the permit requirements regarding monitoring. A number of facilities did not submit data despite their obligation to do so over the previous permit cycle. Data gaps from these facilities may hinder DEQ's ability to adequately manage waste loads at these locations and from the industrial sector in general.</p>	<p>DEQ staff recognizes the permit compliance concerns presented by CBF. DEQ permitting staff has relayed these concerns to DEQ compliance and enforcement management. The proposed regulation will require all permittees with Chesapeake Bay TMDL monitoring requirements to submit nutrient loading calculations to DEQ. This requirement is proposed as an effort to increase compliance with the Chesapeake Bay TMDL requirements in the general permit. DEQ staff oversees compliance for over 12,000 NPDES permitted entities, of which 1,265 are industrial stormwater. The agency uses a risk-based strategy to manage inspection and compliance resources.</p>
<p>Scott J. Thomas, Citizen</p>	<p>I am writing in support of the proposed regulation for the general permit and requirements for a stormwater pollution prevention plan for the discharge of stormwater from industrial activities.</p>	<p>Noted.</p>

<p>Virginia Association of Municipal Wastewater Agencies</p>	<p>During the current permit term (2014-2019), all owners of covered facilities in the Chesapeake Bay Watershed were required to monitor discharges for total nitrogen (TN), total phosphorus (TP), and total suspended solids (TSS) over four monitoring periods, corresponding to the first two years of coverage.</p> <p>DEQ explained in the Town Hall Agency Background Document prepared for the final adoption of the current General Permit that it intended to require this monitoring to fill in data gaps for the industrial sector. Virginia estimated loadings for TN, TP, and TSS during the development of the Chesapeake Bay TMDL Watershed Implementation Plan. DEQ imposed monitoring requirements in the 2014 General Permit to better “characterize the loadings from these facilities.” (p. 32).</p> <p>In 2013, VAMWA submitted comments requesting that DEQ delete this monitoring entirely, based on the fact that industrial facilities are regulated under the ISWGP because their stormwater discharges may contain particular pollutants of concern relating to the industrial activity (i.e., metals), and not because their stormwater may contain nutrients or sediment at a level higher than an unregulated industrial facility. VAMWA suggested that the proposed Bay monitoring requirements were excessive, expensive (VAMWA estimated it would cost over \$350,000 to run the minimum number of tests), and unnecessary.</p> <p>Although DEQ made several other changes in response to VAMWA’s 2013 comments, it did not delete the Bay monitoring requirement. DEQ issued the 2014 General Permit with the monitoring requirements intact.</p> <p>During the TAC discussions regarding the 2019-2024 ISWGP reissuance, DEQ provided data on Chesapeake Bay monitoring that occurred during the 2014-2019 permit period. VAMWA appreciated DEQ’s transparency in providing these details to all TAC members. VAMWA reviewed the data for the POTWs covered by the ISWGP during the monitoring period and located in the Bay Watershed, and confirmed that POTW loadings were on average well below the loadings that DEQ assumed for TN and TP for industrial facilities when it developed the aggregated wasteload allocation for the sector in the Chesapeake Bay TMDL. Based on these results, VAMWA</p>	<p>It should be noted that Bay monitoring requirements were applied across all sectors covered by the general permit that were located within the Chesapeake Bay watershed. By their nature, wastewater treatment plants are sources of nutrients and nutrients are present in all types of stormwater runoff. The proposed regulation contains provisions that allow facilities to demonstrate, through monitoring, that they are not a source of excessive nutrient discharges to the Bay and thus have no further Bay monitoring requirements or reporting requirements for the permit term.</p>
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	<p>requested that DEQ remove the Chesapeake Bay monitoring requirement for the 2019-2024 permit cycle.</p> <p>DEQ has included text in the proposed ISWGP reissuance to exempt facilities that submit the calculations to support their loadings from any further Bay monitoring:</p> <p>(2) Facilities that completed four samples for TSS, TN, and TP during the 2014 industrial stormwater general permit term shall utilize the procedures in Part I B 8 c (2) to calculate their facility stormwater loads. The permittee shall submit a copy of the calculations and Chesapeake Bay TMDL action plan if required under Part I B 8 f to the department within 60 days of coverage under this general permit.</p> <p>(4) Facilities that monitored for TSS, TN, or TP may use the applicable sampling data collected during the 2014 industrial stormwater general permit term to satisfy all or part of the four monitoring periods requirement in accordance with Part I B 8 a. 9VAC25-151-70, Part I.B.8.b.2, b.4</p> <p>VAMWA supports DEQ’s decision to remove Chesapeake Bay monitoring for facilities that conducted monitoring during the 2014-2019 permit cycle. It is appropriate and reasonable to discontinue this monitoring at this time.</p>	
<p>Susan B. Seward, Director of Governing Relations, Virginia Forest Products Association</p>	<p>While VFPA and our members are sensitive to the need to protect Virginia's environment, we must remind you that the large majority of our mills are still small businesses, most with less than 50 employees, and that the regulatory burdens imposed by these stormwater permitting regulations have a real, hard, documented cost to these operations. Water quality testing alone costs our members literally hundreds of dollars a year. The alterations to a mill yard required by a SWPP can literally costs thousands of dollars to implement, depending on the particular situation.</p> <p>Therefore, we have particular concern with language on Page 62 of the proposed regulation that states "unless unfeasible, facilities SHALL implement the following:</p> <p>(f) Perform ALL vehicle maintenance or equipment cleaning operations indoors, undercover, or in bermed areas that prevent run-off and run-on and also capture any overspray."</p>	<p>-As referenced in the comment, (“Unless infeasible, the facilities shall implement the following:....”) requirements were added to align the proposed regulation with EPA’s Multi-Sector General Permit. Per the Multi-Sector General Permit “The term “infeasible” means not technologically possible or not economically practicable and achievable in light of the best industry practices”. DEQ intends that the requirement to “<i>Perform ALL vehicle maintenance or equipment cleaning operations indoors, undercover, or in bermed areas that prevent run-off and run-on and also capture any overspray</i>” means that permittees will make all reasonable efforts to mitigate the exposure of this activity to stormwater. This could simply mean temporally covering the work area or not performing</p>

	<p>What does "unfeasible" mean to the agency, and who determines feasibility, DEQ or the business? While a mill may have the acreage to build a vehicle maintenance garage, the cost of doing so would be financially unfeasible. There is concern that we are headed down a path of requiring businesses to manage stormwater (rainwater) regardless of the costs.</p> <p>In addition, most sawmills treat rough green or finished lumber with an anti-stain treatment. Is it the intent of this revised regulation that this material be dipped and stored under cover? Again, making this type of production adjustment may not be physically possible and/or cost prohibitive.</p> <p>Page 70 of the proposed regulation states "Discharges of stormwater from areas where there may be contact with chemical formulations sprayed to provide surface protection are not authorized by this permit. These discharges must be covered under a separate VPDES permit." While this is not new language, it has prompted questions about anti-stain dip tanks, dipped lumber storage, and if this activity necessitates an additional discharge permit even though anti-stain treatments are not applied by spraying.</p> <p>Finally, our other concern regards new language on page 57:</p> <p>W. Inspection and entry. The permittee shall allow the director, or an authorized representative, including an authorized contractor acting as a representative of the administrator;</p> <p>Is it the agency's intention to hire outside consultants to perform inspections? In Governor Northam's proposed budget, there is \$2.5 million included for DEQ enforcement staff. Will this money be used to hire state employees at the agency to perform these inspections, or will all or part of this funding go to outside contractors? Regardless, VFPA monitored the Executive Order 6 meetings and we have grave concerns that the agency will pursue inspections and punitive enforcement actions to appease the environmental organizations driving the EO6 agenda, at the expense of small businesses struggling to meet never-ending regulatory burdens.</p>	<p>vehicle maintenance during a precipitation event.</p> <p>-The proposed regulation states: <i>1. Prohibition of nonstormwater discharges. Discharges of stormwater from areas where there may be contact with chemical formulations [sprayed applied] to provide surface protection are not authorized by this permit. [Surface protection includes chemical application to control sap stain, mold, mildew, and insects.] These discharges must be covered under a separate VPDES permit. Discharge of wet dye drippings from mulch dyeing operations are also prohibited.</i></p> <p><i>2. Authorized nonstormwater discharges. In addition to the discharges described in Part I B 1, the following nonstormwater discharges may be authorized by this permit provided the nonstormwater component of the discharge is in compliance with 9VAC25-151-90 C and the effluent limitations described in 9VAC25-151-90 D: discharges from the spray down of lumber and wood product storage yards where no chemical additives are used in the spray down waters and no chemicals are applied to the wood during storage.</i></p> <p>The proposed regulation does not state that material must be dipped or sprayed under cover, but does state discharges of stormwater from these areas are not authorized. Simply stated the permittee must prevent contact with stormwater in these areas or these areas must be covered under a VPDES individual permit.</p> <p>-DEQ acknowledges that "anti-stain treatments are applied by spraying". In an effort to provide clarification to permittees DEQ staff has modified the proposed regulation to replace "sprayed" with "applied".</p> <p>-As referenced in the comment ("W. Inspection and entry. The</p>
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	<p>Again, the agency must keep in mind that most of Virginia's sawmills and forest product operations are still small, family-owned businesses. We are not international paper companies with hundreds of employees and entire departments dedicated to environmental permitting and compliance. Our environmental compliance director is typically the mill owner or office manager with little to no expertise in managing stormwater. We are very concerned that the costs of environmental regulation will ultimately be a deciding factor as to whether a family business tries to remain viable for the next generation, or simply closes its doors or sells to a multi-state company with enough staff - and enough money - to chase down every drop of rain.</p>	<p>permittee shall allow the director, or an authorized representative, including an authorized contractor acting as a representative of the administrator”), the added language is being added to all VPDES general permits during reissuance. This language was added as requested by EPA and as required by federal regulation. -DEQ staff is sensitive to the regulatory challenges facing small businesses. It should be noted that in an effort to reduce regulatory burden the proposed regulation removed a significant amount of unnecessary conditions and unnecessary language.</p>
<p>Whitney S. Katchmark, PE, Principal Water Resources Engineer, Hampton Roads Planning District Commission</p>	<p>I. BMP Reporting Part I B(8) describes the special conditions for facilities in the Chesapeake Bay watershed. If a facility determines that their nutrient or sediment load requires an action plan, they are provided three options for achieving pollutant reductions: 1) implement Virginia Clearinghouse BMPs or BMPs approved by the Chesapeake Bay Program, 2) implement site-specific BMPs with sampling, or 3) acquire credits. The facility is also required to submit an annual report to the Department of Environmental Quality ("DEQ") describing the progress in making the required reductions. However, this information has not been reported to the Chesapeake Bay Program's database to receive credit for the Bay TMDL. The suggested revision is to add a requirement for facilities to report Virginia Clearinghouse and Chesapeake Bay Program-approved BMPs in the BMP Warehouse so that they can be credited to the state in the Chesapeake Bay model. In Hampton Roads alone, there are over 200 facilities with Industrial GPs. There are on-the-ground BMPs that are not credited in the Bay model. Given the costs of urban BMPs, the pounds of pollutants removed by industrial facilities should not be overlooked.</p> <p>II. Reference to Ordinances Part I B(9) requires a permittee to "...incorporate measures and controls into the SWPPP to comply with applicable local TMDL ordinance requirements." The language in this section is unclear because</p>	<p>I: The reductions detailed in the proposed regulation are to be achieved by June 30, 2024. DEQ staff will take the comment and suggestions into consideration as we evaluate future data reporting commitments to the Chesapeake Bay Program.</p> <p>II: DEQ proposes to clarify this language in guidance.</p>

	<p>many localities do not have local TMDL ordinances and instead use their stormwater management ordinance to comply with TMDLs.</p> <p>The suggested revision is to replace "local TMDL ordinance" with "local stormwater management ordinance."</p> <p>III. Nonpoint Source Pollution Beyond the Industrial Area</p> <p>The HRPDC recognizes that the Industrial VPDES program is limited to reducing pollution from point source discharges; however, the Commonwealth's focus on unregulated developed land for the Phase III Watershed Implementation Plan has raised a concern that is related to industrial facilities. The runoff from the impervious areas beyond the industrial activity areas of the facilities, such as parking lots, is an unregulated source of pollutant loads because it is excluded from the Industrial VPDES permits and the MS4 permits. The total acres covered by Industrial VPDES permits were excluded from MS4 service areas in accordance with DEQ Guidance Memo No. 15-2005. Additionally, some of the industrial VPDES permittees are located along waterways and the runoff from these facilities directly discharges to surface waters instead of through an MS4.</p> <p>DEQ should initiate a mapping exercise to determine the extent of the impervious area outside of the industrial activities. In Hampton Roads, over 13,000 acres of urban land are covered by industrial VPDES permits. It would be reasonable to estimate that a quarter of those lands are impervious outside of the industrial activity areas. Treating over 3,000 acres of impervious private property would provide significant pollutant reductions in Hampton Roads and progress for the state towards TMDL compliance.</p> <p>The HRPDC recommends DEQ develop a new incentive program or expand the existing Virginia Environmental Excellence Program (VEEP) to encourage facility owners to treat their runoff from their parking lots and other non-industrial impervious areas. Cost-share programs or other incentives could improve water quality and benefit facilities. An important aspect of the program, which is already built into the VEEP framework, would be to require reporting so that the creditable practices could be included in the Chesapeake Bay model. There are Industrial VPDES</p>	<p>III: DEQ VPDES staff recognizes HRPDC's recommendations and will take the recommendations into consideration in the development of DEQ Chesapeake Bay restoration initiatives.</p>
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	<p>permittees who are willing to implement voluntary stormwater management practices, as demonstrated through the Elizabeth River Project's River Star Businesses program. Twenty-seven River Star Businesses have industrial VPDES permits and have implemented projects such as rainwater harvesting, shoreline restoration, and bioretention basins that are unaccounted for with respect to the Bay TMDL.</p>	
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Substantive changes to the existing regulation are:

- Reorganize sectors to simplify regulation, which includes moving Standard Industrial Classification (SIC) Codes with no analytical sampling requirements to a new Sector AE and SIC Codes with only total suspended solids (TSS) sampling requirements to new Sector AF;
- Require permittees to notify Municipal Separate Storm Sewer Systems (MS4s) of discharges at time of registration;
- Removal of benchmark parameters that are not required in the EPA Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (MSGP) and where data analysis from the current permit term determine that these constituents are not a water quality concern;
- Require all dischargers with the Chesapeake Bay Total Maximum Daily Load (TMDL) to submit calculations to regional permit staff. Those who are above TSS, total nitrogen (TN), total phosphorus (TP) loading values must submit and implement an action plan with annual reporting requirements. Reductions must be met by June 30, 2024. Added new waiver conditions for an annual reporting requirement. Waivers are for installing and maintaining Bay program or Best Management Practice (BMP) clearing house BMPs, purchasing perpetual credits, or other BMPs where 4 samples are used to demonstrate the facility has met required reductions;
- Added new E-reporting requirements to meet 9VAC25-31-1020;
- Require new housekeeping language in conformance with the 2015 EPA MSGP (waste disposal, material storage, minimize material exposure to stormwater, eliminate discharge of plastics);
- Added new control measures language in conformance with the 2015 EPA MSGP (prevent or divert run-on, spills shall be contained or diverted before discharge, clean up spills immediately, store leaking equipment under cover, use overflow protection, perform vehicle maintenance under cover);
- Remove comprehensive site compliance evaluation per 2015 EPA MSGP, which was found to be redundant and added additional language to routine site inspection; and,
- Remove redundant Part IV language which consists mostly of sector specific housekeeping and Stormwater Pollution Prevention Plan (SWPPP) requirements. This was done for simplicity and to minimize confusion for permittees. Some sector specific language was retained, even though it was redundant. These sectors were identified by regional staff as higher risk and larger industry sectors and needed the extra emphasis (ship yards, landfills, scrap yards and metal recyclers).

Regulatory Text:

Project 5397 - Proposed

**STATE WATER CONTROL BOARD
2019 Amend and Reissue Existing General Permit Regulation**

CHAPTER 151

~~GENERAL~~ VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM (VPDES) GENERAL PERMIT

REGULATION FOR DISCHARGES OF STORM WATER STORMWATER ASSOCIATED WITH INDUSTRIAL
ACTIVITY

9VAC25-151-10. Definitions.

The words and terms used in this chapter shall have the meanings defined in the State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia) and the VPDES Permit Regulation (9VAC25-31) unless the context clearly indicates otherwise, except that for the purposes of this chapter:

"Best management practices" or "BMPs" means schedules of activities, practices ~~(and prohibitions of practices), prohibitions of practices,~~ structures, vegetation, maintenance procedures, and other management practices, including both structural and nonstructural practices, to prevent or reduce the discharge of pollutants to surface waters. ~~BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.~~

"Board" means the Virginia State Water Control Board or State Water Control Board.

"Closed landfill" means a landfill that, on a permanent basis, will no longer receive waste and has completed closure in accordance with applicable federal, state, or local requirements.

"Coal pile runoff" means the rainfall runoff from or through any coal storage pile.

"Colocated industrial activity" means any industrial activity, excluding the facility's primary industrial activity, located on-site that meets the description of a category included in the "industrial activity" definition. An activity at a facility is not considered colocated if the activity, when considered separately, does not meet the description of a category included in the "industrial activity" definition or identified by the Standard Industrial Classification (SIC) code list in Table 50-2 in 9VAC25-151-50.

"Commercial treatment and disposal facilities" means facilities that receive, on a commercial basis, any produced hazardous waste (not their own) and treat or dispose of those wastes as a service to the generators. Such facilities treating or disposing exclusively residential hazardous wastes are not included in this definition.

"Control measure" means any best management practice or other method (including effluent limitations) used to prevent or reduce the discharge of pollutants to surface waters.

"Corrective action" means any action to (i) repair, modify, or replace any stormwater control used at the facility, (ii) clean up and properly dispose of spills, releases, or other deposits at the facility, or (iii) return to compliance with permit requirements.

"Department" or "DEQ" means the Virginia Department of Environmental Quality.

"Director" means the Director of the Department of Environmental Quality or an authorized representative.

"Existing discharger" means an operator applying for coverage under this permit for discharges authorized previously under a VPDES general or individual permit.

"Impaired water" means, for purposes of this chapter, a water that has been identified by Virginia pursuant to § 303(d) of the Clean Water Act as not meeting applicable water quality standards (these waters are called "water quality limited segments" under 40 CFR 30.2(j)). Impaired waters include both waters with approved or established TMDLs, and those for which a TMDL has not yet been approved or established.

"Impervious surface" means a surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil.

"Industrial activity" - the following categories of facilities are considered to be engaging in "industrial activity":

1. Facilities subject to stormwater effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR Subchapter N (except facilities with toxic pollutant effluent standards which are exempted under category 10 of this definition);
2. Facilities classified as Standard Industrial Classification (SIC) 24 (except 2434), 26 (except 265 and 267), 28 (except 283 and 285), 29, 311, 32 (except 323), 33, 3441, and 373 (Office of Management and Budget (OMB) SIC Manual, 1987);
3. Facilities classified as SIC 10 through 14 (mineral industry) (OMB SIC Manual, 1987) including active or inactive mining operations (except for areas of coal mining operations no longer meeting the definition of a reclamation area under 40 CFR 434.11(l) because the performance bond issued to the facility by the appropriate Surface Mining Control and Reclamation Act of 1977 (SMCRA) (30 USC § 1201 et seq.) authority has been released, or except for areas of noncoal mining operations which have been released from applicable state or

federal reclamation requirements after December 17, 1990) and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge stormwater contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations[+] (inactive mining operations are mining sites that are not being actively mined, but which have an identifiable ~~owner/operator~~ owner or operator; inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim);

4. Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under Subtitle C of the Resource Conservation and Recovery Act (RCRA) (42 USC § 6901 et seq.);

5. Landfills, land application sites, and open dumps that receive or have received any industrial wastes (waste that is received from any of the facilities described under this definition, and ~~debris/wastes~~ debris or wastes from VPDES regulated construction ~~activities/sites~~ activities or sites), including those that are subject to regulation under Subtitle D of RCRA;

6. Facilities involved in the recycling of materials, including metal scrapyards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as Standard Industrial Classification Codes 5015 and 5093 (OMB SIC Manual, 1987);

7. Steam electric power generating facilities, including coal handling sites;

8. Transportation facilities classified as SIC Codes 40, 41, 42 (except 4221-4225), 43, 44, 45, and 5171 (OMB SIC Manual, 1987) which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operation, airport deicing operation, or which are otherwise identified under categories 1 through 7 or 9 and 10 of this definition are associated with industrial activity;

9. Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system used in the storage treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that is located within the confines of the facility, with a design flow of 1.0 MGD or more, or required to have an approved [POTW] [Publicly Owned Treatment Works (POTW)] pretreatment program under 9VAC25-31. Not included are farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with 9VAC25-31-420 through 9VAC25-31- 720;

10. Facilities under SIC Codes 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, 4221-4225 (OMB SIC Manual, 1987).

"Industrial stormwater" means stormwater runoff from industrial activity.

"Land application unit" means an area where wastes are applied onto or incorporated into the soil surface (excluding manure spreading operations) for treatment or disposal.

"Landfill" means an area of land or an excavation in which wastes are placed for permanent disposal, and that is not a land application unit, surface impoundment, injection well, or waste pile.

"Measurable storm event" means a storm event that results in ~~an actual~~ a discharge from a site an outfall.

"Minimize" means reduce or eliminate to the extent achievable using control measures (including best management practices) that are technologically available and economically practicable and achievable in light of best industry practice.

~~"MS4" means a municipal separate storm sewer system.~~

"Municipal separate storm sewer system" or "MS4" means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under § 208 of the CWA that discharges to surface waters of the state; (ii) designed or used for collecting or conveying

stormwater; (iii) which is not a combined sewer; and (iv) which is not part of a [~~Publicly Owned Treatment Works (POTW)~~] [POTW].

"No exposure" means all industrial materials or activities are protected by a storm-resistant shelter to prevent exposure to rain, snow, snowmelt, or runoff.

"Primary industrial activity" includes any activities performed on-site which are:

1. Identified by the facility's primary SIC code; or
2. Included in the narrative descriptions of the definition of "industrial activity."

Narrative descriptions in the "industrial activity" definition include: category 1 activities subject to stormwater effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards; category 4 hazardous waste treatment storage or disposal facilities, including those that are operating under interim status or a permit under subtitle C of the Resource Conservation and Recovery Act (RCRA); category 5 landfills, land application sites, and open dumps that receive or have received industrial wastes; category 7 steam electric power generating facilities; and category 9 sewage treatment works with a design flow of 1.0 mgd or more.

For colocated activities covered by multiple SIC codes, the primary industrial determination should be based on the value of receipts or revenues, or, if such information is not available for a particular facility, the number of employees or production rate for each process may be compared. The operation that generates the most revenue or employs the most personnel is the operation in which the facility is primarily engaged. In situations where the vast majority of on-site activity falls within one SIC code, that activity may be the primary industrial activity.

"Runoff coefficient" means the fraction of total rainfall that will appear at the conveyance as runoff.

"Significant materials" includes, ~~but is not limited to:~~ raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under § 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 USC § 9601 et seq.); any chemical the facility is required to report pursuant to [~~EPCRA~~] [the Emergency Planning and Community Right-to-Know Act (EPCRA)] § 313; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with stormwater discharges.

"Significant spills" includes, ~~but is not limited to:~~ releases of oil or hazardous substances in excess of reportable quantities under § 311 of the Clean Water Act (see 40 CFR 110.10 and 40 CFR 117.21) or § 102 of CERCLA (see 40 CFR 302.4).

"Site" means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

"Stormwater" means stormwater runoff, snow melt runoff, and surface runoff and drainage.

"Stormwater discharge associated with industrial activity" means the discharge from any conveyance which is used for collecting and conveying stormwater and that is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the VPDES program under 9VAC25-31. For the categories of industries identified in the "industrial activity" definition, the term includes, ~~but is not limited to,~~ stormwater discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process wastewaters; sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and final products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to stormwater. For the purposes of this definition, material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product, by-product or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots, as long as the drainage from the excluded areas is not mixed with stormwater drained from the above described areas. Industrial facilities include those that are federally, state, or municipally owned or operated that meet the description of the facilities listed in the "industrial activity" definition. The term also includes those facilities designated under the provisions of 9VAC25-31-120 A 1 c, or under 9VAC25-31-120 A 7 a (1) or (2) of the VPDES Permit Regulation.

"SWPPP" means stormwater pollution [prevention] plan.

"Total maximum daily load" or "TMDL" means a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards, and an allocation of that amount to the pollutant's sources. A TMDL includes wasteload allocations (WLAs) for point source discharges, load allocations (LAs) for nonpoint sources ~~and/or~~ or natural background, and must include a margin of safety (MOS) and account for seasonal variations.

"Virginia Environmental Excellence Program" or "VEEP" means a voluntary program established by the department to provide public recognition and regulatory incentives to encourage higher levels of environmental performance for program participants that develop and implement environmental management systems (EMSs). The program is based on the use of EMSs that improve compliance, prevent pollution, and utilize other measures to improve environmental performance.

"Waste pile" means any noncontainerized accumulation of solid, nonflowing waste that is used for treatment or storage.

9VAC25-151-15. Applicability of incorporated references based on the dates that they became effective.

Except as noted, when a regulation of the U.S. Environmental Protection Agency set forth in Title 40 CFR is referenced and incorporated herein, that regulation shall be as it exists and has been published as of July 1, ~~2013~~ 2018.

9VAC25-151-40. Effective date of the permit.

This general permit will become effective on July 1, ~~2014~~ 2019. This general permit will expire on June 30, ~~2019~~ 2024.

9VAC25-151-50. Authorization to discharge.

A. To be eligible to discharge under this permit, an owner must (i) have a stormwater discharge associated with industrial activity from the facility's primary industrial activity, as defined in 9VAC25-151-10 (Definitions), provided the primary industrial activity is included in Table 50-2 of this section, or (ii) be notified that discharges from the facility have been designated by the board for permitting under the provisions of 9VAC25-31-120 A 1 c, or under 9VAC25-31-120 A 7 a (1) or (2) of the VPDES Permit Regulation, and are eligible for coverage under Sector AD of this permit.

Any owner governed by this general permit is hereby authorized to discharge stormwater associated with industrial activity, as defined in this chapter, to surface waters of the Commonwealth of Virginia provided that:

1. The owner submits a registration statement in accordance with 9VAC25-151-60, and that registration statement is accepted by the board;
2. The owner submits the required permit fee;
3. The owner complies with the applicable requirements of 9VAC25-151-70 et seq.; and
4. The board has not notified the owner that the discharge is ineligible for coverage in accordance with subsection B of this section.

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

1. The owner is required to obtain an individual permit in accordance with 9VAC25-31-170 B 3 of the VPDES Permit Regulation;
2. The owner is proposing to discharge to state waters specifically named in other board regulations that prohibit such discharges;
3. The discharge violates or would violate the antidegradation policy in the Water Quality Standards at 9VAC25-260-30; or
4. The discharge is not consistent with the assumptions and requirements of an approved TMDL. ~~Note:~~ Virginia's Phase I Chesapeake Bay TMDL Watershed Implementation Plan (November 29, 2010) states that wasteloads for future growth for new facilities in the Chesapeake Bay watershed with industrial stormwater discharges cannot exceed the nutrient and sediment loadings that were discharged prior to the land being developed for the new industrial activity. For purposes of this permit regulation, facilities that commence construction after June 30, ~~2014~~ 2019, must be consistent with this requirement to be eligible for coverage under this general permit.

C. 1. Facilities with colocated industrial activities on-site shall comply with all applicable effluent limitations, monitoring and ~~pollution prevention plan~~ SWPPP requirements of each section of 9VAC25-151-70 et seq. in which a colocated industrial activity is described.

2. Stormwater discharges associated with industrial activity that are mixed with other discharges (both stormwater and nonstormwater) requiring a VPDES permit are authorized by this permit, provided that the owner obtains coverage under this VPDES general permit for the industrial activity discharges, and a VPDES general or individual permit for the other discharges. The owner shall comply with the terms and requirements of each permit obtained that authorizes any component of the discharge.
3. The stormwater discharges authorized by this permit may be combined with other sources of stormwater which are not required to be covered under a VPDES permit, so long as the combined discharge is in compliance with this permit.
4. Authorized nonstormwater discharges. The following "nonstormwater" discharges are authorized by this permit:
 - a. Discharges from emergency firefighting activities;
 - b. Fire hydrant ~~flushings~~ flushing, managed in a manner to avoid an instream impact;
 - c. Potable water, including water line ~~flushings~~ flushing, managed in a manner to avoid an instream impact;
 - d. Uncontaminated condensate from air conditioners, coolers, and other compressors and from the outside storage of refrigerated gases or liquids;
 - e. Irrigation drainage;
 - f. Landscape watering provided all pesticides, herbicides, and [~~fertilizer~~ fertilizers] have been applied in accordance with the approved labeling;
 - g. Pavement wash waters where no detergents or hazardous cleaning products are used and no spills or leaks of toxic or hazardous materials have occurred (unless all spilled material has been removed). Pavement wash waters shall be managed in a manner to avoid an instream impact;
 - h. Routine external building washdown that does not use detergents or hazardous cleaning products;
 - i. Uncontaminated ground water or spring water;
 - j. Foundation or footing drains where flows are not contaminated with process materials; and
 - k. Incidental windblown mist from cooling towers that collects on rooftops or adjacent portions of the facility, but not intentional discharges from the cooling tower (e.g., "piped" cooling tower blowdown or drains).
5. Stormwater discharges associated with construction activity that are regulated under a VPDES permit are not authorized by this permit.
6. Discharges subject to stormwater effluent limitation guidelines under 40 CFR Subchapter N (Effluent Guidelines and Standards). Only those stormwater discharges subject to stormwater effluent limitation guidelines under 40 CFR Subchapter N that are identified in Table 50-1 of this subsection are eligible for coverage under this permit.

TABLE 50 - 1
STORMWATER-SPECIFIC EFFLUENT LIMITATION GUIDELINES.

Effluent Limitation Guideline	Sectors with Affected Facilities
Runoff from material storage piles at cement manufacturing facilities (40 CFR Part 411 Subpart C (established February 20, 1974))	E
Contaminated runoff from phosphate fertilizer manufacturing facilities (40 CFR Part 418 Subpart A (established April 8, 1974))	C
Coal pile runoff at steam electric generating facilities (40 CFR Part 423 (established November 19, 1982))	O
Discharges resulting from spray down or intentional wetting of logs at wet deck storage areas (40 CFR Part 429 Subpart I (established January 26, 1981))	A

Runoff from asphalt emulsion facilities (40 CFR Part 443 Subpart A (established July 24, 1975))	D
Runoff from landfills (40 CFR Part 445 Subparts A and B (established January 19, 2000))	K and L
Discharges from airport deicing operations (40 CFR Part 449 (established May 16, 2012))	S <u>Facilities subject to the effluent limitation guidelines in 40 CFR Part 449 are not authorized under this permit.</u>

7. Permit eligibility is limited to discharges from facilities in the "sectors" of industrial activity summarized in Table 50-2 of this subsection. These sector descriptions are based on Standard Industrial Classification (SIC) Codes and Industrial Activity Codes. References to "sectors" in this permit (~~e.g., sector-specific monitoring requirements~~) refer to these groupings.

TABLE 50 - 2
SECTORS OF INDUSTRIAL ACTIVITY COVERED BY THIS PERMIT

SIC Code or Activity Code	Activity Represented
Sector A: Timber Products	
[2411]	[Log Storage and Handling (wet deck storage areas are only authorized if no chemical additives are used in the spray water or applied to the logs).]
[2421]	[General Sawmills and Planing Mills.]
[2426]	[Hardwood Dimension and Flooring Mills.]
[2429]	[Special Product Sawmills, Not Elsewhere Classified.]
[2431-2439 (except 2434 - see Sector W)]	[Millwork, Veneer, Plywood, and Structural Wood.]
[2441, 2448, 2449]	[Wood Containers.]
[2451, 2452]	[Wood Buildings and Mobile Homes.]
2491	Wood Preserving.
[2493]	[Reconstituted Wood Products.]
2499	Wood Products, Not Elsewhere Classified (includes SIC Code 24991303 - Wood, Mulch and Bark facilities).
Sector B: Paper and Allied Products	
2614	Pulp Mills.
2621	Paper Mills.
2631	Paperboard Mills.
2652-2657	Paperboard Containers and Boxes.
2671-2679	Converted Paper and Paperboard Products, except Containers and Boxes.
Sector C: Chemical and Allied Products	

2812-2819	Industrial Inorganic Chemicals.
2821-2824	Plastics Materials and Synthetic Resins, Synthetic Rubber, Cellulosic and Other Manmade <u>Synthetic</u> Fibers, except Glass.
2833-2836	Medicinal Chemicals and Botanical Products; Pharmaceutical Preparations; In Vitro and In Vivo Diagnostic Substances; Biological Products, except Diagnostic Substances.
2841-2844	Soaps, Detergents, and Cleaning Preparations; Perfumes, Cosmetics, and Other Toilet Preparations.
2851	Paints, Varnishes, Lacquers, Enamels, and Allied Products.
2861-2869	Industrial Organic Chemicals.
2873-2879	Agricultural Chemicals (includes SIC Code 2875 - Composting Facilities).
2891-2899	Miscellaneous Chemical Products.
3952 (limited to list)	Inks and Paints, Including China Painting Enamels, India Ink, Drawing Ink, Platinum Paints for Burnt Wood or Leather Work, Paints for China Painting, Artist's Paints and Artist's Watercolors.
Sector D: Asphalt Paving and Roofing Materials and Lubricants	
2951, 2952	Asphalt Paving and Roofing Materials.
2992, 2999	Miscellaneous Products of Petroleum and Coal.
Sector E: Glass Clay, Cement, Concrete, and Gypsum Products	
3211	Flat Glass.
3221, 3229	Glass and Glassware, Pressed or Blown.
3231	Glass Products Made of Purchased Glass.
3241	Hydraulic Cement.
3251-3259	Structural Clay Products.
3261-3269	Pottery and Related Products.
3274, 3275	Concrete, Gypsum and Plaster Products, Except: Concrete Block and Brick; Concrete Products, except Block and Brick; and Ready-Mixed Concrete Facilities (SIC <u>Codes</u> 3271-3273).
3281	Cut Stone and Stone Products
3291-3299	Abrasive, Asbestos, and Miscellaneous Non-Metallic Mineral Products.
Sector F: Primary Metals	
3312-3317	Steel Works, Blast Furnaces, and Rolling and Finishing Mills.
3321-3325	Iron and Steel Foundries.
3331-3339	Primary Smelting and Refining of Nonferrous Metals.
3341	Secondary Smelting and Refining of Nonferrous Metals.
3351-3357	Rolling, Drawing, and Extruding of Nonferrous Metals.

3363-3369	Nonferrous Foundries (Castings).
3398, 3399	Miscellaneous Primary Metal Products.
Sector G: Metal Mining (Ore Mining and Dressing)	
1011	Iron Ores.
1021	Copper Ores.
1031	Lead and Zinc Ores.
1041, 1044	Gold and Silver Ores.
1061	Ferroalloy Ores, except Vanadium.
1081	Metal Mining Services.
1094, 1099	Miscellaneous Metal Ores.
Sector H: Coal Mines and Coal Mining Related Facilities	
1221-1241	Coal Mines and Coal Mining-Related Facilities.
Sector I: Oil and Gas Extraction and Refining	
1311	Crude Petroleum and Natural Gas.
1321	Natural Gas Liquids.
1381-1389	Oil and Gas Field Services.
2911	Petroleum Refineries.
Sector J: Mineral Mining and Dressing Facilities (SIC <u>Codes</u> 1411-1499 are not authorized under this permit)	
Sector K: Hazardous Waste Treatment, Storage, or Disposal Facilities	
HZ	Hazardous Waste Treatment Storage or Disposal.
Sector L: Landfills and Land Application Sites	
LF	Landfills, Land Application Sites, and Open Dumps.
Sector M: Automobile Salvage Yards	
5015	Automobile Salvage Yards.
Sector N: Scrap Recycling Facilities	
5093	Scrap Recycling Facilities.
4499 (limited to list)	Dismantling Ships, Marine Salvaging, and Marine Wrecking - Ships for Scrap.
Sector O: Steam Electric Generating Facilities	
SE	Steam Electric Generating Facilities.
Sector P: Land Transportation and Warehousing	
4011, 4013	Railroad Transportation.
4111-4173	Local and Highway Passenger Transportation.
4212-4231	Motor Freight Transportation and Warehousing.

4311	United States Postal Service.
5171	Petroleum Bulk Stations and Terminals.
Sector Q: Water Transportation and Ship and Boat Building or Repairing Yards.	
4412-4499 (except 4499 facilities as specified in Sector N)	Water Transportation.
<u>3731, 3732</u>	<u>Ship and Boat Building or Repairing Yards.</u>
Sector R: Ship and Boat Building or Repairing Yards	
3731, 3732	Ship and Boat Building or Repairing Yards.
Sector S: Air Transportation	
4512-4581	Air Transportation Facilities.
Sector T: Treatment Works	
TW	Treatment Works.
Sector U: Food and Kindred Products	
2011-2015	Meat Products.
2021-2026	Dairy Products.
2032-2038	Canned, Frozen, and Preserved Fruits, Vegetables, and Food Specialties.
2041-2048	Grain Mill Products.
2051-2053	Bakery Products.
2061-2068	Sugar and Confectionery Products.
2074-2079	Fats and Oils.
2082-2087	Beverages.
2091-2099	Miscellaneous Food Preparations and Kindred Products.
2111-2141	Tobacco Products.
Sector V: Textile Mills, Apparel, and Other Fabric Product Manufacturing, Leather and Leather Products	
2211-2299	Textile Mill Products.
2311-2399	Apparel and Other Finished Products Made from Fabrics and Similar Materials.
3131-3199 (except 3111—see Sector Z)	Leather and Leather Products, except Leather Tanning and Finishing.
Sector W: Furniture and Fixtures	
2434	Wood Kitchen Cabinets.
2511-2599	Furniture and Fixtures.
Sector X: Printing and Publishing	
2711-2796	Printing, Publishing, and Allied Industries.

Sector Y: Rubber, Miscellaneous Plastic Products, and Miscellaneous Manufacturing Industries	
3011	Tires and Inner Tubes.
3021	Rubber and Plastics Footwear.
3052, 3053	Gaskets, Packing, and Sealing Devices and Rubber and Plastics Hose and Belting.
3061, 3069	Fabricated Rubber Products, Not Elsewhere Classified.
3081-3089	Miscellaneous Plastics Products.
3931	Musical Instruments.
3942-3949	Dolls, Toys, Games, and Sporting and Athletic Goods.
3951-3955 (except 3952 facilities as specified in Sector C)	Pens, Pencils, and Other Artists' Materials.
3961, 3965	Costume Jewelry, Costume Novelties, Buttons, and Miscellaneous Notions, Except Precious Metal.
3991-3999	Miscellaneous Manufacturing Industries.
Sector Z: Leather Tanning and Finishing	
3111	Leather Tanning, Currying, and Finishing.
Sector AA: Fabricated Metal Products	
[3411-3499] [3411-3471, 3482-3499]	Fabricated Metal Products, except Machinery and Transportation Equipment.
[3479]	[Fabricated Metal Coating and Engraving]
3911-3915	Jewelry, Silverware, and Plated Ware.
Sector AB: Transportation Equipment , Industrial or Commercial Machinery	
3511-3599 (except 3571-3579 see Sector AC) [(except 3731, 3732)] [(except 3571-3579)]	Industrial and Commercial Machinery (except Computer and Office Equipment).
3711-3799 (except 3731, 3732 see Sector R)	Transportation Equipment (except Ship and Boat Building and Repairing).
Sector AC: Electronic, Electrical, Photographic, and Optical Goods	
3571-3579	Computer and Office Equipment.
3612-3699	Electronic and Other Electrical Equipment and Components, except Computer Equipment.
3812-3873	Measuring, Analyzing, and Controlling Instruments; Photographic, Medical, and Optical Goods; Watches and Clocks.
Sector AD: Nonclassified Facilities/Stormwater Discharges Designated by the Board as Requiring Permits	

N/A	Stormwater Discharges Designated by the Board for Permitting under the Provisions of 9VAC25-31-120 A 1, or under 9VAC25-31-120 A 7 a (1) or (2) of the VPDES Permit Regulation. Note: Facilities may not elect to be covered under Sector AD. Only the board may assign a facility to Sector AD.
<u>Sector AE: Facilities with No Analytical Benchmark Monitoring Requirements</u>	
<u>2611</u>	<u>Pulp Mills.</u>
<u>2621</u>	<u>Paper Mills.</u>
<u>2652-2657</u>	<u>Paperboard Containers and Boxes.</u>
<u>2671-2679</u>	<u>Converted Paper and Paperboard Products, except Containers and Boxes.</u>
<u>2833-2836</u>	<u>Medicinal Chemicals and Botanical Products; Pharmaceutical Preparations; In Vitro and In Vivo Diagnostic Substances; Biological Products, except Diagnostic Substances.</u>
<u>2851</u>	<u>Paints, Varnishes, Lacquers, Enamels, and Allied Products.</u>
<u>2861-2869</u>	<u>Industrial Organic Chemicals.</u>
<u>2891-2899</u>	<u>Miscellaneous Chemical Products.</u>
<u>3952 (limited to list)</u>	<u>Inks and Paints, Including China Painting Enamels, India Ink, Drawing Ink, Platinum Paints for Burnt Wood or Leather Work, Paints for China Painting, Artist's paints, and Artist's Watercolors.</u>
<u>[2992, 2999]</u>	<u>[Miscellaneous Products of Petroleum and Coal.]</u>
<u>3211</u>	<u>Flat Glass.</u>
<u>3221, 3229</u>	<u>Glass and Glassware, Pressed or Blown.</u>
<u>3231</u>	<u>Glass Products Made of Purchased Glass.</u>
<u>3241</u>	<u>Hydraulic Cement.</u>
<u>3281</u>	<u>Cut Stone and Stone Products.</u>
<u>3291-3299</u>	<u>Abrasive, Asbestos, and Miscellaneous Nonmetallic Mineral Products.</u>
<u>3331-3339</u>	<u>Primary Smelting and Refining of Nonferrous Metals.</u>
<u>3398, 3399</u>	<u>Miscellaneous Primary Metal Products.</u>
<u>3341</u>	<u>Secondary Smelting and refining of Nonferrous Metals.</u>
<u>1311</u>	<u>Crude Petroleum and Natural Gas.</u>
<u>1321</u>	<u>Natural Gas Liquids.</u>
<u>1381-1389</u>	<u>Oil and Gas Field Services.</u>
<u>2911</u>	<u>Petroleum Refineries.</u>

<u>4512-4581</u>	<u>Air Transportation Facilities.</u>
<u>TW</u>	<u>Treatment Works.</u>
<u>2011-2015</u>	<u>Meat Products.</u>
<u>2032-2038</u>	<u>Canned, Frozen, and Preserved Fruits, Vegetables, and Food Specialties.</u>
<u>2051-2053</u>	<u>Bakery Products.</u>
<u>2061-2068</u>	<u>Sugar and Confectionary Products.</u>
<u>2082-2087</u>	<u>Beverages.</u>
<u>2091-2099</u>	<u>Miscellaneous Food Preparations Kindred Products.</u>
<u>2111-2141</u>	<u>Tobacco Products.</u>
<u>2211-2299</u>	<u>Textile Mill Products.</u>
<u>2311-2399</u>	<u>Apparel and Other Finished Products Made from Fabrics and Similar Materials.</u>
<u>3131-3199 [(except 3111-Z)]</u>	<u>Leather and Leather Products, except Leather Tanning and Finishing.</u>
<u>2434</u>	<u>Wood Kitchen Cabinets.</u>
<u>2511-2599</u>	<u>Furniture and Fixtures.</u>
<u>2711-2796</u>	<u>Printing, Publishing, and Allied Products.</u>
<u>3081-3089</u>	<u>Miscellaneous Plastics Products.</u>
<u>3931</u>	<u>Musical Instruments.</u>
<u>3942-3949</u>	<u>Dolls, Toys, Games, and Sporting and Athletic Goods.</u>
<u>3951-3955 (except 3952 [facilities as specified in Sector C])</u>	<u>Pens, Pencils, and Other Artist's Materials.</u>
<u>3961, 3965</u>	<u>Costume Jewelry, Costume Novelties, Buttons, and Miscellaneous Notions, except Precious Metal.</u>
<u>3991-3999</u>	<u>Miscellaneous Manufacturing Industries.</u>
<u>3111</u>	<u>Leather Tanning, Currying, and Finishing.</u>
<u>3711-3799 (except 3731, 3732 – see Sector Q)</u>	<u>Transportation Equipment, except Ship and Boat Building and Repairing.</u>
<u>3571-3579</u>	<u>Computer and Office Equipment.</u>
<u>3612-3699</u>	<u>Electronic and Other Electrical Equipment and Components, except Computer Equipment.</u>
<u>3812-3873</u>	<u>Measuring, Analyzing, and Controlling Instruments; Photographic, Medical, and Optical Goods; Watches and Clocks.</u>
<u>Sector AF: Facilities Limited to Total Suspended Solids Benchmark Monitoring Requirements</u>	

[2411]	<u>[Log Storage and Handling (wet deck storage areas are only authorized if no chemical additives are used in the spray water or applied to the logs).]</u>
[2421]	<u>[General Sawmills and Planing Mills.]</u>
[2426]	<u>[Hardwood Dimension and Flooring Mills.]</u>
[2429]	<u>[Special Products Sawmills Not Elsewhere Classified.]</u>
[2431, 2433, 2435-2439]	<u>[Millwork, Veneer, Plywood, and Structural Wood.]</u>
[2441, 2448, 2449]	<u>[Wood Containers.]</u>
[2451, 2452]	<u>[Wood Buildings and Mobile Homes.]</u>
[2493]	<u>[Reconstituted Wood Products.]</u>
4011, 4013	<u>Railroad Transportation.</u>
4111-4173	<u>Local and Highway Passenger Transportation.</u>
4212-4231	<u>Motor Freight Transportation and Warehousing.</u>
4311	<u>United State Postal Service.</u>
5171	<u>Petroleum Bulk Stations and Terminals.</u>

D. Conditional exclusion for no exposure. Any owner covered by this permit who becomes eligible for a no exposure exclusion from permitting under 9VAC25-31-120 E may file a no exposure certification. Upon submission and acceptance by the board of a complete and accurate no exposure certification, the permit requirements no longer apply, and the owner is not required to submit a notice of termination. A no exposure certification must be submitted to the board once every five years.

E. Compliance with this general permit constitutes compliance with the federal Clean Water Act and the State Water Control Law, with the exceptions stated in 9VAC25-31-60 of the VPDES Permit Regulation. Approval for coverage under this general permit does not relieve any owner of the responsibility to comply with any other applicable federal, state, or local statute, ordinance, or regulation.

F. Continuation of permit coverage.

1. ~~Any owner that was authorized to discharge under the industrial activity stormwater general permit issued in 2009 and that submits a complete registration statement before July 1, 2014, is authorized to continue to discharge under the terms of the 2009 general permit until such time as the board either~~ 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 original permit. The permittee is authorized to continue to discharge until such time as the board either:

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

2. When the owner that was covered under the expiring or expired general permit has violated or is violating the conditions of that permit, the board may choose to do any or all of the following:

- a. Initiate enforcement action based upon the ~~2009~~ general permit coverage that has been continued;
- b. Issue a notice of intent to deny coverage under the ~~reissued~~ amended general permit. If the general permit coverage is denied, the owner would then be required to cease the discharges authorized by ~~administratively the continued general permit coverage under the terms of the 2009 general permit~~ or be subject to enforcement action for discharging without a permit;
- c. Issue an individual permit with appropriate conditions; or
- d. Take other actions authorized by the VPDES Permit Regulation (9VAC25-31).

9VAC25-151-60. Registration statement and ~~Stormwater Pollution Prevention Plan~~ stormwater pollution prevention plan (SWPPP).

A. An owner seeking coverage under this general permit shall submit a complete VPDES general permit registration statement in accordance with this section, which shall serve as a notice of intent for coverage under the VPDES general ~~VPDES~~ permit [regulation] for discharges of stormwater associated with industrial activity.

Any owner that was authorized to discharge under the industrial stormwater general permit that became effective on July 1, ~~2009~~ 2014, and that intends to continue coverage under this general permit shall review and update the ~~Stormwater Pollution Prevention Plan~~ stormwater pollution prevention plan (SWPPP) to meet all provisions of the general permit (9VAC25-151-70 et seq.) within 90 days of the board granting coverage under this permit. Owners of new facilities, facilities previously covered by an expiring individual permit, and existing facilities not currently covered by a VPDES permit who wish to obtain coverage under this general permit shall prepare and implement a written SWPPP for the facility in accordance with the general permit (9VAC25-151-70 et seq.) prior to submitting the registration statement.

B. Deadlines for submitting registration statements.

1. Existing facilities.

a. Any owner that was authorized to discharge under the industrial stormwater general permit that became effective on July 1, ~~2009~~ 2014, and that intends to continue coverage under this general permit shall submit a complete registration statement to the board on or before May 2, ~~2014~~ 2019.

b. Any owner covered by ~~an~~ a VPDES individual ~~VPDES~~ permit for stormwater discharges associated with industrial activity that is proposing to be covered under this general permit shall submit a complete registration statement at least 240 days prior to the expiration date of the VPDES individual ~~VPDES~~ permit.

c. Any owner of an existing facility with stormwater discharges associated with industrial activity, not currently covered by a VPDES permit, that is proposing to be covered under this general permit shall submit a complete registration statement to the board.

2. New facilities. Any owner proposing a new discharge of stormwater associated with industrial activity shall submit a complete registration statement at least 60 days prior to the date planned for the commencement of the industrial activity at the facility.

3. New owners of existing facilities. Where the owner of an existing facility that is covered by this permit changes, the new owner of the facility shall submit a complete registration statement within 30 days of the ownership change.

4. Late registration statements. Registration statements for existing facilities covered under subdivision 1 a of this subsection will be accepted after June 30, ~~2014~~ 2019, but authorization to discharge will not be retroactive. Owners described in subdivision 1 a of this subsection that submit registration statements after May 2, ~~2014~~ 2019, are authorized to discharge under the provisions of 9VAC25-151-50 F (Continuation of permit coverage) if a complete registration statement is submitted before July 1, ~~2014~~ 2019.

C. The required registration statement shall contain the following information:

~~1. Name, mailing address, email address (where available), and telephone number of the:~~

~~a. Facility owner; and~~

~~b. Operator applying for permit coverage (if different than the facility owner);~~

~~1. Facility name and mailing address, owner name and mailing address, telephone number, and email address[.];~~

~~2. Facility name, street address, county (or city), contact name, email address (where available), phone number, and FAX number (where available) Facility street address (if different from mailing address) or location (if the facility location does not have a mailing address);~~

~~3. Facility operator (local contact) name, address, telephone number, and email address (if available) if different than owner;~~

~~3. 4. The nature of the business conducted at the facility to be covered under this general permit;~~

~~4. 5. The receiving waters of the industrial activity discharges;~~

~~5. Whether the facility discharges, or will discharge, to an MS4. If so, provide the name of the MS4 owner. (Note: Permit special condition 13 requires the permittee to notify the MS4 owner in writing of the existence of the discharge within 30 days of coverage under this permit. The notification shall include the following~~

~~information: the name of the facility, a contact person and phone number, the location of the discharge, the nature of the discharge, and the facility's VPDES general permit registration number~~ 6. A determination of whether the facility will discharge to an MS4. If the facility discharges to an MS4, the facility owner must notify the owner of the MS4 of the existence of the discharge information at the time of registration under this permit and include that notification with the registration statement. The notice shall include the following information: the name of the facility, a contact person and telephone number, the location of the discharge, the nature of the discharge, and the facility's VPDES general permit number [(if assigned by DEQ)];

~~6.~~ 7. The permit number for any existing VPDES permit assigned to the facility;

~~7. Whether an~~ 8. Indicate that a SWPPP has been prepared prior to submitting this registration statement by the owner of a new facility, a facility previously covered by an expiring individual permit, or an existing facility not currently covered by a VPDES permit;

~~8.~~ 9. Whether or not this facility will discharge stormwater runoff from coal storage piles;

~~9.~~ 10. Identification of up to four ~~4-digit~~ four-digit Standard Industrial Classification (SIC) Codes or 2-letter Industrial Activity Codes that best represent the principal products or services rendered by the facility and major colocated industrial activities (2-letter Industrial Activity Codes are: HZ – hazardous waste treatment, storage, or disposal facilities; LF – landfills and disposal facilities that receive or have received any industrial wastes; SE – steam electric power generating facilities; or TW – treatment works treating domestic sewage);

~~10.~~ 11. Identification of all applicable industrial sectors in this permit (as designated in Table 50-2) that cover the industrial activities at the facility, and major colocated industrial activities to be covered under this permit, and the stormwater outfalls associated with each industrial sector.

a. If the facility is a landfill (sector L), indicate the type of landfill (i.e., MSWLF (municipal solid waste landfill), CDD (construction debris and demolition), or other), and which outfalls (if any) receive contaminated stormwater runoff;

b. If the facility is a timber products operation (sector A), indicate which outfalls (if any) receive discharges from wet decking areas;

c. For all facilities, indicate ~~which any~~ outfalls (if any) receive receiving discharges from coal storage piles;

d. If the facility manufactures asphalt paving and roofing materials (sector D), indicate which outfalls (if any) receive discharges from areas where production of asphalt paving ~~and emulsions~~ or roofing emulsions occurs;

e. If the facility manufactures cement (sector E), indicate which outfalls (if any) receive discharges from material storage piles;

f. If a scrap recycling and waste recycling facility (sector N - SIC 5093) only receives source-separated recyclable materials, indicate which outfalls (if any) receive discharges from this activity. List the metals (if any) that are received; or

g. For primary airports (~~sector S~~), list the average deicing season and indicate which outfalls (if any) receive discharges from deicing of non-propeller aircraft, and the annual average departures of non-propeller aircraft. It should be noted that airport facilities subject to the effluent limitation guidelines in 40 CFR Part 449 are not authorized under this permit;

~~11. Facility~~ 12. List the following facility area information. ~~List the total area of the facility (in acres), the area of industrial activity at the facility (in acres), the total impervious area of the industrial activity at the facility (in acres), and the area (in acres) draining to each industrial activity outfall at the facility. Outfalls shall be numbered using a unique numerical identification code for each outfall (e.g., Outfall No. 001, No. 002, etc.);:~~

a. The total area of the facility in acres;

b. The total area of industrial activity of the facility in acres;

c. The total impervious surface area of the industrial activity of the facility in acres; [and]

d. The impervious and total areas in acres draining to each industrial activity outfall at the facility. Outfalls shall be numbered using a unique numerical identification code for each outfall. For example: Outfall Number 001, Outfall Number 002, etc.; [and]

[e. The latitude and longitude of each outfall location.]

~~12. The following maps~~ 13. A site map depicting the following shall be included with the registration statement:

~~a. General location map. A USGS 7.5 minute topographic map, or other equivalent computer generated map, with sufficient resolution to clearly show the location of the facility and the surrounding locale; and The property boundaries;~~

~~b. Site map. A map showing the property boundaries, the location of all industrial activity areas, all stormwater outfalls, and all water bodies receiving stormwater discharges from the site. Outfall numbering shall be the same as that used for the facility area information in subdivision 11 of this subsection; All industrial activity outfalls labeled with unique numerical identification for each outfall. Outfall numbering shall be the same as that used for the facility area information in subdivision 12 of this subsection; and~~

~~c. All water bodies or MS4 conveyances, labeled with names if applicable, receiving stormwater discharges from the site;~~

~~13.~~ 14. Virginia's Phase I Chesapeake Bay TMDL Watershed Implementation Plan (November 29, 2010) states that wasteloads for future growth for new facilities in the Chesapeake Bay watershed with industrial stormwater discharges cannot exceed the nutrient and sediment loadings that were discharged prior to the land being developed for the industrial activity. For purposes of this permit regulation, facilities that commence construction after June 30, ~~2014~~ 2019, must be consistent with this requirement to be eligible for coverage under this general permit.

If this is a new facility that commenced construction after June 30, ~~2014~~ 2019, in the Chesapeake Bay watershed, and applying for first time general permit coverage, attach documentation to the registration statement to ~~show~~ demonstrate:

a. That the total phosphorus load does not exceed the greater of: (i) the total phosphorus load that was discharged from the industrial area of the property prior to the land being developed for the new industrial activity, or (ii) 0.41 pounds per acre per year (VSMP water quality design criteria). The documentation must include the measures and controls that were employed to meet this requirement, along with the supporting calculations. The owner may include additional nonindustrial land on the site as part of any plan to comply with the no net increase requirement. Consistent with the definition of "site," this includes adjacent land used in connection with the facility. Compliance with the water quality design criteria may be determined utilizing the Virginia Runoff Reduction Method or another equivalent methodology approved by the board. Design specifications and pollutant removal efficiencies for specific BMPs can be found on the Virginia Stormwater BMP Clearinghouse website at <http://www.vwrrc.vt.edu/swc>; or

b. The owner may consider utilization of any pollutant trading or offset program in accordance with §§ 62.1-44.19:20 through 62.1-44.19:23 of the Code of Virginia, governing trading and offsetting, to meet the no net increase requirement;

15. State Corporation Commission entity identification number if the facility is required to obtain an entity identification number by law; and

~~14.~~ 16. The following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

D. The registration statement shall be signed in accordance with 9VAC25-31-110 A ~~of the VPDES Permit Regulation.~~

E. Where to submit. The registration statement may be delivered to the department by either postal or electronic mail and shall be submitted to the DEQ regional office serving the area where the industrial facility is located.

9VAC25-151-70. General permit.

Any owner whose registration statement is accepted by the director will receive the following general permit and shall comply with the requirements therein and be subject to the VPDES Permit Regulation, 9VAC25-31. Facilities with colocated industrial activities shall comply with all applicable monitoring and ~~pollution prevention plan~~ SWPPP requirements of each industrial activity sector of this chapter in which a colocated industrial activity is described. All pages of 9VAC25-151-70 and 9VAC25-151-80 apply to all stormwater discharges associated with industrial activity

covered under this general permit. Not all pages of 9VAC25-151-90 et seq. will apply to every permittee. The determination of which pages apply will be based on an evaluation of the regulated activities located at the facility.

General Permit No.: VAR05
Effective Date: July 1, ~~2014~~ 2019
Expiration Date: June 30, ~~2019~~ 2024

[VPDES] GENERAL PERMIT FOR STORMWATER DISCHARGES ASSOCIATED WITH INDUSTRIAL
ACTIVITY
AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA POLLUTANT DISCHARGE ELIMINATION
SYSTEM AND THE VIRGINIA STATE WATER CONTROL LAW

In compliance with the provisions of the Clean Water Act, as amended, and pursuant to the State Water Control Law and regulations adopted pursuant thereto, owners of facilities with stormwater discharges associated with industrial activity are authorized to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those waters specifically named in board regulation that prohibit such discharges.

The authorized discharge shall be in accordance with this cover page, the registration statement, Part I-Effluent Limitations, Monitoring Requirements and Special Conditions, Part II-Conditions Applicable to All VPDES Permits, Part III-Stormwater Pollution Prevention Plan, and Part IV-Sector-Specific Permit Requirements, as set forth ~~herein~~ in this general permit.

Part I

Effluent Limitations, Monitoring Requirements and Special Conditions

A. Effluent limitations and monitoring requirements.

There are four individual and separate categories of monitoring requirements that a facility may be subject to under this permit: (i) quarterly visual monitoring; (ii) benchmark monitoring of discharges associated with specific industrial activities; (iii) compliance monitoring for discharges subject to numerical effluent limitations; and (iv) monitoring of discharges to impaired waters, both those with an approved TMDL and those without an approved TMDL. The monitoring requirements and numeric effluent limitations applicable to a facility depend on the types of industrial activities generating stormwater runoff from the facility, and for TMDL monitoring, the location of the facility's discharge or discharges. Part IV of the permit (9VAC25-151-90 et seq.) identifies monitoring requirements applicable to specific sectors of industrial activity. The permittee shall review Part I A 1 and Part IV of the permit to determine which monitoring requirements and numeric limitations apply to his facility. Unless otherwise specified, limitations and monitoring requirements under Part I A 1 and Part IV are additive.

Sector-specific monitoring requirements and limitations are applied discharge by discharge at facilities with colocated activities. Where stormwater from the colocated activities are commingled, the monitoring requirements and limitations are additive. Where more than one numeric limitation for a specific parameter applies to a discharge, compliance with the more restrictive limitation is required. Where benchmark, numerical effluent limitations, or TMDL monitoring requirements for a monitoring period overlap (e.g., ~~need to monitor TSS twice per year for a limit and also twice per year for benchmark monitoring~~), the permittee may use a single sample to satisfy ~~both~~ monitoring requirements.

1. Types of monitoring requirements and limitations.

a. Quarterly visual monitoring. The requirements and procedures for quarterly visual monitoring are applicable to all facilities covered under this permit, regardless of the facility's sector of industrial activity.

(1) The permittee shall perform and document a quarterly visual examination of a stormwater discharge associated with industrial activity from each outfall, except discharges exempted in Part I A 3 or Part I A 4. The ~~examination(s)~~ examinations shall be made at least once in each of the following three-month periods: January through March, April through June, July through September, and October through December. The visual examination shall be made during normal working hours, where practicable, and when considerations for safety and feasibility allow. If no storm event resulted in runoff from the facility during a monitoring quarter, the permittee is excused from visual monitoring for that quarter provided that documentation is included with the monitoring records indicating that no runoff occurred. The documentation shall be signed and certified in accordance with Part II K of this permit.

(2) Samples shall be collected in accordance with Part I A 2. ~~The~~ Sample examination shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and

other obvious indicators of stormwater pollution. The visual examination of the sample shall be conducted in a well-lit area. No analytical tests are required to be performed on the samples.

(3) The visual examination reports shall be maintained on-site with the ~~Stormwater Pollution Prevention Plan (SWPPP)~~ SWPPP. The report shall include the outfall location, the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the stormwater discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of stormwater pollution), and probable sources of any observed stormwater contamination.

b. Benchmark monitoring of discharges associated with specific industrial activities.

Table 70-1 identifies the specific industrial sectors subject to the benchmark monitoring requirements of this permit and the industry-specific pollutants of concern. The permittee shall refer to the tables found in the individual sectors in Part IV (9VAC25-151-90 et seq.) for benchmark monitoring concentration values. Colocated industrial activities at the facility that are described in more than one sector in Part IV shall comply with all applicable benchmark monitoring requirements from each sector.

The results of benchmark monitoring are primarily for the permittee to use to determine the overall effectiveness of the SWPPP in controlling the discharge of pollutants to receiving waters. Benchmark concentration values, included in Part IV of this permit, are not effluent limitations. Exceedance of a benchmark concentration does not constitute a violation of this permit and does not indicate that violation of a water quality standard has occurred; however, it does signal that modifications to the SWPPP are necessary, unless justification is provided in ~~the comprehensive site compliance evaluation (Part III E)~~ a routine facility inspection. In addition, exceedance of benchmark concentrations may identify facilities that would be more appropriately covered under an individual, or alternative general permit where more specific pollution prevention controls could be required.

TABLE 70-1
INDUSTRIAL SECTORS SUBJECT TO BENCHMARK MONITORING

Industry Sector ¹	Industry Sub-sector SIC Code or Activity Code	Benchmark Monitoring Parameters
A	General Sawmills and Planing Mills [2421]	[TSS.]
	Wood Preserving Facilities 2491	Arsenic, Chromium, Copper.
	Log Storage and Handling [2411]	[TSS.]
	Hardwood Dimension and Flooring Mills [2426]	[TSS.]
	Mulch, Wood and Bark Facilities 2499 (24991303)	BOD COD, TSS.
	Mulching Dying Operations 2499 (Mulch Dyeing)	BOD, TSS, COD, Aluminum, Arsenic, Cadmium, Chromium, Copper, Iron, Lead, Manganese, Mercury, Nickel, Selenium, Silver, Zinc, Total N, Total P.
B	Paperboard Mills 2631	BOD.
C	Industrial Inorganic Chemicals 2812-2819	Aluminum, Iron, Total N.
	Plastics, Synthetic Resins, etc. 2821-2824	Zinc.
	Soaps, Detergents, Cosmetics, Perfumes 2841-2844	Total N, Zinc.
	Agricultural Chemicals 2873-2879	Total N, Iron, Zinc, Total P.

	<u>Composting Facilities 2875 (Composting Facilities)</u>	TSS, BOD, COD, Ammonia, Total N, Total P.
[D]	<u>Asphalt Paving and Roofing Materials [2951, 2952]</u>	[TSS.]
E	<u>Clay Products 3251-3259[, 3261-3269]</u>	Aluminum.
	<u>Lime and Gypsum Products 3274, 3275</u>	TSS, pH, Iron.
F	<u>Steel Works, Blast Furnaces, and Rolling and Finishing Mills 3312-3317</u>	Aluminum, Zinc.
	<u>Iron and Steel Foundries 3321-3325</u>	Aluminum, TSS, Copper, Iron, Zinc.
	<u>Nonferrous Rolling and Drawing 3351-3357</u>	Copper, Zinc.
	<u>Nonferrous Foundries (Castings) 3363-3369</u>	Copper, Zinc.
G ²	<u>Copper Ore Mining and Dressing 1021</u>	TSS.
H	<u>Coal Mines and Coal Mining Related Facilities 1221-1241</u>	TSS, Aluminum, Iron.
K	<u>Hazardous HZ (Hazardous Waste Treatment, Storage, or Disposal Disposal)</u>	TKN, TSS, TOC, Arsenic, Cadmium, Cyanide, Lead, Magnesium, Mercury, Selenium, Silver.
L	<u>Landfills LF (Landfills, Land Application Sites, and Open Dumps Dumps)</u>	TSS.
M	<u>Automobile Salvage Yards 5015</u>	TSS, Aluminum, Iron, Lead.
N	<u>Scrap Recycling and Waste Recycling Facilities 5093</u>	Copper, Aluminum, Iron, Lead, Zinc, TSS, Cadmium, Chromium.
	<u>Ship Dismantling, Marine Salvaging and Marine Wrecking 4499</u>	Aluminum, Cadmium, Chromium, Copper, Iron, Lead, Zinc, TSS.
O	<u>Steam SE (Steam Electric Generating Facilities Facilities)</u>	Iron.
P	<u>Land Transportation and Warehousing</u>	TPH, TSS.
Q	<u>Water Transportation Facilities 4412-4499 (except 4499 facilities as specified in Sector N)</u>	TSS, Copper, Zinc.
	<u>3731, 3732</u>	TSS, Copper, Zinc.
R	<u>Ship and Boat Building or Repairing Yards</u>	TSS, Copper, Zinc.
S	<u>Airports</u>	TSS, TPH.
U	<u>Dairy Products 2021-2026</u>	BOD, TSS.
	<u>Grain Mill Products 2041-2048</u>	TSS, TKN.
	<u>Fats and Oils 2074-2079</u>	BOD, Total N, TSS.

Y	Rubber Products 3011-3069	Zinc.
Z	Leather Tanning and Finishing	TKN.
AA	Fabricated Metal Products Except Coating 3411-3471, 3482-3499, 3911-3915	Iron, Aluminum, Copper, Zinc.
	Fabricated Metal Coating and Engraving 3479	Zinc.
AB	Transportation Equipment, Industrial, or Commercial Machinery 3511-3599 (except 3571-3579)	TSS, TPH, Copper, Zinc.
AD	Nonclassified Facilities/Stormwater Discharges Designated by the Board as Requiring Permits	TSS. <u>As determined by the director.</u>
<u>AE</u>	<u>2611, 2621, 2652-2657, 2671-2679, 2833-2836, 2851, 2861-2869, 2891-2899, 3952, [2992, 2999,] 3211, 3221, 3229, 3231, 3241, 3281, 3291-3299, 3331-3339, 3398, 3399, 3341, 1311, 1321, 1381-1389, 2911, 4512-4581, (TW) Treatment Works, 2011-2015, 2032-2038, 2051-2053, 2061-2068, 2082-2087, 2091-2099, 2111-2141, 2211-2299, 2311-2399, 3131-3199, 2434, 2511-2599, 2711-2796, 3081-3089, 3931, 3942-3949, 3951-3955 (except 3952 [facilities as specified in Sector E]), 3961, 3965, 3991-3999, 3111, 3711-3799 (except 3731, 3732 see Sector Q), 3571-3579, 3612-3699, 3812-3873</u>	<u>Facilities in Sector AE are not subject to benchmark monitoring requirements.</u>
<u>AF</u>	<u>[2411,] [2421,] [2426,] [2429,] [2431-2433, 2435-2439,] [2441, 2448, 2449, 2451, 2452, 2493,] 4011, 4013, 4111-4173, 4212-4231, 4311, 5171</u>	TSS.

¹Table does not include parameters for compliance monitoring under effluent limitations guidelines.

²See Sector G (Part IV G) for additional monitoring discharges from waste rock and overburden piles from active ore mining or dressing facilities, inactive ore mining or dressing facilities, and sites undergoing reclamation.

(1) Benchmark monitoring shall be performed for all benchmark parameters specified for the industrial sector or sectors applicable to a facility's discharge. Monitoring shall be performed at least once during each of the first four, and potentially all, monitoring periods after coverage under the permit begins. Monitoring commences with the first full monitoring period after the owner is granted coverage under the permit. Monitoring periods are specified in Part I A 2.

Depending on the results of four consecutive monitoring periods, benchmark monitoring may not be required to be conducted in subsequent monitoring periods (see ~~subdivision~~ Part I A 1 b (2) below).

(2) Benchmark monitoring waivers for facilities testing below benchmark concentration values. Waivers from benchmark monitoring are available to facilities whose discharges are below benchmark concentration values on an outfall by outfall basis. Sector-specific benchmark monitoring is not required to be conducted in subsequent monitoring periods during the term of this permit provided:

(a) Samples were collected in four consecutive monitoring periods, and the average of the four samples for all parameters at the outfall is below the applicable benchmark concentration value in Part IV. ~~(Note: facilities~~ Facilities that were covered under the ~~2009~~ 2014 industrial stormwater general permit may use sampling data from the last two monitoring periods of that permit and the first two monitoring periods of this permit to satisfy the four consecutive monitoring periods requirement); ~~and~~

(b) The facility is not subject to a numeric effluent limitation established in Part I A 1 c (1) ~~(Stormwater Effluent Limitations)~~ (stormwater effluent limitations), Part I A 1 c (2) ~~(Coal Pile Runoff)~~ (coal pile runoff), or Part IV (Sector Specific Permit Requirements) for any of the parameters at that outfall; and

(c) A waiver request is submitted to and approved by the board. The waiver request shall be sent to the appropriate DEQ regional office, along with the supporting monitoring data for four consecutive monitoring periods, and a certification that, based on current potential pollutant sources and control measures used, discharges from the facility are reasonably expected to be essentially the same (or cleaner) compared to when the benchmark monitoring for the four consecutive monitoring periods was done.

Waiver requests will be evaluated by the board based upon: (i) benchmark monitoring results below the benchmark concentration values; (ii) a favorable compliance history (including inspection results); and (iii) no outstanding enforcement actions.

The monitoring waiver may be revoked by the board for ~~just~~ cause. The permittee will be notified in writing that the monitoring waiver is revoked, and that the benchmark monitoring requirements are again in force and will remain in effect until the permit's expiration date.

(3) Samples shall be collected and analyzed in accordance with Part I A 2. Monitoring results shall be reported in accordance with Part I A 5 and Part II C and retained in accordance with Part II B.

c. Compliance monitoring for discharges subject to numerical effluent limitations or discharges to impaired waters.

(1) Facilities subject to stormwater effluent limitation guidelines.

(a) Facilities subject to stormwater effluent limitation guidelines (see Table 70-2) are required to monitor such discharges to evaluate compliance with numerical effluent limitations. Industry-specific numerical limitations and compliance monitoring requirements are described in Part IV of the permit (9VAC25-151-90 et seq.). Permittees with colocated industrial activities at the facility that are described in more than one sector in Part IV shall comply on a discharge-by-discharge basis with all applicable effluent limitations from each sector.

(b) Permittees shall monitor the discharges for the presence of the pollutant subject to the effluent limitation at least once during each of the monitoring periods after coverage under the permit begins. Monitoring commences with the first full monitoring period after the owner is granted coverage under the permit. Monitoring periods are specified in Part I A 2. The substantially identical outfall monitoring provisions (Part I A 2 f) are not available for numeric effluent limits monitoring.

(c) Samples shall be collected and analyzed in accordance with Part I A 2. Monitoring results shall be reported in accordance with Part I A 5 and Part II C, and retained in accordance with Part II B.

TABLE 70-2
STORMWATER-SPECIFIC EFFLUENT LIMITATION GUIDELINES

Effluent Limitation Guideline	Sectors with Affected Facilities
Runoff from material storage piles at cement manufacturing facilities (40 CFR Part 411 Subpart C (established February 20, 1974))	E
Contaminated runoff from phosphate fertilizer manufacturing facilities (40 CFR Part 418 Subpart A (established April 8, 1974))	C
Coal pile runoff at steam electric generating facilities (40 CFR Part 423 (established November 19, 1982))	O

Discharges resulting from spray down or intentional wetting of logs at wet deck storage areas (40 CFR Part 429, Subpart I (established January 26, 1981))	A
Runoff from asphalt emulsion facilities (40 CFR Part 443 Subpart A (established July 24, 1975))	D
Runoff from landfills (40 CFR Part 445, Subpart A and B (established January 19, 2000))	K and L
Discharges from airport deicing operations (40 CFR Part 449 (established May 16, 2012))	<u>§ Facilities subject to the effluent limitation guidelines in 40 CFR Part 449 are not authorized under this permit.</u>

(2) Facilities subject to coal pile runoff monitoring.

(a) Facilities with discharges of stormwater from coal storage piles shall comply with the limitations and monitoring requirements of Table 70-3 for all discharges containing the coal pile runoff, regardless of the facility's sector of industrial activity.

(b) Permittees shall monitor such stormwater discharges at least once during each of the monitoring periods after coverage under the permit begins. Monitoring commences with the first full monitoring period after the owner is granted coverage under the permit. Monitoring periods are specified in Part I A 2. The substantially identical outfall monitoring provisions (Part I A 2 f) are not available for coal pile numeric effluent limits monitoring.

(c) The coal pile runoff shall not be diluted with other stormwater or other flows in order to meet this limitation.

(d) If a facility is designed, constructed and operated to treat the volume of coal pile runoff that is associated with a 10-year, 24-hour rainfall event, any untreated overflow of coal pile runoff from the treatment unit is not subject to the 50 mg/L limitation for total suspended solids.

(e) Samples shall be collected and analyzed in accordance with Part I A 2. Monitoring results shall be reported in accordance with Part I A 5 and Part II C, and retained in accordance with Part II B.

TABLE 70-3
NUMERIC LIMITATIONS FOR COAL PILE RUNOFF

Parameter	Limit	Monitoring Frequency	Sample Type
Total Suspended Solids (TSS)	50 mg/l, max.	1/6 months	Grab
pH	6.0 min. - 9.0 max.	1/6 months	Grab

(3) Facilities discharging to an impaired water with an approved TMDL wasteload allocation.

Owners of facilities that are a source of the specified pollutant of concern to waters for which a TMDL wasteload allocation has been approved prior to the term of this permit will be notified as such by the department when they are approved for coverage under the general permit.

(a) Upon written notification from the department, facilities subject to TMDL wasteload allocations ~~will~~ shall be required to monitor such discharges to evaluate compliance with the TMDL requirements.

(b) Permittees shall monitor the discharges for the pollutant subject to the TMDL wasteload allocation [~~at least~~] once [~~during each of the monitoring periods~~ every six months] after coverage under the permit begins[~~-, unless otherwise determined by the department for polychlorinated biphenyls (PCBs).~~] Monitoring commences with the first full monitoring period after the owner is granted coverage under the permit. Monitoring periods are specified in Part I A 2.

(c) Samples shall be collected and analyzed in accordance with Part I A 2. Monitoring results shall be reported in accordance with Part I A 5 and Part II C, and retained in accordance with Part II B.

(d) If the pollutant subject to the TMDL wasteload allocation is below the quantitation level in all of the samples from the first four monitoring periods (i.e., the first two years of coverage under the permit), the permittee may request to the board in writing that further sampling be discontinued, unless the TMDL has specific instructions to the contrary (in which case those instructions shall be followed). The laboratory certificate of analysis shall be submitted with the request. If approved, documentation of this shall be kept with the SWPPP.

If the pollutant subject to the TMDL wasteload allocation is above the quantitation level in any of the samples from the first four monitoring periods, the permittee shall continue the scheduled TMDL monitoring throughout the term of the permit.

(4) Facilities discharging to an impaired water without an approved TMDL wasteload allocation.

Owners of facilities that discharge to waters listed as impaired in the ~~2012~~ 2016 Final 305(b)/303(d) Water Quality Assessment Integrated Report, and for which a TMDL wasteload allocation has not been approved prior to the term of this permit, will be notified as such by the department when they are approved for coverage under the general permit.

(a) Upon written notification from the department, facilities discharging to an impaired water without an approved TMDL wasteload allocation ~~will~~ shall be required to monitor such discharges for the ~~pollutant(s)~~ pollutants that caused the impairment.

(b) Permittees shall monitor the discharges for all pollutants for which the waterbody is impaired, and for which a standard analytical method exists, at least once during each of the monitoring periods after coverage under the permit begins. Monitoring commences with the first full monitoring period after the owner is granted coverage under the permit. Monitoring periods are specified in Part I A 2.

(c) If the pollutant for which the waterbody is impaired is suspended solids, turbidity, or sediment, or sedimentation, monitor for total suspended solids (TSS). If the pollutant for which the waterbody is impaired is expressed in the form of an indicator or surrogate pollutant, monitor for that indicator or surrogate pollutant. No monitoring is required when a waterbody's biological communities are impaired but no pollutant, including indicator or surrogate pollutants, is specified as causing the impairment, or when a waterbody's impairment is related to hydrologic modifications, impaired hydrology, or temperature.

Samples shall be collected and analyzed in accordance with Part I A 2. Monitoring results shall be reported in accordance with Part I A 5 and Part II C, and retained in accordance with Part II B.

(d) If the pollutant for which the water is impaired is below the quantitation level in the discharges from the facility, or it is above the quantitation level but its presence is caused solely by natural background sources, the permittee may request to the board in writing that further impaired water monitoring be discontinued. The laboratory certificate of analysis shall be submitted with the request. If approved, documentation of this shall be kept with the SWPPP.

To support a determination that the pollutant's presence is caused solely by natural background sources, the following documentation shall be submitted with the request and kept with the SWPPP: (i) an explanation of why it is believed that the presence of the impairment pollutant in the facility's discharge is not related to the activities at the facility; and (ii) data or studies that tie the presence of the impairment pollutant in the facility's discharge to natural background sources in the watershed. Natural background pollutants include those substances that are naturally occurring in soils or groundwater. Natural background pollutants do not include legacy pollutants from earlier activity at the facility's site, or pollutants in run-on from neighboring sources that are not naturally occurring.

2. Monitoring instructions.

a. Collection and analysis of samples. Sampling requirements shall be assessed on an outfall by outfall basis. Samples shall be collected and analyzed in accordance with the requirements of Part II A.

b. When and how to sample. A minimum of one grab sample shall be taken from the discharge associated with industrial activity resulting from a storm event that results in ~~an actual~~ a discharge from the site (defined as a "measurable storm event"), providing the interval from the preceding measurable storm event is at least 72 hours. The 72-hour storm interval is waived if the permittee is able to document that less than a 72-hour interval is representative for local storm events during the sampling period. In the case of snowmelt, the monitoring shall be performed at a time when a measurable discharge occurs at the site. For discharges from a stormwater management structure, the monitoring shall be performed at a time when a measurable discharge occurs from the structure.

The grab sample shall be taken during the first 30 minutes of the discharge. If it is not practicable to take the sample during the first 30 minutes, the sample may be taken during the first three hours of the discharge, provided that the permittee explains why a grab sample during the first 30 minutes was impracticable. This information shall be submitted ~~on or with the Discharge Monitoring Report (DMR)~~ in the department's electronic discharge monitoring report (e-DMR) system, and maintained with the SWPPP. If the sampled discharge commingles with process or nonprocess water, the permittee shall attempt to sample the stormwater discharge before it mixes with the nonstormwater.

c. Storm event data. For each monitoring event (except snowmelt monitoring), along with the monitoring results, the permittee shall identify the date and duration (in hours) of the storm ~~event(s)~~ events sampled; rainfall total (in inches) of the storm event that generated the sampled runoff; and the duration between the storm event sampled and the end of the previous measurable storm event. For snowmelt monitoring, the permittee shall identify the date of the sampling event.

d. Monitoring periods.

(1) Quarterly visual monitoring. The quarterly visual examinations shall be made at least once in each of the following three-month periods each year of permit coverage: January through March, April through June, July through September, and October through December.

(2) Benchmark monitoring, effluent limitation monitoring, and impaired waters monitoring (for waters both with and without an approved TMDL). Monitoring shall be conducted at least once in each of the following semiannual periods each year of permit coverage: January through June, and July through December.

e. Documentation explaining a facility's inability to obtain a sample (including dates and times the outfalls were viewed or sampling was attempted), of no rain event, or of ~~no deviation from the~~ "measurable" storm event requirements shall be maintained with the SWPPP. Acceptable documentation includes, ~~but is not limited to,~~ National Climatic Data Center (NCDC) weather station data, local weather station data, facility rainfall logs, and other appropriate supporting data.

f. Representative outfalls - substantially identical discharges. If the facility has two or more outfalls that discharge substantially identical effluents, based on similarities of the industrial activities, significant materials, size of drainage areas, and stormwater management practices occurring within the drainage areas of the outfalls, frequency of discharges, and stormwater management practices occurring within the drainage areas of the outfalls, the permittee may conduct monitoring on the effluent of just one of the outfalls and report that the observations also apply to the substantially identical outfall or outfalls. The substantially identical outfall monitoring provisions apply to quarterly visual monitoring, benchmark monitoring, and impaired waters monitoring (both those with and without an approved TMDL). The substantially identical outfall monitoring provisions are not available for numeric effluent limits monitoring.

The permittee shall include the following information in the SWPPP:

(1) The locations of the outfalls;

(2) ~~Why the~~ An evaluation, including available monitoring data, indicating the outfalls are expected to discharge substantially identical effluents, including evaluation of monitoring data where available; and

(3) ~~Estimates~~ An estimate of the size ~~of the drainage area (in square feet) for each of the outfalls~~ of each outfall's drainage area in acres.

3. Adverse climatic conditions waiver. When adverse weather conditions prevent the collection of samples, a substitute sample may be taken during a qualifying storm event in the next monitoring period. Adverse weather

conditions are those that are dangerous or create inaccessibility for personnel, and may include such things as local flooding, high winds, electrical storms, or situations that otherwise make sampling impracticable, such as drought or extended frozen conditions. Unless specifically stated otherwise, this waiver may be applied to any monitoring required under this permit. Narrative documentation of conditions necessitating the use of the waiver shall be kept with the SWPPP.

4. Inactive and unstaffed sites (including temporarily inactive sites).

a. A waiver of the quarterly visual ~~assessments~~ monitoring, routine facility inspections, and monitoring requirements (including benchmark, effluent limitation, and impaired waters monitoring) may be granted by the board at a facility that is both inactive and unstaffed, as long as the facility remains inactive and unstaffed and there are no industrial materials or activities exposed to stormwater. The owner of such a facility is only required to conduct an annual ~~comprehensive~~ routine site inspection in accordance with the requirements in Part III ~~E~~ B 5.

b. An inactive and unstaffed sites waiver request shall be submitted to the board for approval and shall include: the name of the facility; the facility's VPDES general permit registration number; a contact person, phone number and email address (~~if available~~); the reason for the request; and the date the facility became or will become inactive and unstaffed. The waiver request shall be signed and certified in accordance with Part II K. If this waiver is granted, a copy of the request and the board's written approval of the waiver shall be maintained with the SWPPP.

c. If circumstances change and industrial materials or activities become exposed to stormwater, or the facility becomes either active or staffed, the permittee shall notify the department within 30 days, and all quarterly visual ~~assessments~~ monitoring, routine facility inspections, and monitoring requirements shall be resumed immediately.

d. The board retains the right to revoke this waiver when it is determined that the discharge is causing, has a reasonable potential to cause, or contributes to a water quality standards violation.

e. Inactive and unstaffed facilities covered under Sector G (Metal Mining) and Sector H (Coal Mines and Coal Mining-Related Facilities) are not required to meet the "no industrial materials or activities exposed to stormwater" standard to be eligible for this waiver, consistent with the conditional exemption requirements established in Part IV Sector G and Part IV Sector H.

5. Reporting monitoring results.

a. Reporting to the department. The permittee shall follow the reporting requirements and deadlines below for the types of monitoring that apply to the facility:

TABLE 70-4
MONITORING REPORTING REQUIREMENTS

Semiannual Monitoring	Submit the results [on a DMR] by January 10 and by July 10.
Quarterly Visual Monitoring	Retain results with SWPPP - do not submit unless requested to do so by the department.

~~Permittees shall submit results for each outfall associated with industrial activity according to the requirements of Part II C. For each outfall sampled, one signed discharge monitoring report (DMR) form shall be submitted to the department per storm event sampled. For representative outfalls, the sampled outfall will be reported on the DMR, and the outfalls that are representative of the sampled outfall will be listed in the comment section of the DMR. Signed DMRs are not required for each of the outfalls that are representative of the sampled outfall.~~

~~b. Additional reporting. In addition to submitting copies of discharge monitoring reports in accordance with Part II C, permittees with at least one stormwater discharge associated with industrial activity through a regulated municipal separate storm sewer system (MS4) shall submit signed copies of DMRs to the MS4 operator at the same time as the reports are submitted to the department. Permittees not required to report monitoring data and permittees that are not otherwise required to monitor their discharges need not comply with this provision.~~

e. b. Significant digits. The permittee shall report at least the same number of significant digits as a numeric effluent limitation or TMDL wasteload allocation for a given parameter; otherwise, at least two significant digits shall be reported for a given parameter. Regardless of the rounding convention used by the permittee (i.e., five always rounding up or to the nearest even number), the permittee shall use the convention consistently and shall ensure that consulting laboratories employed by the permittee use the same convention.

6. Corrective actions.

a. Data exceeding [~~benchmarks~~ benchmark] concentration values.

(1) If the benchmark monitoring result exceeds the benchmark concentration value for that parameter, the permittee shall review the SWPPP and modify it as necessary to address any deficiencies that caused the exceedance. Revisions to the SWPPP shall be completed within ~~30~~ 60 days after an exceedance is discovered. When control measures need to be modified or added (distinct from regular preventive maintenance of existing control measures described in Part III C), implementation shall be completed before the next anticipated storm event if possible, but no later than 60 days after the exceedance is discovered, or as otherwise provided or approved by the department. In cases where construction is necessary to implement control measures, the permittee shall include a schedule in the SWPPP that provides for the completion of the control measures as expeditiously as practicable, but no later than three years after the exceedance is discovered. Where a construction compliance schedule is included in the SWPPP, the ~~plan~~ SWPPP shall include appropriate nonstructural and temporary controls to be implemented in the affected ~~portion(s)~~ portions of the facility prior to completion of the permanent control measure. Any control measure modifications shall be documented and dated, and retained with the SWPPP, along with the amount of time taken to modify the applicable control measures or implement additional control measures.

(2) Natural background pollutant levels. If the concentration of a pollutant exceeds a benchmark concentration value, and the permittee determines that exceedance of the benchmark is attributable solely to the presence of that pollutant in the natural background, corrective action is not required provided that:

(a) The concentration of the benchmark monitoring result is less than or equal to the concentration of that pollutant in the natural background;

(b) The permittee documents and maintains with the SWPPP the supporting rationale for concluding that benchmark exceedances are in fact attributable solely to natural background pollutant levels. The supporting rationale shall include any data previously collected by the facility or others (including literature studies) that describe the levels of natural background pollutants in the facility's stormwater discharges; and

(c) The permittee notifies the department on the benchmark monitoring DMR that the benchmark exceedances are attributable solely to natural background pollutant levels.

Natural background pollutants include those substances that are naturally occurring in soils or groundwater. Natural background pollutants do not include legacy pollutants from earlier activity on the facility's site, or pollutants in run-on from neighboring sources that are not naturally occurring.

b. Corrective actions. The permittee shall take corrective action whenever:

(1) Routine facility inspections, ~~comprehensive site compliance evaluations~~, inspections by local, state or federal officials, or any other process, observation or event result in a determination that modifications to the stormwater control measures are necessary to meet the permit requirements;

(2) There is any exceedance of an effluent limitation (including coal pile runoff), TMDL wasteload allocation, or a reduction required by a local ordinance established by a municipality to meet Chesapeake Bay TMDL requirements; or

(3) The department determines, or the permittee becomes aware, that the stormwater control measures are not stringent enough for the discharge to meet applicable water quality standards.

The permittee shall review the SWPPP and modify it as necessary to address any deficiencies. Revisions to the SWPPP shall be completed within ~~30~~ 60 days following the discovery of the deficiency. When control measures need to be modified or added (distinct from regular preventive maintenance of existing control measures described in Part III C), implementation shall be completed before the next anticipated storm event if possible, but no later than 60 days after the deficiency is discovered, or as otherwise provided or approved by the department. In cases where construction is necessary to implement control measures, the permittee

shall include a schedule in the SWPPP that provides for the completion of the control measures as expeditiously as practicable, but no later than three years after the deficiency is discovered. Where a construction compliance schedule is included in the SWPPP, the ~~plan~~ SWPPP shall include appropriate nonstructural and temporary controls to be implemented in the affected ~~portion(s)~~ portion of the facility prior to completion of the permanent control measure. The amount of time taken to modify a control measure or implement additional control measures shall be documented in the SWPPP.

Any corrective actions taken shall be documented and retained with the SWPPP. Reports of corrective actions shall be signed in accordance with Part II K.

c. Follow-up reporting. If at any time monitoring results indicate that discharges from the facility exceed an effluent limitation or a TMDL wasteload allocation, or the department determines that discharges from the facility are causing or contributing to an exceedance of a water quality standard, immediate steps shall be taken to eliminate the exceedances in accordance with the above Part I A 6 b (Corrective actions). Within 30 calendar days of implementing the relevant corrective ~~action(s)~~ action, an exceedance report shall be submitted to the department. The following information shall be included in the report: ~~general permit registration number; facility name, address, and location; receiving water; monitoring data from this event; an explanation of the situation; description of what has been done and the intended actions (should the corrective actions not yet be complete) to further reduce pollutants in the discharge; and an appropriate contact name and phone number.~~

(1) General permit registration number;

(2) Facility name and address;

(3) Receiving water for each outfall exceeding an effluent limitation of TMDL wasteload allocation;

(4) Monitoring data from the event being reported;

(5) A narrative description of the situation;

(6) A description of actions taken since the event was discovered and steps taken to minimize to the extent feasible pollutants in the discharge; and

(7) A local facility contact name, email address, and phone number.

B. Special conditions.

1. ~~Allowable~~ Authorized nonstormwater discharges. Except as provided in this section or in Part IV (9VAC25-151-90 et seq.), all discharges covered by this permit shall be composed entirely of stormwater. The following nonstormwater discharges are authorized by this permit:

a. Discharges from emergency firefighting activities;

b. Fire hydrant flushings, managed in a manner to avoid an instream impact;

c. Potable water, including water line flushings, managed in a manner to avoid an instream impact;

d. Uncontaminated condensate from air conditioners, coolers, and other compressors and from the outside storage of refrigerated gases or liquids;

e. Irrigation drainage;

f. Landscape watering provided all pesticides, herbicides, and fertilizer have been applied in accordance with the approved labeling;

g. Routine external building washdown that does not use detergents or hazardous cleaning products;

h. Pavement wash waters where no detergents or hazardous cleaning products are used and no spills or leaks of toxic or hazardous materials have occurred (unless all spilled material has been removed). Pavement wash waters shall be managed in a manner to avoid an instream impact;

i. Uncontaminated ground water or spring water;

j. Foundation or footing drains where flows are not contaminated with process materials; and

k. Incidental windblown mist from cooling towers that collects on rooftops or adjacent portions of the facility, but not intentional discharges from the cooling tower (e.g., "piped" cooling tower blowdown or drains).

All other nonstormwater discharges are not authorized and shall either be eliminated or covered under a separate VPDES permit.

The following nonstormwater discharges are specifically not authorized by this permit:

~~Sector A— Timber products. Discharges of stormwater from areas where there may be contact with chemical formulations sprayed to provide surface protection.~~

~~Sector C— Chemical and allied products manufacturing. Inks, paints, or substances (hazardous, nonhazardous, etc.) resulting from an on-site spill, including materials collected in drip pans; washwaters from material handling and processing areas; or washwaters from drum, tank, or container rinsing and cleaning.~~

~~Sector G— Metal mining (ore mining and dressing). Adit drainage or contaminated springs or seeps; and contaminated seeps and springs discharging from waste rock dumps that do not directly result from precipitation events.~~

~~Sector H— Coal mines and coal mining related facilities. Discharges from pollutant seeps or underground drainage from inactive coal mines and refuse disposal areas that do not result from precipitation events; and discharges from floor drains in maintenance buildings and other similar drains in mining and preparation plant areas.~~

~~Sector I— Oil and gas extraction and refining. Discharges of vehicle and equipment washwater, including tank cleaning operations.~~

~~Sector K— Hazardous waste treatment, storage, or disposal facilities. Leachate, gas collection condensate, drained free liquids, contaminated ground water, laboratory derived wastewater and contact washwater from washing truck, equipment, and railcar exteriors and surface areas that have come in direct contact with solid waste at the landfill facility.~~

~~Sector L— Landfills, land application sites and open dumps. Leachate, gas collection condensate, drained free liquids, contaminated ground water, laboratory wastewater, and contact washwater from washing truck, equipment, and railcar exteriors and surface areas that have come in direct contact with solid waste at the landfill facility.~~

~~Sector N— Scrap recycling and waste recycling facilities. Discharges from turnings containment areas in the absence of a storm event.~~

~~Sector O— Steam electric generating facilities. Nonstormwater discharges subject to effluent limitation guidelines.~~

~~Sector P— Land transportation and warehousing. Vehicle, equipment, or surface washwater, including tank cleaning operations.~~

~~Sector Q— Water transportation. Bilge and ballast water, sanitary wastes, pressure wash water, and cooling water originating from vessels.~~

~~Sector R— Ship and boat building or repair yards. Bilge and ballast water, pressure wash water, sanitary wastes, and cooling water originating from vessels.~~

~~Sector S— Air transportation. Aircraft, ground vehicle, runway and equipment washwaters; and dry weather discharges of deicing and anti-icing chemicals.~~

~~Sector T— Treatment works. Sanitary and industrial wastewater; and equipment or vehicle washwaters.~~

~~Sector U— Food and kindred products. Boiler blowdown, cooling tower overflow and blowdown, ammonia refrigeration purging, and vehicle washing and clean-out operations.~~

~~Sector V— Textile mills, apparel, and other fabric products. Discharges of wastewater (e.g., wastewater as a result of wet processing or from any processes relating to the production process); reused or recycled water; and waters used in cooling towers.~~

2. Releases of hazardous substances or oil in excess of reportable quantities. The discharge of hazardous substances or oil in the stormwater ~~discharge(s)~~ discharges from the facility shall be prevented or minimized in accordance with the ~~stormwater pollution prevention plan SWPPP~~ SWPPP for the facility. This permit does not authorize the discharge of hazardous substances or oil resulting from an on-site spill. This permit does not relieve the permittee of the reporting requirements of 40 CFR Part 110, 40 CFR Part 117, and 40 CFR Part 302 or § 62.1-44.34:19 of the Code of Virginia.

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

- a. The permittee is required to notify the department in accordance with the requirements of Part II G as soon as he has knowledge of the discharge;
 - b. Where a release enters ~~a municipal separate storm sewer system (MS4)~~ an MS4, the permittee shall also notify the owner of the MS4; and
 - c. The ~~stormwater pollution prevention plan~~ SWPPP required under Part III shall be reviewed to identify measures to prevent the reoccurrence of such releases and to respond to such releases, and the ~~plan~~ SWPPP shall be modified where appropriate.
3. Colocated industrial activity. If the facility has industrial activities occurring on-site which are described by any of the activities in Part IV of the permit (9VAC25-151-90 et seq.), those industrial activities are considered to be colocated industrial activities. Stormwater discharges from colocated industrial activities are authorized by this permit, provided that the permittee complies with any and all additional ~~pollution prevention plan~~ SWPPP and monitoring requirements from Part IV applicable to that particular colocated industrial activity. The permittee shall ~~determine which~~ be responsible for additional ~~pollution prevention plan~~ SWPPP and monitoring requirements ~~are applicable to the colocated industrial activity by examining the narrative descriptions of each coverage section (Discharges covered under this section)~~ all discharges covered under this section.
4. The stormwater discharges authorized by this permit may be combined with other sources of stormwater which are not required to be covered under a VPDES permit, so long as the combined discharge is in compliance with this permit.
5. There shall be no discharge of waste, garbage, or floating debris in other than trace amounts.
6. Approval for coverage under this general permit does not relieve the permittee of the responsibility to comply with any other applicable federal, state, or local statute, ordinance, or regulation.
7. Discharges to waters subject to TMDL wasteload allocations. ~~a.~~ Owners of facilities that are a source of the specified pollutant of concern to waters for which a ~~total maximum daily load (TMDL)~~ TMDL wasteload allocation has been approved prior to the term of this permit shall incorporate measures and controls into the SWPPP required by Part III that are consistent with the assumptions and requirements of the TMDL. The department will provide written notification to the owner that a facility is subject to the TMDL requirements. The facility's SWPPP shall specifically address any conditions or requirements included in the TMDL that are applicable to discharges from the facility. If the TMDL establishes a specific numeric wasteload allocation that applies to discharges from the facility, the owner shall perform any required monitoring in accordance with Part I A 1 c (3), and implement control measures designed to meet that allocation.
- ~~b. Facilities in the Chesapeake Bay watershed.~~
8. Discharges to waters subject to the Chesapeake Bay TMDL.
- (~~4~~) a. Owners of facilities in the Chesapeake Bay watershed shall monitor their discharges for total suspended solids (TSS), total nitrogen (TN), and total phosphorus (TP) to characterize the contributions from their facility's specific industrial sector for these parameters. Total nitrogen is the sum of total Kjeldahl nitrogen (TKN) and nitrite + nitrate and shall be derived from the results of those tests. After the facility is granted coverage under the permit, samples shall be collected during each of the first four monitoring periods (i.e., the first two years of permit coverage). Monitoring periods are specified in Part I A 2. Samples shall be collected and analyzed in accordance with Part I A 2. Monitoring results shall be reported in accordance with Part I A 5 and Part II C, and retained in accordance with Part II B.
 - (~~2~~) b. Facilities that were covered under the ~~2009~~ 2014 industrial stormwater general permit ~~that sampled for TSS, TN, or TP may use applicable sampling data from the last two monitoring periods of that permit and the first two monitoring periods of this permit to satisfy the four consecutive monitoring periods requirement.~~ shall comply with the following:
 - (1) Facilities that submitted a Chesapeake Bay TMDL action plan that was approved by the board during the 2014 industrial stormwater general permit term shall continue to implement the approved Chesapeake Bay TMDL action plan during this permit term. An annual report shall be submitted to the department by June 30 of each year describing the progress in meeting the required reductions unless this reporting requirement is waived by the department in accordance with Part I B 8 g. Monitoring in accordance with Part I B 8 a is not required for these facilities during this permit term.

(2) Facilities that completed four samples for TSS, TN, and TP during the 2014 industrial stormwater general permit term shall utilize the procedures in Part I B 8 c (2) to calculate their facility stormwater loads. The permittee shall submit a copy of the calculations and Chesapeake Bay TMDL action plan if required under Part I B 8 f to the department within 60 days of coverage under this general permit.

(3) Facilities that did not complete four samples for TSS, TN, and TP during the 2014 industrial stormwater general permit term shall be subject to completing the monitoring requirements in Part I B 8 a beginning with the first full monitoring period after receiving permit coverage. Calculations and a Chesapeake Bay TMDL action plan if required under Part I B 8 f shall be submitted no later than 90 days following the completion of the fourth monitoring period to the DEQ regional office serving the area where the industrial facility is located on a form provided by the department and maintained with the facility's SWPPP.

(4) Facilities that monitored for TSS, TN, or TP may use the applicable sampling data collected during the 2014 industrial stormwater general permit term to satisfy all or part of the four monitoring periods requirement in accordance with Part I B 8 a.

~~(3) c.~~ Chesapeake Bay TMDL wasteload allocations and Chesapeake Bay TMDL action plans.

~~(a) (1)~~ EPA's Chesapeake Bay TMDL (December 29, 2010) includes wasteload allocations for VPDES permitted industrial stormwater facilities as part of the regulated stormwater aggregate load. EPA used data submitted by Virginia with the Phase I Chesapeake Bay TMDL Watershed Implementation Plan, including the number of industrial stormwater permits per county and the number of urban acres regulated by industrial stormwater permits, as part of their development of the aggregate load. Aggregate loads for industrial stormwater facilities were appropriate because actual facility loading data were not available to develop individual facility wasteload allocations.

Virginia estimated the loadings from industrial stormwater facilities using actual and estimated facility acreage information and TP, TN, and TSS loading ~~values~~ rates from the Northern Virginia Planning District Commission (NVPDC) Guidebook for Screening Urban Nonpoint Pollution Management Strategies (Annandale, VA November 1979), prepared for the Metropolitan Washington Council of Governments. The loading ~~values~~ rates used were as follows:

TP - High (80%) imperviousness industrial; 1.5 lb/ac/yr

TN - High (80%) imperviousness industrial; 12.3 lb/ac/yr

TSS - High (80%) imperviousness industrial; 440 lb/ac/yr

The actual facility area information and the TP, TN, and TSS data collected for this permit will be used by the board to quantify the nutrient and sediment loads from VPDES permitted industrial stormwater facilities ~~and will be submitted to EPA to aid in further refinements to its Chesapeake Bay TMDL model. The loading information will also be used by the board to determine any additional load reductions needed for industrial stormwater facilities for the next reissuance of this permit.~~

~~(b) Data analysis and Chesapeake Bay TMDL action plans~~ (2) Calculation of facility loads. The permittee shall analyze the nutrient and sediment data collected in accordance with ~~subdivision 7 b (1) of this subsection~~ Part I B 8 a and 8 b to determine if ~~additional action is needed~~ pollution reductions are required for this permit term. The permittee shall average the data collected at the facility for each of the pollutants of concern (POC) (e.g., TP, TN, and TSS) and compare the results to the loading ~~values~~ rates for TP, TN, and TSS presented in ~~subdivision 7 b (3) (a) of this subsection~~ Part I B 8 c (1). ~~To calculate the facility loadings, the permittee may use either (i) actual annual average rainfall data for the facility location (in inches/year), or the Virginia annual average rainfall of 44.3 inches/year; or (ii) another method approved by the board.~~

The following formula may be used to determine the loading ~~value~~ rate:

$$L = (0.2263 \times R \times C) / A \quad \underline{0.226 \times P \times P_j \times (0.05 + (0.9 \times I_a)) \times C}$$

where:

L = the POC loading ~~value~~ rate (lb/acre/year)

~~R = the annual average rainfall (inches/year)~~

P = the annual rainfall (inches/year) - The permittee may use either actual annual average rainfall data for the facility location (in inches/year), the Virginia annual average rainfall of 44.3 inches/year, or another method approved by the board.

Pj = the fraction of annual events that produce runoff - The permittee shall use 0.9 unless the board approves another rate.

Ia = the impervious fraction of the facility impervious area of industrial activity to the facility industrial activity area

C = the POC average concentration of all facility samples (mg/L) - Facilities with multiple outfalls shall calculate a weighted average concentration for each outfall using the drainage area of each outfall.

A = the facility industrial activity area (acres)

(e) For total phosphorus and total suspended solids, all daily concentration data below the quantitation level (QL) for the analytical method used shall be treated as half the QL. All daily concentration data equal to or above the QL for the analytical method used shall be treated as it is reported.

For total nitrogen, if none of the daily concentration data for the respective species (i.e., TKN, nitrate, or nitrite) are equal to or above the QL for the respective analytical methods used, the daily TN concentration value reported shall equal one half of the largest QL used for the respective species. If one of the data is equal to or above the QL, the daily TN concentration value shall be treated as that data point is reported. If more than one of the data is above the QL, the daily TN concentration value shall equal the sum of the data points as reported.

d. The permittee shall submit a copy of the calculations to the department within 90 days from the end of the last monitoring period that satisfies the monitoring requirement in Part I B 8 a. Calculations shall be submitted to the DEQ regional office serving the area where the industrial facility is located[,] on a form provided by the department[,] and maintained with the facility's SWPPP.

e. Any modification to the facility's industrial acreage or impervious industrial acreage [will shall] require the facility to recalculate facility loading rates. This may require the facility to modify the facility's Chesapeake Bay TMDL action plan or submit a Chesapeake Bay TMDL action plan as appropriate. Any recalculation of facility loading rates or modifications to a Chesapeake Bay TMDL action plan shall be submitted to the department within 90 days of the date on which the permittee completes a site modification. If previous monitoring is no longer representative of the modified facility, monitoring in accordance with Part I B 8 a shall commence within 90 days of the modification and the revised calculations and Chesapeake Bay TMDL action plan if required under Part I B 8 f shall be submitted no later than 90 days following completion of the fourth monitoring period.

f. Chesapeake Bay TMDL action plan Requirements. If the calculated facility loading value rate for TP, TN, or TSS is above the loading values rates for TP, TN, or TSS presented in subdivision 7 b (3) (a) of this subsection Part I B 8 c (1), then the permittee shall develop and submit to the board for review and approval a Chesapeake Bay TMDL Action Plan action plan to the department. The plan shall be submitted within 90 days from the end of the second year's monitoring period (by September 28, 2016). The permittee shall implement the approved plan over the remaining term of this permit to achieve all the necessary reductions by June 30, 2024. The action plan shall include:

(i) The Chesapeake Bay TMDL action plan shall be submitted on a form provided by the department to the regional office serving the area where the industrial facility is located within 90 days following the completion of the fourth monitoring period. A copy of the current Chesapeake Bay TMDL action plan and all facility loading rate calculations shall be maintained with the facility's SWPPP. The Chesapeake Bay TMDL action plan shall include:

(1) A determination of the total pollutant load reductions for TP, TN, and TSS (as appropriate) necessary to reduce the annual loads from industrial activities. This shall be determined by calculating multiplying the industrial average times the difference between the TMDL loading values rates listed in subdivision 7 b (3) (a) of this subsection, Part I B 8 c (1) and the average of the sampling data for TP, TN, or TSS (as appropriate) for the entire facility actual facility loading rates calculated in accordance with Part I B 8 c (2). The reduction applies to the total difference calculated for each pollutant of concern;

~~(ii) (2)~~ The means and methods, such as management practices and retrofit programs, that will be utilized to meet the required reductions determined in ~~subdivision 7 b (3) (c) (i) of this subsection~~, Part I B 8 f (1) and a schedule to achieve those reductions by June 30, 2024. The schedule should include annual ~~benchmarks milestones~~ to demonstrate the ongoing progress in meeting those reductions; and

~~(iii) (3)~~ The permittee may consider utilization of any pollutant trading or offset program in accordance with §§ 62.1-44.19:20 through 62.1-44.19:23 of the Code of Virginia, governing trading and offsetting, to meet the required reductions.

~~(d) g.~~ A permittee required to develop and implement a Chesapeake Bay TMDL Action Plan shall submit an annual report to the department by June 30 of each year describing the progress in meeting the required reductions.

h. Chesapeake Bay TMDL action plan annual reporting waiver. Upon implementation of the facility's Chesapeake Bay TMDL action plan, permittees may submit a waiver for the annual reporting requirements. The waiver request shall be submitted for board approval to the DEQ regional office serving the area where the industrial facility is located on a form provided by the department. Annual reporting requirements will be in effect until the permittee receives notice from the department that the waiver has been approved. A copy of the waiver approval shall be maintained with the SWPPP. The waiver may be revoked for cause by the board. A waiver request may be approved by the board once the permittee demonstrates that they have achieved all of the required pollutant reductions calculated under Part I B 8 f (1). Pollutant reductions may be achieved using a combination of the following alternatives:

(1) Reductions provided by one or more of the BMPs from the Virginia Stormwater BMP Clearinghouse listed in 9VAC25-870-65, approved BMPs found on the Virginia Stormwater Clearinghouse website, or BMPs approved by the Chesapeake Bay Program. Any BMPs implemented to provide the required pollutant reductions shall be incorporated in the SWPPP and be permanently maintained by the permittee;

(2) Implementation of site-specific BMPs followed by a minimum of four stormwater samples collected in accordance with sampling requirements in Part I B 8 a that demonstrate pollutant loadings have been reduced below those calculated under Part I B 8 c. Any BMPs implemented to provide the required pollutant reductions shall be incorporated in the SWPPP and be permanently maintained by the permittee; or

(3) Acquisition of nonpoint source credits certified by the board as perpetual in accordance with § 62.1-44.19:20 of the Code of Virginia.

~~8- 9.~~ Discharges through a regulated MS4 to waters subject to the Chesapeake Bay TMDL. In addition to the requirements of this permit, any facility with industrial activity [~~stormwater~~] discharges through a regulated MS4 that is notified by the MS4 operator that the locality has adopted ordinances to meet the Chesapeake Bay TMDL shall incorporate measures and controls into its SWPPP to comply with applicable local TMDL ordinance requirements.

~~9- 10.~~ Expansion of facilities that discharge to waters subject to the Chesapeake Bay TMDL. Virginia's Phase I Chesapeake Bay TMDL Watershed Implementation Plan (November 29, 2010), states that the wasteloads from any expansion of an existing permitted facility discharging stormwater in the Chesapeake Bay watershed cannot exceed the nutrient and sediment loadings that were discharged from the expanded portion of the land prior to the land being developed for the expanded industrial activity.

a. For any industrial activity area expansions (i.e., construction activities, including clearing, grading, and excavation activities) that commence on or after July 1, ~~2014~~ 2019, (the effective date of this permit), the permittee shall document in the SWPPP the information and calculations used to determine the nutrient and sediment loadings discharged from the expanded land area prior to the land being developed, and the measures and controls that were employed to meet the no net increase of stormwater nutrient and sediment load as a result of the expansion of the industrial activity. Any land disturbance that is exempt from permitting under the VPDES construction stormwater general permit regulation (9VAC25-880) is exempt from this requirement.

b. The permittee may use the VSMP water quality design criteria to meet the requirements of ~~subdivision 9 Part I B 10 a of this subsection~~. Under this criteria, the total phosphorus load shall not exceed the greater of: (i) the total phosphorus load that was discharged from the expanded portion of the land prior to the land being developed for the industrial activity or (ii) 0.41 pounds per acre per year. Compliance with the water quality design criteria may be determined utilizing the Virginia Runoff Reduction Method or another

equivalent methodology approved by the board. Design specifications and pollutant removal efficiencies for specific BMPs can be found on the Virginia Stormwater BMP Clearinghouse website at <http://www.vwrre.vt.edu/swe>.

c. The permittee may consider utilization of any pollutant trading or offset program in accordance with §§ 62.1-44.19:20 through 62.1-44.19:23 of the Code of Virginia, governing trading and offsetting, to meet the no net increase requirement.

10. Water quality protection. The discharges authorized by this permit shall be controlled as necessary to meet applicable water quality standards. The board expects that compliance with the conditions in this permit will control discharges as necessary to meet applicable water quality standards.

11. Adding or deleting stormwater outfalls. The permittee may add new or delete existing stormwater outfalls at the facility as necessary and appropriate. The permittee shall update the SWPPP and notify the department of all outfall changes within 30 days of the change. The permittee shall submit a copy of the updated SWPPP site map with this notification.

12. Antidegradation requirements for new or increased discharges to high quality waters. Facilities that add new outfalls, or increase their discharges from existing outfalls that discharge directly to high quality waters designated under Virginia's water quality standards antidegradation policy under 9VAC25-260-30 A 2 may be notified by the department that additional control measures, or other permit conditions are necessary to comply with the applicable antidegradation requirements, or may be notified that an individual permit is required in accordance with 9VAC25-31-170 B 3.

~~13. If the permittee discharges to surface waters through a municipal separate storm sewer system (MS4), the permittee shall, within 30 days of coverage under this general permit, notify the owner of the MS4 in writing of the existence of the discharge and provide the following information: the name of the facility, a contact person and phone number, the location of the discharge, the nature of the discharge, and the facility's VPDES general permit registration number. A copy of such notification shall be provided to the department.~~

~~14.~~ 13. Termination of permit coverage.

a. The owner may terminate coverage under this general permit by filing a complete notice of termination with the department. The notice of termination may be filed after one or more of the following conditions have been met:

(1) Operations have ceased at the facility and there are no longer discharges of stormwater associated with industrial activity from the facility;

(2) A new owner has assumed responsibility for the facility (~~Note: A notice of termination does not have to be submitted if a VPDES Change of Ownership Agreement Form has been submitted~~) submitted;

(3) All stormwater discharges associated with industrial activity have been covered by an individual VPDES permit; or

(4) Termination of coverage is being requested for another reason, provided the board agrees that coverage under this general permit is no longer needed.

b. The notice of termination shall contain the following information:

(1) Owner's name, mailing address, telephone number, and email address (if available);

(2) Facility name and location;

(3) VPDES industrial stormwater general permit registration number;

(4) The basis for submitting the notice of termination, including:

(a) A statement indicating that a new owner has assumed responsibility for the facility;

(b) A statement indicating that operations have ceased at the facility, and there are no longer discharges of stormwater associated with industrial activity from the facility;

(c) A statement indicating that all stormwater discharges associated with industrial activity have been covered by an individual VPDES permit; or

(d) A statement indicating that termination of coverage is being requested for another reason (~~state the reason~~); and a description of the reason; and

(5) The following certification: "I certify under penalty of law that all stormwater discharges associated with industrial activity from the identified facility that are authorized by this VPDES general permit have been eliminated, or covered under a VPDES individual permit, or that I am no longer the owner of the industrial activity, or permit coverage should be terminated for another reason listed above. I understand that by submitting this notice of termination, that I am no longer authorized to discharge stormwater associated with industrial activity in accordance with the general permit, and that discharging pollutants in stormwater associated with industrial activity to surface waters is unlawful where the discharge is not authorized by a VPDES permit. I also understand that the submittal of this notice of termination does not release an owner from liability for any violations of this permit or the Clean Water Act."

c. The notice of termination shall be signed in accordance with Part II K.

d. The notice of termination shall be submitted to the DEQ regional office serving the area where the industrial facility is located.

Part II

Conditions Applicable to All VPDES Permits

A. Monitoring.

1. Samples and measurements taken as required by this permit shall be representative of the monitored activity.
2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this permit.
3. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.
4. Samples taken as required by this permit shall be analyzed in accordance with 1VAC30-45 (Certification for Noncommercial Environmental Laboratories) or 1VAC30-46 (Accreditation for Commercial Environmental Laboratories).

B. Records.

1. Records of monitoring information shall include:
 - a. The date, exact place, and time of sampling or measurements;
 - b. The ~~individual(s)~~ individuals who performed the sampling or measurements;
 - c. The ~~date(s)~~ dates and ~~time(s)~~ times analyses were performed;
 - d. The ~~individual(s)~~ individuals who performed the analyses;
 - e. The analytical techniques or methods used; and
 - f. The results of such analyses.
2. The permittee shall retain copies of the SWPPP, including any modifications made during the term of this permit, records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the registration statement for this permit, for a period of at least three years from the date that coverage under this permit expires or is terminated. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the board.

C. Reporting monitoring results.

1. The permittee shall submit the results of the monitoring required by this permit not later than the 10th day of the month after monitoring takes place, unless another reporting schedule is specified elsewhere in this permit. Monitoring results shall be submitted to the department's regional office.
2. Monitoring results shall be reported ~~on a discharge monitoring report (DMR) or on forms provided, approved or specified by the department~~ in the department's electronic discharge monitoring report (e-DMR) system. All reports and forms submitted in compliance with this permit shall be submitted electronically by the permittee in accordance with 9VAC25-31-1020.
3. If the permittee monitors any pollutant specifically addressed by this permit more frequently than required by this permit using test procedures approved under 40 CFR Part 136 or using other test procedures approved by

the U.S. Environmental Protection Agency or using procedures specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted ~~on the DMR~~ in e-DMR or reporting form specified by the department.

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

D. Duty to provide information. The permittee shall furnish to the department, within a reasonable time, any information which the board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating coverage under this permit or to determine compliance with this permit. The board may require the permittee to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from the discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of the State Water Control Law. The permittee shall also furnish to the department upon request, copies of records required to be kept by this permit.

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

F. Unauthorized discharges. Except in compliance with this permit, or another permit issued by the board, it shall be unlawful for any person to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or
2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses.

G. Reports of unauthorized discharges. Any permittee who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters in violation of Part II F; or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Part II F, shall notify the department of the discharge immediately upon discovery of the discharge, but in no case later than 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the department within five days of discovery of the discharge. The written report shall contain:

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

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

H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge including a bypass or upset should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify, in no case later than 24 hours, the department 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 permittee shall reduce the report to writing and shall submit it to the department within five days of discovery of the discharge in accordance with Part II I ~~2~~ 1 b. Unusual and extraordinary discharges include ~~but are not limited to~~ any discharge resulting from:

1. Unusual spillage of materials resulting directly or indirectly from processing operations;
2. Breakdown of processing or accessory equipment;
3. Failure or taking out of service some or all of the treatment works; and

4. Flooding or other acts of nature.

I. Reports of noncompliance.

~~1.~~ 1. The permittee shall report any noncompliance ~~which~~ that may adversely affect state waters or may endanger public health.

~~1.~~ a. An oral report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The following shall be included as information ~~which~~ that shall be reported within 24 hours under ~~this paragraph~~ Part II 1:

~~a.~~ (1) Any unanticipated bypass; and

~~b.~~ (2) Any upset which causes a discharge to surface waters.

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

~~a.~~ (1) A description of the noncompliance and its cause;

~~b.~~ (2) The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and

~~c.~~ (3) Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

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

~~3.~~ 2. The permittee shall report all instances of noncompliance not reported under Part II I 1 ~~or 2~~, in writing, at the time the next monitoring reports are submitted. The reports shall contain the information listed in Part II I 2 1.

~~NOTE: 3.~~ The immediate (within 24 hours) reports required in Part II G, H and I may be made to the department's regional office. Reports may be made by telephone, FAX, or online at <http://www.deq.virginia.gov/Programs/PollutionResponsePreparedness/MakingaReport.aspx>. For reports outside normal working hours, a message may be left and this 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.

J. Notice of planned changes.

1. The permittee shall give notice to the department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

a. The permittee plans alteration or addition to any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

(1) After promulgation of standards of performance under § 306 of the Clean Water Act which are applicable to such source; or

(2) After proposal of standards of performance in accordance with § 306 of the Clean Water Act which are applicable to such source, but only if the standards are promulgated in accordance with § 306 within 120 days of their proposal;

b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations nor to notification requirements specified elsewhere in this permit; or

c. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

2. The permittee shall give advance notice to the department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

K. Signatory requirements.

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

a. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy-making or decision-making

functions for the corporation; or (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit registration requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

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

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

2. Reports, etc. All reports required by permits, and other information requested by the board shall be signed by a person described in Part II K 1 or by a duly authorized representative of that person. A person is a duly authorized representative only if:

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

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

c. The written authorization is submitted to the department.

3. Changes to authorization. If an authorization under Part II K 2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part II K 2 shall be submitted to the department prior to or together with any reports, or information to be signed by an authorized representative.

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

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

L. Duty to comply. The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the State Water Control Law and the Clean Water Act, except that noncompliance with certain provisions of this permit may constitute a violation of the State Water Control Law but not the Clean Water Act. Permit noncompliance is grounds for enforcement action; for permit coverage termination, ~~revocation and reissuance, or modification~~; or denial of a permit coverage renewal ~~application~~.

The permittee shall comply with effluent standards or prohibitions established under § 307(a) of the Clean Water Act for toxic pollutants ~~and with standards for sewage sludge use or disposal established under § 405(d) of the Clean Water Act~~ within the time provided in the regulations that establish these standards ~~or prohibitions or standards for sewage sludge use or disposal~~, even if this permit has not yet been modified to incorporate the requirement.

M. Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall submit a new registration statement at least 60 days before the expiration date of the existing 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 permit.

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

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

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

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

R. Disposal of solids or sludges. Solids, sludges or other pollutants removed in the course of treatment or management of pollutants shall be disposed of in a manner so as to prevent any pollutant from such materials from entering state waters.

S. Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

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

U. Bypass.

1. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Part II U 2 and 3.

2. Notice.

a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, prior notice shall be submitted, if possible at least 10 days before the date of the bypass.

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

3. Prohibition of bypass.

a. Bypass is prohibited, and the board may take enforcement action against a permittee for bypass, unless:

(1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(3) The permittee submitted notices as required under Part II U 2.

b. The board may approve an anticipated bypass, after considering its adverse effects, if the board determines that it will meet the three conditions listed above in Part II U 3 a.

V. Upset.

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

2. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. An upset occurred and that the permittee can identify the ~~cause(s)~~ causes of the upset;
 - b. The permitted facility was at the time being properly operated;
 - c. The permittee submitted notice of the upset as required in Part II I; and
 - d. The permittee complied with any remedial measures required under Part II S.

3. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

W. Inspection and entry. The permittee shall allow the director, or an authorized representative, including an authorized contractor acting as a representative of the administrator, upon presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act and the State Water Control Law, any substances or parameters at any location.

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

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

Y. Transfer of permits.

1. Permits are not transferable to any person except after notice to the department.
2. Coverage under this permit may be automatically transferred to a new permittee if:
 - ~~1.~~ a. The current permittee notifies the department within 30 days of the ~~proposed~~ transfer of the title to the facility or property, unless permission for a later date has been granted by the board;
 - ~~2.~~ b. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
 - ~~3.~~ c. The board does not notify the existing permittee and the proposed new permittee of its intent to deny the new permittee coverage under the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part II Y 2 b.

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

Part III

Stormwater Pollution Prevention Plan

9VAC25-151-80. Stormwater ~~Pollution Prevention Plans~~ pollution prevention plans.

A Stormwater ~~Pollution Prevention Plans~~ pollution prevention plan (SWPPP) shall be developed and implemented for the facility covered by this permit. The SWPPP is intended to document the selection, design, and installation of control measures, including BMPs, to ~~eliminate or reduce~~ minimize the pollutants in all stormwater discharges from the facility, and to meet applicable effluent limitations and water quality standards.

The SWPPP requirements of this general permit may be fulfilled, in part, by incorporating by reference other plans or documents such as a spill prevention control and countermeasure (SPCC) plan developed for the facility under § 311 of the Clean Water Act, or best management practices (BMP) programs otherwise required for the facility, provided that the incorporated plan meets or exceeds the plan requirements of Part III B (Contents of the [~~Plan~~ SWPPP]). All plans

incorporated by reference into the SWPPP become enforceable under this permit. If a plan incorporated by reference does not contain all of the required elements of the SWPPP of Part III B, the permittee shall develop the missing SWPPP elements and include them in the required plan.

A. Deadlines for ~~plan~~ SWPPP preparation and compliance.

1. Facilities that were covered under the ~~2009~~ 2014 Industrial Stormwater General Permit. Owners of facilities that were covered under the ~~2009~~ 2014 Industrial Stormwater General Permit who are continuing coverage under this general permit shall update and implement any revisions to the SWPPP within 90 days of the board granting coverage under this permit.
2. New facilities, facilities previously covered by an expiring individual permit, and existing facilities not currently covered by a VPDES permit. Owners of new facilities, facilities previously covered by an expiring individual permit, and existing facilities not currently covered by a VPDES permit who elect to be covered under this general permit shall prepare and implement the SWPPP prior to submitting the registration statement.
3. New owners of existing facilities. Where the owner of an existing facility that is covered by this permit changes, the new owner of the facility shall update and implement any revisions to the SWPPP within 60 days of the ownership change.
4. Extensions. Upon a showing of good cause, the director may establish a later date in writing for the preparation and compliance with the SWPPP.

B. Contents of the ~~plan~~ SWPPP. The contents of the SWPPP shall comply with the requirements listed below and those in the appropriate sectors of Part IV (9VAC25-151-90 et seq.). These requirements are cumulative. If a facility has collocated industrial activities that are covered in more than one sector of Part IV, that facility's ~~pollution prevention plan~~ SWPPP shall comply with the requirements listed in all applicable sectors. The following requirements are applicable to all SWPPPs developed under this general permit. The ~~plan~~ SWPPP shall include, at a minimum, the following items:

1. Pollution prevention team. The ~~plan~~ SWPPP shall identify the staff individuals by name or title who comprise the facility's stormwater pollution prevention team. The pollution prevention team is responsible for assisting the facility or plant manager in developing, implementing, maintaining, revising and ensuring compliance with the facility's SWPPP. Specific responsibilities of each staff individual on the team shall be identified and listed.
2. Site description. The SWPPP shall include the following:
 - a. ~~Activities at the facility.~~ A description of the nature of the industrial activities at the facility.
 - b. ~~General location map.~~ A general location map (e.g., USGS quadrangle or other map) with enough detail to identify the location of the facility and the receiving waters within one mile of the facility.
 - c. ~~Site map.~~ b. A site map identifying the following:
 - (1) The boundaries of the property and the size of the property (~~in acres~~) in acres;
 - (2) The location and extent of significant structures and impervious surfaces (~~roofs, paved areas and other impervious areas~~);
 - (3) Locations of all stormwater conveyances, including ditches, pipes, swales, and inlets, and the directions of stormwater flow (~~use arrows to show which ways stormwater will flow~~) using arrows to indicate which direction stormwater will flow;
 - (4) Locations of all ~~existing structural and source~~ stormwater control measures, including BMPs;
 - (5) Locations of all surface water bodies, including wetlands;
 - (6) Locations of potential pollutant sources identified under Part III B 3;
 - (7) Locations where significant spills or leaks identified under Part III B 3 c have occurred;
 - (8) ~~Locations of the following activities where such activities are exposed to precipitation: fueling stations; vehicle and equipment maintenance and cleaning areas; loading and unloading areas; locations used for the treatment, storage or disposal of wastes; liquid storage tanks; processing and storage areas; access roads, rail cars and tracks; transfer areas for substances in bulk; and machinery;~~
 - (9) (8) Locations of stormwater outfalls and an approximate outline of the area draining to each outfall, and location of municipal storm sewer systems, if the stormwater from the facility discharges to them. Outfalls shall be numbered using a unique numerical identification code for each outfall (e.g., Outfall No. 001, No. 002, etc.);

- ~~(40)~~ (a) An approximate outline of the area draining to each outfall;
- ~~(b)~~ (b) The drainage area of each outfall in acres;
- ~~(c)~~ (c) The longitude and latitude of each outfall;
- ~~(d)~~ (d) The location of any MS4 conveyance receiving discharge from the facility; and
- ~~(e)~~ (e) Each outfall shall be identified with a unique numerical identification code. For example: Outfall Number 001, Outfall Number 002, etc.;

~~(9)~~ Location and description of all nonstormwater discharges;

~~(11)~~ (10) Location of any storage piles containing salt ~~used for deicing or other commercial or industrial purposes;~~

~~(12)~~ (11) Locations and sources of suspected runoff ~~run-on~~ run-on to the site from an adjacent property, ~~where if~~ the ~~runoff contains~~ run-on is suspected of containing significant quantities of pollutants; and

~~(13)~~ (12) Locations of all stormwater monitoring points.

~~[d c]~~. Receiving waters and wetlands. The name of all surface waters receiving discharges from the site, including intermittent streams, dry sloughs, and arroyos. Provide a description of wetland sites that may receive discharges from the facility. If the facility discharges through a ~~municipal separate storm sewer system (MS4)~~ an MS4, identify the MS4 operator, and the receiving water to which the MS4 discharges.

3. Summary of potential pollutant sources. The ~~plan~~ SWPPP shall identify each separate area at the facility where industrial materials or activities are exposed to stormwater. Industrial materials or activities include, ~~but are not limited to:~~ material handling equipment or activities, industrial machinery, raw materials, industrial production and processes, intermediate products, byproducts, final products, and waste products. Material handling activities include, ~~but are not limited to:~~ the storage, loading and unloading, transportation, disposal, or conveyance of any raw material, intermediate product, final product or waste product. For each separate area identified, the description shall include:

a. Activities in the area. A list of the industrial activities exposed to stormwater (~~e.g., material storage, equipment fueling and cleaning, cutting steel beams~~).

b. Pollutants. A list of the ~~pollutant(s) or pollutants~~, pollutant constituents (~~e.g., crankcase oil, zinc, sulfuric acid, cleaning solvents, etc.~~), or industrial chemicals associated with each industrial activity that could potentially be exposed to stormwater. The pollutant list shall include all significant materials handled, treated, stored or disposed that have been exposed to stormwater in the three years prior to the date this SWPPP was prepared or amended. The list shall include any hazardous substances or oil at the facility.

c. Spills and leaks. The SWPPP shall clearly identify areas where potential spills and leaks that can contribute pollutants to stormwater discharges can occur and their corresponding outfalls. The ~~plan~~ SWPPP shall include a list of significant spills and leaks of toxic or hazardous pollutants that actually occurred at exposed areas, or that drained to a stormwater conveyance during the three-year period prior to the date this SWPPP was prepared or amended. The list shall be updated within 60 days of the incident if significant spills or leaks occur in exposed areas of the facility during the term of the permit. ~~Significant spills and leaks include, but are not limited to, releases of oil or hazardous substances in excess of reportable quantities.~~

d. Sampling data. The ~~plan~~ SWPPP shall include a summary of existing stormwater discharge sampling data taken at the facility. ~~The summary shall include, at a minimum, any data collected during the previous permit term three years.~~

4. Stormwater controls.

a. Control measures shall be implemented for all the areas identified in Part III B 3 (~~summary of potential pollutant sources~~) to prevent or control pollutants in stormwater discharges from the facility. Regulated stormwater discharges from the facility include stormwater ~~runoff~~ run-on that commingles with stormwater discharges associated with industrial activity at the facility. The SWPPP shall describe the type, location and implementation of all control measures for each area where industrial materials or activities are exposed to stormwater.

Selection of control measures shall take into consideration:

(1) That preventing stormwater from coming into contact with polluting materials is generally more effective, and less costly, than trying to remove pollutants from stormwater;

- (2) Control measures generally shall be used in combination with each other for most effective water quality protection;
- (3) Assessing the type and quantity of pollutants, including their potential to impact receiving water quality, is critical to designing effective control measures;
- (4) That minimizing impervious areas at the facility can reduce runoff and improve groundwater recharge and stream base flows in local streams (however, care must be taken to avoid ~~ground-water~~ groundwater contamination);
- (5) Flow attenuation by use of open vegetated swales and natural depressions can reduce in-stream impacts of erosive flows;
- (6) Conservation or restoration of riparian buffers will help protect streams from stormwater runoff and improve water quality; and
- (7) Treatment interceptors (e.g., swirl separators and sand filters) may be appropriate in some instances to minimize the discharge of pollutants.

b. Nonnumeric technology-based effluent limits. The permittee shall implement the following types of control measures to prevent and control pollutants in the stormwater discharges from the facility, unless it can be demonstrated and documented that such controls are not relevant to the discharges (~~e.g., there are no storage piles containing salt~~).

(1) Good housekeeping. The permittee shall keep clean all exposed areas of the facility that are potential sources of pollutants to stormwater discharges. ~~Typical problem areas include areas around trash containers, storage areas, loading docks, and vehicle fueling and maintenance areas. The plan shall include a schedule for regular pickup and disposal of waste materials, along with routine inspections for leaks and conditions of drums, tanks and containers.~~ The permittee shall perform the following good housekeeping measures to minimize pollutant discharges:

(a) The SWPPP shall include a schedule for regular pickup and disposal of waste materials, along with routine inspections for leaks and conditions of drums, tanks, and containers;

(b) As feasible, the facility shall sweep or vacuum;

(c) Store materials in containers constructed of appropriate materials;

(d) Manage all waste containers to prevent a discharge of pollutants;

(e) Minimize the potential for waste, garbage, and floatable debris to be discharged by keeping areas exposed to stormwater free of such materials or by intercepting such materials prior to discharge; and

(f) Facilities that handle pre-production plastic or plastic waste shall implement BMPs to eliminate stormwater discharges of plastics.

(2) Eliminating and minimizing exposure. To the extent practicable, manufacturing, processing, and material storage areas (including loading and unloading, storage, disposal, cleaning, maintenance, and fueling operations) shall be located inside, or protected by a storm-resistant covering to prevent exposure to rain, snow, snowmelt, and runoff. ~~Note:~~ Eliminating exposure at all industrial areas may make the facility eligible for the "Conditional Exclusion for No Exposure" provision of 9VAC25-31-120 E, thereby eliminating the need to have a permit. Unless infeasible, facilities shall implement the following:

(a) Use grading, berming, or curbing to prevent runoff of contaminated flows and divert run-on away from potential sources of pollutants;

(b) Locate materials, equipment, and activities so that potential leaks and spills are contained, or able to be contained, or diverted before discharge;

(c) Clean up spills and leaks immediately, upon discovery of the spills or leaks, using dry methods (e.g., absorbents) to prevent the discharge of pollutants;

(d) Store leaking vehicles and equipment indoors or, if stored outdoors, use drip pans and adsorbents;

(e) Utilize appropriate spill or overflow protections equipment;

(f) Perform all vehicle maintenance or equipment cleaning operations indoors, under cover, or in bermed areas that prevent runoff and run-on and also capture any overspray; and

(g) Drain fluids from equipment and vehicles that will be decommissioned, and for any equipment and vehicles that remain unused for extended periods of time, inspect at least monthly for leaks.

(3) Preventive maintenance. The permittee shall have a preventive maintenance program that includes regular inspection, testing, maintenance and repairing of all industrial equipment and systems to avoid situations that could result in leaks, spills and other releases of pollutants in stormwater discharged from the facility. This program is in addition to the specific control measure maintenance required under Part III C ~~(Maintenance of control measures)~~ (Maintenance).

(4) Spill prevention and response procedures. The ~~plan~~ SWPPP shall describe the procedures that will be followed for preventing and responding to spills and leaks, including:

(a) Preventive measures, such as barriers between material storage and traffic areas, secondary containment provisions, and procedures for material storage and handling;

(b) Response procedures, including notification of appropriate facility personnel, emergency agencies, and regulatory agencies, and procedures for stopping, containing and cleaning up spills. Measures for cleaning up hazardous material spills or leaks shall be consistent with applicable RCRA regulations at 40 CFR Part 264 and 40 CFR Part 265. Employees who may cause, detect or respond to a spill or leak shall be trained in these procedures and have necessary spill response equipment available. If possible, one of these individuals shall be a member of the Pollution Prevention Team;

(c) Procedures for plainly labeling containers (e.g., "used oil," "spent solvents," "fertilizers and pesticides," etc.) that could be susceptible to spillage or leakage to encourage proper handling and facilitate rapid response if spills or leaks occur; and

(d) Contact information for individuals and agencies that must be notified in the event of a spill shall be included in the SWPPP, and in other locations where it will be readily available.

(5) Salt storage piles or piles containing salt. Storage piles of salt or piles containing salt used for deicing or other commercial or industrial purposes shall be enclosed or covered to prevent exposure to precipitation. The permittee shall implement appropriate measures (e.g., good housekeeping, diversions, containment) to minimize exposure resulting from adding to or removing materials from the pile. All salt storage piles shall be located on an impervious surface. All runoff from the pile, and runoff that comes in contact with salt, including under drain systems, shall be collected and contained within a bermed basin lined with concrete or other impermeable materials, or within an underground storage tank or tanks, or within an above ground storage tank or tanks, or disposed of through a sanitary sewer (with the permission of the owner of the treatment facility). A combination of any or all of these methods may be used. In no case shall salt contaminated stormwater be allowed to discharge directly to the ground or to surface waters.

(6) Employee training. The permittee shall implement a stormwater employee training program for the facility. The SWPPP shall include a schedule for all types of necessary training, and shall document all training sessions and the employees who received the training. Training shall be provided at least annually for all employees who work in areas where industrial materials or activities are exposed to stormwater, and for employees who are responsible for implementing activities identified in the SWPPP (e.g., inspectors, maintenance personnel, etc.). The training shall cover the components and goals of the SWPPP, and include such topics as spill response, good housekeeping, material management practices, control measure operation and maintenance, etc. The SWPPP shall include a summary of any training performed.

(7) Sediment and erosion control. The ~~plan~~ SWPPP shall identify areas at the facility that, due to topography, land disturbance (e.g., construction, landscaping, site grading), or other factors, have a potential for soil erosion. The permittee shall identify and implement structural, vegetative, and stabilization control measures to prevent or control on-site and off-site erosion and sedimentation. Flow velocity dissipation devices shall be placed at discharge locations and along the length of any outfall channel if the flows would otherwise create erosive conditions.

(8) Management of runoff. The ~~plan~~ SWPPP shall describe the stormwater runoff management practices (i.e., permanent structural control measures) for the facility. These types of control measures ~~are typically~~ shall be used to divert, infiltrate, reuse, or otherwise reduce pollutants in stormwater discharges from the site.

Structural control measures may require a separate permit under § 404 of the CWA and the Virginia Water Protection Permit Program Regulation (9VAC25-210) before installation begins.

(9) Dust suppression and vehicle tracking of industrial materials. The permittee shall implement control measures to minimize the generation of dust and off-site tracking of raw, final, or waste materials. Stormwater collected on-site may be used for the purposes of dust suppression or for spraying stockpiles. Potable water, well water, and uncontaminated reuse water may also be used for this purpose. There shall be no direct discharge to surface waters from dust suppression activities or as a result of spraying stockpiles.

5. Routine facility inspections. ~~Facility personnel~~ Personnel who possess the knowledge and skills to assess conditions and activities that could impact stormwater quality at the facility and who can also evaluate the effectiveness of control measures shall regularly inspect all areas of the facility where industrial materials or activities are exposed to stormwater, areas where spills or leaks have occurred in the past three years, discharge points, and control measures. ~~These inspections are in addition to, or as part of, the comprehensive site evaluation required under Part III E.~~ At least one member of the pollution prevention team shall participate in the routine facility inspections.

The inspection frequency shall be specified in the ~~plan~~ SWPPP based upon a consideration of the level of industrial activity at the facility, but shall be at a minimum ~~quarterly~~ of once per calendar quarter unless more frequent intervals are specified elsewhere in the permit or written approval is received from the department for less frequent intervals. Inspections shall be performed during ~~periods when the facility is in operation~~ operating hours. At least once each calendar year, the routine facility inspection shall be conducted during a period when a stormwater discharge is occurring.

The requirement for routine facility inspections is waived for facilities that have maintained an active VEEP E3/E4 status. ~~Note:~~ Certain sectors in Part IV have additional inspection requirements. If the VEEP E3/E4 waiver language is not included for the sector specific inspections, these additional inspection requirements may not be waived.

Any deficiencies in the implementation of the SWPPP that are found shall be corrected as soon as practicable, but not later than within ~~30~~ 60 days of the inspection, unless permission for a later date is granted in writing by the director. The results of the inspections shall be documented in the SWPPP and shall include at a minimum:

- a. The inspection date ~~and time~~;
- b. The ~~name(s) and signature(s)~~ names of the ~~inspector(s)~~ inspectors;
- c. Weather information and a description of any discharges occurring at the time of the inspection;
- d. Any previously unidentified discharges of pollutants from the site;
- e. Any control measures needing maintenance or repairs;
- f. Any failed control measures that need replacement;
- g. Any incidents of noncompliance observed; and
- h. Any additional control measures needed to comply with the permit requirements.

C. Maintenance. The SWPPP shall include a description of procedures and a regular schedule for preventive maintenance of all control measures, and shall include a description of the back-up practices that are in place should a runoff event occur while a control measure is off-line. The effectiveness of nonstructural control measures shall also be maintained by appropriate means (e.g., spill response supplies available and personnel trained, etc.).

All control measures identified in the SWPPP shall be maintained in effective operating condition and shall be observed at least annually ~~during active operation (i.e., during a stormwater runoff event)~~ when a stormwater discharge is occurring to ensure that they are functioning correctly. Where discharge locations are inaccessible, nearby downstream locations shall be observed. The observations shall be documented in the SWPPP.

If site routine facility inspections required by Part III B 5 (~~Routine facility inspections~~) or Part III E (~~Comprehensive site compliance evaluation~~) identify control measures that are not operating effectively, repairs or maintenance shall be performed before the next anticipated storm event. If maintenance prior to the next anticipated storm event is not possible, maintenance shall be scheduled and accomplished as soon as practicable. In the interim, back-up measures shall be employed and documented in the SWPPP until repairs or maintenance is complete. Documentation shall be kept with the SWPPP of maintenance and repairs of control measures, including the ~~date(s)~~ dates of regular maintenance, ~~date(s)~~ dates of discovery of areas in need of repair or replacement, ~~date(s)~~ dates for repairs, ~~date(s)~~ dates that the control ~~measure(s)~~ measures returned to full function, and the justification for any extended maintenance or repair schedules.

D. Nonstormwater discharges.

1. Discharges of certain sources of nonstormwater listed in Part I B 1 are allowable discharges under this permit (see ~~Part I B, Special Condition No. 1 Allowable nonstormwater discharges~~). All other nonstormwater discharges are not authorized and shall be either eliminated or covered under a separate VPDES permit.

2. Annual outfall evaluation for unauthorized discharges.

a. The SWPPP shall include documentation that all stormwater outfalls associated with industrial activity have been evaluated annually for the presence of unauthorized discharges (~~i.e., discharges other than stormwater; the authorized nonstormwater discharges described in Part I B, Special Condition No. 1; or discharges covered under a separate VPDES permit, other than this permit~~). The documentation shall include:

(1) The date of the evaluation;

(2) A description of the evaluation criteria used;

(3) A list of the outfalls or on-site drainage points that were directly observed during the evaluation;

(4) A description of the results of the evaluation for the presence of unauthorized discharges; and

(5) The actions taken to eliminate unauthorized discharges if any were identified (~~i.e., a floor drain was sealed, a sink drain was rerouted to sanitary, or a VPDES permit application was submitted for a cooling water discharge~~).

b. The permittee may request in writing to the department that the facility be allowed to conduct annual outfall evaluations at 20% of the outfalls. If approved, the permittee shall evaluate at least 20% of the facility outfalls each year on a rotating basis such that all facility outfalls will be evaluated during the period of coverage under this permit.

~~E. Comprehensive site compliance evaluation. The permittee shall conduct comprehensive site compliance evaluations at least once each calendar year after coverage under the permit begins. The evaluations shall be done by qualified personnel who possess the knowledge and skills to assess conditions and activities that could impact stormwater quality at the facility, and who can also evaluate the effectiveness of control measures. The personnel conducting the evaluations may be either facility employees or outside personnel hired by the facility.~~

~~1. Scope of the compliance evaluation. Evaluations shall include all areas where industrial materials or activities are exposed to stormwater, as identified in Part III B 3. The personnel shall evaluate:~~

~~a. Industrial materials, residue or trash that may have or could come into contact with stormwater;~~

~~b. Leaks or spills from industrial equipment, drums, barrels, tanks or other containers that have occurred within the past three years;~~

~~c. Off site tracking of industrial or waste materials or sediment where vehicles enter or exit the site;~~

~~d. Tracking or blowing of raw, final, or waste materials from areas of no exposure to exposed areas;~~

~~e. Evidence of, or the potential for, pollutants entering the drainage system;~~

~~f. Evidence of pollutants discharging to surface waters at all facility outfalls, and the condition of and around the outfall, including flow dissipation measures to prevent scouring;~~

~~g. Review of stormwater related training performed, inspections completed, maintenance performed, quarterly visual examinations, and effective operation of control measures, including BMPs;~~

~~h. A summary of the annual outfall evaluation for unauthorized discharges required by subdivision D 2 of this section.~~

~~i. Results of both visual and any analytical monitoring done during the past year shall be taken into consideration during the evaluation.~~

~~2. Based on the results of the evaluation, the SWPPP shall be modified as necessary (e.g., show additional controls on the map required by Part III B 2 c; revise the description of controls required by Part III B 4 to include additional or modified control measures designed to correct problems identified). Revisions to the SWPPP shall be completed within 30 days following the evaluation, unless permission for a later date is granted in writing by the director. If existing control measures need to be modified or if additional control measures are necessary, implementation shall be completed before the next anticipated storm event, if practicable, but not more than 60 days after completion of the comprehensive site evaluation, unless permission for a later date is granted in writing by the department.~~

- ~~3. Compliance evaluation report. A report shall be written summarizing the scope of the evaluation, name(s) of personnel making the evaluation, the date of the evaluation, and all observations relating to the implementation of the SWPPP, including elements stipulated in Part III E 1 (a) through (i) above. Observations shall include such things as: the location(s) of discharges of pollutants from the site; location(s) of previously unidentified sources of pollutants; location(s) of control measures that need to be maintained or repaired; location(s) of failed control measures that need replacement; and location(s) where additional control measures are needed. The report shall identify any incidents of noncompliance that were observed. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the SWPPP and this permit. The report shall be signed in accordance with Part II K and maintained with the SWPPP.~~
- ~~4. Where compliance evaluation schedules overlap with routine inspections required under Part III B 5 the annual compliance evaluation may be used as one of the routine inspections.~~

~~F. E. Signature and plan SWPPP review.~~

1. Signature and location. The SWPPP, including revisions to the SWPPP to document any corrective actions taken as required by Part I A 6, shall be signed in accordance with Part II K, dated, and retained on-site at the facility covered by this permit in accordance with Part II B 2. All other changes to the SWPPP, and other permit compliance documentation, shall be signed and dated by the person preparing the change or documentation. For inactive and unstaffed facilities, the plan may be kept at the nearest office of the permittee.
2. Availability. The permittee shall retain a copy of the current SWPPP required by this permit at the facility, and it shall be immediately available to the department, EPA, or the operator of an MS4 receiving discharges from the site at the time of an on-site inspection or upon request.
3. Required modifications. The permittee shall modify the SWPPP whenever necessary to address all corrective actions required by Part I A 6 a (Data exceeding benchmark concentration values) or Part I A 6 b (Corrective actions). Changes to the SWPPP shall be made in accordance with the corrective action deadlines in Part I A 6 a and Part I A 6 b, and shall be signed and dated in accordance with Part III ~~F 1~~ E 1.

The director may notify the permittee at any time that the SWPPP, control measures, or other components of the facility's stormwater program do not meet one or more of the requirements of this permit. The notification shall identify specific provisions of the permit that are not being met, and may include required modifications to the stormwater program, additional monitoring requirements, and special reporting requirements. The permittee shall make any required changes to the SWPPP within 60 days of receipt of such notification, unless permission for a later date is granted in writing by the director, and shall submit a written certification to the director that the requested changes have been made.

~~G. F. Maintaining an updated SWPPP.~~

1. The permittee shall review and amend the SWPPP as appropriate whenever:
 - a. There is construction or a change in design, operation, or maintenance at the facility that has a significant effect on the discharge, or the potential for the discharge, of pollutants from the facility;
 - b. Routine inspections or compliance evaluations determine that there are deficiencies in the control measures, including BMPs;
 - c. Inspections by local, state, or federal officials determine that modifications to the SWPPP are necessary;
 - d. There is a significant spill, leak, or other release at the facility;
 - e. There is an unauthorized discharge from the facility; or
 - f. The department notifies the permittee that a TMDL has been developed and applies to the permitted facility, consistent with Part I B, ~~special condition 7 (Discharges to waters subject to TMDL wasteload allocations).~~
2. SWPPP modifications shall be made within ~~30~~ 60 calendar days after discovery, observation or event requiring a SWPPP modification. Implementation of new or modified control measures (distinct from regular preventive maintenance of existing control measures described in Part III C) shall be initiated before the next storm event if possible, but no later than 60 days after discovery, or as otherwise provided or approved by the director. The amount of time taken to modify a control measure or implement additional control measures shall be documented in the SWPPP.

3. If the SWPPP modification is based on a significant spill, leak, release, or unauthorized discharge, include a description and date of the ~~release incident~~, the circumstances leading to the ~~release incident~~, actions taken in response to the ~~release incident~~, and measures to prevent the recurrence of such releases. Unauthorized ~~releases and discharges~~ are subject to the reporting requirements of Part II G of this permit.

Part IV

Sector Specific Permit Requirements

The permittee must only comply with the additional requirements of Part IV (9VAC25-151-90 et seq.) that apply to the ~~sector(s)~~ sectors of industrial activity located at the facility. These sector specific requirements are in addition to the "basic" requirements specified in Parts I, II and III of this permit. All numeric effluent limitations and benchmark monitoring concentration values reflect two significant digits, unless otherwise noted.

9VAC25-151-90. Sector A - Timber products facilities (including mulch, wood, and bark facilities and mulch dyeing facilities).

A. Discharges covered under this section. ~~4.~~ The requirements listed under this section apply to stormwater discharges associated with industrial activity from facilities generally classified under ~~Standard Industrial Classification (SIC) Major Group 24~~ SIC Codes 2491 and 2499 that are engaged in the following activities: [cutting timber and pulpwood (those that have log storage or handling areas), mills, including merchant, lath, shingle, cooperage stock, planing, plywood and veneer, and producing lumber and wood materials;] wood preserving[, manufacturing wood buildings or mobile homes; and manufacturing finished articles made entirely of wood or related materials, except for wood kitchen cabinet manufacturers (SIC Code 2434),] ~~which are addressed under Sector W (9VAC25-151-300). and mulch, wood, and bark facilities, including mulch dyeing operations (SIC Code 24991303).~~

~~2. The requirements listed under this section also apply to stormwater discharges associated with industrial activity from mulch, wood, and bark facilities, including mulch dyeing operations (SIC Code 24991303).~~

B. Special conditions.

1. Prohibition of nonstormwater discharges. Discharges of stormwater from areas where there may be contact with chemical formulations [~~sprayed~~ applied] to provide surface protection are not authorized by this permit. [Surface protection includes chemical application to control sap stain, mold, mildew, and insects.] These discharges must be covered under a separate VPDES permit. Discharge of wet dye drippings from mulch dyeing operations are also prohibited.

2. Authorized nonstormwater discharges. In addition to the discharges described in Part I B 1, the following nonstormwater discharges may be authorized by this permit provided the nonstormwater component of the discharge is in compliance with 9VAC25-151-90 C and the effluent limitations described in 9VAC25-151-90 D: discharges from the spray down of lumber and wood product storage yards where no chemical additives are used in the spray down waters and no chemicals are applied to the wood during storage.

~~C. Stormwater pollution prevention plan requirements. In addition to the requirements of Part III, the SWPPP shall include, at a minimum, the following items:~~

~~1. Site description.~~

~~a. Site map. The site map shall identify where any of the following may be exposed to precipitation or surface runoff: processing areas; treatment chemical storage areas; treated wood and residue storage areas; wet decking areas; dry decking areas; untreated wood and residue storage areas; and treatment equipment storage areas.~~

~~b. Summary of potential pollutant sources. Where information is available, facilities that have used chlorophenolic, creosote, or chromium-copper-arsenic formulations for wood surface protection or wood preserving activities on site in the past shall identify in the inventory the following: areas where contaminated soils, treatment equipment, and stored materials still remain, and the management practices employed to minimize the contact of these materials with stormwater runoff.~~

~~2. C. Stormwater controls. The description of stormwater management controls shall address the following areas of the site: log, lumber and wood product storage areas; residue storage areas; loading and unloading areas; material handling areas; chemical storage areas; and equipment and vehicle maintenance, storage and repair areas. Facilities that surface protect or preserve wood products shall address specific control measures, including any BMPs, for wood surface protection and preserving activities. Facilities that dye mulch shall address specific control measures to prevent the discharge of wet dye drippings and to prevent seepage of pollutants to groundwater.~~

The SWPPP shall address the following minimum components:

~~a.~~ 1. Good housekeeping. Good housekeeping measures in storage areas, loading and unloading areas, and material handling areas shall be designed to:

- (1) ~~a.~~ Limit the discharge of wood debris;
- (2) ~~b.~~ Minimize the leachate generated from decaying wood materials; and
- (3) ~~c.~~ Minimize the generation of dust.

~~b.~~ 2. Routine facility inspections. Inspections at processing areas, transport areas, and treated wood storage areas of facilities performing wood surface protection and preservation activities shall be performed monthly to assess the usefulness of practices in minimizing the deposit of treatment chemicals on unprotected soils and in areas that will come in contact with stormwater discharges. The requirement for routine facility inspections is waived for facilities that have maintained an active VEEP E3/E4 status.

D. Numeric effluent limitations.

~~[In addition to the numeric effluent limitations described in Part I A 1 c, the~~ The following [numeric effluent] limitations shall be met by existing and new facilities.

Wet deck storage area runoff. Nonstormwater discharges from areas used for the storage of logs where water, without chemical additives, is intentionally sprayed or deposited on logs to deter decay or infestation by insects are required to meet the following effluent limitations: pH shall be within the range of 6.0-9.0, and there will be no discharge of debris. Chemicals are not allowed to be applied to the stored logs. The term "debris" is defined as woody material such as bark, twigs, branches, heartwood or sapwood that will not pass through a 2.54 cm (1 in.) diameter round opening and is present in the discharge from a wet deck storage area. Permittees subject to these numeric limitations shall be in compliance with these limitations through the duration of permit coverage.

Table 90-1
Sector A - Numeric Effluent Limitations

Parameter	Effluent Limitations
Wet Decking Discharges at Log Storage and Handling Areas (SIC Code 2411)	
pH	6.0 - 9.0 s.u.
Debris (woody material such as bark, twigs, branches, heartwood, or sapwood)	No discharge of debris that will not pass through a 2.54 cm (1") diameter round opening.

E. Benchmark monitoring and reporting requirements. ~~Timber product~~ Wood preserving facilities; mulch, wood, and bark facilities; and mulch dyeing facilities are required to monitor their stormwater discharges for the pollutants of concern listed in the appropriate section of Table 90-2.

Table 90-2
Sector A - Benchmark Monitoring Requirements

Pollutants of Concern	Benchmark Concentration
[General Sawmills and Planing Mills (SIC Code 2421)]	
[Total Suspended Solids (TSS)]	[100 mg/L]
Wood Preserving Facilities (SIC Code 2491)	
Total Recoverable Arsenic ¹	50 µg/L
Total Recoverable Chromium ¹	16 µg/L
Total Recoverable Copper ¹	18 µg/L
[Log Storage and Handling Facilities (SIC Code 2411)]	
[Total Suspended Solids (TSS)]	[100 mg/L]

[Hardwood Dimension and Flooring Mills; Special Products Sawmills, not elsewhere classified; Millwork, Veneer, Plywood and Structural Wood; Wood Containers; Wood Buildings and Mobile Homes; Reconstituted Wood Products; and Wood Products Facilities not elsewhere classified (SIC Codes 2426, 2429, 2431-2439 (except 2434), 2441, 2448, 2449, 2451, 2452, 2493, and 2499).]

[Total Suspended Solids (TSS)]	[100 mg/L]
Mulch, Wood, and Bark Facilities (SIC Code 24991303)	
Total Suspended Solids (TSS)	100 mg/L
Biochemical Oxygen Demand (BOD₅) <u>Chemical Oxygen Demand (COD)</u>	30 <u>120</u> mg/L
Facilities with Mulch Dyeing/Coloring Operations (SIC Code 24991303): Monitor ONLY those outfalls from the facility that collect runoff from areas where mulch dyeing/coloring activities occur, including but not limited to areas where loading, transporting, and storage of dyed/colored mulch occurs. ²	
Total Suspended Solids (TSS)	100 mg/L
Biochemical Oxygen Demand (BOD ₅)	30 mg/L
Chemical Oxygen Demand (COD)	120 mg/L
Total Recoverable Aluminum	750 µg/L
Total Recoverable Arsenic	[150 <u>50</u>] µg/L
Total Recoverable Cadmium	2.1 µg/L
Total Recoverable Chromium	16 µg/L
Total Recoverable Copper	18 µg/L
Total Recoverable Iron	1.0 mg/L
Total Recoverable Lead	120 µg/L
Total Recoverable Manganese	64 µg/L
Total Recoverable Mercury	1.4 µg/L
Total Recoverable Nickel	470 µg/L
Total Recoverable Selenium	5.0 µg/L
Total Recoverable Silver	3.8 µg/L
Total Recoverable Zinc	120 µg/L
Total Nitrogen	2.2 mg/L
Total Phosphorus	2.0 mg/L

¹Monitoring for metals (arsenic, chromium and copper) is not required for wood preserving facilities using only oil-based preservatives.

²Benchmark monitoring waivers are available to facilities utilizing mulch dye or colorant products that do not contain the specified parameters provided that: (i) monitoring from samples collected during one monitoring period demonstrates that the specific parameter in question is below the quantitation level; (ii) a waiver request with attached laboratory certificate of analysis is submitted to and approved by the board (~~The laboratory certificate of analysis must be submitted with the request. If approved, documentation of this shall be kept with the SWPPP.~~);

and (iii) a certification statement is submitted to the department annually that the facility does not use mulch dyeing products that contain any of the specifically waived parameters. Approved benchmark monitoring waivers shall be kept with the SWPPP.

9VAC25-151-100. Sector B - Paper and allied products manufacturing.

A. Discharges covered under this section. The requirements listed under this section apply to ~~storm water~~ stormwater discharges associated with industrial activity from facilities generally classified ~~under as paperboard mills, SIC Major Group 26 that are engaged in the following activities: the manufacture of pulps from wood and other cellulose fibers and from rags; the manufacture of paper and paperboard into converted products, such as paper coated off the paper machine, paper bags, paper boxes and envelopes; and the manufacture of bags of plastic film and sheet~~ Code 2631.

B. Benchmark monitoring and reporting requirements. Paperboard mills are required to monitor their ~~storm water~~ stormwater discharges for the ~~pollutants~~ pollutant of concern listed in Table 100.

Table 100.
Sector B – Benchmark Monitoring Requirements.

Pollutants of Concern	Benchmark Concentration
Paperboard Mills (SIC <u>Code 2631</u>)	
Biochemical Oxygen Demand (BOD ₅)	30 mg/L

9VAC25-151-110. Sector C - Chemical and allied products manufacturing.

A. Discharges covered under this section. The requirements listed under this section apply to stormwater discharges associated with industrial activity from facilities engaged in manufacturing the following products and generally described by the SIC code shown:

1. ~~Basic industrial~~ Industrial inorganic chemicals (including SIC ~~Code 281~~) Codes 2812-2819);
2. Plastic materials and synthetic resins, synthetic rubbers, and cellulosic and other ~~humanmade~~ synthetic fibers, except glass (including SIC ~~Code 282~~) Codes 2821-2824);
3. ~~Medicinal chemicals and pharmaceutical products, including the grading, grinding and milling of botanicals (including SIC Code 283);~~
4. 3. Soap and other detergents, including facilities producing glycerin from vegetable and animal fats and oils; specialty cleaning, polishing, and sanitation preparations; surface active preparations used as emulsifiers, wetting agents, and finishing agents, including sulfonated oils; and perfumes, cosmetics, and other toilet preparations (including SIC ~~Code 284~~) Codes 2841-2844); and
5. ~~Paints (in paste and ready mixed form); varnishes; lacquers; enamels and shellac; putties, wood fillers, and sealers; paint and varnish removers; paint brush cleaners; and allied paint products (including SIC Code 285);~~
6. ~~Industrial organic chemicals (including SIC Code 286);~~
7. 4. Nitrogenous and phosphatic basic fertilizers, mixed fertilizer, pesticides, and other agricultural chemicals (including SIC ~~Code 287~~) (SIC Codes 2873-2879). Note: SIC Code 287 includes Composting Facilities (SIC Code 2875) are included.
8. ~~Industrial and household adhesives, glues, caulking compounds, sealants, and linoleum, tile, and rubber cements from vegetable, animal, or synthetic plastics materials; explosives; printing ink, including gravure ink, screen process and lithographic inks; miscellaneous chemical preparations, such as fatty acids, essential oils, gelatin (except vegetable), sizes, bluing, laundry soaps, and writing and stamp pad ink; industrial compounds, such as boiler and heat insulating compounds; and chemical supplies for foundries (including SIC Code 289); and~~
9. ~~Ink and paints, including china painting enamels, India ink, drawing ink, platinum paints for burnt wood or leather work, paints for china painting, artists' paints and artists' water colors (SIC Code 3952, limited to those listed; for others in SIC Code 3952 not listed above, see Sector Y (9VAC25-151-320)).~~

~~B. Special conditions. Prohibition of nonstormwater discharges. In addition to the general prohibition of nonstormwater discharges in Part I B 1, the following discharges are not covered by this permit: inks, paints, or substances (hazardous, nonhazardous, etc.) resulting from an on site spill, including materials collected in drip pans;~~

washwaters from material handling and processing areas; or washwaters from drum, tank, or container rinsing and cleaning.

~~C. B.~~ Numeric effluent limitations. ~~[In addition to the numeric effluent limitations described in Part I A 1 e, the The]~~ following ~~[numeric]~~ effluent limitations shall be met by existing and new discharges with phosphate fertilizer manufacturing runoff. The provisions of this paragraph are applicable to stormwater discharges from the phosphate subcategory of the fertilizer manufacturing point source category (40 CFR 418.10). The term contaminated stormwater runoff shall mean precipitation runoff, that during manufacturing or processing, comes into contact with any raw materials, intermediate product, finished product, by-products or waste product. The concentration of pollutants in stormwater discharges shall not exceed the effluent limitations in Table 110-1.

Table 110-1
Sector C – Numeric Effluent Limitations

Parameter	Effluent Limitations	
	Daily Maximum	30-day Average
Phosphate Subcategory of the Fertilizer Manufacturing Point Source Category (40 CFR 418.10) - applies to precipitation runoff that, during manufacturing or processing, comes into contact with any raw materials, intermediate product, finished product, by-products or waste product (SIC Code 2874)		
Total Phosphorus (as P)	105 mg/L	35 mg/L
Fluoride	75 mg/L	25 mg/L

~~D. C.~~ Benchmark monitoring and reporting requirements. Agricultural chemical manufacturing facilities; industrial inorganic chemical facilities; soaps, detergents, cosmetics, and perfume manufacturing facilities; and plastics, synthetics, and resin manufacturing facilities are required to monitor their stormwater discharges for the pollutants of concern listed in Table 110-2 below.

Table 110-2
Sector C – Benchmark Monitoring Requirements

Pollutants of Concern	Benchmark Concentration
Agricultural Chemicals (SIC Codes 2873-2879)	
Total Nitrogen	2.2 mg/L
Total Recoverable Iron	1.0 mg/L
Total Recoverable Zinc	120 µg/L
Total Phosphorus	2.0 mg/L
Industrial Inorganic Chemicals (SIC Codes 2812-2819)	
Total Recoverable Aluminum	750 µg/L
Total Recoverable Iron	1.0 mg/L
Total Nitrogen	2.2 mg/L
Soaps, Detergents, Cosmetics, and Perfumes (SIC Codes 2841-2844)	
Total Nitrogen	2.2 mg/L
Total Recoverable Zinc	120 µg/L
Plastics, Synthetics, and Resins (SIC Codes 2821-2824)	
Total Recoverable Zinc	120 µg/L
Composting Facilities (SIC Code 2875)	

Total Suspended Solids (TSS)	100 mg/L
Biochemical Oxygen Demand (BOD ₅)	30 mg/L
Chemical Oxygen Demand (COD)	120 mg/L
Ammonia	2.14 mg/L
Total Nitrogen	2.2 mg/L
Total Phosphorus	2.0 mg/L

9VAC25-151-130. Sector E - ~~Glass, clay~~ Clay, cement, concrete, and gypsum products.

A. Discharges covered under this section. The requirements listed under this section apply to stormwater discharges associated with industrial activity from facilities generally classified under SIC Major Group 32 Codes 3251-3259, 3261-3269, 3274, and 3275 that are engaged in either manufacturing the following products or performing the following activities: ~~flat, pressed, or blown glass or glass containers; hydraulic cement; structural~~ clay products including tile and brick; pottery and porcelain electrical supplies; ~~and concrete, plaster, and gypsum products; nonclay refractories; minerals and earths, ground or otherwise treated; lime manufacturing; cut stone and stone products; asbestos products; and mineral wool and mineral wool insulation products.~~

Concrete block and brick facilities (SIC Code 3271), concrete products facilities, except block and brick (SIC Code 3272), and ready-mixed concrete facilities (SIC Code 3273) are not covered by this permit.

~~B. Stormwater pollution prevention plan requirements. In addition to the requirements of Part III, the plan shall include, at a minimum, the following items:~~

- ~~1. Site description and site map. The site map shall identify the locations of the following, if applicable: bag house or other dust control device; recycle or sedimentation pond, clarifier or other device used for the treatment of process wastewater and the areas that drain to the treatment device.~~
- ~~2. Stormwater controls. Good housekeeping.~~

~~a. B. Stormwater controls. In addition to the requirements of Part III, the SWPPP shall include, at a minimum, the following items:~~

- ~~1. Facilities shall prevent or minimize the discharge of: spilled cement; aggregate (including sand or gravel); kiln dust; fly ash; settled dust; and other significant materials in stormwater from paved portions of the site that are exposed to stormwater. Measures used to minimize the presence of these materials may include regular sweeping, or other equivalent measures. The plan SWPPP shall indicate the frequency of sweeping or equivalent measures. The frequency shall be determined based upon consideration of the amount of industrial activity occurring in the area and frequency of precipitation, but shall not be less than once per week if cement, aggregate, kiln dust[,] fly ash, or settled dust are being handled or processed.~~
- ~~b. 2. Facilities shall prevent the exposure of fine granular solids (such as cement, fly ash, kiln dust, etc.) to stormwater. Where practicable, these materials shall be stored in enclosed silos or hoppers, buildings, or under other covering.~~

C. Numeric effluent limitations. ~~[In addition to the numeric effluent limitations described by Part I A 1 c, the The]~~ following ~~[numeric effluent]~~ limitations shall be met by ~~existing and new~~ facilities: ~~with cement manufacturing facility, and material storage runoff. Any discharge composed of runoff that derives from the storage of materials, including raw materials, intermediate products, finished products, and waste materials that are used in or derived from the manufacture of cement, shall not exceed the limitations in Table 130-1. Runoff from the storage piles shall not be diluted with other stormwater runoff or flows to meet these limitations. Any untreated overflow from facilities designed, constructed and operated to treat the volume of material storage pile runoff that is associated with a 10-year, 24-hour rainfall event shall not be subject to the TSS or pH limitations. Facilities subject to these numeric effluent limitations shall be in compliance with these limits upon commencement of coverage and for the entire term of this permit.~~

Table 130-1
Sector E – Numeric Effluent Limitations

Parameter	Effluent Limitations	
	Daily Maximum	30-day Average

Cement Manufacturing Facility, Material Storage Runoff: Any discharge composed of runoff that derives from the storage of materials including raw materials, intermediate products, finished products, and waste materials that are used in or derived from the manufacture of cement.		
Total Suspended Solids (TSS)	50 mg/L	
pH	6.0 - 9.0 s.u.	

D. Benchmark monitoring and reporting requirements. Clay product manufacturers (SIC Codes 3251-3259, SIC Codes 3261-3269) and lime and gypsum product manufacturers (SIC Codes 3274, 3275) are required to monitor their stormwater discharges for the pollutants of concern listed in Table 130-2.

Table 130-2
Sector E – Benchmark Monitoring Requirements

Pollutants of Concern	Benchmark Concentration
Clay Product Manufacturers (SIC <u>Codes</u> 3251-3259, 3261-3269)	
Total Recoverable Aluminum	750 ug/L
Lime and Gypsum Product Manufacturers (SIC <u>Codes</u> 3274, 3275)	
Total Suspended Solids (TSS)	100 mg/L
pH	6.0 - 9.0 s.u.
Total Recoverable Iron	1.0 mg/L

9VAC25-151-140. Sector F - Primary metals.

A. Discharges covered under this section. The requirements listed under this section apply to stormwater discharges associated with industrial activity from the following types of facilities in the primary metal industry, and generally described by the SIC ~~code~~ codes shown:

1. Steel works, blast furnaces, and rolling and finishing mills, including: steel wire drawing and steel nails and spikes; cold-rolled steel sheet, strip, and bars; and steel pipes and tubes (SIC ~~Code 334~~ Codes 3312-3317).
2. Iron and steel foundries, including: gray and ductile iron, malleable iron, steel investment, and steel foundries not elsewhere classified (SIC ~~Code 332~~ Codes 3321-3325).
3. ~~Primary smelting and refining of nonferrous metals, including: primary smelting and refining of copper, and primary production of aluminum (SIC Code 333).~~
4. ~~Secondary smelting and refining of nonferrous metals (SIC Code 334).~~
5. ~~3.~~ Rolling, drawing, and extruding of nonferrous metals, including: rolling, drawing, and extruding of copper; rolling, drawing and extruding of nonferrous metals except copper and aluminum; and drawing and insulating of nonferrous wire (SIC ~~Code 335~~ Codes 3351-3357).
6. ~~4.~~ Nonferrous foundries (castings), including: aluminum die-castings, nonferrous die-castings, except aluminum, aluminum foundries, copper foundries, and nonferrous foundries, except copper and aluminum (SIC ~~Code 336~~ Codes 3363-3369).
7. ~~Miscellaneous primary metal products, not elsewhere classified, including: metal heat treating, and primary metal products, not elsewhere classified (SIC Code 339).~~

~~Activities covered include, but are not limited to, stormwater discharges associated with coking operations, sintering plants, blast furnaces, smelting operations, rolling mills, casting operations, heat treating, extruding, drawing, or forging of all types of ferrous and nonferrous metals, scrap, and ore.~~

~~B. Stormwater pollution prevention plan requirements. In addition to the requirements of Part III, the plan shall include, at a minimum, the following items:~~

1. Site description.
 - a. Site map. The site map shall identify where any of the following activities may be exposed to precipitation or surface runoff: storage or disposal of wastes such as spent solvents and baths, sand, slag and dross; liquid storage tanks and drums; processing areas including pollution control equipment (e.g., baghouses); and

storage areas of raw materials such as coal, coke, scrap, sand, fluxes, refractories, or metal in any form. In addition, indicate sources where an accumulation of significant amounts of particulate matter could occur from such sources as furnace or oven emissions, losses from coal and coke handling operations, etc., and that could result in a discharge of pollutants to surface waters.

b. Summary of potential pollutant sources. The inventory of materials handled at the site that potentially may be exposed to precipitation or runoff shall include areas where deposition of particulate matter from process air emissions or losses during material handling activities are possible.

2. Stormwater controls:

a. Good housekeeping. The permittee shall implement the following measures, or equivalent measures, where applicable:

(1) Establishment of a cleaning and maintenance program for all impervious areas of the facility where particulate matter, dust, or debris may accumulate, especially areas where material loading and unloading, storage, handling, and processing occur.

(2) The paving of areas, where practicable, where vehicle traffic or material storage occur, but where vegetative or other stabilization methods are not practicable. Sweeping programs shall be instituted in these areas as well.

(3) For unstabilized areas of the facility where sweeping is not practical, the permittee shall consider using stormwater management devices such as sediment traps, vegetative buffer strips, filter fabric fence, sediment filtering boom, gravel outlet protection, or other equivalent measures, that effectively trap or remove sediment.

b. Routine facility inspections. Inspections shall be conducted quarterly. The requirement for routine facility inspections is waived for facilities that have maintained an active VEEP E3/E4 status. Inspections shall address all potential sources of pollutants, including (if applicable):

(1) Air pollution control equipment (e.g., baghouses, electrostatic precipitators, scrubbers, and cyclones) shall be inspected for any signs of degradation (e.g., leaks, corrosion, or improper operation) that could limit their efficiency and lead to excessive emissions. The permittee shall consider monitoring air flow at inlets and outlets, or equivalent measures, to check for leaks (e.g., particulate deposition) or blockage in ducts;

(2) All process or material handling equipment (e.g., conveyors, cranes, and vehicles) shall be inspected for leaks, drips, or the potential loss of materials; and

(3) Material storage areas (e.g., piles, bins or hoppers for storing coke, coal, scrap, or slag, as well as chemicals stored in tanks and drums) shall be examined for signs of material losses due to wind or stormwater runoff.

C. B. Benchmark monitoring and reporting requirements. Primary metals facilities are required to monitor their stormwater discharges for the pollutants of concern listed in Table 140 below.

Table 140
Sector F – Benchmark Monitoring Requirements

Pollutants of Concern	Benchmark Concentration
Steel Works, Blast Furnaces, and Rolling and Finishing Mills (SIC Codes 3312-3317)	
Total Recoverable Aluminum	750 µg/L
Total Recoverable Zinc	120 µg/L
Iron and Steel Foundries (SIC Codes 3321-3325)	
Total Recoverable Aluminum	750 µg/L
Total Suspended Solids (TSS)	100 mg/L
Total Recoverable Copper	18 µg/L
Total Recoverable Iron	1.0 mg/L

Total Recoverable Zinc	120 µg/L
Rolling, Drawing, and Extruding of Nonferrous Metals (SIC Codes 3351-3357)	
Total Recoverable Copper	18 µg/L
Total Recoverable Zinc	120 µg/L
Nonferrous Foundries (SIC Codes 3363-3369)	
Total Recoverable Copper	18 µg/L
Total Recoverable Zinc	120 µg/L

9VAC25-151-150. Sector G - Metal mining (ore mining and dressing).

A. Discharges covered under this section. The requirements listed under this section apply to stormwater discharges associated with industrial activity from active, temporarily inactive and inactive metal mining and ore dressing facilities including mines abandoned on federal lands, as classified under SIC Major Group 10. Coverage is required for facilities that discharge stormwater that has come into contact with, or is contaminated by, any overburden, raw material, intermediate product, finished product, byproduct, or waste product located on the site of the operation. SIC Major Group 10 includes establishments primarily engaged in mining of ores, developing mines, or exploring for metallic minerals (ores) and also includes ore dressing and beneficiating operations, whether performed at colocated, dedicated mills or at separate mills, such as custom mills. For the purposes of this section, the term "metal mining" includes any of the separate activities listed above in this subsection. Covered discharges include:

1. All stormwater discharges from inactive facilities;
2. Stormwater discharges from the following areas of active and temporarily inactive metal mining facilities: waste rock and overburden piles if composed entirely of stormwater and not combining with mine drainage; topsoil piles; off-site haul and access roads; on-site haul and access roads constructed of waste rock and overburden if composed entirely of stormwater and not combining with mine drainage; on-site haul and access roads not constructed of waste rock, overburden, or spent ore except if mine drainage is used for dust control; runoff from tailings dams and dikes when not constructed of waste rock or tailings and no process fluids are present; runoff from tailings dams or dikes when constructed of waste rock or tailings and no process fluids are present if composed entirely of stormwater and not combining with mine drainage; concentration building if no contact with material piles; mill site if no contact with material piles; office or administrative building and housing if mixed with stormwater from industrial area; chemical storage area; docking facility if no excessive contact with waste product that would otherwise constitute mine drainage; explosive storage; fuel storage; vehicle and equipment maintenance area and building; parking areas (if necessary); power plant; truck wash areas if no excessive contact with waste product that would otherwise constitute mine drainage; unreclaimed, disturbed areas outside of active mining area; reclaimed areas released from reclamation bonds prior to December 17, 1990; and partially or inadequately reclaimed areas or areas not released from reclamation bonds;
3. Stormwater discharges from exploration and development of metal mining and ore dressing facilities; and
4. Stormwater discharges from facilities at mining sites undergoing reclamation.

B. Limitations on coverage. Stormwater discharges from active metal mining facilities that are subject to the effluent limitation guidelines for the Ore Mining and Dressing Point Source Category (40 CFR Part 440) are not authorized by this permit.

Note: Discharges that come in contact with overburden and waste rock are subject to 40 CFR Part 440, providing: the discharges drain to a point source (either naturally or as a result of intentional diversion), and they combine with mine drainage that is otherwise regulated under 40 CFR Part 440. Discharges from overburden and waste rock can be covered under this permit if they are composed entirely of stormwater and do not combine with sources of mine drainage that are subject to 40 CFR Part 440.

C. Special Conditions. Prohibition of nonstormwater discharges. In addition to the general prohibition of nonstormwater discharges in Part I B 1, the following discharge is not covered by this permit: adit drainage. Contaminated seeps and springs discharging from waste rock dumps that do not directly result from precipitation events are also not authorized by this permit.

D. Special definitions. The following definitions are not intended to supersede the definitions of active and inactive mining facilities established by 40 CFR 122.26(b)(14)(iii), and are only for this section of the general permit:

"Active metal mining facility" means a place where work or other related activity to the extraction, removal, or recovery of metal ore is being conducted. For surface mines, this definition does not include any land where grading has returned the earth to a desired contour and reclamation has begun.

"Active phase" means activities including the extraction, removal, or recovery of metal ore. For surface mines, this definition does not include any land where grading has returned the earth to a desired contour and reclamation has begun.

"Construction phase" means the building of site access roads and removal of overburden and waste rock to expose mineable minerals. The construction phase is not considered part of "mining operations."

"Exploration phase" ~~entails~~ means exploration and land disturbance activities to determine the financial viability of a site. The exploration phase is not considered part of "mining operations."

"Final stabilization"— means a site or portion of a site is ~~"finally stabilized" when~~ where all applicable federal and state reclamation requirements have been implemented.

"Inactive metal mining facility" means a site or portion of a site where metal mining or milling occurred in the past but is not an active facility as defined in this permit, and where the inactive portion is not covered by an active mining permit issued by the applicable federal or state agency. An inactive metal mining facility has an identifiable owner or operator. Sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials and sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim are not considered either active or inactive mining facilities and do not require a VPDES industrial stormwater permit.

"Mining operation" ~~consists of~~ means the active and temporarily inactive phases and the reclamation phase, but excludes the exploration and construction phases.

"Reclamation phase" means activities undertaken, in compliance with applicable mined land reclamation requirements, following the cessation of the "active phase," intended to return the land to an appropriate post-mining land use in order to meet applicable federal and state reclamation requirements. The reclamation phase is considered part of "mining operations."

"Temporarily inactive metal mining facility" means a site or portion of a site where metal mining or milling occurred in the past but currently are not being actively undertaken, and the facility is covered by an active mining permit issued by the applicable federal or state agency.

E. Clearing, grading, and excavation activities. Clearing, grading, and excavation activities being conducted as part of the exploration and construction phase of mining activities are covered under this permit.

1. Management practices for clearing, grading, and excavation activities.

a. Selecting and installing control measures. A combination of erosion and sedimentation control measures are required to achieve maximum pollutant prevention and removal. All control measures shall be properly selected, installed, and maintained in accordance with any relevant manufacturer specifications and good engineering practices.

b. Good housekeeping. Litter, debris, and chemicals shall be prevented from becoming a pollutant source in stormwater discharges.

c. Retention and detention of stormwater runoff. For drainage locations serving more than one acre, sediment basins or temporary sediment traps should be used. At a minimum, silt fences, vegetative buffer strips, or equivalent sediment controls are required for all down slope boundaries (and for those side slope boundaries deemed appropriate as dictated by individual site conditions) of the development area unless a sediment basin providing storage for a calculated volume of runoff from a two-year, 24-hour storm or 3,600 cubic feet of storage per acre drained is provided. Sediment shall be removed from sediment traps or sedimentation ponds when the design capacity has been reduced by 50%.

d. Temporary stabilization of disturbed areas. Stabilization measures shall be initiated immediately in portions of the site where development activities have temporarily ceased, but in no case more than 14 days after the clearing, grading, and excavation activities in that portion of the site have temporarily ceased. In arid, semi-arid, and drought-stricken areas, or in areas subject to snow or freezing conditions, where initiating perennial vegetative stabilization measures is not possible within 14 days after mining, exploration, or construction activity has temporarily ceased, final temporary vegetative stabilization measures shall be

initiated as soon as practicable. Until temporary vegetative stabilization is achieved, interim measures such as erosion control blankets with an appropriate seed base and tackifiers shall be employed. In areas of the site where exploration or construction has permanently ceased prior to active mining, temporary stabilization measures shall be implemented to minimize mobilization of sediment or other pollutants until such time as the active mining phase commences.

2. Requirements for inspection of clearing, grading, and excavation activities.

a. Inspection frequency. Inspections shall be conducted at least once every seven calendar days or at least once every 14 calendar days and within 24 hours of the end of a storm event of 0.5 inches or greater. Inspection frequency may be reduced to at least once every month if the entire site is temporarily stabilized, if runoff is unlikely due to winter (e.g., site is covered with snow or ice) or frozen conditions, or construction is occurring during seasonal dry periods in arid areas and semi-arid areas.

b. Location of inspections. Inspections shall include all areas of the site disturbed by clearing, grading, and excavation activities and areas used for storage of materials that are exposed to precipitation. Sedimentation and erosion control measures identified in the SWPPP shall be observed to ensure proper operation. Discharge locations shall be inspected to ascertain whether erosion control measures are effective in preventing significant impacts to surface waters, where accessible. Where discharge locations are inaccessible, nearby downstream locations shall be inspected to the extent that such inspections are practicable. Locations where vehicles enter or exit the site shall be inspected for evidence of off-site sediment tracking.

c. Inspection reports. For each inspection required ~~above~~ in this subsection, an inspection report shall be completed. At a minimum, the inspection report shall include:

(1) The inspection date;

(2) Names, titles, and qualifications of personnel making the inspection;

(3) Weather information for the period since the last inspection (or note if it is the first inspection) including a best estimate of the beginning of each storm event, duration of each storm event, approximate amount of rainfall for each storm event (in inches), and whether any discharges occurred;

(4) Weather information and a description of any discharges occurring at the time of the inspection;

(5) ~~Location(s)~~ Locations of discharges of sediment or other pollutants from the site;

(6) ~~Location(s)~~ Locations of control measures that need to be maintained;

(7) ~~Location(s)~~ Locations of control measures that failed to operate as designed or proved inadequate for a particular location;

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

(9) Corrective ~~action(s)~~ actions required, including any changes to the SWPPP necessary and implementation dates.

A record of each inspection and of any actions taken in accordance with this section shall be retained as part of the SWPPP for at least three years from the date that permit coverage expires or is terminated. The inspection reports shall identify any incidents of noncompliance with the permit conditions. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the clearing, grading, and excavation activities are in compliance with the SWPPP and this permit. ~~The report shall be signed in accordance with Part II K of the permit.~~

3. Requirements for cessation of clearing, grading, and excavation activities.

a. Inspections and maintenance. Inspections and maintenance of control measures, including BMPs, associated with clearing, grading, and excavation activities being conducted as part of the exploration and construction phase of a mining operation shall continue until final stabilization has been achieved on all portions of the disturbed area, or until the commencement of the active mining phase for those areas that have been temporarily stabilized as a precursor to mining.

b. Final stabilization. Stabilization measures shall be initiated immediately in portions of the site where exploration or construction activities have permanently ceased, but in no case more than 14 days after the exploration or construction activity in that portion of the site has permanently ceased. In arid, semi-arid, and

drought-stricken areas, or in areas subject to snow or freezing conditions, where initiating perennial vegetative stabilization measures is not possible within 14 days after exploration or construction activity has permanently ceased, final vegetative stabilization measures shall be initiated as soon as possible. Until final stabilization is achieved temporary stabilization measures, such as erosion control blankets with an appropriate seed base and tackifiers, shall be used.

F. ~~Stormwater pollution prevention plan~~ SWPPP requirements for active, inactive, and temporarily inactive metal mining facilities and sites undergoing reclamation. In addition to the requirements of Part III, the ~~plan~~ SWPPP shall include, at a minimum, the following items.

1. Site description.

a. Activities at the facility. A description of the mining and associated activities taking place at the site that can potentially affect stormwater discharges covered by this permit. The description shall include a general description of the location of the site relative to major transportation routes and communities.

b. Site map. The site map shall identify the locations of the following, as appropriate: mining and milling site boundaries; access and haul roads; an outline of the drainage areas of each stormwater outfall within the facility, and an indication of the types of discharges from the drainage areas; ~~location(s)~~ locations of all permitted discharges covered under an individual VPDES permit; outdoor equipment storage, fueling and maintenance areas; materials handling areas; outdoor manufacturing, storage or material disposal areas; outdoor storage areas for chemicals and explosives; areas used for storage of overburden, materials, soils or wastes; location of mine drainage (where water leaves mine) or any other process water; tailings piles and ponds, both proposed and existing; heap leach pads; points of discharge from the property for mine drainage and process water; surface waters; boundary of tributary areas that are subject to effluent limitations guidelines; and ~~location(s)~~ locations of reclaimed areas.

2. Summary of potential pollutant sources. For each area of the mine or mill site where stormwater discharges associated with industrial activities occur, the ~~plan~~ SWPPP shall identify the types of pollutants likely to be present in significant amounts (e.g., heavy metals, sediment). The following factors shall be considered: the mineralogy of the ore and waste rock (e.g., acid forming); toxicity and quantity of chemicals used, produced or discharged; the likelihood of contact with stormwater; vegetation of site, if any; and history of significant leaks and spills of toxic or hazardous pollutants. A summary of any existing ore or waste rock and overburden characterization data and test results for potential generation of acid rock shall also be included. If the ore or waste rock and overburden characterization data are updated due to a change in the ore type being mined, the SWPPP shall be updated with the new data.

3. Stormwater controls.

a. Routine facility inspections. Except for areas subject to clearing, grading, and excavation activities subject to subdivision E 2 of this section, sites shall be inspected at least quarterly unless adverse weather conditions make the site inaccessible. The requirement for routine facility inspections is waived for facilities that have maintained an active VEEP E3/E4 status.

b. Employee training. Employee training shall be conducted at least annually at active mining and temporarily inactive sites. All employee training shall be documented in the SWPPP.

c. Structural control measures. In addition to the control measures required by Part III B 4, each of the following control measures shall be ~~considered~~ documented in the SWPPP. The potential pollutants identified in subdivision ~~1-b~~ 2 of this subsection shall determine the priority and appropriateness of the control measures selected. If control measures are implemented or planned but are not listed here (e.g., substituting a less toxic chemical for a more toxic one), descriptions of them shall be included in the SWPPP.

(1) Stormwater diversion. A description of how and where stormwater will be diverted away from potential pollutant sources to prevent stormwater contamination. Control ~~measure options may~~ measures shall include one or more of the following: ~~interceptor dikes and swales; diversion dikes, curbs and berms; pipe slope drains; subsurface drains; drainage and stormwater conveyance systems (channels or gutters, open top box culverts and waterbars; rolling dips and road sloping; roadway surface water deflector and culverts) or equivalent measures.~~

(a) Interceptor dikes and swales;

(b) Diversion dikes, curbs, and berms;

- (c) Pipe slope drains;
- (d) Subsurface drains;
- (e) Drainage and stormwater conveyance systems; or
- (f) Equivalent measures.

(2) Capping. When capping of a contaminant source is necessary, the source being capped and materials and procedures used to cap the contaminant source shall be identified.

(3) Treatment. If treatment of a stormwater discharge is necessary to protect water quality, include a description of the type and location of stormwater treatment that will be used. Stormwater treatments include the following: chemical or physical systems; oil and water separators; artificial wetlands; etc. The permittee is encouraged to use both passive and active treatment of stormwater runoff. Treated runoff may be discharged as a stormwater source regulated under this permit provided the discharge is not combined with discharges subject to effluent limitation guidelines for the Ore Mining and Dressing Point Source Category (40 CFR Part 440).

(4) Certification of discharge testing. The permittee shall test or evaluate all outfalls covered under this permit for the presence of specific mining-related nonstormwater discharges such as seeps or adit discharges or discharges subject to effluent limitations guidelines (e.g., 40 CFR Part 440), such as mine drainage or process water. ~~Alternatively (if applicable), the~~ The permittee may certify in the SWPPP that a particular discharge composed of commingled stormwater and nonstormwater is covered under a separate VPDES permit; and that permit subjects the nonstormwater portion to effluent limitations prior to any commingling. This certification shall identify the nonstormwater discharges, the applicable VPDES ~~permit(s) permits~~, the effluent limitations placed on the nonstormwater discharge by the ~~permit(s) permits~~, and the points at which the limitations are applied.

G. Termination of permit coverage.

1. Termination of permit coverage for sites reclaimed after December 17, 1990. A site or a portion of a site that has been released from applicable state or federal reclamation requirements after December 17, 1990, is no longer required to maintain coverage under this permit. If the site or portion of a site reclaimed after December 17, 1990, was not subject to reclamation requirements, the site or portion of the site is no longer required to maintain coverage under this permit if the site or portion of the site has been reclaimed as defined in subdivision 2 of this subsection.

2. Termination of permit coverage for sites reclaimed before December 17, 1990. A site or portion of a site that was released from applicable state or federal reclamation requirements before December 17, 1990, or that was otherwise reclaimed before December 17, 1990, is no longer required to maintain coverage under this permit if the site or portion of the site has been reclaimed. A site or portion of a site is considered to have been reclaimed if: (i) stormwater runoff that comes into contact with raw materials, intermediate byproducts, finished products, and waste products does not have the potential to cause or contribute to violations of state water quality standards, (ii) soil-disturbing activities related to mining at the sites or portion of the site have been completed, (iii) the site or portion of the site has been stabilized to minimize soil erosion, and (iv) as appropriate depending on location, size, and the potential to contribute pollutants to stormwater discharges, the site or portion of the site has been revegetated, will be amenable to natural revegetation, or will be left in a condition consistent with the post-mining land use.

H. Inactive and unstaffed sites. Permittees in Sector G seeking to exercise a waiver from the quarterly visual ~~assessment~~ monitoring and routine facility inspection requirements for inactive and unstaffed sites (including temporarily inactive sites) are conditionally exempt from the requirement to certify that "there are no industrial materials or activities exposed to stormwater" in Part I A 4.

This exemption is conditioned on the following:

1. If circumstances change and the facility becomes active or staffed, this exception no longer applies and the permittee shall immediately begin complying with the quarterly visual assessment and routine facility inspection requirements; and
2. The board retains the authority to revoke this exemption and the monitoring waiver when it is determined that the discharge causes, has a reasonable potential to cause, or contributes to an instream excursion above an applicable water quality standard, including designated uses.

Subject to the two conditions in subdivisions 1 and 2 of this subsection, if a facility is inactive and unstaffed, the permittee is waived from the requirement to conduct quarterly visual ~~assessments~~ monitoring and routine facility inspections. The permittee is not waived from conducting ~~the Part III E comprehensive site inspection~~ at least one routine facility inspection per calendar year. The board encourages the permittee to inspect the site more frequently when there is reason to believe that severe weather or natural disasters may have damaged control measures.

I. Benchmark monitoring and reporting requirements. ~~Note:~~ There are no benchmark monitoring requirements for inactive and unstaffed sites that have received a waiver in accordance with Part I A 4 (Inactive and unstaffed sites).

1. Copper ore mining and dressing facilities. Active copper ore mining and dressing facilities are required to monitor their stormwater discharges for the pollutants of concern listed in Table 150-1 below.
2. Discharges from waste rock and overburden piles at active sites. Discharges from waste rock and overburden piles at active sites shall be analyzed for the parameters listed in Table 150-2. Facilities shall also monitor for the parameters listed in Table 150-3. The director may also notify the facility that additional monitoring must be performed to accurately characterize the quality and quantity of pollutants discharged from the waste rock or overburden piles.

Table 150-1

Sector G – Benchmark Monitoring Requirements - Copper Ore Mining and Dressing Facilities

Pollutants of Concern	Benchmark Concentration
Active Copper Ore Mining and Dressing Facilities (SIC Code 1021)	
Total Suspended Solids (TSS)	100 mg/L

Table 150-2

Sector G – Benchmark Monitoring Requirements - Discharges from Waste Rock and Overburden Piles from Active Ore Mining or Dressing Facilities

Pollutants of Concern	Benchmark Concentration
Iron Ores; Copper Ores; Lead and Zinc Ores; Gold and Silver Ores; Ferroalloy Ores Except Vanadium; Miscellaneous Metal Ores (SIC Codes 1011, 1021, 1031, 1041, 1044, 1061, 1081, 1094, 1099)	
Total Suspended Solids (TSS)	100 mg/L
Turbidity (NTUs)	50 NTU
pH	6.0 - 9.0 s.u.
Hardness (as CaCO ₃)	no benchmark value
Total Recoverable Antimony	640 µg/L
Total Recoverable Arsenic	50 µg/L
Total Recoverable Beryllium	130 µg/L
Total Recoverable Cadmium	2.1 µg/L
Total Recoverable Copper	18 µg/L
Total Recoverable Iron	1.0 mg/L
Total Recoverable Lead	120 µg/L
Total Recoverable Mercury	1.4 µg/L
Total Recoverable Nickel	470 µg/L
Total Recoverable Selenium	5.0 µg/L

Total Recoverable Silver	3.8 µg/L
Total Recoverable Zinc	120 µg/L

Table 150-3
Sector G – Additional Monitoring Requirements for Discharges from Waste Rock and Overburden Piles
from Active Ore Mining or Dressing Facilities

Type of Ore Mined	Pollutants of Concern		
	TSS (mg/L)	pH	Metals, Total Recoverable
Tungsten Ore	X	X	Arsenic, Cadmium (H), Copper (H), Lead (H), Zinc (H).
Nickel Ore	X	X	Arsenic, Cadmium (H), Copper (H), Lead (H), Zinc (H).
Aluminum Ore	X	X	Iron.
Mercury Ore	X	X	Nickel (H).
Iron Ore	X	X	Iron (Dissolved).
Platinum Ore			Cadmium (H), Copper (H), Mercury, Lead (H), Zinc (H).
Titanium Ore	X	X	Iron, Nickel (H), Zinc (H).
Vanadium Ore	X	X	Arsenic, Cadmium (H), Copper (H), Lead (H), Zinc (H).
Copper, Lead, Zinc, Gold, Silver and Molybdenum	X	X	Arsenic, Cadmium (H), Copper (H), Lead (H), Mercury, Zinc (H).
Uranium, Radium and Vanadium	X	X	Chemical Oxygen Demand, Arsenic, Radium (Dissolved and Total Recoverable), Uranium, Zinc (H).
Note: (H) indicates that hardness shall also be measured when this pollutant is measured.			

9VAC25-151-160. Sector H - Coal mines and coal mining-related facilities.

A. Discharges covered under this section. The requirements listed under this section apply to stormwater discharges associated with industrial activity from coal mining-related areas (SIC Major Group 12) if (i) they are not subject to effluent limitations guidelines under 40 CFR Part 434 or (ii) they are not subject to the standards of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) (30 USC § 1201 et seq.) and the Virginia Department of Mines, Minerals and Energy's individual permit requirements.

The requirements of this section shall apply to stormwater discharges from coal mining-related activities exempt from SMCRA, including the public financed exemption, the 16-2/3% exemption, the private use exemption, the under 250 tons exemption, the nonincidental tipples exemption, and the exemption for coal piles and preparation plants associated with the end user. Stormwater discharges from the following portions of eligible coal mines and coal mining related facilities may be eligible for this permit: haul roads (nonpublic roads on which coal or coal refuse is conveyed), access roads (nonpublic roads providing light vehicular traffic within the facility property and to public roadways), railroad spurs, sidings, and internal haulage lines (rail lines used for hauling coal within the facility property and to off-site commercial railroad lines or loading areas); conveyor belts, chutes, and aerial tramway haulage areas (areas under and around coal or refuse conveyor areas, including transfer stations); and equipment storage and maintenance yards, coal handling buildings and structures, coal tipples, coal loading facilities and inactive coal mines and related areas (abandoned and other inactive mines, refuse disposal sites and other mining-related areas).

B. Special conditions. Prohibition of nonstormwater discharges. In addition to the general prohibition of nonstormwater discharges in Part I B 1, the following discharges are not covered by this permit: discharges from pollutant seeps or underground drainage from inactive coal mines and refuse disposal areas that do not result from precipitation events and discharges from floor drains in maintenance buildings and other similar drains in mining and preparation plant areas.

C. ~~Stormwater pollution prevention plan~~ SWPPP requirements. In addition to the requirements of Part III, the SWPPP shall include at a minimum, the following items.

1. Site description.

a. Site map. The site map shall identify where any of the following may be exposed to precipitation or surface runoff:

- (1) Haul and access roads;
- (2) Railroad spurs, sliding, and internal hauling lines;
- (3) Conveyor belts, chutes, and aerial tramways;
- (4) Equipment storage and maintenance yards;
- (5) Coal handling buildings and structures;
- (6) Inactive mines and related areas;
- (7) Acidic spoil, refuse or unreclaimed disturbed areas; and
- (8) Liquid storage tanks containing pollutants such as caustics, hydraulic fluids and lubricants.

b. Summary of potential pollutant sources. A description of the potential pollutant sources from the following activities: truck traffic on haul roads and resulting generation of sediment subject to runoff and dust generation; fuel or other liquid storage; pressure lines containing slurry, hydraulic fluid or other potential harmful liquids; and loading or temporary storage of acidic refuse or spoil.

2. Stormwater controls.

a. Good housekeeping. As part of the facility's good housekeeping program required by Part III B 4 b (1), the permittee shall consider the following: using sweepers, covered storage, and watering of haul roads to minimize dust generation; and conservation of vegetation (where possible) to minimize erosion.

b. Preventive maintenance. The permittee shall also perform inspections of storage tanks and pressure lines for fuels, lubricants, hydraulic fluid or slurry to prevent leaks due to deterioration or faulty connections; or other equivalent measures.

c. Routine facility inspections. Sites shall be inspected at least quarterly unless adverse weather conditions make the site inaccessible. The requirement for routine facility inspections is waived for facilities that have maintained an active VEEP E3/E4 status.

~~3. Comprehensive site compliance evaluation. The evaluation program shall also include inspections for pollutants entering the drainage system from activities located on or near coal mining related areas. Among the areas to be inspected: haul and access roads; railroad spurs, sliding and internal hauling lines; conveyor belts, chutes and aerial tramways; equipment storage and maintenance yards; coal handling buildings and structures; and inactive mines and related areas.~~

D. Inactive and unstaffed sites. Permittees in Sector H seeking to exercise a waiver from the quarterly visual ~~assessment~~ monitoring and routine facility inspection requirements for inactive and unstaffed sites (including temporarily inactive sites) are conditionally exempt from the requirement to certify that "there are no industrial materials or activities exposed to stormwater" in Part I A 4.

This exemption is conditioned on the following:

1. If circumstances change and the facility becomes active or staffed, this exception no longer applies and the permittee shall immediately begin complying with the quarterly visual ~~assessment~~ monitoring requirements and routine facility inspection requirements; and
2. The board retains the authority to revoke this exemption and the monitoring waiver when it is determined that the discharge causes, has a reasonable potential to cause, or contributes to an instream excursion above an applicable water quality standard, including designated uses.

Subject to the two conditions in subdivisions 1 and 2 of this subsection, if a facility is inactive and unstaffed, the permittee is waived from the requirement to conduct quarterly visual assessments monitoring and routine facility inspections. The permittee is not waived from conducting ~~the Part III E comprehensive~~ a minimum of one annual site inspection. The board encourages the permittee to inspect the site more frequently when there is reason to believe that severe weather or natural disasters may have damaged control measures.

E. Benchmark monitoring and reporting requirements. Coal mining facilities are required to monitor their stormwater discharges for the pollutants of concern listed in Table 160. ~~Note:~~ There are no benchmark monitoring requirements for inactive and unstaffed sites that have received a waiver in accordance with Part I A 4 (Inactive and unstaffed sites).

Table 160
Sector H - Benchmark Monitoring Requirements

Pollutants of Concern	Benchmark Concentration
Coal Mines and Related Areas (SIC Codes 1221-1241)	
Total Recoverable Aluminum	750 µg/L
Total Recoverable Iron	1.0 mg/L
Total Suspended Solids (TSS)	100 mg/L

9VAC25-151-170. Sector I – Oil and gas extraction and refining. (Repealed)

~~A. Discharges covered under this section. The requirements listed under this section apply to stormwater discharges associated with industrial activity from oil and gas extraction and refining facilities listed under SIC Major Group 13 which have had a discharge of a reportable quantity (RQ) of oil or a hazardous substance for which notification is required under 40 CFR 110.6, 40 CFR 117.21 or 40 CFR 302.6. These include oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge stormwater contaminated by contact with or that has come into contact with any overburden raw material, intermediate products, finished products, by products or waste products located on the site of such operations. Industries in SIC Major Group 13 include the extraction and production of crude oil, natural gas, oil sands and shale; the production of hydrocarbon liquids and natural gas from coal; and associated oilfield service, supply and repair industries. This section also covers petroleum refineries listed under SIC Code 2911.~~

~~Contaminated stormwater discharges from petroleum refining or drilling operations that are subject to nationally established BAT or BPT guidelines found at 40 CFR Part 419 and 40 CFR Part 435 respectively are not authorized by this permit.~~

~~Note: most contaminated discharges from petroleum refining and drilling facilities are subject to these effluent guidelines and are not eligible for coverage under this permit.~~

~~B. Special conditions. Prohibition of nonstormwater discharges. In addition to the general prohibition of nonstormwater discharges in Part I B 1, the following discharges are not covered by this permit: discharges of vehicle and equipment washwater, including tank cleaning operations. Alternatively, washwater discharges must be authorized under a separate VPDES permit, or be discharged to a sanitary sewer in accordance with applicable industrial pretreatment requirements.~~

~~C. Stormwater pollution prevention plan requirements. In addition to the requirements of Part III, the SWPPP shall include, at a minimum, the following items:~~

~~1. Site description.~~

~~a. Site map. The site map shall identify where any of the following may be exposed to precipitation or surface runoff: reportable quantity (RQ) releases; locations used for the treatment, storage or disposal of wastes; processing areas and storage areas; chemical mixing areas; construction and drilling areas; all areas subject to the effluent guidelines requirement of "No Discharge" in accordance with 40 CFR 435.32 and the structural controls to achieve compliance with the "No Discharge" requirement.~~

~~b. Summary of potential pollutant sources.~~

~~(1) The plan shall also include a description of the potential pollutant sources from the following activities: chemical, cement, mud or gel mixing activities; drilling or mining activities; and equipment cleaning and rehabilitation activities.~~

~~(2) The plan shall include information about the RQ release which triggered the permit application requirements, including: the nature of the release (e.g., spill of oil from a drum storage area); the amount of oil or hazardous substance released; amount of substance recovered; date of the release; cause of the release (e.g., poor handling techniques and lack of containment in the area); areas affected by the release, including land and waters; procedure to cleanup release; actions or procedures implemented to prevent or improve response to a release; and remaining potential contamination of stormwater from release (taking into account human health risks, the control of drinking water intakes, and the designated uses of the receiving water).~~

~~2. Stormwater controls: Sediment and erosion control. The sediment and erosion control additional documentation requirements for well drillings and sand or shale mining areas are as follows:~~

~~a. Site description. Each plan shall provide a description of the following:~~

~~(1) A description of the nature of the exploration activity;~~

~~(2) Estimates of the total area of the site and the area of the site that is expected to be disturbed due to the exploration activity;~~

~~(3) An estimate of the runoff coefficient of the site;~~

~~(4) A site map indicating drainage patterns and approximate slopes; and~~

~~(5) The name of all receiving water(s).~~

~~b. Vegetative controls. The SWPPP shall include a description of vegetative practices designed to preserve existing vegetation where attainable and revegetate open areas as soon as practicable after grade drilling. Such practices may include: temporary or permanent seeding, mulching, sod stabilization, vegetative buffer strips, tree protection practices. The permittee shall initiate appropriate vegetative practices on all disturbed areas within 14 calendar days of the last activity at that area.~~

~~c. Procedures in the plan shall provide that all erosion and sedimentation controls on the site are inspected at least once every seven calendar days.~~

~~Sector J— Mineral Mining and Dressing (SIC 1411–1499). Facilities described by this sector are not covered by this general permit. Facilities with stormwater discharges that fall under this sector should apply for coverage under the VPDES Nonmetallic Mineral Mining General Permit (VAG 84).~~

9VAC25-151-180. Sector K - Hazardous waste treatment, storage, or disposal facilities.

A. Discharges covered under this section. The requirements listed under this section apply to stormwater discharges associated with industrial activity from facilities that treat, store, or dispose of hazardous wastes, including those that are operating under interim status or a permit under subtitle C of RCRA the Resource Conservation and Recovery Act (RCRA) (Industrial Activity Code "HZ"). Disposal facilities that have been properly closed and capped, or clean closed, and have no significant materials exposed to stormwater, do not require this permit.

B. Special conditions. Prohibition of nonstormwater discharges. In addition to the general prohibition of nonstormwater discharges in Part I B 1, the following discharges are not covered by this permit: leachate, gas collection condensate, drained free liquids, contaminated ground water, laboratory-derived wastewater and contact washwater from washing truck, equipment, and railcar exteriors and surface areas that have come in direct contact with solid waste at the landfill facility.

C. Definitions.

"Contaminated stormwater" means stormwater that comes in direct contact with landfill wastes, the waste handling and treatment areas, or landfill wastewater as defined in this section. Some specific areas of a landfill that may produce contaminated stormwater include, ~~but are not limited to:~~ the open face of an active landfill with exposed waste (no cover added); the areas around wastewater treatment operations; trucks, equipment or machinery that has been in direct contact with the waste; and waste dumping areas.

"Drained free liquids" means aqueous wastes drained from waste containers (e.g., drums, etc.) prior to landfilling.

"Landfill" means an area of land or an excavation in which wastes are placed for permanent disposal, that is not a land application or land treatment unit, surface impoundment, underground injection well, waste pile, salt dome formation, a salt bed formation, an underground mine or a cave as these terms are defined in 40 CFR 257.2, 40 CFR 258.2 and 40 CFR 260.10.

"Landfill wastewater," as defined in 40 CFR Part 445 (Landfills Point Source Category), means all wastewater associated with, or produced by, landfilling activities except for sanitary wastewater, noncontaminated stormwater,

contaminated ground water, and wastewater from recovery pumping wells. Landfill wastewater includes, ~~but is not limited to,~~ leachate, gas collection condensate, drained free liquids, laboratory derived wastewater, contaminated stormwater and contact washwater from washing truck, equipment, and railcar exteriors and surface areas that have come in direct contact with solid waste at the landfill facility.

"Leachate" means liquid that has passed through or emerged from solid waste and contains soluble, suspended, or miscible materials removed from such waste.

"Noncontaminated stormwater" means stormwater that does not come into direct contact with landfill wastes, the waste handling and treatment areas, or landfill wastewater as defined above. Noncontaminated stormwater includes stormwater that flows off the cap, cover, intermediate cover, daily cover, or final cover of the landfill.

D. Numeric effluent limitations. As set forth at 40 CFR Part 445 Subpart A, the numeric limitations in Table 180-1 apply to contaminated stormwater discharges from hazardous waste landfills subject to the provisions of RCRA Subtitle C at 40 CFR Parts 264 (Subpart N) and 265 (Subpart N) except for any of the following facilities:

1. Landfills operated in conjunction with other industrial or commercial operations when the landfill only receives wastes generated by the industrial or commercial operation directly associated with the landfill;
2. Landfills operated in conjunction with other industrial or commercial operations when the landfill receives wastes generated by the industrial or commercial operation directly associated with the landfill and also receives other wastes provided the other wastes received for disposal are generated by a facility that is subject to the same provisions in 40 CFR Subchapter N as the industrial or commercial operation or the other wastes received are of similar nature to the wastes generated by the industrial or commercial operation;
3. Landfills operated in conjunction with ~~Centralized Waste Treatment~~ centralized waste treatment (CWT) facilities subject to 40 CFR Part 437 so long as the CWT facility commingles the landfill wastewater with other nonlandfill wastewater for discharge. A landfill directly associated with a CWT facility is subject to this part if the CWT facility discharges landfill wastewater separately from other CWT wastewater or commingles the wastewater from its landfill only with wastewater from other landfills; or
4. Landfills operated in conjunction with other industrial or commercial operations when the landfill receives wastes from public service activities so long as the company owning the landfill does not receive a fee or other remuneration for the disposal service.

Table 180-1
Sector K – Numeric Effluent Limitations

Parameter	Effluent Limitations	
	Maximum Daily	Maximum Monthly Average
Hazardous Waste Treatment, Storage, or Disposal Facilities (Industrial Activity Code "HZ") Subject to the Provisions of 40 CFR Part 445 Subpart A.		
Biochemical Oxygen Demand (BOD ₅)	220 mg/L	56 mg/L
Total Suspended Solids (TSS)	88 mg/L	27 mg/L
Ammonia	10 mg/L	4.9 mg/L
Alpha Terpineol	0.042 mg/L	0.019 mg/L
Aniline	0.024 mg/L	0.015 mg/L
Benzoic Acid	0.119 mg/L*	0.073 mg/L
Naphthalene	0.059 mg/L	0.022 mg/L
p-Cresol	0.024 mg/L	0.015 mg/L
Phenol	0.048 mg/L	0.029 mg/L
Pyridine	0.072 mg/L	0.025 mg/L

Arsenic (Total)	1.1 mg/L	0.54 mg/L
Chromium (Total)	1.1 mg/L	0.46 mg/L
Zinc (Total)	0.535 mg/L*	0.296 mg/L*
pH	Within the range of 6.0 - 9.0 s.u.	
*These effluent limitations are three significant digits for reporting purposes.		

E. Benchmark monitoring and reporting requirements. Permittees with hazardous waste treatment, storage, or disposal facilities (TSDFs) are required to monitor their stormwater discharges for the pollutants of concern listed in Table 180-2. These benchmark monitoring cutoff concentrations apply to stormwater discharges associated with industrial activity other than contaminated stormwater discharges from landfills subject to the numeric effluent limitations set forth in Table 180-1.

Table 180-2
Sector K – Benchmark Monitoring Requirements

Pollutants of Concern	Benchmark Concentration
Hazardous Waste Treatment, Storage, or Disposal Facilities (Industrial Activity Code "HZ")	
Total Kjeldahl Nitrogen (TKN)	1.5 mg/L
Total Suspended Solids (TSS)	100 mg/L
Total Organic Carbon (TOC)	110 mg/L
Total Recoverable Arsenic	50 µg/L
Total Recoverable Cadmium	2.1 µg/L
Total Cyanide	22 µg/L
Total Recoverable Lead	120 µg/L
Total Magnesium	64 µg/L
Total Recoverable Mercury	1.4 µg/L
Total Recoverable Selenium	5.0 µg/L
Total Recoverable Silver	3.8 µg/L

9VAC25-151-190. Sector L - Landfills, land application sites and open dumps.

A. Discharges covered under this section. The requirements listed under this section apply to stormwater discharges associated with industrial activity from waste disposal at landfills, land application sites, and open dumps that receive or have received industrial wastes (Industrial Activity Code "LF"), including sites subject to regulation under Subtitle D of RCRA the Resource Conservation and Recovery Act (RCRA). Landfills, land application sites, and open dumps that have stormwater discharges from other types of industrial activities such as vehicle maintenance, truck washing, and recycling may be subject to additional requirements specified elsewhere in this permit. This permit does not cover discharges from landfills that receive only municipal wastes. Landfills (including landfills in "post-closure care") that have been properly closed and capped in accordance with 9VAC20-81-160 and 9VAC20-81-170 and have no significant materials exposed to stormwater do not require this permit. Landfills closed in accordance with regulations or permits in effect prior to December 21, 1988, do not require this permit, unless significant materials are exposed to stormwater.

B. Special conditions. Prohibition of nonstormwater discharges. In addition to the general nonstormwater prohibition in Part I B 1, the following discharges are not covered by this permit: leachate, gas collection condensate, drained free liquids, contaminated ground water, laboratory wastewater, and contact washwater from washing truck, equipment, and railcar exteriors and surface areas that have come in direct contact with solid waste at the landfill facility.

C. Definitions.

"Contaminated stormwater" means stormwater that comes in direct contact with landfill wastes, the waste handling and treatment areas, or landfill wastewater. Some areas of a landfill that may produce contaminated stormwater include, but are not limited to, the working face of an active landfill; the areas around wastewater treatment operations; trucks, equipment, or machinery that has been in direct contact with the waste; and waste dumping areas.

"Drained free liquids" means aqueous wastes drained from waste containers (e.g., drums, etc.) prior to landfilling.

"Landfill wastewater," as defined in 40 CFR Part 445 (Landfills Point Source Category), means all wastewater associated with, or produced by, landfilling activities except for sanitary wastewater, noncontaminated stormwater, contaminated groundwater, and wastewater from recovery pumping wells. Landfill wastewater includes, ~~but is not limited to,~~ leachate, gas collection condensate, drained free liquids, laboratory derived wastewater, contaminated stormwater and contact washwater from washing truck, equipment, and railcar exteriors and surface areas that have come in direct contact with solid waste at the landfill facility.

"Leachate" means liquid that has passed through or emerged from solid waste and contains soluble, suspended, or miscible materials removed from such waste.

"Noncontaminated stormwater" means stormwater that does not come into direct contact with landfill wastes, the waste handling and treatment areas, or landfill wastewater as defined above. Noncontaminated stormwater includes stormwater that flows off the cap, intermediate cover, or final cover of the landfill.

"Open dump" means a site on which any solid waste is placed, discharged, deposited, injected, dumped, or spilled so as to present a threat of a release of harmful substances into the environment or present a hazard to human health. Such a site is subject to the open dump criteria in 9VAC20-81-45.

~~D. Stormwater pollution prevention plan requirements. In addition to the requirements in Part III, the SWPPP shall include, at a minimum, the following items:~~

~~1. Site description.~~

~~a. Site map. The site map shall identify where any of the following may be exposed to precipitation or surface runoff: active and closed landfill cells or trenches; active and closed land application areas; locations where open dumping is occurring or has occurred; locations of any known leachate springs or other areas where uncontrolled leachate may commingle with runoff; and leachate collection and handling systems.~~

~~b. Summary of potential pollutant sources. The SWPPP shall also include a description of potential pollutant sources associated with any of the following: fertilizer, herbicide, and pesticide application; earth and soil moving; waste hauling and loading and unloading; outdoor storage of significant materials including daily, interim and final cover material stockpiles as well as temporary waste storage areas; exposure of active and inactive landfill and land application areas; uncontrolled leachate flows; and failure or leaks from leachate collection and treatment systems.~~

~~2. Stormwater controls.~~

D. Stormwater controls. In addition to the requirements in Part III, the SWPPP shall include, at a minimum, the following items:

~~a. 1. Preventive maintenance program. As part of the preventive maintenance program, the permittee shall maintain: all elements of leachate collection and treatment systems to prevent commingling of leachate with stormwater and the integrity and effectiveness of any intermediate or final cover (including making repairs to the cover as necessary), to minimize the effects of settlement, sinking, and erosion.~~

~~b. 2. Routine facility inspections.~~

~~(1) a. Inspections of active sites. Operating landfills, open dumps, and land application sites shall be inspected at least once every seven days. Qualified personnel shall inspect areas of landfills that have not yet been finally stabilized, active land application areas, areas used for storage of materials or wastes that are exposed to precipitation, stabilization and structural control measures, leachate collection and treatment systems, and locations where equipment and waste trucks enter and exit the site. Erosion and sediment control measures shall be observed to ensure they are operating correctly. For stabilized sites and areas where land application has been completed, or where the climate is seasonally arid (annual rainfall averages from 0 to 10 inches) or semi arid (annual rainfall averages from 10 to 20 inches), inspections shall be conducted at least once every month.~~

~~(2) b. Inspections of inactive sites. Inactive landfills, open dumps, and land application sites shall be inspected at least quarterly. Qualified personnel shall inspect landfill (or open dump) stabilization and~~

structural erosion control measures and leachate collection and treatment systems, and all closed land application areas.

e. ~~3.~~ Recordkeeping and internal reporting procedures. Landfill and open dump owners shall provide for a tracking system for the types of wastes disposed of in each cell or trench of a landfill or open dump. Land application site owners shall track the types and quantities of wastes applied in specific areas.

~~e.~~ ~~4.~~ Annual outfall evaluation for unauthorized discharges. The evaluation shall also be conducted for the presence of leachate and vehicle washwater.

e. ~~5.~~ Sediment and erosion control plan. Landfill and open dump owners shall provide for temporary stabilization of materials stockpiled for daily, intermediate, and final cover. Stabilization practices to consider include, ~~but are not limited to,~~ temporary seeding, mulching, and placing geotextiles on the inactive portions of the stockpiles. Landfill and open dump owners shall provide for temporary stabilization of inactive areas of the landfill or open dump which have an intermediate cover but no final cover. Landfill and open dump owners shall provide for temporary stabilization of any landfill or open dumping areas which have received a final cover until vegetation has established itself. Land application site owners shall also stabilize areas where waste application has been completed until vegetation has been established.

~~f. Comprehensive site compliance evaluation. Areas contributing to a stormwater discharge associated with industrial activities at landfills, open dumps and land application sites shall be evaluated for evidence of, or the potential for, pollutants entering the drainage system.~~

E. Numeric effluent limitations. As set forth at 40 CFR Part 445 Subpart B, the numeric limitations in Table 190-1 apply to contaminated stormwater discharges from municipal solid waste landfills (MSWLFs) that have not been closed in accordance with 40 CFR 258.60, and contaminated stormwater discharges from those landfills that are subject to the provisions of 40 CFR Part 257 (these include ~~CDD landfills (also known as C&D landfills),~~ construction and debris landfills and industrial landfills) except for discharges from any of the following facilities:

1. Landfills operated in conjunction with other industrial or commercial operations when the landfill only receives wastes generated by the industrial or commercial operation directly associated with the landfill;
2. Landfills operated in conjunction with other industrial or commercial operations when the landfill receives wastes generated by the industrial or commercial operation directly associated with the landfill and also receives other wastes provided the other wastes received for disposal are generated by a facility that is subject to the same provisions in 40 CFR Subchapter N as the industrial or commercial operation or the other wastes received are of similar nature to the wastes generated by the industrial or commercial operation;
3. Landfills operated in conjunction with centralized waste treatment (CWT) facilities subject to 40 CFR Part 437 so long as the CWT facility commingles the landfill wastewater with other nonlandfill wastewater for discharge. A landfill directly associated with a CWT facility is subject to this part if the CWT facility discharges landfill wastewater separately from other CWT wastewater or commingles the wastewater from its landfill only with wastewater from other landfills; or
4. Landfills operated in conjunction with other industrial or commercial operations when the landfill receives wastes from public service activities so long as the company owning the landfill does not receive a fee or other remuneration for the disposal service.

Table 190-1 Sector L – Numeric Effluent Limitations		
Parameter	Effluent Limitations	
	Maximum Daily	Maximum Monthly Average
Landfills (Industrial Activity Code "LF") that are Subject to the Requirements of 40 CFR Part 445 Subpart B.		
Biochemical Oxygen Demand (BOD ₅)	140 mg/L	37 mg/L
Total Suspended Solids (TSS)	88 mg/L	27 mg/L
Ammonia	10 mg/L	4.9 mg/L

Alpha Terpineol	0.033 mg/L	0.016 mg/L
Benzoic Acid	0.12 mg/L	0.071 mg/L
p-Cresol	0.025 mg/L	0.014 mg/L
Phenol	0.026 mg/L	0.015 mg/L
Zinc (Total)	0.20 mg/L	0.11 mg/L
pH	Within the range of 6.0 - 9.0 s.u.	

F. Benchmark monitoring and reporting requirements. [~~Landfill~~ Landfills], land application, and open dump sites are required to monitor their stormwater discharges for the pollutants of concern listed in Table 190-2. These benchmark monitoring ~~effluent~~ concentrations apply to stormwater discharges associated with industrial activity other than contaminated stormwater discharges from landfills subject to the numeric effluent limitations set forth in Table 190-1.

Table 190-2
Sector L – Benchmark Monitoring Requirements

Pollutants of Concern	Benchmark Concentration
Landfills, Land Application Sites and Open Dumps (Industrial Activity Code "LF").	
Total Suspended Solids (TSS)	100 mg/L

9VAC25-151-200. Sector M - Automobile salvage yards.

A. Discharges covered under this section. The requirements listed under this section apply to stormwater discharges associated with industrial activity from facilities engaged in dismantling or wrecking used motor vehicles for parts recycling or resale, and for scrap (SIC Code 5015).

~~B. Stormwater pollution prevention plan requirements. In addition to the requirements of Part III, the SWPPP shall include, at a minimum, the following items:~~

~~1. Site description.~~

~~a. Site map. The map shall include the location of each monitoring point, and an estimation (in acres) of the total area used for industrial activity including, but not limited to, dismantling, storage, and maintenance of used motor vehicle parts. The site map shall also identify where any of the following may be exposed to precipitation or surface runoff: vehicle storage areas; dismantling areas; parts storage areas (e.g., engine blocks, tires, hub caps, batteries, hoods, mufflers); and liquid storage tanks and drums for fuel and other fluids.~~

~~b. Summary of potential pollutant sources. The permittee shall assess the potential for the following activities to contribute pollutants to stormwater discharges: vehicle storage areas; dismantling areas; parts storage areas (e.g., engine blocks, tires, hub caps, batteries, and hoods); fueling stations.~~

~~2. B. Stormwater controls. In addition to the requirements of Part III, the SWPPP shall include, at a minimum, the following items:~~

~~a. 1. Spill and leak prevention procedures. All vehicles that are intended to be dismantled shall be properly drained of all fluids prior to being dismantled or crushed, or other equivalent means shall be taken to prevent leaks or spills of fluids upon arrival at the site, or as soon thereafter as feasible. All drained fluids shall be managed to minimize leaks or spills.~~

~~b. 2. Inspections. Upon arrival at the site, or as soon thereafter as feasible, vehicles shall be inspected for leaks. Any equipment containing oily parts, hydraulic fluids, any other types of fluids, or mercury switches shall be inspected at least quarterly (four times per year) for signs of leaks. All vessels, containers, or tanks and areas where hazardous materials and general automotive fluids are stored, including, but not limited to, mercury switches, brake fluid, transmission fluid, radiator water, and antifreeze, shall be inspected at least quarterly for leaks. Quarterly inspection records shall be maintained with the SWPPP.~~

~~c. 3. Employee training. Employee training shall, at a minimum, address the following areas when applicable to a facility: proper handling (collection, storage, and disposal) of oil, used mineral spirits, anti-freeze antifreeze, mercury switches, and solvents.~~

~~4. Management of runoff. The permittee shall implement control measures to divert, infiltrate, reuse, contain, or otherwise reduce stormwater runoff to minimize pollutants in discharges from the facility. The following management practices shall be considered used to prevent or reduce the discharge of pollutants to surface waters: [berms or drainage ditches on the property line, to help prevent runoff from neighboring properties; berms for uncovered outdoor storage of oily parts, engine blocks, and aboveground liquid storage; and the installation of detention ponds, filtering devices, and oil/water separators.]~~

- ~~a. Berms or drainage ditches on the property line used to help prevent run-on from neighboring properties;~~
- ~~b. Berms for uncovered outdoor storage of oily parts and engine blocks;~~
- ~~c. Aboveground liquid storage;~~
- ~~d. The installation of detention ponds, filtering devices, or oil/water separators; and~~
- ~~e. Another control measure used to prevent or reduce the discharge of pollutants to surface waters.~~

C. Benchmark monitoring and reporting requirements. Automobile salvage yards are required to monitor their stormwater discharges for the pollutants of concern listed in Table 200.

Table 200
Sector M – Benchmark Monitoring Requirements

Pollutants of Concern	Benchmark Concentration
Automobile Salvage Yards (SIC Code 5015)	
Total Suspended Solids (TSS)	100 mg/L
Total Recoverable Aluminum	750 µg/L
Total Recoverable Iron	1.0 mg/L
Total Recoverable Lead	120 µg/L

9VAC25-151-210. Sector N - Scrap recycling and waste recycling facilities and material recovery facilities (MRF).

A. Discharges covered under this section. The requirements listed under this section apply to stormwater discharges associated with industrial activity from facilities that are engaged in the processing, reclaiming and wholesale distribution of scrap and waste materials such as ferrous and nonferrous metals, paper, plastic, cardboard, glass, animal hides (these types of activities are typically identified as SIC Code 5093), and facilities that are engaged in reclaiming and recycling liquid wastes such as used oil, antifreeze, mineral spirits, and industrial solvents (also identified as SIC Code 5093). Separate permit requirements have been established for recycling facilities that only receive source-separated recyclable materials primarily from nonindustrial and residential sources (also identified as SIC Code 5093) (e.g., common consumer products including paper, newspaper, glass, cardboard, plastic containers, aluminum and tin cans).

Separate permit requirements have also been established for facilities that are engaged in dismantling ships, marine salvaging, and marine wrecking - ships for scrap (SIC Code 4499, limited to those listed; for others in SIC Code 4499 not listed ~~above in this subsection~~, see Sector Q (9VAC25-151-240)).

B. Special conditions. Prohibition of nonstormwater discharges. ~~In addition to the general nonstormwater prohibition in Part I B 1, nonstormwater discharges from turnings containment areas are not covered by this permit (see also subdivision C 2 e of this section).~~ Discharges from containment areas in the absence of a storm event are prohibited unless covered by a separate VPDES permit.

C. ~~Stormwater pollution prevention plan SWPPP~~ requirements. In addition to the requirements of Part III, ~~all facilities are required to comply with the general SWPPP requirement in subdivision 1 of this subsection. the following items are applicable:~~

~~Subdivisions 2 through 5 of this subsection have SWPPP requirements for specific types of recycling facilities. The permittee shall implement and describe in the SWPPP a program to address those items that apply. Included are lists of control measure options that, along with any functional equivalents, shall be considered for implementation.~~

- ~~1. Site description. Site map. The site map shall identify the locations where any of the following activities or sources may be exposed to precipitation or surface runoff: scrap and waste material storage, outdoor scrap and waste processing equipment, and containment areas for turnings exposed to cutting fluids.~~

2. 1. Scrap recycling and waste recycling facilities (nonsource-separated, nonliquid recyclable materials). The following SWPPP special conditions have been established for facilities that receive, process and do wholesale distribution of nonliquid recyclable wastes (e.g., ferrous and nonferrous metals, plastics, glass, cardboard and paper). These facilities may receive both nonrecyclable and recyclable materials. This section is not intended for those facilities that only accept recyclable materials primarily from nonindustrial and residential sources.

a. Inbound recyclable and waste material control program. The ~~plan~~ SWPPP shall include a recyclable and waste material inspection program to minimize the likelihood of receiving materials that may be significant pollutant sources to stormwater discharges. Control ~~measure options~~ measures shall include one or more of the following:

(1) Provide information and education flyers, brochures and pamphlets to suppliers of scrap and recyclable waste materials on draining and properly disposing of residual fluids prior to delivery to the facility (e.g., from vehicles and equipment engines, radiators, and transmissions, oil-filled transformers, and individual containers or drums), and on removal of mercury switches prior to delivery to the facility;

(2) Establish procedures to minimize the potential of any residual fluids from coming in contact with precipitation or runoff;

(3) Establish procedures for accepting scrap lead-acid batteries. Additional requirements for the handling, storage and disposal or recycling of batteries are contained in the scrap lead-acid battery program provisions in subdivision 2 f of this subsection;

(4) Provide training targeted for those personnel engaged in the inspection and acceptance of inbound recyclable materials; ~~and or~~

(5) Establish procedures to ensure that liquid wastes, including used oil, are stored in materially compatible and nonleaking containers and disposed or recycled in accordance with all requirements under the Resource ~~Recovery and Conservation~~ and Recovery Act (RCRA), and other state or local requirements.

b. Scrap and waste material stockpiles and storage (outdoor). The ~~plan~~ SWPPP shall describe measures and controls to minimize contact of stormwater runoff with stockpiled materials, processed materials and nonrecyclable wastes. Control ~~measure options~~ measures shall include one or more of the following:

(1) Permanent or semipermanent covers;

(2) The use of sediment traps, vegetated swales and strips, catch basin filters, and sand filters to facilitate settling or filtering of pollutants;

(3) Diversion of runoff away from storage areas via dikes, berms, containment trenches, culverts, and surface grading;

(4) Silt fencing; ~~and~~

(5) Oil/water separators, sumps, and dry adsorbents for areas where potential sources of residual fluids are stockpiled (e.g., automotive engine storage areas); ~~or~~

(6) Another control measure used to prevent or reduce the discharge of pollutants to surface waters.

c. Stockpiling of turnings exposed to cutting fluids (outdoor storage). The ~~plan~~ SWPPP shall implement measures necessary to minimize contact of surface runoff with residual cutting fluids. Control ~~measure options (use singularly or in combination)~~ measures shall include one or more of the following:

(1) Storage of all turnings exposed to cutting fluids under some form of permanent or semipermanent cover. Stormwater discharges from these areas are permitted provided the runoff is first treated by an oil/water separator or its equivalent. Procedures to collect, handle, and dispose or recycle residual fluids that may be present shall be identified in the ~~plan~~ SWPPP; or

(2) Establish dedicated containment areas for all turnings that have been exposed to cutting fluids. Stormwater runoff from these areas can be discharged provided:

(a) The containment areas are constructed of either concrete, asphalt or other equivalent type of impermeable material;

(b) There is a barrier around the perimeter of the containment areas to prevent contact with stormwater ~~run-on~~ run-on (e.g., berms, curbing, elevated pads, etc.);

(c) There is a drainage collection system for runoff generated from containment areas;

(d) There is a schedule to maintain the oil/water separator (or its equivalent); and

(e) Procedures are identified for the proper disposal or recycling of collected residual fluids.

d. Scrap and waste material stockpiles and storage (covered or indoor storage). The ~~plan~~ SWPPP shall address measures and controls to minimize contact of residual liquids and particulate matter from materials stored indoors or under cover from coming in contact with surface runoff. Control ~~measure options~~ measures shall include one or more of the following:

(1) Good housekeeping measures, including the use of dry absorbent or wet vacuum cleanup methods, to contain, dispose, or recycle residual liquids originating from recyclable containers, or mercury spill kits from storage of mercury switches;

(2) Prohibiting the practice of allowing washwater from tipping floors or other processing areas from discharging ~~to the storm sewer system~~; ~~and~~

(3) Disconnecting or sealing off all floor drains ~~connected to the storm sewer system~~. if necessary to prevent a discharge; or

(4) Another control measure used to prevent or reduce the discharge of pollutants to surface waters.

e. Scrap and recyclable waste processing areas. The ~~plan~~ SWPPP shall include measures and controls to minimize surface runoff from coming in contact with scrap processing equipment. In the case of processing equipment that generate visible amounts of particulate residue (e.g., shredding facilities), the ~~plan~~ SWPPP shall describe measures to minimize the contact of residual fluids and accumulated particulate matter with runoff (i.e., through good housekeeping, preventive maintenance, etc.). Control ~~measure options~~ measures shall include one or more of the following:

(1) A schedule of regular inspections of equipment for leaks, spills, malfunctioning, worn or corroded parts or equipment;

(2) A preventive maintenance program for processing equipment;

(3) Removal of mercury switches from the hood and trunk lighting units, and removal of anti-lock brake system units containing mercury switches;

(4) Use of dry-absorbents or other cleanup practices to collect and to dispose of or recycle spilled or leaking fluids, or use of mercury spill kits for spills from storage of mercury switches;

(5) Installation of low-level alarms or other equivalent protection devices on unattended hydraulic reservoirs over 150 gallons in capacity. Alternatively, provide secondary containment with sufficient volume to contain the entire volume of the reservoir;

(6) Containment or diversion structures such as dikes, berms, culverts, trenches, elevated concrete pads, and grading to minimize contact of stormwater runoff with outdoor processing equipment or stored materials;

(7) Oil/water separators or sumps;

(8) Permanent or semipermanent covers in processing areas where there are residual fluids and grease;

(9) Retention and detention basins or ponds, sediment traps, vegetated swales or strips, to facilitate pollutant settling and filtration; ~~and~~

(10) Catch basin filters or sand filters; or

(11) Another control measure used to prevent or reduce the discharge of pollutants to surface waters.

f. Scrap lead-acid battery program. The ~~plan~~ SWPPP shall address measures and controls for the proper handling, storage and disposal of scrap lead-acid batteries. Control ~~measure options~~ measures shall include one or more of the following:

(1) Segregate scrap lead-acid batteries from other scrap materials and store under cover;

(2) A description of procedures and measures for the proper handling, storage and disposal of cracked or broken batteries;

(3) A description of measures to collect and dispose of leaking lead-acid battery fluid;

(4) A description of measures to minimize and, whenever possible, eliminate exposure of scrap lead-acid batteries to precipitation or runoff; ~~and~~ or

(5) A description of employee training for the management of scrap batteries.

g. Spill prevention and response procedures. The SWPPP shall include measures to minimize stormwater contamination at loading and unloading areas, and from equipment or container failures. Control ~~measure options~~ measures shall include one or more of the following:

(1) Description of spill prevention and response measures to address areas that are potential sources of fluid leaks or spills;

(2) Immediate containment and clean up of spills and leaks. If malfunctioning equipment is responsible for the spill or leak, repairs shall also be conducted as soon as possible;

(3) Cleanup procedures shall be identified in the ~~plan~~ SWPPP, including the use of dry absorbents. Where dry absorbent cleanup methods are used, an adequate supply of dry absorbent material shall be maintained on-site. Used absorbent material shall be disposed of properly;

(4) Drums containing liquids, especially oil and lubricants, shall be stored: indoors; in a bermed area; in overpack containers or spill pallets; or in similar containment devices;

(5) Overfill prevention devices shall be installed on all fuel pumps or tanks;

(6) Drip pans or equivalent measures shall be placed under any leaking piece of stationary equipment until the leak is repaired. The drip pans shall be inspected for leaks and potential overflow and all liquids properly disposed of in accordance with RCRA requirements; ~~and or~~

(7) An alarm or pump shut off system shall be installed on outdoor equipment with hydraulic reservoirs exceeding 150 gallons in order to prevent draining the tank contents in the event of a line break. Alternatively, the equipment may have a secondary containment system capable of containing the contents of the hydraulic reservoir plus adequate freeboard for precipitation. A mercury spill kit shall be used for any release of mercury from switches, anti-lock brake systems, and switch storage areas.

h. Inspection program. All designated areas of the facility and equipment identified in the ~~plan~~ SWPPP shall be inspected at least quarterly. The requirement for routine facility inspections is waived for facilities that have maintained an active VEEP E3/E4 status.

i. Supplier notification program. The ~~plan~~ SWPPP shall include a program to notify major suppliers which scrap materials will not be accepted at the facility or are only accepted under certain conditions.

3. Waste recycling facilities (liquid recyclable materials).

a. Waste material storage (indoor). The ~~plan~~ SWPPP shall include measures and controls to ~~minimize or~~ eliminate contact between residual liquids from waste materials stored indoors and surface runoff. The ~~plan~~ SWPPP may refer to applicable portions of other existing plans such as SPCC plans required under 40 CFR Part 112. Control ~~measure options~~ measures shall include one or more of the following:

(1) Procedures for material handling (including labeling and marking);

(2) A sufficient supply of dry-absorbent materials or a wet vacuum system to collect spilled or leaked materials (~~note:~~ spilled or leaking mercury should never be vacuumed);

(3) An appropriate containment structure, such as trenches, curbing, gutters or other equivalent measures; ~~and or~~

(4) A drainage system, including appurtenances (e.g., pumps or ejectors, or manually operated valves), to handle discharges from diked or bermed areas. Drainage shall be discharged to an appropriate treatment facility, sanitary sewer system, or otherwise disposed of properly. Discharges from these areas may require coverage under a separate VPDES permit or industrial user permit under the pretreatment program.

b. Waste material storage (outdoor). The ~~plan~~ SWPPP shall describe measures and controls to minimize contact between stored residual liquids and precipitation or runoff. The ~~plan~~ SWPPP may refer to applicable portions of other existing plans such as SPCC plans required under 40 CFR Part 112. Discharges of precipitation from containment areas containing used oil shall also be in accordance with applicable sections of 40 CFR Part 112. Control ~~measure options~~ measures shall include one or more of the following:

(1) Appropriate containment structures (e.g., dikes, berms, curbing, pits) to store the volume of the largest single tank, with sufficient extra capacity for precipitation;

(2) Drainage control and other diversionary structures;

(3) For storage tanks, provide corrosion protection or leak detection systems; ~~and or~~

(4) Dry-absorbent materials or a wet vacuum system to collect spills.

c. Truck and rail car waste transfer areas. The ~~plan~~ SWPPP shall describe measures and controls to minimize pollutants in discharges from truck and rail car loading and unloading areas. The ~~plan~~ SWPPP shall also address measures to clean up minor spills and leaks resulting from the transfer of liquid wastes. Control ~~measure options~~ measures shall include one or more of the following:

(1) Containment and diversionary structures to minimize contact with precipitation or runoff; ~~and~~

(2) Use of dry cleanup methods, wet vacuuming, roof coverings, or runoff controls; or

(3) Another control measure used to prevent or reduce the discharge of pollutants to surface waters.

d. Inspections. Inspections shall be made quarterly and shall also include all areas where waste is generated, received, stored, treated or disposed that are exposed to either precipitation or stormwater runoff. The requirement for routine facility inspections is waived for facilities that have maintained an active VEEP E3/E4 status.

4. 3. Recycling facilities (source separated materials). The following SWPPP special conditions have been established for facilities that receive only source-separated recyclable materials primarily from nonindustrial and residential sources.

a. Inbound recyclable material control. The ~~plan~~ SWPPP shall include an inbound materials inspection program to minimize the likelihood of receiving nonrecyclable materials (e.g., hazardous materials) that may be a significant source of pollutants in surface runoff. Control ~~measure options~~ measures shall include one or more of the following:

(1) Provide information and education measures to inform suppliers of recyclable materials on the types of materials that are acceptable and those that are not acceptable;

(2) A description of training measures for drivers responsible for pickup of recyclable materials;

(3) Clearly mark public drop-off containers regarding which materials can be accepted;

(4) Rejecting nonrecyclable wastes or household hazardous wastes at the source; ~~and~~ or

(5) Establish procedures for the handling and disposal of nonrecyclable materials.

b. Outdoor storage. The ~~plan~~ SWPPP shall include procedures to minimize the exposure of recyclable materials to surface runoff and precipitation. The ~~plan~~ SWPPP shall include good housekeeping measures to prevent the accumulation of particulate matter and fluids, particularly in high traffic areas. Control ~~measure options~~ measures shall include one or more of the following:

(1) Provide totally-enclosed drop-off containers for the public;

(2) Install a sump and pump with each containment pit, and treat or discharge collected fluids to a sanitary sewer system;

(3) Provide dikes and curbs for secondary containment (e.g., around bales of recyclable waste paper);

(4) Divert surface runoff away from outside material storage areas;

(5) Provide covers over containment bins, dumpsters, roll-off boxes; ~~and~~ or

(6) Store the equivalent one day's volume of recyclable materials indoors.

c. Indoor storage and material processing. The ~~plan~~ SWPPP shall include measures to minimize the release of pollutants from indoor storage and processing areas. Control ~~measure options~~ measures shall include one or more of the following:

(1) Schedule routine good housekeeping measures for all storage and processing areas;

(2) Prohibit a practice of allowing tipping floor washwaters from draining to any portion of the storm sewer system; ~~and~~ or

(3) Provide employee training on pollution prevention practices.

d. Vehicle and equipment maintenance. The ~~plan~~ SWPPP shall also provide for control measures in those areas where vehicle and equipment maintenance is occurring outdoors. Control ~~measure options~~ measures shall include one or more of the following:

(1) Prohibit vehicle and equipment washwater ~~from discharging to the storm sewer system~~ discharges;

(2) Minimize or eliminate outdoor maintenance areas, wherever possible;

- (3) Establish spill prevention and clean-up procedures in fueling areas;
- (4) Avoid topping off fuel tanks;
- (5) Divert runoff from fueling areas;
- (6) Store lubricants and hydraulic fluids indoors; ~~and~~ or
- (7) Provide employee training on proper, handling, storage of hydraulic fluids and lubricants.

5. 4. Facilities engaged in dismantling ships, marine salvaging, and marine wrecking - ships for scrap. The following SWPPP special conditions have been established for facilities that are engaged in dismantling ships, marine salvaging, and marine wrecking - ships for scrap.

Vessel breaking and scrapping activities. Scrapping of vessels shall be accomplished ashore beyond the range of mean high tide, whenever practicable. If this activity must be conducted while a vessel is afloat or grounded in state waters, then the permittee shall employ control measures to reduce the amount of pollutants released. The following control measures shall be implemented during those periods when vessels (ships, barges, yachts, etc.) are brought to the facility's site for recycling, scrapping and storage prior to scrapping.

- a. Fixed or floating platforms sufficiently sized and constructed to catch and prevent scrap materials and pollutants from entering surface waters (or equivalent measures approved by the board) shall be used as work surfaces when working on or near the water surface. These platforms shall be cleaned as required to prevent pollutants from entering surface waters and at the end of each work shift. All scrap metals and pollutants shall be collected in a manner to prevent releases (~~containerization is recommended~~).
- b. There shall be no discharge of oil or oily wastewater at the facility. Drip pans and other protective devices shall be required for all oil and oily waste transfer operations to catch incidental spillage and drips from hose nozzles, hose racks, drums or barrels. Drip pans and other protective devices shall be inspected and maintained to prevent releases. Oil and oily waste shall be disposed at a permitted facility and adequate documentation of off-site disposition shall be retained for review by the board upon request.
- c. During the storage, breaking, and scrapping period, oil containment ~~boom(s)~~ booms shall be deployed either around the vessel being scrapped, or across the mouth of the facility's wet slip, to contain pollutants in the event of a spill. Booms shall be inspected, maintained, and repaired as needed. Oil, grease and fuel spills shall be prevented from reaching surface waters. Cleanup shall be carried out ~~promptly~~ immediately after an oil, grease, or fuel spill is detected.
- d. Paint and solvent spills shall be immediately, upon discovery of the spills, cleaned up to prevent pollutants from reaching storm drains, deck drains, and surface waters.
- e. Contaminated bilge and ballast water shall not be discharged to surface waters. If it becomes necessary to dispose of contaminated bilge and ballast waters during a vessel breaking activity, the wastewater shall be disposed at a permitted facility and adequate documentation of off-site disposition shall be retained for review by the board upon request.

D. Benchmark monitoring and reporting requirements. Scrap recycling and waste recycling facilities (both source-separated and nonsource-separated facilities), and facilities engaged in dismantling ships, marine salvaging, and marine wrecking - ships for scrap are required to monitor their stormwater discharges for the pollutants of concern listed in Table 210.

Table 210
Sector N – Benchmark Monitoring Requirements

Pollutants of Concern	Benchmark Concentration
Scrap Recycling and Waste Recycling Facilities (nonsource-separated facilities only) (SIC Code 5093)	
Total Suspended Solids (TSS)	100 mg/L
Total Recoverable Aluminum	750 µg/L
Total Recoverable Cadmium	2.1 µg/L
Total Recoverable Chromium	16 µg/L
Total Recoverable Copper	18 µg/L

Total Recoverable Iron	1.0 mg/L
Total Recoverable Lead	120 µg/L
Total Recoverable Zinc	120 µg/L
Scrap Recycling and Waste Recycling Facilities (source-separated facilities) (SIC Code 5093)	
Total Suspended Solids (TSS)	100 mg/L
Total Recoverable Aluminum ¹	750 µg/L
Total Recoverable Cadmium ¹	2.1 µg/L
Total Recoverable Chromium ¹	16 µg/L
Total Recoverable Copper ¹	18 µg/L
Total Recoverable Iron ¹	1.0 mg/L
Total Recoverable Lead ¹	120 µg/L
Total Recoverable Zinc ¹	120 µg/L
¹ Metals monitoring is only required at source-separated facilities for the specific metals listed above that are received at the facility.	
Facilities Engaged in Dismantling Ships, Marine Salvaging, and Marine Wrecking - Ships for Scrap (SIC Code 4499, limited to list)	
Total Recoverable Aluminum	750 µg/L
Total Recoverable Cadmium	2.1 µg/L
Total Recoverable Chromium	16 µg/L
Total Recoverable Copper	18 µg/L
Total Recoverable Iron	1.0 mg/L
Total Recoverable Lead	120 µg/L
Total Recoverable Zinc	120 µg/L
Total Suspended Solids (TSS)	100 mg/L

9VAC25-151-220. Sector O - Steam electric generating facilities.

A. Discharges covered under this section. The requirements listed under this section apply to stormwater discharges associated with industrial activity from steam electric power generating facilities using coal, natural gas, oil, nuclear energy, etc. to produce a steam source, including coal handling areas (Industrial Activity Code "SE").

Stormwater discharges from coal pile runoff subject to numeric effluent limitations are eligible for coverage under this permit, but are subject to the limitations established by Part I A 1 c (2).

Stormwater discharges from ancillary facilities (e.g., fleet centers, gas turbine stations, and substations) that are not contiguous to a steam electric power generating facility are not covered by this permit. Heat capture and heat recovery combined cycle generation facilities are also not covered by this permit; however, dual fuel co-generation facilities that generate electric power are included.

~~B. Special conditions. Prohibition of nonstormwater discharges. In addition to the general nonstormwater prohibition in Part I B 1, nonstormwater discharges subject to effluent limitation guidelines are also not covered by this permit.~~

~~C. Stormwater pollution prevention plan requirements. In addition to the requirements of Part III, the plan shall include, at a minimum, the following items:~~

- ~~1. Site description. Site map. The site map shall identify the locations of any of the following activities or sources that may be exposed to precipitation or surface runoff: storage tanks, scrap yards, general refuse areas; short and~~

~~long term storage of general materials (including, but not limited to: supplies, construction materials, paint equipment, oils, fuels, used and unused solvents, cleaning materials, paint, water treatment chemicals, fertilizer, and pesticides); landfills; construction sites; and stock pile areas (such as coal or limestone piles).~~

~~2. Stormwater controls:~~

~~a. Good housekeeping measures.~~

B. Stormwater controls. Good housekeeping measures.

(1) 1. Fugitive dust emissions. The permittee shall describe and implement measures that prevent or minimize fugitive dust emissions from coal and ash handling areas. The permittee shall minimize off-site tracking of coal dust and ash. Control measures to consider include installing specially designed tires, or washing vehicles in a designated area before they leave the site, and controlling the wash water.

(2) 2. Delivery vehicles. The ~~plan~~ SWPPP shall describe measures that prevent or minimize contamination of stormwater runoff from delivery vehicles arriving on the plant site. At a minimum the permittee shall consider the following:

(a) a. Develop procedures for the inspection of delivery vehicles arriving on the plant site, and ensure overall integrity of the body or container; and

(b) b. Develop procedures to deal with leakage and spillage from vehicles or containers.

(3) 3. Fuel oil unloading areas. The ~~plan~~ SWPPP shall describe measures that prevent or minimize contamination of precipitation or surface runoff from fuel oil unloading areas. At a minimum the permittee shall consider using the following measures, or an equivalent:

(a) a. Use of containment curbs in unloading areas;

(b) b. During deliveries, having station personnel familiar with spill prevention and response procedures present to ensure that any leaks and spills are immediately contained and cleaned up; and

(c) c. Use of spill and overflow protection (~~e.g., drip~~ Drip pans, drip diapers, or other containment devices may be placed beneath fuel oil connectors to contain potential spillage during deliveries or from leaks at the connectors).

(4) 4. Chemical loading and unloading areas. The permittee shall describe and implement measures that prevent or minimize the contamination of precipitation or surface runoff from chemical loading and unloading areas. At a minimum the permittee shall consider using the following measures (or their equivalents):

(a) a. Use of containment curbs at chemical loading and unloading areas to contain spills;

(b) b. During deliveries, having station personnel familiar with spill prevention and response procedures present to ensure that any leaks or spills are immediately contained and cleaned up; and

(c) c. Covering chemical loading and unloading areas, and storing chemicals indoors.

(5) 5. Miscellaneous loading and unloading areas. The permittee shall describe and implement measures that prevent or minimize the contamination of stormwater runoff from loading and unloading areas. The permittee shall consider the following, at a minimum (or their equivalents):

(a) a. Covering the loading area;

(b) b. Grading, berming, or curbing around the loading area to divert ~~runoff~~ run-on; or

(c) c. Locating the loading and unloading equipment and vehicles so that leaks are contained in existing containment and flow diversion systems.

(6) 6. Liquid storage tanks. The permittee shall describe and implement measures that prevent or minimize contamination of stormwater runoff from aboveground liquid storage tanks. At a minimum the permittee shall consider employing the following measures (or their equivalents):

(a) a. Use of protective guards around tanks;

(b) b. Use of containment curbs;

(c) c. Use of spill and overflow protection; and

(d) d. Use of dry cleanup methods.

(7) 7. Large bulk fuel storage tanks. The permittee shall describe and implement measures that prevent or minimize contamination of stormwater runoff from large bulk fuel storage tanks. At a minimum the permittee

shall consider employing containment berms (or its equivalent). The permittee shall also comply with applicable state and federal laws, including Spill Prevention Control and Countermeasures (SPCC).

~~(8)~~ 8. Spill reduction measures. The permittee shall describe and implement measures to reduce the potential for an oil or chemical spill, or reference the appropriate section of their SPCC plan. The structural integrity of all aboveground tanks, pipelines, pumps and other related equipment shall be visually inspected as part of the routine facility inspection. All repairs deemed necessary based on the findings of the inspections shall be completed immediately to reduce the incidence of spills and leaks occurring from such faulty equipment.

~~(9)~~ 9. Oil bearing equipment in switchyards. The permittee shall describe and implement measures to prevent or minimize contamination of surface runoff from oil bearing equipment in switchyard areas. The permittee shall consider the use of level grades and gravel surfaces to retard flows and limit the spread of spills, and the collection of stormwater runoff in perimeter ditches.

~~(10)~~ 10. Residue hauling vehicles. All residue hauling vehicles shall be inspected for proper covering over the load, adequate gate sealing and overall integrity of the container body. Vehicles without load coverings or adequate gate sealing, or with leaking containers or beds shall be repaired as soon as practicable.

~~(11)~~ 11. Ash loading areas. The permittee shall describe and implement procedures to reduce or control the tracking of ash and residue from ash loading areas. Where practicable, clear the ash building floor and immediately adjacent roadways of spillage, debris and excess water before departure of each loaded vehicle.

~~(12)~~ 12. Areas adjacent to disposal ponds or landfills. The permittee shall describe and implement measures that prevent or minimize contamination of stormwater runoff from areas adjacent to disposal ponds or landfills. The permittee shall develop procedures to:

~~(a)~~ a. Reduce ash residue which may be tracked on to access roads traveled by residue trucks or residue handling vehicles; and

~~(b)~~ b. Reduce ash residue on exit roads leading into and out of residue handling areas.

~~(13)~~ 13. Landfills, scrapyards, surface impoundments, open dumps, general refuse sites. The ~~plan~~ SWPPP shall address and include appropriate control measures to minimize the potential for contamination of runoff from landfills, scrapyards, surface impoundments, open dumps and general refuse sites.

~~b. Comprehensive site compliance evaluation. As part of the evaluation, qualified facility personnel shall inspect the following areas on a monthly basis: coal handling areas, loading and unloading areas, switchyards, fueling areas, bulk storage areas, ash handling areas, areas adjacent to disposal ponds and landfills, maintenance areas, liquid storage tanks, and long term and short term material storage areas.~~

~~D. C.~~ D. Numeric effluent limitations. Permittees with point sources of coal pile runoff associated with steam electric power generation shall monitor these stormwater discharges for the presence of TSS and for pH at least annually ~~(one time per year)~~ in accordance with Part I A 1 c (2).

~~E. D.~~ D. Benchmark monitoring and reporting requirements. Steam electric power generating facilities are required to monitor their stormwater discharges for the pollutants of concern listed in Table 220.

Table 220
Sector O – Benchmark Monitoring Requirements

Pollutants of Concern	Benchmark Concentration
Steam Electric Generating Facilities (Industrial Activity Code "SE")	
Total Recoverable Iron	1.0 mg/L

9VAC25-151-230. Sector P – Land transportation and warehousing. (Repealed)

~~A. Discharges covered under this section. The requirements listed under this section apply to stormwater discharges associated with industrial activity from ground transportation facilities and rail transportation facilities (generally identified by SIC Codes 40, 41, 42, 43, and 5171), that have vehicle and equipment maintenance shops (vehicle and equipment rehabilitation, mechanical repairs, painting, fueling and lubrication) or equipment cleaning operations. Also covered under this section are facilities found under SIC Codes 4221 through 4225 (public warehousing and storage) that do not have vehicle and equipment maintenance shops or equipment cleaning operations.~~

B. Special conditions. Prohibition of nonstormwater discharges. This permit does not authorize the discharge of vehicle, equipment, or surface washwater, including tank cleaning operations. Such discharges must be authorized under a separate VPDES permit, discharged to a sanitary sewer in accordance with applicable industrial pretreatment requirements, or recycled on site.

C. Stormwater pollution prevention plan requirements. In addition to the requirements of Part III, the SWPPP shall include, at a minimum, the following items:

1. Site description. Site map. The site map shall identify the locations of any of the following activities and indicate whether the activities may be exposed to precipitation or surface runoff: fueling stations; vehicle and equipment maintenance or cleaning areas; storage areas for vehicle and equipment with actual or potential fluid leaks; loading and unloading areas; areas where treatment, storage or disposal of wastes occur; liquid storage tanks; processing areas; and storage areas.

2. Summary of potential pollutant sources. The plan shall describe and assess the potential for the following to contribute pollutants to stormwater discharges: on site waste storage or disposal; dirt or gravel parking areas for vehicles awaiting maintenance; plumbing connections between shop floor drains and the stormwater conveyance system; and fueling areas.

3. Stormwater controls:

a. Good housekeeping.

(1) Vehicle and equipment storage areas. The storage of vehicles and equipment awaiting maintenance with actual or potential fluid leaks shall be confined to designated areas (delineated on the site map). The permittee shall consider the following measures (or their equivalents): the use of drip pans under vehicles and equipment; indoor storage of vehicles and equipment; installation of berms or dikes; use of absorbents; roofing or covering storage areas; and cleaning pavement surface to remove oil and grease.

(2) Fueling areas. The permittee shall describe and implement measures that prevent or minimize contamination of the stormwater runoff from fueling areas. The permittee shall consider the following measures (or their equivalents): covering the fueling area; using spill and overflow protection and cleanup equipment; minimizing stormwater runoff to the fueling area; using dry cleanup methods; and treating or recycling collected stormwater runoff.

(3) Material storage areas. Storage vessels of all materials (e.g., for used oil or oil filters, spent solvents, paint wastes, hydraulic fluids) shall be maintained in good condition, so as to prevent contamination of stormwater, and plainly labeled (e.g., "used oil," "spent solvents," etc.). The permittee shall consider the following measures (or their equivalents): indoor storage of the materials; installation of berms and dikes around the areas, minimizing runoff of stormwater to the areas; using dry cleanup methods; and treating or recycling the collected stormwater runoff.

(4) Vehicle and equipment cleaning areas. The permittee shall describe and implement measures that prevent or minimize contamination of stormwater runoff from all areas used for vehicle and equipment cleaning. The permittee shall consider the following measures (or their equivalents): performing all cleaning operations indoors; covering the cleaning operation; ensuring that all washwaters drain to a proper collection system (i.e., not the stormwater drainage system unless VPDES permitted); and treating or recycling the collected stormwater runoff.

(5) Vehicle and equipment maintenance areas. The permittee shall describe and implement measures that prevent or minimize contamination of the stormwater runoff from all areas used for vehicle and equipment maintenance. The permittee shall consider the following measures (or their equivalents): performing maintenance activities indoors; using drip pans; keeping an organized inventory of materials used in the shop; draining all parts of fluids prior to disposal; prohibiting wet clean up practices where the practices would result in the discharge of pollutants to stormwater drainage systems; using dry cleanup methods; treating or recycling collected stormwater runoff; and minimizing runoff of stormwater to maintenance areas.

(6) Locomotive sanding (loading sand for traction) areas. The plan shall describe measures that prevent or minimize contamination of the stormwater runoff from areas used for locomotive sanding. The permittee shall consider the following measures (or their equivalents): covering sanding areas; minimizing stormwater runoff; or appropriate sediment removal practices to minimize the off site transport of sanding material by stormwater.

b. Routine facility inspections. The following areas and activities shall be included in all inspections: storage area for vehicles and equipment awaiting maintenance; fueling areas; indoor and outdoor vehicle and equipment maintenance areas; material storage areas; vehicle and equipment cleaning areas; and loading and unloading areas.

c. Employee training. Employee training shall take place, at a minimum, annually (once per calendar year). Employee training shall address the following as applicable: used oil and spent solvent management; fueling procedures; general good housekeeping practices; proper painting procedures; and used battery management.

D. Benchmark monitoring and reporting requirements. Land transportation and warehousing facilities are required to monitor their stormwater discharges for the pollutants of concern listed in Table 230.

Table 230
Sector P – Benchmark Monitoring Requirements

Pollutants of Concern	Benchmark Concentration
Land Transportation and Warehousing Facilities (SIC 4011, 4013, 4111-4173, 4212-4231, 4311, and 5171)	
Total Petroleum Hydrocarbons (TPH) *	15.0 mg/L
Total Suspended Solids (TSS)	100 mg/L

*Total Petroleum Hydrocarbons (TPH) is the sum of individual gasoline range organics and diesel range organics (TPH GRO and TPH DRO) to be measured by EPA SW 846 Method 8015 for gasoline and diesel range organics, or by EPA SW 846 Methods 8260 Extended and 8270 Extended.

9VAC25-151-240. Sector Q - Water transportation and ship and boat building or repairing yards.

A. Discharges covered under this section. The requirements listed under this section apply to stormwater discharges associated with the following industrial activity from water transportation facilities (generally identified by SIC Major Group 44), that have vehicle (vessel) maintenance shops or equipment cleaning operations. The water transportation industry includes facilities engaged in foreign or domestic transport of freight or passengers in deep sea or inland waters; marine cargo handling operations; ferry operations; towing and tugboat services; and marinas. activities:

1. Water transportation facilities identified by SIC Codes 4412-4499 (except SIC Code 4499 facilities as specified in Sector N - 9VAC25-151-210). The water transportation industry includes facilities engaged in foreign or domestic transport of freight or passengers in deep sea or inland waters, marine cargo handling operations, ferry operations, towing and tugboat services, and marinas.

2. Ship building and repairing and boat building and repairing facilities identified by SIC Codes 3731 and 3732. The U.S. Coast Guard refers to a vessel 65 feet or greater in length as a "ship" and a vessel smaller than 65 feet as a "boat."

B. Special conditions. Prohibition of nonstormwater discharges. In addition to the general nonstormwater prohibition in Part I B 1, the following discharges are not covered by this permit: bilge and ballast water, sanitary wastes, pressure wash water, and cooling water originating from vessels.

C. Stormwater pollution prevention plan requirements. In addition to the requirements of Part III, the SWPPP shall include, at a minimum, the following items:

1. Site description.

a. Site map. The site map shall identify the locations where any of the following activities may be exposed to precipitation or surface runoff: fueling; engine maintenance or repair; vessel maintenance or repair; pressure washing; painting; sanding; blasting; welding; metal fabrication; loading and unloading areas; locations used for the treatment, storage or disposal of wastes; liquid storage tanks; liquid storage areas (e.g., paint, solvents, resins); and material storage areas (e.g., blasting media, aluminum, steel, scrap iron).

b. Summary of potential pollutant sources. The plan shall describe the following additional sources and activities that have potential pollutants associated with them: outdoor manufacturing or processing activities (i.e., welding, metal fabricating); and significant dust or particulate generating processes (e.g., abrasive blasting, sanding, painting).

2. C. Stormwater controls.

a. 1. Good housekeeping.

(1) a. Pressure washing area. As defined by this permit, process wastewater related to hull work at ~~water transportation~~ facilities shall be any water used on a vessel's hull for any purpose, regardless of application pressure, including ~~but not limited to~~ the activities of removing marine salts, sediments, marine growth and paint, or other hull, weather deck, or superstructure cleaning activities using water, such as preparing those areas for inspection or work (cutting, welding, grinding, coating, etc.). The discharge water shall be permitted as a process wastewater by a separate VPDES permit.

(2) b. Blasting and painting areas. The permittee shall describe and implement measures to prevent spent abrasives, paint chips, and overspray from discharging into the receiving water or the storm sewer system. The permittee ~~may consider containing~~ shall contain all blasting or painting activities, or the use of other measures to prevent or minimize the discharge of contaminants (e.g., hanging plastic barriers or tarpaulins during blasting or painting operations to contain debris). Stormwater conveyances shall be regularly cleaned to remove deposits of abrasive blasting debris and paint chips. The ~~plan~~ SWPPP shall include any standard operating practices with regard to blasting and painting activities, such as the prohibition of uncontained blasting or painting over open water, or the prohibition of blasting or painting during windy conditions which can render containment ineffective.

(3) c. Material storage areas. All containerized materials (~~e.g., fuels, paints, solvents, waste oil, antifreeze, batteries~~) shall be plainly labeled and stored in a protected, secure location away from drains. The permittee shall describe and implement measures to prevent or minimize the contamination of precipitation or surface runoff from the storage areas. The ~~plan~~ SWPPP shall specify which materials are stored indoors and consider containment or enclosure for materials that are stored outdoors. The permittee shall consider implementing an inventory control plan to limit the presence of potentially hazardous materials on-site. Where abrasive blasting is performed, the ~~plan~~ SWPPP shall specifically include a discussion on the storage and disposal of spent abrasive materials generated at the facility.

(4) d. Engine maintenance and repair areas. The permittee shall describe and implement measures to prevent or minimize contamination of precipitation or surface runoff from all areas used for engine maintenance and repair. The permittee shall consider the following measures (or their equivalent): performing all maintenance activities indoors; maintaining an organized inventory of materials used in the shop; draining all parts of fluids prior to disposal; prohibiting the practice of hosing down the shop floor using dry cleanup methods; and treating or recycling stormwater runoff collected from the maintenance area.

(5) e. Material handling areas. The permittee shall describe and implement measures to prevent or minimize contamination of precipitation or surface runoff from material handling operations and areas (e.g., fueling, paint and solvent mixing, disposal of process wastewater streams from vessels). The permittee shall consider the following measures (or their equivalents): covering fueling areas; using spill and overflow protection; mixing paints and solvents in a designated area (preferably indoors or under a shed); and minimizing ~~run-on~~ run-on of stormwater to material handling areas.

(6) f. Drydock activities. The ~~plan~~ SWPPP shall address the routine maintenance and cleaning of the drydock to minimize the potential for pollutants in the stormwater runoff. The ~~plan~~ SWPPP shall describe the procedures for cleaning the accessible areas of the drydock prior to flooding and final cleanup after the vessel is removed and the dock is raised. Cleanup procedures for oil, grease, or fuel spills occurring on the drydock shall also be included within the ~~plan~~ SWPPP. The permittee shall consider the following measures (or their equivalents): sweeping rather than hosing off debris and spent blasting material from the accessible areas of the drydock prior to flooding; and having absorbent materials and oil containment booms readily available to contain or cleanup any spills.

(7) g. General yard area. The ~~plan~~ SWPPP shall include a schedule for routine yard maintenance and cleanup. Scrap metal, wood, plastic, miscellaneous trash, paper, glass, industrial scrap, insulation, welding rods, packaging, etc.; shall be routinely removed from the general yard area.

b. (1) Preventative ~~Maintenance~~ maintenance. As part of the facility's preventive maintenance program, stormwater management devices shall be inspected and maintained in a timely manner (e.g., oil/water separators and sediment traps cleaned to ensure that spent abrasives, paint chips and solids are intercepted and retained prior to entering the storm drainage system). Facility equipment and systems shall also be

inspected and tested to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters.

~~e. (2) Routine facility inspections. The following areas shall be included in all quarterly inspections: pressure washing area; blasting, sanding, and painting areas; material storage areas; engine maintenance and repair areas; material handling areas; drydock area; and general yard area. The requirement for routine facility inspections is waived for facilities that have maintained an active VEEP E3/E4 status.~~

~~f. (3) Employee training. Training shall address, at a minimum, the following activities (as applicable): used oil management; spent solvent management; disposal of spent abrasives; disposal of vessel wastewaters; spill prevention and control; fueling procedures; general good housekeeping practices; painting and blasting procedures; and used battery management.~~

D. Benchmark monitoring and reporting requirements. ~~Water transportation~~ These facilities are required to monitor their stormwater discharges for the pollutants of concern listed in Table 240.

Table 240
Sector Q – Benchmark Monitoring Requirements

Pollutants of Concern	Benchmark Concentration
<u>Water Transportation Facilities (SIC 4412-4499 [except 4499 as specified in Sector N]) and Ship and Boat Building or Repairing Yards (SIC Codes 3731 and 3732)</u>	
Total Suspended Solids (TSS)	100 mg/L
Total Recoverable Copper	18 µg/L
Total Recoverable Zinc	120 µg/L

9VAC25-151-250. Sector R – Ship and boat building or repair yards. (Repealed)

~~A. Discharges covered under this section. The requirements listed under this section apply to stormwater discharges associated with industrial activity from facilities engaged in ship building and repairing and boat building and repairing (SIC Code 373). (According to the U.S. Coast Guard, a vessel 65 feet or greater in length is referred to as a ship and a vessel smaller than 65 feet is a boat.)~~

~~B. Special conditions. Prohibition of nonstormwater discharges. In addition to the general nonstormwater prohibition in Part I B 1, the following discharges are not covered by this permit: bilge and ballast water, pressure wash water, sanitary wastes, and cooling water originating from vessels.~~

~~C. Stormwater pollution prevention plan requirements. In addition to the requirements of Part III, the SWPPP shall include, at a minimum, the following items:~~

~~1. Site description.~~

~~a. Site map. The site map shall identify the locations where any of the following activities may be exposed to precipitation or surface runoff: fueling; engine maintenance or repair; vessel maintenance or repair; pressure washing; painting; sanding; blasting; welding; metal fabrication; loading and unloading areas; locations used for the treatment, storage or disposal of wastes; liquid storage tanks; liquid storage areas (e.g., paint, solvents, resins); and material storage areas (e.g., blasting media, aluminum, steel, scrap iron).~~

~~b. Potential pollutant sources. The plan shall include a description of the following additional sources and activities that have potential pollutants associated with them (if applicable): outdoor manufacturing and processing activities (e.g., welding, metal fabricating); and significant dust and particulate generating processes (e.g., abrasive blasting, sanding, painting).~~

~~2. Stormwater controls.~~

~~a. Good housekeeping measures.~~

~~(1) Pressure washing area. As defined by this permit, process wastewater related to hull work at ship and boat building or repair yard facilities shall be any water used on a vessel's hull for any purpose, regardless of application pressure, including but not limited to the activities of removing marine salts, sediments, marine growth and paint, or other hull, weather deck, or superstructure cleaning activities using water, such as preparing those areas for inspection or work (cutting, welding, grinding, coating, etc.). The discharge water shall be permitted as a process wastewater by a separate VPDES permit.~~

~~(2) Blasting and painting areas. The permittee shall describe and implement measures to prevent spent abrasives, paint chips and overspray from discharging into the receiving waterbody or the storm sewer system. To prevent the discharge of contaminants, the permittee shall consider containing all blasting and painting activities or using other methods, such as hanging plastic barriers or tarpaulins during blasting or painting operations to contain debris. The plan shall include a schedule for regularly cleaning storm systems to remove deposits of abrasive blasting debris and paint chips. The plan shall include any standard operating practices with regard to blasting and painting activities, such as the prohibition of uncontained blasting or painting over open water or the prohibition of blasting or painting during windy conditions that can render containment ineffective.~~

~~(3) Material storage areas. All containerized materials (fuels, paints, solvents, waste oil, antifreeze, batteries) shall be plainly labeled and stored in a protected, secure location away from drains. The permittee shall describe and implement measures to prevent or minimize contamination of precipitation or surface runoff from the storage areas. The permittee shall consider implementing an inventory control plan to limit the presence of potentially hazardous materials on site. Where abrasive blasting is performed, the plan shall specifically include a discussion on the storage and disposal of spent abrasive materials generated at the facility.~~

~~(4) Engine maintenance and repair areas. The permittee shall describe and implement measures to prevent or minimize contamination of precipitation or surface runoff from all areas used for engine maintenance and repair. The permittee shall consider the following measures (or their equivalent): performing all maintenance activities indoors; maintaining an organized inventory of materials used in the shop; draining all parts of fluids prior to disposal; prohibiting the practice of hosing down the shop floor; using dry cleanup methods; and treating or recycling stormwater runoff collected from the maintenance area.~~

~~(5) Material handling areas. The permittee shall describe and implement measures to prevent or minimize contamination of precipitation or surface runoff from material handling operations and areas (e.g., fueling, paint and solvent mixing, disposal of process wastewater streams from vessels). The permittee shall consider the following methods (or their equivalents): covering fueling areas; using spill and overflow protection; mixing paints and solvents in a designated area (preferably indoors or under a shed); and minimizing runoff of stormwater to material handling areas.~~

~~(6) Drydock activities. The plan shall address the routine maintenance and cleaning of the drydock to minimize the potential for pollutants in the stormwater runoff. The plan shall describe the procedures for cleaning the accessible areas of the drydock prior to flooding and final cleanup after the vessel is removed and the dock is raised. Cleanup procedures for oil, grease, or fuel spills occurring on the drydock shall also be included within the plan. The permittee shall consider the following measures (or their equivalents): sweeping rather than hosing off debris and spent blasting material from the accessible areas of the drydock prior to flooding and having absorbent materials and oil containment booms readily available to contain or cleanup any spills.~~

~~(7) General yard area. The plan shall include a schedule for routine yard maintenance and cleanup. Scrap metal, wood, plastic, miscellaneous trash, paper, glass, industrial scrap, insulation, welding rods, packaging, etc., shall be routinely removed from the general yard area.~~

~~b. Preventative maintenance. As part of the facility's preventive maintenance program, stormwater management devices shall be inspected and maintained in a timely manner (e.g., oil/water separators and sediment traps cleaned to ensure that spent abrasives, paint chips and solids are intercepted and retained prior to entering the storm drainage system). Facility equipment and systems shall also be inspected and tested to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters.~~

~~c. Routine facility inspections. The following areas shall be included in all quarterly routine facility inspections: pressure washing area; blasting, sanding, and painting areas; material storage areas; engine maintenance or repair areas; material handling areas; drydock area; and general yard area. The requirement for routine facility inspections is waived for facilities that have maintained an active VEEP E3/E4 status.~~

~~d. Employee training. Training shall address, at a minimum, the following activities (as applicable): used oil management; spent solvent management; proper disposal of spent abrasives; proper disposal of vessel~~

wastewaters, spill prevention and control; fueling procedures; general good housekeeping practices; painting and blasting procedures; and used battery management.

D. Benchmark monitoring and reporting requirements. Ship and boat building or repairing yards are required to monitor their stormwater discharges for the pollutants of concern listed in Table 250.

Table 250
Sector R—Benchmark Monitoring Requirements

Pollutants of Concern	Benchmark Concentration
Ship and Boat Building or Repairing Yards (SIC 3731, 3732)	
Total Suspended Solids (TSS)	100 mg/L
Total Recoverable Copper	18 µg/L
Total Recoverable Zinc	120 µg/L

9VAC25-151-260. Sector S—Air transportation. (Repealed)

A. Discharges covered under this section. The requirements listed under this section apply to stormwater discharges associated with industrial activity from air transportation facilities including airports, airport terminal services, air transportation (scheduled and nonscheduled), flying fields, air courier services, and establishments engaged in operating and maintaining airports, and servicing, repairing or maintaining aircraft (generally classified under SIC Code 45), which have vehicle maintenance shops, material handling facilities, equipment cleaning operations, or airport or aircraft deicing or anti-icing operations. For the purpose of this section, the term "deicing" is defined as the process to remove frost, snow, or ice and "anti-icing" is the process which prevents the accumulation of frost, snow, or ice. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, or deicing or anti-icing operations are addressed under this section.

B. Special definitions. The following definitions are only for this section of the general permit:

"Aircraft deicing fluid" or "ADF" means a fluid (other than hot water) applied to aircraft to remove or prevent any accumulation of snow or ice on the aircraft. This includes deicing and anti-icing fluids.

"Airfield pavement" means all paved surfaces on the airside of an airport.

"Airside" means the part of an airport directly involved in the arrival and departure of aircraft, including runways, taxiways, aprons, and ramps.

"Annual non-propeller aircraft departures" means the average number of commercial turbine engine aircraft that are propelled by jet (i.e., turbojet or turbofan) that take off from an airport on an annual basis, as tabulated by the Federal Aviation Administration (FAA).

"Available ADF" means 75% of the normalized Type I aircraft deicing fluid and 10% of the normalized Type IV aircraft deicing fluid, excluding aircraft deicing fluids used for defrosting or deicing for safe taxiing.

"Collection requirement" means, for new sources, the requirement for permittee to collect available ADF.

"Defrosting" means the removal of frost contamination from an aircraft when there has been no active precipitation.

"Deicing" mean procedures and practices to remove or prevent any accumulation of snow or ice on:

1. An aircraft; or
2. Airfield pavement.

"Normalized Type I or Type IV aircraft deicing fluid" means ADF less any water added by the manufacturer or customer before ADF application.

"Primary airport" means an airport defined at 49 USC § 47102 (15).

C. Special conditions. Prohibition of nonstormwater discharges. In addition to the general nonstormwater prohibition in Part I B 1, the following discharges are not covered by this permit: aircraft, ground vehicle, runway and equipment washwaters, and dry weather discharges of deicing or anti-icing chemicals. These discharges must be covered by a separate VPDES permit. Note: Discharge resulting from snowmelt is not a dry weather discharge.

D. Stormwater pollution prevention plan requirements. SWPPPs developed for areas of the facility occupied by tenants of the airport shall be integrated with the plan for the entire airport. For the purposes of this permit, tenants of the airport facility include airline passenger or cargo companies, fixed based operators and other parties who have contracts with the airport authority to conduct business operations on airport property and whose operations result in stormwater discharges associated with industrial activity. In addition to the requirements of Part III, the SWPPP shall include, at a minimum, the following items:

1. Site description.

a. Site map. The site map shall identify the location of the following activities and indicate any of the activities that may be exposed to precipitation or surface runoff: aircraft and runway deicing or anti-icing operations; fueling stations; aircraft, ground vehicle and equipment maintenance and cleaning areas; and storage areas for aircraft, ground vehicles and equipment awaiting maintenance.

b. Summary of potential pollutant sources. The plan shall include a narrative description of the potential pollutant sources from the following activities: aircraft, runway, ground vehicle and equipment maintenance and cleaning; aircraft and runway deicing or anti-icing operations (including apron and centralized aircraft deicing or anti-icing stations, runways, taxiways, and ramps). Facilities which conduct deicing or anti-icing operations shall maintain a record of the types (including the safety data sheets (SDS)) and monthly quantities of deicing or anti-icing chemicals used, either as measured amounts, or in the absence of metering, as estimated amounts. This includes all deicing or anti-icing chemicals, not just glycols and urea (e.g., potassium acetate). Tenants and fixed-base operators who conduct deicing or anti-icing operations shall provide the above information to the airport authority for inclusion in the stormwater pollution prevention plan for the entire facility.

c. Deicing season. The SWPPP shall define the average seasonal timeframe (e.g., December-February, October-March, etc.) during which deicing activities typically occur at the facility. Implementation of control measures, including any BMPs, facility inspections, and effluent limitation monitoring shall be conducted with particular emphasis throughout the defined deicing season.

2. Stormwater controls.

a. Good housekeeping.

(1) Aircraft, ground vehicle and equipment maintenance areas. The permittee shall describe and implement measures that prevent or minimize the contamination of stormwater runoff from all areas used for aircraft, ground vehicle and equipment maintenance (including the maintenance conducted on the terminal apron and in dedicated hangars). Appropriate control measures (or their equivalents) shall be implemented, such as the following practices: performing maintenance activities indoors; maintaining an organized inventory of materials used in the maintenance areas; draining all parts of fluids prior to disposal; preventing the practice of hosing down the apron or hangar floor; using dry cleanup methods; and collecting the stormwater runoff from the maintenance area and providing treatment or recycling.

(2) Aircraft, ground vehicle and equipment cleaning areas. Permittees shall ensure that cleaning of equipment is conducted in designated areas only and clearly identify these areas on the ground and delineate them on the site map. The permittee shall describe and implement measures that prevent or minimize the contamination of the stormwater runoff from cleaning areas.

(3) Aircraft, ground vehicle and equipment storage areas. The storage of aircraft, ground vehicles and equipment awaiting maintenance shall be confined to designated areas (delineated on the site map). Appropriate control measures, including any BMPs (or their equivalents) shall be implemented, such as the following practices: indoor storage of aircraft and ground vehicles; the use of drip pans for the collection of fluid leaks; and perimeter drains, dikes or berms surrounding storage areas.

(4) Material storage areas. Storage vessels of all materials (e.g., used oils, hydraulic fluids, spent solvents, and waste aircraft fuel) shall be maintained in good condition, so as to prevent or minimize contamination of stormwater, and plainly labeled (e.g., "used oil," "Contaminated Jet A," etc.). The permittee shall describe and implement measures that prevent or minimize contamination of precipitation or runoff from storage areas. Appropriate control measures (or their equivalents) shall be implemented, such as the following practices: indoor storage of materials; centralized storage areas for waste materials; and installation of berms and dikes around storage areas.

(5) Airport fuel system and fueling areas. The permittee shall describe and implement measures that prevent or minimize the discharge of fuels to the storm sewer or surface waters resulting from fuel servicing activities or other operations conducted in support of the airport fuel system. Appropriate control measures (or their equivalents) shall be implemented, such as the following practices: implementing spill and overflow practices (e.g., placing absorptive materials beneath aircraft during fueling operations); using dry cleanup methods; and collecting the stormwater runoff.

b. Source reduction. The permittee shall minimize, and where practicable eliminate, the use of urea and glycol based deicing or anti-icing chemicals in order to reduce the aggregate amount of deicing or anti-icing chemicals used and lessen the environmental impact. Chemical options to replace ethylene glycol, propylene glycol and urea include: potassium acetate; magnesium acetate; calcium acetate; anhydrous sodium acetate.

(1) Runway deicing operations. The permittee shall minimize contamination of stormwater runoff from runways as a result of deicing operations. The permittee shall evaluate present application rates to ensure against excessive over application by analyzing application rates and adjusting as necessary, consistent with considerations of flight safety. Appropriate control measures, (or their equivalents) shall be implemented, such as the following practices: metered application of chemicals; prewetting dry chemical constituents prior to application; installation of runway ice detection systems; implementing anti-icing operations as a preventive measure against ice buildup.

(2) Aircraft deicing operations. The permittee shall minimize contamination of stormwater runoff from aircraft deicing operations. The permittee shall determine whether excessive application of deicing chemicals occurs, and adjust as necessary, consistent with considerations of flight safety. This evaluation shall be carried out by the personnel most familiar with the particular aircraft and flight operations in question (versus an outside entity such as the airport authority). The use of alternative deicing or anti-icing agents as well as containment measures for all applied chemicals shall be considered. Appropriate control measures (or their equivalents) shall be implemented for reducing deicing fluid use, such as the following practices: forced air deicing systems; computer controlled fixed gantry systems; infrared technology; hot water; varying glycol content to air temperature; enclosed basket deicing trucks; mechanical methods; solar radiation; hangar storage; aircraft covers; and thermal blankets for MD-80s and DC-9s. The use of ice-detection systems and airport traffic flow strategies and departure slot allocation systems shall also be considered where practicable.

e. Management of runoff. Where deicing operations occur, the permittee shall implement a program to control or manage contaminated runoff to minimize the amount of pollutants being discharged from the site. The plan shall describe the controls used for collecting or containing contaminated melt water from collection areas used for disposal of contaminated snow. The following control measure options (or their equivalents) shall be considered: establishing a dedicated deicing facility with a runoff collection and recovery system; using vacuum or collection trucks; storing contaminated stormwater water or deicing fluids in tanks and releasing controlled amounts to a publicly owned treatment works; collecting contaminated runoff in a wet pond for biochemical decomposition (be aware of attracting wildlife that may prove hazardous to flight operations); and directing runoff into vegetative swales or other infiltration measures. The plan shall consider the recovery of deicing and anti-icing materials when these materials are applied during nonprecipitation events (e.g., covering storm sewer inlets, using booms, installing absorptive interceptors in the drains, etc.) to prevent these materials from later becoming a source of stormwater contamination. Used deicing fluid shall be recycled whenever possible.

d. Routine facility inspections. The inspection frequency shall be specified in the plan. At a minimum, inspections shall be conducted once per month during deicing and anti-icing season (e.g., October through April for most airports). If deicing occurs before or after this period, the inspections shall be expanded to include all months during which deicing chemicals may be used.

e. Comprehensive site compliance evaluation. The annual site compliance evaluations shall be conducted by qualified facility personnel during periods of actual deicing operations, if possible. If not practicable during active deicing or if the weather is too inclement, the evaluations shall be conducted when deicing operations are likely to occur and the materials and equipment for deicing are in place.

E. Numeric effluent limitations. The average deicing season identified in the SWPPP is the time frame during which any effluent limitation monitoring samples shall be obtained.

~~1. Airfield pavement deicing. Existing primary airports and primary airports meeting the definition of a new source (new primary airports) with at least 1,000 annual jet departures (non propeller aircraft) that discharge wastewater associated with airport pavement deicing commingled with stormwater shall either use deicing products that do not contain urea or alternatively, airfield pavement discharges at every discharge point shall achieve the numeric limitations for ammonia in Table 260-1, prior to any dilution or commingling with any non-deicing discharge. Primary airports that only use deicing products that do not contain urea shall certify this fact annually to the board. The certification shall be signed in accordance with Part II K, and a copy of the certification shall be kept with the SWPPP.~~

~~Table 260-1~~

~~Sector S— Numeric Effluent Limitations, Existing and New Primary Airports~~

Airfield Pavement Deicing	
Parameter	Effluent Limitations—Daily Maximum
Ammonia as Nitrogen	14.7 mg/L

~~2. Aircraft deicing. Airports meeting the definition of a new source (new airports) with 10,000 annual departures, and located in cold climate zones, shall collect at least 60% of available ADF after deicing. New airports shall achieve the performance standards in Table 260-2 for available ADF collected. The limitation shall be met at the location where the effluent leaves the on-site treatment system utilized for meeting these requirements and before commingling with any non-deicing discharge.~~

~~Table 260-2~~

~~Sector S— Numeric Effluent Limitations, New Primary Airports~~

Aircraft Deicing		
Parameter	Effluent Limitations	
	Daily Maximum	Weekly Average
Chemical Oxygen Demand (COD)	271 mg/L	154 mg/L

~~3. Monitoring, reporting, and recordkeeping requirements.~~

~~a. Demonstrating compliance with the ADF collection requirement for dischargers subject to the requirements in subdivision 2 of this subsection.~~

~~(1) The permittee shall maintain records with the SWPPP to demonstrate that the airport is operating and maintaining one or more centralized deicing pads and shall certify this annually to the board. The certification shall be signed in accordance with Part II K, and a copy of the certification shall be kept with the SWPPP.~~

~~The centralized deicing pad technology shall be operated and maintained according to the technical specifications set forth in subdivisions 3 a (1) (a) through (d) of this subsection. The demonstration and valid certification are sufficient to meet the applicable collection requirement without the permittee having to determine the numeric percentage of available ADF collected.~~

~~(a) Each centralized deicing pad shall be sized and sited in accordance with all applicable Federal Aviation Administration advisory circulars.~~

~~(b) Drainage valves associated with the centralized deicing pad shall be activated before deicing activities commence to collect available ADF.~~

~~(c) The centralized deicing pad and associated collection equipment shall be installed and maintained per any applicable manufacturers' instructions and shall be inspected, at a minimum, at the beginning of each deicing season to ensure that the pad and associated equipment are in working condition.~~

~~(d) All aircraft deicing shall take place on a centralized deicing pad, with the exception of defrosting and deicing for safe taxiing.~~

~~(2) The permittee shall maintain records with the SWPPP on the volume of ADF sprayed and the amount of available ADF collected in order to determine compliance with the collection requirement and shall report this information annually to the department.~~

b. ~~Monitoring requirements.~~

~~(1) COD limitation. Permittees subject to the ADF collection and discharge requirements specified in subdivision 2 of this subsection shall conduct effluent monitoring to demonstrate compliance with the COD limitation for all ADF that is collected.~~

~~Compliance shall be demonstrated at the location where the effluent leaves the on-site treatment system utilized for meeting these requirements and before commingling with any non-deicing discharge. Effluent samples shall be collected following the grab sample protocol in 40 CFR 449, Appendix A.~~

~~(2) Ammonia limitation. If a permittee chooses to comply with the compliance alternative specified in subdivision 1 of this subsection, the permittee shall conduct effluent monitoring at all locations where pavement deicing with a product that contains urea is occurring, prior to any dilution or commingling with any non-deicing discharge.~~

e. ~~Recordkeeping.~~

~~(1) The permittee shall maintain records with the SWPPP documenting compliance with subdivisions 3 a and 3 b of this subsection. These records include, but are not limited to, documentation of wastewater samples collected and analyzed, certifications, and equipment maintenance schedules and agreements.~~

~~(2) The permittee shall collect and maintain data with the SWPPP on the annual volume of ADF used.~~

~~F. Benchmark monitoring and reporting requirements. Stormwater discharges from those portions of air transportation facilities where vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication) and equipment cleaning is performed shall be sampled for the parameters listed in Table 260-3. Note: The benchmark monitoring requirements apply year round and are not limited to the deicing season.~~

Table 260-3
Sector S—Benchmark Monitoring Requirements

Pollutants of Concern	Benchmark Concentration
Air Transportation Facilities (SIC 45):	
Total Suspended Solids (TSS)	100 mg/L
Total Petroleum Hydrocarbons (TPH)*	15.0 mg/L
*Total Petroleum Hydrocarbons (TPH) is the sum of individual gasoline range organics and diesel range organics (TPH GRO and TPH DRO) to be measured by EPA SW 846 Method 8015 for gasoline and diesel range organics, or by EPA SW 846 Methods 8260 Extended and 8270 Extended.	

9VAC25-151-270. Sector T—Treatment works. (Repealed)

~~A. Discharges covered under this section. The requirements listed under this section apply to stormwater discharges associated with industrial activity from treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including lands dedicated to the disposal of sewage sludge that are located within the confines of the facility with a design flow of 1.0 MGD or more, or required to have an approved pretreatment program under 9VAC25-31-730 (Industrial Activity Code "TW"). Farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and that are not physically located within the facility, or areas that are in compliance with § 405 of the CWA are not required to have permit coverage.~~

~~B. Special conditions. Prohibition of nonstormwater discharges. In addition to the general nonstormwater prohibition in Part I B 1, the following discharges are not covered by this permit: sanitary and industrial wastewater; and equipment and vehicle washwaters.~~

~~C. Stormwater pollution prevention plan requirements. In addition to the requirements of Part III, the SWPPP shall include, at a minimum, the following items:~~

~~1. Site description.~~

~~a. Site map. The site map shall identify where any of the following may be exposed to precipitation or surface runoff: grit, screenings, and other solids handling, storage, or disposal areas; sludge drying beds; dried sludge piles; compost piles; septage or hauled waste receiving station; and storage areas for process chemicals, petroleum products, solvents, fertilizers, herbicides, and pesticides.~~

b. ~~Summary of potential pollutant sources. The plan shall include a description of the potential pollutant sources from the following activities, as applicable: grit, screenings, and other solids handling, storage, or disposal areas; sludge drying beds; dried sludge piles; compost piles; septage or hauled waste receiving station; and access roads and rail lines.~~

~~2. Stormwater controls.~~

a. ~~Control measures. In addition to the other control measures required by Part III B 4, the following measures shall be considered: routing stormwater to the treatment works; or covering exposed materials (i.e., from the following areas: grit, screenings, and other solids handling, storage, or disposal areas; sludge drying beds; dried sludge piles; compost piles; septage or hauled waste receiving station).~~

b. ~~Inspections. The following areas shall be included in all inspections: access roads and rail lines, grit, screenings, and other solids handling, storage, or disposal areas; sludge drying beds; dried sludge piles; compost piles; septage or hauled waste receiving station areas.~~

c. ~~Employee training. Employee training shall, at a minimum, address the following areas when applicable to a facility: petroleum product management; process chemical management; spill prevention and control; fueling procedures; general good housekeeping practices; proper procedures for using fertilizers, herbicides and pesticides.~~

9VAC25-151-280. Sector U - Food and kindred products.

A. Discharges covered under this section. The requirements listed under this section apply to stormwater discharges associated with industrial activity from food and kindred products processing facilities (commonly identified by SIC Code 20), including: meat products; dairy products SIC Codes 2021-2026; canned, frozen and preserved fruits, vegetables, and food specialties; grain mill products SIC Codes 2041-2048; bakery products; sugar and confectionery products; and fats and oils; beverages; and miscellaneous food preparations and kindred products and tobacco products manufacturing (~~SIC Code 21~~) SIC Codes 2074-2079.

B. Special conditions. Prohibition of nonstormwater discharges. In addition to the general nonstormwater prohibition in Part I B 1, the following discharges are not covered by this permit: boiler blowdown, cooling tower overflow and blowdown, ammonia refrigeration purging, and vehicle washing and clean-out operations.

C. Stormwater pollution prevention plan requirements. In addition to the requirements of Part III, the SWPPP shall include, at a minimum, the following items:

~~1. Site description.~~

a. ~~Site map. The site map shall identify the locations of the following activities if they are exposed to precipitation or surface runoff: vents and stacks from cooking, drying, and similar operations; dry product vacuum transfer lines; animal holding pens; spoiled product; and broken product container storage areas.~~

b. ~~Summary of potential pollutant sources. In addition to food and kindred products processing related industrial activities, the plan shall also describe application and storage of pest control chemicals (e.g., rodenticides, insecticides, fungicides, etc.) used on plant grounds.~~

~~2. Stormwater controls.~~

a. ~~Routine facility inspections. At a minimum, the following areas, where the potential for exposure to stormwater exists, shall be inspected on a quarterly basis: loading and unloading areas for all significant materials; storage areas, including associated containment areas; waste management units; vents and stacks emanating from industrial activities; spoiled product and broken product container holding areas; animal holding pens; staging areas; and air pollution control equipment. The requirement for routine facility inspections is waived for facilities that have maintained an active VEEP E3/E4 status.~~

b. ~~Employee training. The employee training program shall also address pest control.~~

~~D. C.~~ Benchmark monitoring and reporting requirements. Dairy products, grain mills and fats and oils products facilities are required to monitor their stormwater discharges for the pollutants of concern listed in Table 280.

Table 280

Sector U – Benchmark Monitoring Requirements

Pollutants of Concern	Benchmark Concentration
Dairy Products (<u>SIC Codes 2021-2026</u>)	

Biochemical Oxygen Demand (BOD ₅)	30 mg/L
Total Suspended Solids (TSS)	100 mg/L
Grain Mill Products (SIC Codes 2041-2048)	
Total Kjeldahl Nitrogen (TKN)	1.5 mg/L
Total Suspended Solids (TSS)	100 mg/L
Fats and Oils Products (SIC Codes 2074-2079)	
Biochemical Oxygen Demand (BOD ₅)	30 mg/L
Total Nitrogen	2.2 mg/L
Total Suspended Solids (TSS)	100 mg/L

9VAC25-151-290. Sector V – Textile mills, apparel, and other fabric products. (Repealed)

~~A. Discharges covered under this section. The requirements listed under this section apply to stormwater discharges associated with industrial activity from textile mills, apparel and other fabric product manufacturing, generally described by SIC 22 and 23. This section also covers facilities engaged in manufacturing finished leather and artificial leather products (SIC 31, except 3111). Facilities in this sector are primarily engaged in the following activities: textile mill products, of and regarding facilities and establishments engaged in the preparation of fiber and subsequent manufacturing of yarn, thread, braids, twine, and cordage, the manufacturing of broad woven fabrics, narrow woven fabrics, knit fabrics, and carpets and rugs from yarn; processes involved in the dyeing and finishing of fibers, yarn fabrics, and knit apparel; the integrated manufacturing of knit apparel and other finished articles of yarn; the manufacturing of felt goods (wool), lace goods, nonwoven fabrics, miscellaneous textiles, and other apparel products.~~

~~B. Special conditions. Prohibition of nonstormwater discharges. In addition to the general nonstormwater prohibition in Part I B 1, the following discharges are not covered by this permit: discharges of wastewater (e.g., wastewater as a result of wet processing or from any processes relating to the production process); reused or recycled water; and waters used in cooling towers. These discharges must be covered under a separate VPDES permit.~~

~~C. Stormwater pollution prevention plan requirements. In addition to the requirements of Part III, the SWPPP shall include, at a minimum, the following items:~~

~~1. Site description. Summary of potential pollutant sources. The plan shall include a description of the potential pollutant sources from the following activities: industry specific significant materials and industrial activities (e.g., backwinding, beaming, bleaching, backing, bonding carbonizing, carding, cut and sew operations, desizing, drawing, dyeing, flocking, fulling, knitting, mercerizing, opening, packing, plying, scouring, slashing, spinning, synthetic felt processing, textile waste processing, tufting, turning, weaving, web forming, winging, yarn spinning, and yarn texturing).~~

~~2. Stormwater controls:~~

~~a. Good housekeeping measures:~~

~~(1) Material storage areas. All containerized materials (e.g., fuels, petroleum products, solvents, dyes, etc.) shall be clearly labeled and stored in a protected area, away from drains. The permittee shall describe and implement measures that prevent or minimize contamination of stormwater runoff from such storage areas, and shall include a description of the containment area or enclosure for those materials that are stored outdoors. The permittee may consider an inventory control plan to prevent excessive purchasing of potentially hazardous substances. The permittee shall ensure that empty chemical drums and containers are clean (triple rinsing shall be considered) and residuals are not subject to contact with precipitation or runoff. Washwater from these cleanings shall be collected and disposed of properly.~~

~~(2) Material handling area. The permittee shall describe and implement measures that prevent or minimize contamination of the stormwater runoff from materials handling operations and areas. The permittee shall consider the following measures (or their equivalents): use of spill and overflow protection; covering fueling areas; and covering and enclosing areas where the transfer of materials may occur. Where applicable, the plan shall address the replacement or repair of leaking connections, valves, transfer lines and pipes that may carry chemicals, dyes, or wastewater.~~

~~(3) Fueling areas. The permittee shall describe and implement measures that prevent or minimize contamination of the stormwater runoff from fueling areas. The permittee shall consider the following measures (or their equivalents): covering the fueling area; using spill and overflow protection; minimizing runoff of stormwater to the fueling areas; using dry cleanup methods; and treating or recycling stormwater runoff collected from the fueling area.~~

~~(4) Aboveground storage tank areas. The permittee shall describe and implement measures that prevent or minimize contamination of the stormwater runoff from aboveground storage tank areas, including the associated piping and valves. The permittee shall consider the following measures (or their equivalents): regular cleanup of these areas; preparation of a spill prevention control and countermeasure program (SPCC) to provide spill and overflow protection; minimizing runoff of stormwater from adjacent areas; restricting access to the area; insertion of filters in adjacent catch basins; absorbent booms in unbermed fueling areas; use of dry cleanup methods; and permanently sealing drains within critical areas that may discharge to a storm drain.~~

~~b. Routine facility inspections. Inspections shall be conducted at least monthly, and shall include the following activities and areas (at a minimum): transfer and transmission lines; spill prevention; good housekeeping practices; management of process waste products; all structural and nonstructural management practices. The requirement for routine facility inspections is waived for facilities that have maintained an active VEEP E3/E4 status.~~

~~c. Employee training. Employee training shall, at a minimum address, the following areas when applicable to a facility: use of reused or recycled waters; solvents management; proper disposal of dyes; proper disposal of petroleum products and spent lubricants; spill prevention and control; fueling procedures; and general good housekeeping practices.~~

9VAC25-151-300. Sector W—Furniture and fixtures. (Repealed)

~~A. Discharges covered under this section. The requirements listed under this section apply to stormwater discharges associated with industrial activity from facilities involved in the manufacturing of wood kitchen cabinets (generally described by SIC Code 2434), and furniture and fixtures (generally classified under SIC Major Group 25), including: household furniture (SIC 251); office furniture (SIC 252); public buildings and related furniture (SIC 253); partitions, shelving, lockers, and office and store fixtures (SIC 254); and miscellaneous furniture and fixtures (SIC 259).~~

~~B. Stormwater pollution prevention plan requirements. In addition to the requirements of Part III, the SWPPP shall include, at a minimum, the following item:~~

~~Site Map. The site map shall identify where any of the following may be exposed to precipitation or surface runoff: material storage areas (including tanks or other vessels used for liquid or waste storage); outdoor material processing areas; areas where wastes are treated, stored or disposed; access roads; and rail spurs.~~

9VAC25-151-310. Sector X—Printing and publishing. (Repealed)

~~A. Discharges covered under this section. The requirements listed under this section apply to stormwater discharges associated with industrial activity from printing and publishing facilities (generally classified under SIC Major Group 27), and include the following types of facilities: newspaper, periodical, and book publishing and printing (SIC Codes 271 through 273); miscellaneous publishing (SIC Code 274); commercial printing (SIC Code 275); manifold business forms, greeting cards, bankbooks, looseleaf binders and book binding and related work (SIC Codes 276 through 278); and service industries for the printing trade (SIC 279).~~

~~B. Stormwater pollution prevention plan requirements. In addition to the requirements of Part III, the SWPPP shall include, at a minimum, the following items:~~

~~1. Site description. Summary of potential pollutant sources. The plan shall include a description of the following additional sources and activities that have potential pollutants associated with them, as applicable: loading and unloading operations; outdoor storage activities; significant dust or particulate generating processes; and on-site waste disposal practices (e.g., blanket wash). Also, the pollutant or pollutant parameter (e.g., oil and grease, scrap metal, etc.) associated with each pollutant source shall be identified.~~

~~2. Stormwater controls:~~

~~a. Good housekeeping measures:~~

~~(1) Material storage areas. All containerized materials (skids, pallets, solvents, bulk inks, and hazardous waste, empty drums, portable or mobile containers of plant debris, wood crates, steel racks, fuel oil, etc.)~~

~~shall be properly labeled and stored in a protected area, away from drains. The permittee shall describe and implement measures that prevent or minimize contamination of the stormwater runoff from such storage areas and shall include a description of the containment area or enclosure for those materials which are stored outdoors. The permittee may consider an inventory control plan to prevent excessive purchasing of potentially hazardous substances.~~

~~(2) Material handling areas. The permittee shall describe and implement measures that prevent or minimize contamination of the stormwater runoff from material handling operations and areas (e.g., blanket wash, mixing solvents, loading and unloading materials). The permittee shall consider the following measures (or their equivalents): the use of spill and overflow protection; covering fuel areas; and covering or enclosing areas where the transfer of materials may occur. When applicable, the plan shall address the replacement or repair of leaking connections, valves, transfer lines and pipes that may carry chemicals, or wastewater.~~

~~(3) Fueling areas. The permittee shall describe and implement measures that prevent or minimize contamination of the stormwater runoff from fueling areas. The permittee shall consider the following measures (or their equivalents): covering the fueling area; using spill and overflow protection; minimizing runoff of stormwater to the fueling area; using dry cleanup methods; and treating or recycling stormwater runoff collected from the fueling areas.~~

~~(4) Aboveground storage tank areas. The permittee shall describe and implement measures that prevent or minimize contamination of the stormwater runoff from aboveground storage tank areas, including the associated piping and valves. The permittee shall consider the following measures (or their equivalents): regular cleanup of these areas; preparation of a spill prevention control and countermeasure program (SPCC) to provide spill and overflow protection; minimizing runoff of stormwater from adjacent facilities and properties; restricting access to the area; insertion of filters in adjacent catch basins; absorbent booms in unbermed fueling areas; use of dry cleanup methods; and permanently sealing drains within critical areas that may discharge to a storm drain.~~

~~b. Employee training. Employee training shall, at a minimum, address the following areas when applicable to a facility: spent solvent management; spill prevention and control; used oil management; fueling procedures; and general good housekeeping practices.~~

9VAC25-151-320. Sector Y - Rubber, miscellaneous plastic products, and miscellaneous manufacturing industries.

A. Discharges covered under this section. The requirements listed under this section apply to stormwater discharges associated with industrial activity from rubber and miscellaneous plastic products manufacturing facilities (SIC Major Group 30) and miscellaneous manufacturing industries, except jewelry, silverware, and plated ware (SIC Major Group 39, except 391), SIC Codes 3011, 3021, 3052, [3053,] 3061, and 3069.

B. Stormwater pollution prevention plan SWPPP requirements. In addition to the requirements of Part III, the SWPPP shall include, at a minimum, the following items:

1. Site description. Summary of potential pollutant sources. Rubber manufacturing facilities shall review the use of zinc at the facility and the possible pathways through which zinc may be discharged in stormwater runoff.

2. Stormwater controls.

a. Controls for rubber manufacturers. Rubber manufacturing facilities shall describe and implement specific controls to minimize the discharge of zinc in stormwater discharges from the facility. Listed below are possible sources of zinc. These shall be reviewed and the accompanying control measures (or their equivalents) shall be ~~considered~~ documented in the SWPPP. Also, some general control measure options to consider include: using chemicals that are purchased in pre-weighed, sealed polyethylene bags; storing materials that are in use in sealable containers; ensuring an airspace between the container and the cover to minimize "puffing" losses when the container is opened; and using automatic dispensing and weighing equipment.

(1) Zinc bags. All permittees shall review the handling and storage of zinc bags at their facilities. Following are some control measure options: employee training regarding the handling and storage of zinc bags; indoor storage of zinc bags; cleanup of zinc spills without washing the zinc into the storm drain; and the use of 2,500-pound sacks of zinc rather than 50- to 100-pound sacks.

(2) Dumpsters. The permittee shall minimize discharges of zinc from dumpsters. Following are some control measure options: provide a cover for the dumpster; move the dumpster to an indoor location; or provide a lining for the dumpster.

(3) Dust collectors or baghouses. Permittees shall minimize contributions of zinc to stormwater from dust collectors and baghouses. Improperly operating dust collectors and baghouses shall be replaced or repaired as appropriate.

(4) Grinding operations. Permittees shall minimize contamination of stormwater as a result of dust generation from rubber grinding operations. One control measure option is to install a dust collection system.

(5) Zinc stearate coating operations. Permittees shall minimize the potential for stormwater contamination from drips and spills of zinc stearate slurry that may be released to the storm drain. One control measure option is to use alternative compounds to zinc stearate.

b. Controls for plastic products manufacturers. Plastic products manufacturing facilities shall describe and implement specific controls to minimize the discharge of plastic resin pellets in stormwater discharges from the facility. The following control measures (or their equivalents) shall be ~~considered~~ documented in the SWPPP: minimizing spills; cleaning up of spills ~~promptly~~ immediately and thoroughly; sweeping thoroughly; pellet capturing; employee education; and disposal precautions.

C. Benchmark monitoring and reporting requirements. Rubber product manufacturing facilities are required to monitor their stormwater discharges for the pollutants of concern listed in Table 320.

Table 320
Sector Y – Benchmark Monitoring Requirements

Pollutants of Concern	Benchmark Concentration
Tires and Inner Tubes; Rubber Footwear; Gaskets, Packing and Sealing Devices; Rubber Hose and Belting; and Fabricated Rubber Products, Not Elsewhere Classified (SIC Codes [3011, 3069, 3011, 3021, 3052, 3053, 3061, and 3069]).	
Total Recoverable Zinc	120 µg/L

9VAC25-151-330. Sector Z – Leather tanning and finishing. (Repealed)

~~A. Discharges covered under this section. The requirements listed under this section apply to stormwater discharges associated with industrial activity from leather tanning, currying and finishing (commonly identified by SIC Code 3111).~~

~~B. Stormwater pollution prevention plan requirements. In addition to the requirements of Part III, the SWPPP shall include, at a minimum, the following items:~~

~~1. Site description.~~

~~a. Site map. The site map shall identify where any of the following may be exposed to precipitation or surface runoff: processing and storage areas of the beamhouse, tanyard, retan wet finishing and dry finishing operations.~~

~~b. Summary of potential pollutant sources. A description of potential pollutant sources including (as appropriate): temporary or permanent storage of fresh and brine-cured hides; leather dust, scraps, trimmings and shavings; and extraneous hide substances and hair.~~

~~2. Stormwater controls.~~

~~a. Good housekeeping.~~

~~(1) Storage areas for raw, semiprocessed, or finished tannery by products. Pallets and bales of raw, semiprocessed or finished tannery by products (e.g., splits, trimmings, shavings, etc.) shall be stored indoors or protected by polyethylene wrapping, tarpaulins, roofed storage area or other suitable means. Materials shall be placed on an impermeable surface, the area shall be enclosed or bermed, or other equivalent measures shall be employed to prevent runoff or runoff of stormwater.~~

~~(2) Material storage areas. Storage units of all materials should be labeled (e.g., specific chemicals, hazardous materials, spent solvents, waste materials). The permittee shall describe and implement measures that prevent or minimize contact with stormwater.~~

~~(3) Buffing and shaving areas. The permittee shall describe and implement measures that prevent or minimize contamination of the stormwater runoff with leather dust from buffing and shaving areas. The permittee may consider dust collection enclosures, preventive inspection and maintenance programs or other appropriate preventive measures.~~

~~(4) Receiving, unloading, and storage areas. The permittee shall describe and implement measures that prevent or minimize contamination of the stormwater runoff from receiving, unloading, and storage areas. The following measures (or their equivalents) shall be considered for exposed receiving, unloading and storage areas: hides and chemical supplies protected by a suitable cover; diversion of drainage to the process sewer; and grade berming or curbing area to prevent runoff of stormwater.~~

~~(5) Outdoor storage of contaminated equipment. The permittee shall describe and implement measures that prevent or minimize contact of stormwater with contaminated equipment. The following measures (or their equivalents) shall be considered: equipment protected by suitable cover; diversion of drainage to the process sewer; thorough cleaning prior to storage.~~

~~(6) Waste management. The permittee shall describe and implement measures that prevent or minimize contamination of the stormwater runoff from waste storage areas. The permittee shall consider the following measures (or their equivalents): inspection and maintenance programs for leaking containers or spills; covering dumpsters; moving waste management activities indoors; covering waste piles with temporary covering material such as tarpaulins or polyethylene; and minimizing stormwater runoff by enclosing the area or building berms around the area.~~

~~C. Benchmark monitoring and reporting requirements. Leather tanning and finishing facilities are required to monitor their stormwater discharges for the pollutants of concern listed in Table 330.~~

~~Table 330
Sector Z—Benchmark Monitoring Requirements~~

Pollutants of Concern	Benchmark Concentration
Leather Tanning and Finishing (SIC 3111)	
Total Kjeldahl Nitrogen (TKN)	1.5 mg/L

9VAC25-151-340. Sector AA - Fabricated metal products.

A. Discharges covered under this section. The requirements listed under this section apply to stormwater discharges associated with industrial activity from the following fabricated metals [industry industries] listed below, except for electrical related industries: fabricated metal products, except machinery and transportation equipment (SIC Code 34); SIC Codes 3411-3471, [3479], and 3482-3499; and jewelry, silverware, and plated ware (SIC Code 391), SIC Codes 3911-3915.

B. Stormwater pollution prevention plan requirements. In addition to the requirements of Part III, the SWPPP shall include, at a minimum, the following items:

1. Site description.

a. Site Map. The site map shall identify where any of the following may be exposed to precipitation or surface runoff: ~~raw metal storage areas; finished metal storage areas; scrap disposal collection sites; equipment storage areas; retention and detention basins; temporary or permanent diversion dikes or berms; right of way or perimeter diversion devices; sediment traps or barriers; processing areas including outside painting areas; wood preparation; recycling; and raw material storage.~~

b. Spills and Leaks. When listing significant spills and leaks, the permittee shall pay attention to the following materials, at a minimum: chromium, toluene, pickle liquor, sulfuric acid, zinc and other water priority chemicals and hazardous chemicals and wastes.

e. Summary of potential pollutant sources. The plan shall include a description of the potential pollutant sources from the following activities: loading and unloading operations for paints, chemicals and raw materials; outdoor storage activities for raw materials, paints, empty containers, corn cob, chemicals, scrap metals; outdoor manufacturing or processing activities such as grinding, cutting, degreasing, buffing, brazing, etc.; and on-site waste disposal practices for spent solvents, sludge, pickling baths, shavings, ingots pieces, refuse and waste piles.

2. Stormwater controls.

a. Good housekeeping.

(1) Raw steel handling storage. The permittee shall describe and implement measures for managing or recovering scrap metals, fines, and iron dust, including measures for containing materials within storage handling areas.

(2) Paints and painting equipment. The permittee shall describe and implement measures to prevent or minimize exposure of paint and painting equipment from exposure to stormwater.

b. Spill prevention and response procedures. The permittee shall ensure that the necessary equipment to implement a cleanup is available to personnel. The following areas shall be addressed:

(1) Metal fabricating areas. The permittee shall describe and implement measures for maintaining clean, dry, orderly conditions in these areas. Use of dry clean up techniques shall be considered in the plan.

(2) Storage areas for raw metal. The permittee shall describe and implement measures to keep these areas free of conditions that could cause, or impede appropriate timely response to, spills or leakage of materials. The following measures (or their equivalents) shall be considered: storage areas maintained such that there is easy access in the event of a spill; stored materials labeled to aid in identifying spill contents.

(3) Metal working fluid storage areas. The permittee shall describe and implement measures for storage of metal working fluids.

(4) Cleaners and rinse water. The permittee shall describe and implement measures to control and clean up spills of solvents and other liquid cleaners; control sand buildup and disbursement from sand blasting operations; and prevent exposure of recyclable wastes. Environmentally benign cleaners shall be substituted when possible.

(5) Lubricating oil and hydraulic fluid operations. The permittee shall describe and implement measures to minimize the potential for stormwater contamination from lubricating oil and hydraulic fluid operations. The permittee shall consider using devices or monitoring equipment or other devices to detect and control leaks and overflows. The installation of perimeter controls such as dikes, curbs, grass filter strips, or other equivalent measures shall also be considered.

(6) Chemical storage areas. The permittee shall describe and implement proper storage methods that prevent stormwater contamination and accidental spillage. The plan shall include a program to inspect containers, and identify proper disposal methods.

c. Inspections. Metal fabricators shall at a minimum include the following areas for inspection: raw metal storage areas; finished product storage areas; material and chemical storage areas; recycling areas; loading and unloading areas; equipment storage areas; paint areas; and vehicle fueling and maintenance areas.

d. Comprehensive site compliance evaluation. The site compliance evaluation shall also include inspections of: areas associated with the storage of raw metals; storage of spent solvents and chemicals; outdoor paint areas; and roof drainage. Potential pollutants include chromium, zinc, lubricating oil, solvents, aluminum, oil and grease, methyl ethyl ketone, steel and other related materials.

C. B. Benchmark monitoring and reporting requirements. Metal fabricating facilities are required to monitor their stormwater discharges for the pollutants of concern listed in Table 340.

Table 340
Sector AA – Benchmark Monitoring Requirements

Pollutants of Concern	Benchmark Concentration
Fabricated Metal Products Except Coating (SIC Codes 3411-3471, 3482-3499, 3911-3915)	
Total Recoverable Aluminum	750 µg/L
Total Recoverable Iron	1.0 mg/L
Total Recoverable Zinc	120 µg/L
Total Recoverable Copper	18 µg/L

Fabricated Metal Coating and Engraving (SIC Code 3479)	
Total Recoverable Zinc	120 µg/L

9VAC25-151-350. Sector AB - Transportation equipment, industrial, or commercial machinery.

A. Discharges covered under this section. The requirements listed under this section apply to stormwater discharges associated with industrial activity from transportation equipment, and industrial or commercial machinery manufacturing facilities (~~commonly described by SIC Major Group 35 (except SIC Code 357), and SIC Major Group 37 (except SIC Code 373)~~) commonly described by SIC Codes 3511-3599, except SIC Codes 3571-3579.

B. ~~Stormwater pollution prevention plan~~ SWPPP requirements. In addition to the requirements of Part III, the SWPPP shall include, at a minimum, the following item:

Site description. [~~Site map.~~] The site map shall identify where any of the following may be exposed to precipitation or surface runoff: vents and stacks from metal processing and similar operations.

C. Benchmark monitoring and reporting requirements. Transportation equipment manufacturing facilities are required to monitor their stormwater discharges for the pollutants of concern listed in Table 350.

Table 350
Sector AB – Benchmark Monitoring Requirements

Pollutants of Concern	Benchmark Concentration
Transportation equipment manufacturing facilities (SIC 35, except 357, and SIC 37, except 373) (<u>SIC Codes 3511-3599 except SIC Codes 3571-3579</u>)	
Total Petroleum Hydrocarbons (TPH)*	15.0 mg/L
Total Suspended Solids (TSS)	100 mg/L
Total Recoverable Copper	18 µg/L
Total Recoverable Zinc	120 µg/L
*Total Petroleum Hydrocarbons (TPH) is the sum of individual gasoline range organics and diesel range organics (TPH-GRO and TPH-DRO) to be measured by EPA SW 846 Method 8015 for gasoline and diesel range organics, or by EPA SW 846 Methods 8260 Extended and 8270 Extended.	

9VAC25-151-360. Sector AC - ~~Electronic, electrical equipment and components, photographic and optical goods.~~ (Repealed)

~~A. Discharges covered under this section. The requirements listed under this section apply to storm water discharges associated with industrial activity from facilities that manufacture: electronic and other electrical equipment and components, except computer equipment (SIC Major Group 36); measuring, analyzing, and controlling instruments; photographic, medical and optical goods; watches and clocks (SIC Major Group 38) and computer and office equipment (SIC Code 357).~~

~~B. Additional requirements. No additional sector-specific requirements apply to this sector.~~

9VAC25-151-370. Sector AD - Nonclassified facilities/stormwater discharges designated by the board as requiring permits.

A. Discharges covered under this section. Sector AD is used to provide permit coverage for facilities designated by the board as needing a stormwater permit under the provisions of 9VAC25-31-120 A 1 c or under 9VAC25-31-120 A 7 a (1) or (2) of the VPDES Permit Regulation. Therefore, almost any type of stormwater discharge ~~could~~ may be covered under this sector. Permittees shall be assigned to Sector AD by the board and may not choose Sector AD as the sector describing the facility's activities.

~~B. Additional requirements. No additional sector-specific requirements apply to this sector.~~

~~C. B. Benchmark monitoring and reporting requirements. Nonclassified facilities/stormwater discharges designated by the board as requiring permits are required to monitor their stormwater discharges for the pollutants of concern listed in Table 370. The board shall establish any additional monitoring requirements for your facility prior to authorizing coverage under this permit.~~

Table 370
Sector AD—Benchmark Monitoring Requirements

Pollutants of Concern	Benchmark Concentration
Nonclassified Facilities/Stormwater Discharges Designated By the Board As Requiring Permits	
Total Suspended Solids (TSS)	100 mg/L

9VAC25-151-380. Sector AE - Facilities with no analytical benchmark monitoring requirements.

A. Discharges covered under this section. The requirements listed under this section apply to stormwater discharges associated with industrial activity from facilities with SIC Codes 2611, 2621, 2652-2657, 2833-2836, 2851, 2861-2869, 2891-2899, 3952, [~~2992, 2999,~~] 3211, 3221, 3229, 3231, 3241, 3281, 3291-3299, 3331-3339, 3398, 3399, 3341, 1311, 1321, 1381-1389, 2911, 4512-4581, Treatment Works (TW), 2011-2015, 2032-2038, 2051-2053, 2061-2068, 2082-2087, 2091-2099, 2111-2141, 2211-2299, 2311-2399, 3131-3199, 2434, 2511-2599, 2711-2796, 3081-3089, 3931, 3942-3949, 3951-3955 (except 3952 [~~facilities as specified in Sector C~~]), 3961, 3965, 3991-3999, 3111, 3711-3799 (except 3731 and 3732 as identified in Sector Q), 3571-3579, 3612-3699, and 3812-3873.

B. No additional sector-specific requirements apply to this sector.

9VAC25-151-390. Sector AF- Facilities limited to total suspended solids benchmark monitoring requirements.

A. Discharges covered under this section. The requirements listed under this section apply to stormwater discharges associated with industrial activity from facilities with SIC Codes [~~2411,~~] [~~2421,~~] [~~2426,~~] [~~2429,~~] [~~2431-2433, 2435-2439, 2441, 2448, 2449, 2451, 2452, 2493,~~] 4011, 4013, 4111-4173, 4212-4231, 4311, and 5171.

B. Benchmark monitoring and reporting requirements. Facilities or stormwater discharges included in this sector are required to monitor their stormwater discharges for the pollutants of concern listed in Table 390.

Table 390 Sector AF- Benchmark Monitoring Requirements	
Pollutants of Concern	Benchmark Concentration
Facilities Limited to Total Suspended Solids Benchmark Monitoring Requirements	
Total Suspended Solids (TSS)	100 mg/L

GENERAL VPDES PERMIT FOR DISCHARGES OF STORMWATER FROM CONSTRUCTION

ACTIVITIES, 9VAC25-880: The current VPDES Construction General Permit will expire on June 30, 2019 and the regulation establishing this general permit is being amended to reissue another five-year permit. The staff is bringing this final regulation before the Board to request adoption. This regulation took into consideration the recommendations of a technical advisory committee (TAC) formed for this regulatory action. The TAC consisted of industry representatives, non-governmental organization representatives, local government representatives, consultants and DEQ staff.

The Board's authorization of the proposal was received at the September 20, 2018 meeting. A Notice of Public Comment Period (NOPC) was issued on October 29, 2018 and the public comment period ran from October 29, 2018 to December 28, 2018 with public hearings held in Glen Allen on November 27, 2018 and in Roanoke on November 28, 2018.

At the public hearing in Glen Allen, 23 people attended. Eleven individuals spoke on topics that included the relationship of the proposed permit to the post-development stormwater management technical criteria, citizen complaints, registration statement requirements, notice of termination requirements, and in support of various portions of the proposed permit.

Twenty-five people attended the public hearing in Roanoke. One representative of a consulting firm spoke requesting clarification on portions of the proposed permit language. Eighteen other individuals spoke out in opposition of the Mountain Valley Pipeline project.

Written comments were received from 41 individuals representing local governments, engineering and consulting firms, non-governmental organizations, and citizens. The comments and responses are summarized below:

Commenter	Topic	Comment	Department Response
Jimmy Edmonds (Loudoun County)	Authorization to Discharge	<p>9VAC25-880-30. A.4.b This section explains that an approved SWM plan must be obtained by the Operator prior in order to obtain authorization to discharge. Later in the regulation, 9VAC25-880-70 PART II.A.3.b states that projects that have commenced or are authorized to discharge under the 2009 or 2014 CGP do not require an approved SWM Plan. We understand how the 2009 CGP fits; however, the 2014 permit required an approved SWM plan for every regulated LDA. Please provide a clarification.</p>	The department has revised the regulation language for consistency.
Home Builders Association of Virginia	Authorized non-stormwater discharges	<p>9VAC25-880-30 F.5 and 9VAC25-880-70 Part I.E.5 of Proposed Chapter 880 states: <i>“Potable water source, including uncontaminated waterline flushings managed in a manner to avoid an instream impact.”</i></p> <p>Comment: DEQ does not clearly define the term “instream impact” in the Proposed Chapter 880, 9VAC25-840 (Erosion and Sediment Control Regulations), or 9VAC25-870 (Virginia Stormwater Management Program Regulation). Therefore, to avoid confusion and misinterpretation throughout the construction industry, it is recommended that DEQ add a definition of the term “instream impact” to the Proposed Chapter 880 definition section (9VAC25-880-1).</p>	The department has included information on the fact sheet regarding this provision of the permit.

<p>Barbara Brumbaugh (City of Chesapeake)</p>	<p>Offsite Support Activities</p>	<p>Section 9VAC25-880-30.D should be revised to clarify how it applies to state projects. If a state agency is the operator of the construction activity seeking general permit coverage, they should be required to include off-site support activities on the registration statement. The Department of Environmental Quality (“DEQ”) should be the VSMP Authority for state projects and their associated off-site support activities, regardless of where they are located. However, the Virginia Department of Transportation (“VDOT”) is interpreting this section differently. VDOT’s policy requires contractors working on an off-site support activity outside of a VDOT right-of-way to obtain Construction GP coverage from the local VSMP Authority. It is not the local VSMP Authority’s responsibility to regulate a state project, which is noted in 9VAC25-870-104(C): “Nothing in this part shall be construed as authorizing a locality to regulate, or to require prior approval by the locality for, a state or federal project, unless authorized by separate statute.”</p> <p>The suggested revision is to include this sentence in the section: “Where a state agency is the operator of the construction activity seeking general permit coverage, the land area of the off-site support activity shall be included in determining the total land disturbance acreage of the construction activity.” This would require the off-site support activity to be permitted with the construction activity. In some instances, VDOT contractors have not applied for Construction GP coverage when it was required. When contractors do not apply for permit coverage, the local VSMP Authority is unaware of the off-site support activity. The contractor then operates the site without oversight from the state or the locality. VSMP authorities should</p>	<p>The proposed general permit retains language as specified in 9VAC25-880-30 D stating that off-site facilities are not required to be covered by the general permit for the primary construction activity. Information has been added to the fact sheet regarding permit coverage for off-site support activities. No changes to the permit are proposed in response to this comment.</p>
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		never be held responsible for regulation and oversight of off-site support activities for state projects. The City strongly recommends that DEQ support a change to VDOT's policy that would require VDOT to include off-site support activities are covered under a Construction GP.	
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<p>Hampton Roads Planning District Commission</p>	<p>Offsite Support Activities</p>	<p>Section 9VAC25-880-30.D should be revised to clarify how it applies to state projects. If a state agency is the operator of the construction activity seeking general permit coverage, they should be required to include off-site support activities on the registration statement. The Department of Environmental Quality (“DEQ”) should be the VSMP Authority for state projects and their associated off-site support activities, regardless of where they are located. However, the Virginia Department of Transportation (“VDOT”) is interpreting this section differently. VDOT’s policy requires contractors working on an off-site support activity outside of a VDOT right-of-way to obtain Construction GP coverage from the local VSMP Authority. It is not the local VSMP Authority’s responsibility to regulate a state project, which is noted in 9VAC25-870-104(C): “Nothing in this part shall be construed as authorizing a locality to regulate, or to require prior approval by the locality for, a state or federal project, unless authorized by separate statute.”The suggested revision is to include this sentence in the section: “Where a state agency is the operator of the construction activity seeking general permit coverage, the land area of the off-site support activity shall be included in determining the total land disturbance acreage of the construction activity.” This would require the off-site support activity to be permitted with the construction activity. In some instances, VDOT contractors have not applied for Construction GP coverage when it was required. When contractors do not apply for permit coverage, the local VSMP Authority is unaware of the off-site support activity. The contractor then operates the site without oversight from the state or the locality. Rather than having local VSMP Authorities responsible for</p>	<p>The proposed general permit retains language as specified in 9VAC25-880-30 D stating that off-site facilities are not required to be covered by the general permit for the primary construction activity. Information has been added to the fact sheet regarding permit coverage for off-site support activities. No changes to the permit are proposed in response to this comment.</p>
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		<p>finding and permitting off-site support activities for state projects, DEQ should support a change to VDOT's policy that would include off-site support activities with the Construction GP for the roadway project and minimize the likelihood of off-site support activities operating without permit coverage.</p>	
<p>Mark Williams (Koontz Bryant Johnson Williams)</p>	<p>Administrative Continuan ce of Permit Coverage</p>	<p>Section 9VAC25-880-30 (Authorization to Discharge); Item H (Continuation of General Permit Coverage) states: "coverages are automatically continued if the owner has submitted a complete registration statement...". What is meant by the term "automatically"? Does this mean that, under the same conditions of renewal approval in 2014, permits will be renewed for the 2019- 2024 cycle... such that the concern with Question 1 above is not an issue?.. or would the requirement for a "complete" registration mean that all items required for a registration statement listed in section 50 be included (to include a SWPPP, which requires ESC plans)? Why was the term "automatically" added here, as that implies that only those items required for the registration statement under the current 2014-2019 permit would be required... that said, the confusion referenced in question #1 would still apply for the current permit, particularly given the requirement to have an approved ESC plan within 60 days after the date of coverage of the 2014 permit.</p>	<p>Item H in section 30 of 9VAC25-880 allows that in the circumstance that the general permit expires and the permittee has submitted a complete registration statement in accordance with the requirements of 9VAC25-880-50, the permittee may continue to operate under the 2014 permit until such time that the department approves coverage under the new general permit. This "administrative continuance" is authorized under the Clean Water Act, federal National Pollutant Discharge Elimination System regulations, and the Virginia Stormwater Management Program regulation. This proposed updated language provides consistency with other VPDES general permit regulations. No changes to the permit are proposed in response to this comment.</p>

<p>Home Builders Association of Virginia</p>	<p>Administrative Continuan ce of Permit Coverage</p>	<p>9VAC25-880-30 H1 and 9VAC25-880-50 A.2.a(1) of Proposed Chapter 880 states: <i>“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...”</i>Comment: The timeframe for permit renewal levied onto existing permittees of “at least 60 days prior to the expiration date of the permit” is burdensome and unnecessary. When a new permittee is applying for new coverage under the new permit [Proposed Chapter 880-50 1.a], their only deadline is that the Registration Statement is submitted “...to the VSMP authority prior to the commencement of land disturbing.” If the permittee is extending their permit coverage without any major modifications to the originally approved erosion and sediment control plan, and the stormwater management plan why does DEQ need 60 days to approve a renewal Registration Statement? Therefore, DEQ should change the timeframe deadline for submitting a renewal Registration Statement from 60 days to “...prior to the expiration date of the permit.”</p>	<p>There are more than 5,000 active construction general permits across the Commonwealth, and 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 60 days prior to 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. No changes to the permit are proposed in response to this comment.</p>
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Tyler Emery (American Electric Power)	Registratio n Statement	<p>Section B.3. currently states: <i>A site map in a format specified by the VSMP authority showing the location of the existing or proposed land-disturbing activities, the limits of land disturbance, construction entrances, and all water bodies receiving stormwater discharges from the site.</i></p> <p>Please further clarify or specify in what formats these site maps are required for a complete registration statement.</p>	<p>The purpose of the site map is to document the extent of the construction activities proposed for coverage as part of the registration statement since there are instances in which erosion and sediment control and stormwater management plans are not required to be submitted (such as with an annual standards and specifications holder or for Part II C projects eligible under 9VAC25-870-47). A street map, topographic map, or aerial map provided in an 8.5 x 11 inch format as part of the registration statement will satisfy the requirement. Please note that the site map should not be submitted as a plan-sized sheet. Additionally, a VSMP authority may allow a vicinity map included with the stormwater management plan to satisfy this requirement. The registration statement requirements have been updated for clarity.</p>
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<p>Tyler Emery (American Electric Power)</p>	<p>Registration Statement</p>	<p>Section B.17. currently states: <i>If nutrient credits are to be used to demonstrate compliance with the water quality technical criteria as allowed in 9VAC25-870-65 F, a letter of availability from an appropriate nutrient bank that nonpoint source nutrient credits are available. Prior to issuance of state permit coverage, an affidavit of sale documenting that nonpoint source nutrient credits have been obtained shall be submitted.</i> We feel that purchase of credits prior to a permit being issued is an unnecessary change to the application and request that it be removed. As written, the permit does not take into account the potential for changes in scope during the life of a project that could affect the final amount of nutrient credits ultimately required. Therefore, proof of purchase of these credits should be a function of the permit termination and not the permit issuance. Enforcement mechanisms are currently in place through the regulations to require compliance by permittees with the final accounting of credits. AEP proposes additional options for consideration if there is a documented need: · Require an affidavit of sale be provided prior to the commencement of construction rather than the permit issuance. This would add an additional step to the permitting process and could potentially cause delays; however, it would provide permittees with some flexibility to purchase the credits on a slightly longer timeline. · If the concern is of a lack of available credits, AEP suggests the creation of a system where a permit holder could reserve rights to mitigation credits for a project without committing project funds in the design stage. If construction of a project gets delayed or canceled for any number of reasons, those credits would not have already been</p>	<p>After further consideration, the department concurs that it is appropriate for operators to provide proof of nutrient purchase at the time of permit termination. The registration statement requirements have been revised to remove the requirement for the affidavit of sale to be provided prior to issuance of permit coverage.</p>
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		purchased and could be returned to the bank.	
Melanie Mason (City of Alexandria)	Registration Statement	9VAC25-880-50(B)(17): Comment: The requirement to purchase nutrient credits prior to the issuance of state coverage may cause delays in releasing plans for construction. Complete SWPPPs (including approved stormwater management plans) are often approved by the locality early in the site plan process. Permit processing can take several weeks and nutrient credits are typically not purchased until the entire site plan has achieved approval from the locality and just before the plan is released for construction. Final plan approval/release or land disturbance permits should be sufficient to make sure credits are purchased.	After further consideration, the department concurs that it is appropriate for operators to provide proof of nutrient purchase at the time of permit termination. The registration statement requirements have been revised to remove the requirement for the affidavit of sale to be provided prior to issuance of permit coverage.
Barbara Brumbaugh (City of Chesapeake)	Registration Statement	The City strongly recommends that DEQ allow electronic submissions of Registration Statements and Notices of Terminations in order to expedite the permitting process. Permit coverage is currently issued electronically by DEQ, and allowing electronic submissions of Registrations Statements would provide consistency in processes.	At this time, electronic acceptance of registration statements and notice of terminations from operators is not available through the SWCGP database. Prior to the next permit term and in response to EPA's E-reporting rule, the department will be exploring the viability of accepting these types of documents electronically. Please note, however, that VSMP authorities may accept scanned registration statements and notice of terminations electronically if the scanned document includes a wet signature. No changes to the permit are proposed in response to this comment.

Barbara Brumbaugh (City of Chesapeake)	Registration Statement	<p>The draft Construction GP regulations Section 9VAC25-880-50 B.3. requests that “a site map in a format specified by the VSMP Authority showing the location of the existing or proposed land disturbance activities, the limits of land disturbance, construction entrances, and all water bodies receiving stormwater discharges from the site” to be submitted with the Registration Statement. The City already receives this information through the site or subdivision plan review process (prior to submission of the Registration Statement to DEQ) and this information is also required to be included in the SWPPP. To avoid redundancy, the City recommends that this requirement be removed or limited to only projects where DEQ is the VSMP Authority.</p>	<p>The purpose of the site map is to document the extent of the construction activities as part of the registration statement since there are instances in which erosion and sediment control and stormwater management plans are not required to be submitted (such as with an annual standard and specification holder or for Part II C projects eligible under 9VAC25-870-47). A street map, topographic map, or aerial map provided in an 8.5 x 11 inch format as part of the registration statement will satisfy the requirement. Please note that the site map should not be submitted as a plan-sized sheet. Additionally, a VSMP authority may allow a vicinity map included with the stormwater management plan to satisfy this requirement. The registration statement requirements have been updated for clarity.</p>
Home Builders Association of Virginia	Registration Statement	<p>9VAC25-880-50 B.7 There are 9VAC25-880-50 B.7 of Proposed Chapter 880 states: “<i>A copy of the annual standard and specification entity form shall be submitted with the registration statement.</i>” Comment: Section 9VAC25-880-50 B.7 is new text added to the Proposed Chapter 880, and it is unclear what documentation DEQ is referring to when stating “<i>A copy of the annual standard and specification entity form...</i>” Therefore, it is strongly recommended that DEQ either add a definition of the annual standard and specification entity form, or remove this text from 9VAC25-880-50 of the Proposed Chapter 880.</p>	<p>Those operators applying for permit coverage for projects covered under an approved under a department annual standard and specification program are required to provide certification to the department that the erosion and sediment control and stormwater management plans have been reviewed in accordance with the annual standard and specification program. This form is available on DEQ's Construction Stormwater website. The registration statement includes instructions as to when this form is required. No changes to the permit are proposed in response to this comment.</p>

John Woodburn (Goochland County)	Registration Statement	9VAC25-880-50.A.5 - What does this mean in regard to “authorization to discharge will not be retroactive”?	This phrase indicates that permit coverage begins only on the date that coverage is approved if after the effective date of the general permit regulation. For example, if an operator applies for permit coverage after beginning land-disturbing activities, the permit coverage would not apply for the period of time before the permit coverage is approved. No changes to the permit are proposed in response to this comment.
John Woodburn (Goochland County)	Registration Statement	9VAC25-880-50.B.15 – need to define “prior developed lands” in this document, or reference where the term is defined.	"Prior developed lands" is defined in Section 10 of the Virginia Stormwater Management Program regulation (9VAC25-870-10). As stated in 9VAC25-880-1 of this general permit regulation, "words and terms used in this chapter shall have the meanings defined in the Virginia Stormwater Management Act (Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia), this chapter, and 9VAC25-870 unless the context clearly indicates otherwise." No changes to the permit are proposed in response to this comment.

<p>Mark Williams (Koontz Bryant Johnson Williams)</p>	<p>Registration Statement</p>	<p>Section 9VAC25-880-50, Item B (Draft); sub-item 3 requires a site map that shows the limits of disturbance as well as construction entrances. What would be shown for a phased project, required to have permit coverage for the initial phase (prior to plan approval for that initial phase), however, does not have an approved ESC plans for future phases? What information is to be shown on the site map for future sections not yet designed? If sub-item 13 (regarding projects that are part of a larger common plan of development) is checked, would the requirement of sub-item 3 need to show construction entrances and limits of disturbance for the entire common plan of development area or just for the initial section. The initial phase, being the only portion fully designed, would be the only area in which this information could be accurately reflected on a site map.</p>	<p>Registration statement requirements for a site map were added at the recommendation of the technical advisory committee. The map is meant to demonstrate the land-disturbing activity for the proposed project that includes the estimated area to be disturbed under the permit coverage being sought as well as denote and distinguish future phases of land disturbance. Detailed information for future phases is not necessary until such time that the operator registers for permit coverage for the future phase, but the map should outline the estimated limits of disturbance for future phases. The permit condition has been revised to provide further clarification.</p>
<p>Mark Williams (Koontz Bryant Johnson Williams)</p>	<p>Registration Statement</p>	<p>Section 9VAC25-880-50, Item B (Draft); sub-item 15... Please clarify the first part of the sentence which states "Where applicable..." When would a SWM agreement not be required for a site with a BMP?</p>	<p>A BMP maintenance agreement is only required if the operator is proposing a stormwater management facility to demonstrate compliance with water quality or quantity requirements. No changes to the permit are proposed in response to this comment.</p>

<p>Mark Williams (Koontz Bryant Johnson Williams)</p>	<p>Registration Statement</p>	<p>Section 9VAC25-880-50, Item B (Draft); sub-item 15. This section lists a requirement to have an approved SWM agreement in place, prior to issuance of a permit (as this section lists information that must be contained within the registration statement submitted by the Operator). Sub-item 15 references 9VAC25-870-112A, which states that the agreement must be recorded "... prior to state permit termination or earlier as required by the VSMP authority..." Many localities will approve a site plan without a SWM agreement in place, knowing that they can hold up C of O if required. If a recorded SWM agreement is required with the registration statement, it would directly conflict with the referenced section 9VAC25-870-112A, which gives the reviewing authority the ability to approve a plan without requiring a SWM agreement. Please clarify if only a draft (nonexecuted copy) of a SWM agreement is required with the registration statement. Otherwise, since a complete registration statement is required prior to authorization to discharge (per 9VAC25-880-30-A1), the authority would no longer have the flexibility of approving a plan, as previously afforded to them in 9VAC25-870-112A, without evidence of an agreement. Could this requirement simply be deleted? Section 9VAC25-880-60 (Termination of general permit coverage), Item B, number 8 already requires evidence that a SWM Maintenance Agreement has been recorded. Requiring, evidence of a recorded SWM Maintenance Agreement within the termination requirements (Section 60) is the appropriate place. (A SWM Maintenance Agreement is further required under Part 1 of VAR-10, Item F, sub-item 1a)</p>	<p>Upon further review, the department has moved the requirement for the maintenance agreement to be submitted with the registration statement and added as part of the notice of termination and is required to be fully executed and recorded at the time of termination. Please note, however, that 9VAC25-870-112 A.1 requires a draft BMP maintenance agreement be submitted with the stormwater management plans.</p>
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Kristin Carter (University of Virginia)	Registration Statement	9VAC25-880-50 – For paragraph A.4 – should the paragraph be titled “Late registration statements” rather than “Late notifications”?	The titles are correct. "Late notifications" applies to those operators who begin land disturbing activities prior to submittal of the registration statement and obtaining permit coverage. "Late registration statements" applies to existing permittees who submit a registration statement for permit coverage after the due date established in the general permit regulation. No changes to the permit are proposed in response to this comment.
Kristin Carter (University of Virginia)	Registration Statement	9VAC25-880-50 – For paragraph A.5 - would it be more appropriate to move this text under paragraph A.2 – perhaps renumber A.2.a.(3)?	Thank you for your comment; however, the department believes the current location of the language is appropriate.
Kristin Carter (University of Virginia)	Registration Statement	9VAC25-880-50 – For paragraph B.17 – I recommend documenting purchase of nutrient credits be due at the same time record drawings/stormwater maintenance agreements are recorded (NOT phase) in case there are slight changes to the post-development land cover that impact the required credit purchase. Accordingly, this language should move to 9VAC25-880-60 sec on C.	After further consideration, the department concurs that it is appropriate for operators to provide proof of nutrient purchase at the time of permit termination. The proposed permit has been revised to require the affidavit of sale at the time of permit termination. The proposed general permit has been revised accordingly.
Logan Kendle (Superintendent Commercial Contractor)	Registration Statement	I support the requirement of documentation of nutrient credits.	Thank you for your comment.

Richard Street (Spotsylvania County)	Registration Statement	<p>Page 767 under 9VAC25-880-50 item A-3 "Transfer". We should probably state the three basic options that we use Basically there are 3 options in this scenario:</p> <ol style="list-style-type: none"> 1. New operator of the sub-section obtains their own permit - New issuance fee 2. Original operator transfers entire permit to new operator - Transfer fee 3. Original operator identifies new operator as a contractor working under them in the SWPPP - No fee <p>I'm not certain if we should just have a handout at the local level or if DEQ needs a fact sheet or if it needs to be placed in the permit update to just tell everyone. I'll leave that up to you and your staff. I will however create a simple sheet that explains the options (unless you have one already) to give to our VAEPO members.</p>	<p>"Transfer" as used in the general permit occurs when an existing operator transfers permit coverage to a new operator. The circumstances in which an operator identifies a sub-contractor in the SWPPP or a new contractor obtains their own permit coverage is not considered a transfer of permit coverage. No changes to the permit are proposed in response to this comment.</p>
Richard Street (Spotsylvania County)	Registration Statement	<p>Page 768 under the same section above [9VAC25-880-50] item B-2 the address is almost always not available at the time we need to submit the VSMP. We generally get a road name but we have been relying on the Long/Lat until an address is assigned. I think maybe keeping the "if available" but place it behind the word address example "address (if available)".</p>	<p>The registration statement language as written in the proposed regulation requires the physical address of the construction activity when it is available as well as the coordinates of the project. No changes to the permit are proposed in response to this comment.</p>

<p>Jody Greene (Wetland Studies and Solutions, Inc.)</p>	<p>Registration Statement</p>	<p>Associated plan sets and supporting information requirements The following three recommendations regarding associated plan sets are necessary to avoid requiring redundant effort when the requested documentation is already provided in the plan submission process. When VSMP authorities link the plans directly to the Registration Statement there should be no need to suggest the information contained in the plans has to be submitted again. However, the recommended change would not prohibit any VSMP authority from requested a specific format that differs from the plan set. Also note, that VSMP Authorities that choose to use the plans instead of separate submittals will reduce the chances for conflicting information as site plans change and are updated.9VAC25-880-50 B.3 Currently Proposed: 3. A site map in a format specified by the VSMP authority showing the location of the existing or proposed land disturbing activities, the limits of land disturbance, construction entrances, and all water bodies receiving stormwater discharges from the site;Recommend Change: 3. Unless provided in the associated plan set, a site map in a format specified by the VSMP authority showing the location of the existing or proposed land disturbing activities, the limits of land disturbance, construction entrances, and all water bodies receiving stormwater discharges from the site;</p>	<p>The purpose of the site map is to document the extent of the construction activities as part of the registration statement since there are instances in which erosion and sediment control and stormwater management plans are not required to be submitted (such as with an annual standard and specification holder or for Part II C projects eligible under 9VAC25-870-47). A street map, topographic map, or aerial map provided in an 8.5 x 11 inch format as part of the registration statement will satisfy the requirement. Please note that the site map should not be submitted as a plan-sized sheet. Additionally, a VSMP authority may allow a vicinity map included with the stormwater management plan to satisfy this requirement. The registration statement requirements have been updated for clarity.</p>
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<p>Jody Greene (Wetland Studies and Solutions, Inc.)</p>	<p>Registration Statement</p>	<p>9VAC25-880-50 B.17 Currently Proposed 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. Prior to issuance of state permit coverage, an affidavit of sale documenting that nonpoint source nutrient credits have been obtained shall be submitted; Recommended Change 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. Prior to issuance of state permit coverage, an affidavit of sale documenting that nonpoint source nutrient credits have been obtained shall be submitted, unless provided in the associated plan set;</p>	<p>After further consideration, the department concurs that it is appropriate for operators to provide proof of nutrient purchase at the time of permit termination. The proposed permit has been revised to require an affidavit of sale at the time of permit termination. The proposed general permit has been revised accordingly.</p>
<p>Jimmy Edmonds (Loudoun County)</p>	<p>Registration Statement</p>	<p>9VAC25-880-50.A.2.a(1) This section requires that an updated (amended) Registration Statement be submitted by the Operator at least 60 days prior to the expiration of the existing permit. We desire to provide the amended Registration Statement to our clients in order for them to have plenty of time to meet the deadline. Will DEQ be able to provide this document in a timely fashion or will the current Registration Statement need to suffice in order to meet these time constraints?</p>	<p>A draft registration statement was provided on DEQ's website on February 14, 2019 and sent to local VSMP authorities on February 20, 2019. The department believes that due to the minimal changes on the registration statement, existing permittees will have sufficient time to complete the document and provide it to the VSMP authority by the due date. VSMP authorities may accept draft registration statements to fulfill the re-application requirements under the general permit. A final registration statement will be made available after approval of the proposed regulation by the State Water Control Board. No changes to the permit are proposed in response to this comment.</p>

<p>Jimmy Edmonds (Loudoun County)</p>	<p>Registration Statement</p>	<p>9VAC25-880-50.B.15 This section mandates that the stormwater management maintenance agreement be submitted with the Registration Statement. We believe that it is important that all parties realize that this agreement will be in “draft” (unexecuted) form at the time the Registration Statement is submitted. The processing of a maintenance agreement requires careful review by both engineering and legal teams in our locality and is subject to change as a result of the SWM plan review process.</p> <p>We recommend that the following highlighted word be added to this section for clarification as follows: “9VAC-880-50.B.15...an unexecuted stormwater management agreement in accordance with 9VAC25-870-112A. “</p>	<p>Upon further review, the department has removed the requirement for the maintenance agreement to be submitted with the registration statement and added as part of the notice of termination and is required to be fully executed and recorded at the time of termination. Please note, however, that 9VAC25-870-112 A.1 requires a draft BMP maintenance agreement be submitted with the stormwater management plans.</p>
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<p>Jimmy Edmonds (Loudoun County)</p>	<p>Registration Statement</p>	<p>9VAC25-880-50.B.16 This section mandates that the “letter of availability” for nutrient credit purchase be submitted with the Registration Statement. It also requires that an “affidavit of sale” be provided prior to the issuance of the CGP.</p> <p>We believe that it is premature to require the letter of availability with the Registration Statement as the credit requirement could change as part of the local SWM plan review or it could be eliminated by a change in BMP selection. We support requiring the letter prior to the approval of the SWM Plan.</p> <p>Regarding the actual purchase of nutrient credits, we believe that the affidavit should be required prior to the issuance of the grading permit. The use of this later deadline again allows for unforeseen amendments to the SWM plan and provides flexibility for the Operator should the project start be delayed.</p> <p>We recommend that this entire section be removed from 9VAC25-880-50.B.</p>	<p>After further consideration of several comments received, the department believes that it is appropriate for operators to provide proof of nutrient purchase at the time of permit termination. However, the department contends that it is appropriate for operators that intend to use credits to demonstrate compliance with the stormwater quantity requirements to provide documentation to the VSMP that the credits are available. Therefore, the registration statement requirements have been revised to remove the requirement for the affidavit of sale prior to permit coverage, but has retained the requirement to provide "Letter of availability" from an appropriate nutrient bank at the time of registration statement submittal. The proposed general permit has been revised accordingly.</p>
<p>Jimmy Edmonds (Loudoun County)</p>	<p>Registration Statement</p>	<p>9VAC25-880-50.A.1.c This section states that no state permit is required for the construction single-family detached dwellings; however, it is our understanding (from the VSMP regulations & our local program procedures) that the need for a permit comes into play if the land-disturbance associated with single-family residence construction reaches 5 acres or more. Is our understanding correct?</p>	<p>In accordance with Section 62.1-44.15:28 A.8 of the Stormwater Management Act and 9VAC25-870-59 of the VSMP regulation, registration statements for construction activities involving a single-family detached residential structures are not required regardless of the area of land disturbance. However, a VSMP authority permit may be required by the local government. No changes to the permit are proposed in response to this comment.</p>

<p>John Woodburn (Goochland County)</p>	<p>Permit Modifications</p>	<p>Suggest that a section be added regarding modifications of permits that reflects the content of 9VAC25-870-630. – in particular item A.1 of that section. I am interested in having the permit require the permittee to apply for a permit modification when information on his registration statement is to be changed (in particular – the owner, operator or the total area of development and estimated area to be disturbed), and that he will be subject to a fee for such modification of transfer. (Note that Part II Section C of the permit – SWPPP Amendments – really does not address that issues raised in Section 630)</p>	<p>The general permit specifies in 9VAC25-880-70 (prior to Part I), that "The authorized discharge shall be in accordance with the registration statement filed with the Department of Environmental Quality..." Operators are required to submit a complete and accurate registration statement in order to obtain permit coverage. In the circumstance that the information on the registration statement is no longer valid, such as a change in operator or the area of estimated land disturbance, the operator is required to submit a revised registration statement or transfer of ownership form. The department also requires a new registration statement if modified stormwater management plan is submitted for review. In the case of an operator increasing the area of estimated land disturbance, land disturbance outside of the original approval is not authorized until revised permit coverage is approved. No changes to the permit are proposed in response to this comment.</p>
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<p>Peggy Sanner (Chesapeake Bay Foundation) and Bill Street (James River Association)</p>	<p>Transfer of Permit Coverage</p>	<p>The Draft Permit includes a new requirement that the permittee submit a signed statement indicating that a new owner of a recently constructed residential site has been notified of final site stabilization requirements. While we understand the operator cannot control the actions of a new residential owner, taking appropriate steps to ensure that the new owner recognizes the importance of site stabilization is critical for water quality. We urge the Board, therefore, to amend the Draft Permit to require the permittee to secure written acknowledgement of site stabilization requirements by the new owner (whether residential or commercial).</p>	<p>The general permit Technical Advisory Committee discussed stabilization requirements for transferred property extensively to determine how best to ensure final stabilization is achieved resulting in the proposed changes to the general permit in a practical matter in situations of individual lots in new residential construction. As discussed in the Technical Advisory Committee meetings, the Board does not have the authority require the signature of a 3rd party/new owner as suggested that is not regulated by the department. The department has revised the proposed language to require written notification by the builder to the new homeowner, maintain documentation of that notification, and sign a certification statement that they have provided the appropriate information on stabilization to the new owners. The department believes that this is an improvement from previous versions of the permit and results in a practically enforceable condition. No changes to the permit are proposed in response to this comment.</p>
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Tyler Emery (American Electric Power)	Termination of General Permit Coverage	<p>Section B. 2. currently states: <i>Termination of authorizations 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.</i></p> <p>In order to provide the permit holder with assurance that the notice of termination has been reviewed timely to consider it "complete and accurate," AEP requests inclusion of a timeframe to receive notice that the notice of termination is not complete, similar to plan review timeframes. That would then document the start of the 60-day clock if no request for additional information is received.</p>	While the department understands the concerns regarding timely notification from the agency on termination packages, inclusion of a time frame regulating the agency's actions in the general permit regulation is not appropriate. The department notifies operators of incomplete packages typically within 2 weeks of receipt of the termination package. No changes to the permit are proposed in response to this comment.
Melanie Mason (City of Alexandria)	Termination of General Permit Coverage	9VAC25-880-60 (B)(7) and 9VAC25-880-70 PART II D: Under the proposed language, projects will have to maintain signage until as-builts are submitted. Often projects are completely closed with residents inside the buildings before as-builts are received and construction signage has been removed. Please allow for construction signage to be removed once final stabilization has been achieved.	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.
Melanie Mason (City of Alexandria)	Termination of General Permit Coverage	9VAC25-880-70 PART II F: Projects will have to implement all aspects of the SWPPP including inspections until as-builts are submitted. Often projects are completely closed with residents inside the buildings for months or years before as-builts are received. Requiring inspections until as-builts are submitted even though final stabilization has been achieved is overly burdensome for both the developer and the locality. Please allow for inspections to cease once final stabilization has been achieved.	In accordance with Part II B 4 c of the existing permit (Part II C 4 c of the proposed permit), those areas of a site that have reached final stabilization no longer require SWPPP inspections. No changes to the permit are proposed in response to this comment.

Barbara Brumbaugh (City of Chesapeake)	Termination of General Permit Coverage	The City recommends that a checklist of permanent stormwater control measures be added to Section 5. of the Notice of Termination form. The owners/operators frequently have a difficulty completing this section and often misname the practices or includes practices such as “seeding” or “final stabilization” which do not belong in this section. Receiving incomplete or incorrect Notices of Termination adds a great deal of additional work for the VSMP Authority. Adding a checklist would ensure consistent classification of the permanent measure which would improve state data collection for permanent stormwater control measures.	The department will review the Notice of Termination form to ensure it meets the proposed general permit requirements and to determine if there are areas in which clarification can be provided as suggested.
Barbara Brumbaugh (City of Chesapeake)	Termination of General Permit Coverage	Section 9VAC25-880-60 C.9. states the complete Notice of Termination shall include the following information: “For individual lots in residential construction only, a signed statement from the permittee that the new owner, if not the same as the permittee, has been notified of the final stabilization requirements...” Individual lots within subdivisions received automatic permit coverage and therefore do not require submission of a Notice of Termination. Individual lots with single family homes generally transfer from the builder directly to the homeowner, therefore, the VSMP Authority will be unable to enforce this provision. If this is not DEQ’s intent, then the City recommends that the language be modified to provide clarification.	The department has revised the definition of final stabilization in 9VAC25-880-1 and language in 9VAC25-880-60 and Part I F of the general permit to require that for individual lots in residential construction only, operators are to provide homeowners with written information about the importance of final stabilization and require signed documentation from the permittee that the homeowner has been notified as part of the SWPPP documents that must be maintained for 3 years. This requirement applies to those projects for which permit coverage is issued as well as those covered under automatic coverage.

Dale Chestnut (James Madison University)	Termination of General Permit Coverage	With updates to the Notice of Termination form, would it be possible to add a section to record situations in redevelopment where a pre-existing BMP will be removed or retrofitted? The goal is to ensure removed BMPs are also taken out of the model and retrofits are accurately portrayed in the model.	While the department understands the concern to ensure the BMP information provided for use in the Chesapeake Bay watershed model reflects accurate information, this comment is out of the scope of the general permit regulatory action. Retrofit and other BMP information should be reported with information uploaded to the BMP Warehouse. No changes to the permit are proposed in response to this comment.
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<p>Home Builders Association of Virginia</p>	<p>Termination of General Permit Coverage</p>	<p>9VAC25-880-60 C.9 9VAC25-880-60 C.9 of Proposed Chapter 880 states: “For individual lots in residential construction only, a signed statement from the permittee that the new owner, if not the same as the permittee, has been notified of the final stabilization requirements.”</p> <p>Comment: The requirement to include a signed statement that the new owner (if not the same as the permittee) has been notified of the final stabilization requirements by the permittee does not always occur and therefore may not be applicable for some permittees. In 9VAC25-880-1 of Proposed Chapter 880, Final Stabilization is defined as: <i>"Final stabilization" means that one of the following situations has occurred: 1. All soil disturbing activities at the site have been completed and a permanent vegetative cover has been established on denuded areas not otherwise permanently stabilized. Permanent vegetation shall not be considered established until a ground cover is achieved that is uniform (e.g., evenly distributed), mature enough to survive, and will inhibit erosion. 2. For individual lots in residential construction, final stabilization can occur by either: a. The homebuilder completing final stabilization as specified in subdivision 1 of this definition; or, b. The homebuilder establishing temporary soil stabilization, including perimeter controls for an individual lot prior to occupation of the home by the homeowner, and informing the homeowner of the need for, and benefits of, final stabilization.</i></p> <p>In residential construction, many times the permittee installs permanent sod stabilization to the individual lot prior to completion which would satisfy subdivision 1 of the Final Stabilization definition.</p>	<p>The department has revised the definition of final stabilization in 9VAC25-880-1 and language in 9VAC25-880-60 and Part I F of the general permit to require that for individual lots in residential construction only, operators are to provide homeowners with written information about the importance of final stabilization and require signed documentation from the permittee that the homeowner has been notified as part of the SWPPP documents that must be maintained for 3 years.</p>
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	<p>In these instances, there is no need for the permittee to inform the homeowner (new owner) of final stabilization requirements. Therefore, the requirement to include a signed statement [on the Notice of Termination] that the new owner, if not the same as the permittee, has been notified of the final stabilization requirements by the permittee should either be removed from Proposed Chapter 880, or be updated to make its inclusion in the notice of termination optional only if temporary stabilization measures were installed on the individual lots when transferred to a new owner that is not the same as the permittee.</p>	
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<p>Home Builders Association of Virginia</p>	<p>Termination of General Permit Coverage</p>	<p>9VAC25-880-70 Part I.F.1.a In regards to the requirements to terminate permit coverage, Part I.F.1.a of 9VAC25-880-70 of the Proposed Chapter 880 states: <i>“Necessary permanent control measures included in the SWPPP for the site are in place and functioning effectively and final stabilization has been achieved on all portions of the site for which the operator has operational control. When applicable, long term responsibility and maintenance requirements for permanent control measures shall be recorded in the local land records prior to the submission of a complete and accurate notice of termination, and the construction record drawing prepared;”</i> However, 9VAC25-880-60 A.1 states: <i>“Necessary permanent control measures included in the SWPPP for the site are in place and functioning effectively and final stabilization has been achieved on all portions of the site for which the operator has operational control. When applicable, long-term responsibility and maintenance requirements for permanent control measures shall be recorded in the local land records prior to the submission of a complete and accurate notice of termination;”</i> Comment: Part I.F.1.a of 9VAC25-880-70 of the Proposed Chapter 880 adds the requirement to add the construction record drawing. It is recommended that DEQ either add the text “and the construction record drawing prepared” to 9VAC25-880-60 A.1 or remove it from Part I.F.1.d of 9VAC25-880-70 of the Proposed Chapter 880.</p>	<p>The department has revised the language in 9VAC25-880-60 A.1 to be consistent with the proposed language in 9VAC25-880-70 F.1.a.</p>
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<p>John Woodburn (Goochland County)</p>	<p>Termination of General Permit Coverage</p>	<p>Suggest a restatement of Section 9VAC25-870.650.A – Termination of State Permits - in the general permit, as this section of the regulations explores the subject of early termination of a permit for non-compliance or for other reasons (such as the plan not being protective of the environment) - items that are not really discussed in the current version of the permit. I do not feel that the Duty to Comply Section (Section L of Part III) adequately addresses this issue. It just says that failure to comply with the permit is a reason for terminating the permit. Where is non-compliance with the permit spelled out in the current permit in as good a way as in Section 9VAC25-870.650?</p>	<p>The termination requirements as listed in the proposed general permit regulation address those situations in which the permittee may terminate permit coverage. Section 650 of the VSMP regulation, 9VAC25-870, contemplates situations in which the department and the VSMP authority may terminate permit coverage for situations of non-compliance. Therefore, it is not appropriate to include the items in 9VAC25-870-650 A in the general permit. No changes to the permit are proposed in response to this comment.</p>
<p>John Woodburn (Goochland County)</p>	<p>Termination of General Permit Coverage</p>	<p>The permit does not address the obligations of the permittee to address the site if his permit has been terminated early for non-compliance, failure to pay a fee, failure to renew a permit for an ongoing project, etc. What happens if a permit expires or is terminated and the required stormwater construction has not been completed? Should there be a statement in the permit to the effect that a permittee cannot simply walk away from a site because his permit has terminated before completion of the project, but must complete the stormwater management in a manner acceptable the VDEQ or stormwater local authority?</p>	<p>Depending on the circumstance, non-compliance may be addressed through local ordinances, the Erosion and Sediment Control regulations and/or the Virginia Stormwater Management Program regulations even if permit coverage has been terminated. No changes to the permit are proposed in response to this comment.</p>

<p>Mark Williams (Koontz Bryant Johnson Williams)</p>	<p>Termination of General Permit Coverage</p>	<p>Section 9VAC25-880-60, Item C – Notice of Termination (Draft); sub-item 7 requires record drawings for SWM facilities. What would need to be included with the N.O.T. application submittal? Would the As-Built documents need to be submitted along with the N.O.T. application on projects where the DEQ is the authority? Please clarify the required format and level of detail/survey required for construction record drawings when the DEQ is the authority. (Construction Record Drawings are further required under Part 1 of VAR-10, Item F, sub-item 1a). Please either be specific with the permitted tolerance for design vs. actual conditions or provide further guidance for engineers to determine what is acceptable. What one engineer deems to be “close enough” may not be the same as other engineers for inspections to cease once final stabilization has been achieved.</p>	<p>As specified in 9VAC 25-870-55 D of the VSMP regulation, the construction records drawing must include the as-built plans of the actual permanent stormwater management facilities constructed and the seal and signature of a professional registered in the Commonwealth of Virginia, certifying that the stormwater management facilities have been constructed in accordance with the approved plan. The construction record drawings would be submitted to the appropriate VSMP authority with the notice of termination package. No changes to the permit are proposed in response to this comment.</p>
<p>Kristin Carter (University of Virginia)</p>	<p>Termination of General Permit Coverage</p>	<p>9VAC25-880-60 – For paragraph C.7, should reference to entities with annual standards and specifications be included in addition to VSMP authorities</p>	<p>9VAC 25-870-55 D of the VSMP regulation requires construction record drawings be submitted to the VSMP authority. Any requirement by an operator to submit the construction record drawing to an annual standard and specification holder should be included in the contract or other mechanism between those two parties. No changes to the permit are proposed in response to this comment.</p>

<p>Jody Greene (Wetland Studies and Solutions, Inc.)</p>	<p>Termination of General Permit Coverage</p>	<p>9VAC25-880-60:C.7 Currently Proposed 7. A construction record drawing in a format as specified by the VSMP authority for permanent stormwater management facilities in accordance with 9VAC25-870-55 D appropriately sealed and signed by a professional registered in the Commonwealth of Virginia, certifying that the stormwater management facilities have been constructed in accordance with the approved plan; Recommended Change 7. A construction record drawing in a format as specified by the VSMP authority for permanent stormwater management facilities in accordance with 9VAC25-870-55 D appropriately sealed and signed by a professional registered in the Commonwealth of Virginia, certifying that the stormwater management facilities have been constructed in accordance with the approved plan, <u>unless already provided in the associated plan set</u>;</p>	<p>Section 55 D of the VSMP regulation, 9VAC 25-870, requires construction record drawings be submitted to the VSMP authority. The VSMP regulation does not provide authorization for the suggested revision. If the stormwater management facility is not constructed as designed in an approved plan, then the operator will need to submit modified stormwater management plans to demonstrate compliance with the stormwater management technical criteria.</p>
<p>Jimmy Edmonds (Loudoun County)</p>	<p>Termination of General Permit Coverage</p>	<p>9VAC25-880-60.C.7 Based upon our recommendation to remove 9VAC25-880-50.B.16, we recommend that the information on nutrient credit availability and purchase remain in the Notice of Termination. Including the information in this document will ensure that there is an accurate accounting of nutrient credits purchased should there have been amendments to the SWM plan during the construction process which impacted the number of credits required.</p>	<p>After further consideration, the department concurs that it is appropriate for operators to provide proof of nutrient purchase at the time of permit termination. The registration statement requirements have been revised to require a "Letter of availability" from an appropriate nutrient bank at the time of registration statement submittal, and the affidavit of sale at the time of permit termination. The proposed general permit has been revised accordingly.</p>

<p>Katlyn Schmitt (Waterkeepers Chesapeake) & Phillip Musegaas (Potomac Riverkeeper Network)</p>	<p>General Permit Conditions 9VAC25-880-70</p>	<p>Part II, bullet B.1.c – a copy of the permit is not currently provided by DEQ. The coverage letter gives a web link to the CGP. I recommend updating the proposed language since “upon receipt” doesn’t apply, perhaps changing it to read “A copy of the general VPDES permit for discharges of stormwater from construction activities, obtained from the DEQ website...” Give the link if it won’t change for 5 years.</p>	<p>While the sentiment of this comment is understood, permittees, VSMP authorities, and other stakeholders understand that "Upon receipt" applies to the permit coverage letter with the link to the general permit regulation. No changes to the permit are proposed in response to this comment.</p>
<p>Tyler Emery (American Electric Power)</p>	<p>ESC Requirements</p>	<p>Sections G.3.a.(5)(a)&(b) refer to sites that <i>will remain dormant for 14 days needing to be stabilized immediately or within seven days of reaching grade or stopping work.</i></p> <p>AEP requests flexibility from the VSMP authority regarding unforeseen weather events causing work to not resume within 14 days. The USEPA General Permit's intent is to initiate stabilization as soon as the permittee knows that construction work on the portion of the site is temporarily ceased and will not resume for 14 days. If rain causes work on the site to be stopped, this is unpredictable and something that was not part of the construction schedule. Therefore, the 14-day dormant period requirement would not be exceeded due to unforeseeable circumstances such as this.</p>	<p>Thank you for your comment, however, the proposed revision is inconsistent with Minimum Standard #1 of the Erosion and Sediment Control Regulation, 9VAC25-840. No changes to the permit are proposed in response to this comment.</p>

<p>Katlyn Schmitt (Waterkeepers Chesapeake) & Phillip Musegaas (Potomac Riverkeeper Network)</p>	<p>ESC Requirements</p>	<p>Stabilization measures should be clearly spelled out in the permit. Construction sites generate the greatest amount of turbidity, by far, compared to other land use activities in the Chesapeake Bay region. The muddiness leaving construction areas is mostly caused by clay particles from exposed soil. Some pollution control measures, like the silt fence, fiber rolls, and ponds do not trap clay and dissolved pollutants very well. These perimeter controls are a poor means to control sediment and do not prevent erosion. Straw mulch and grass, on the other hand, reduce pollution by 90% to 99%, making them far more effective than silt fences, ponds or other perimeter sediment controls. For this reason, the permit should be amended to remove “perimeter controls” as an effective way to achieve final stabilization and, instead, should require straw mulch and grass.</p>	<p>When properly installed and maintained, perimeter controls are crucial to preventing the discharge of sediment via stormwater runoff. Additionally, this comment is out of the scope of this regulatory action. No changes to the permit are proposed in response to this comment.</p>
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<p>Katlyn Schmitt (Waterkeepers Chesapeake) & Phillip Musegaas (Potomac Riverkeeper Network)</p>	<p>ESC Requirements</p>	<p>Likewise, many construction sites do not use the appropriate level of stabilization. In a review of construction sites from one county in the Chesapeake Bay region, approximately two-thirds of construction sites had too much disturbed soil exposed to be properly stabilized. For proper sediment and erosion control, vegetative cover (i.e. grasses) under the permit should be defined as requiring at least 95 percent groundcover. For straw mulch, the permit should require it to be blanketed uniformly across the disturbed area at a depth of 1 to 2 inches. More broadly, this means that the soil surface is not exposed because more exposure means more polluted runoff. Failure to meet these standards translates into greater erosion and unnecessary pollution of local waterways. By not addressing this in the permit, Virginia will continue to allow vast quantities of nutrients and turbidity pollution to needlessly foul our waters. Virginia's permit could be strengthened to add a temporal element to site stabilization. The EPA recommends that sites are stabilized as soon as possible to help minimize erosion and sediment problems. The permit, as drafted, only requires the "initiation of stabilization activities" when construction 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..." This language allows too much time before stabilization - meaning more time for erosion and sedimentation, especially during rainy seasons. Erosion-prone areas (i.e. slopes and drainage ways) or areas with bare soil need to be stabilized as soon as possible, even if temporarily, to minimize runoff. The permit should be amended to remove the 14 day provision and incorporate language</p>	<p>As written, the proposed permit is consistent with the stabilization requirements in the Virginia Erosion and Sediment Control regulations and EPA's Construction General Permit. No changes to the permit are proposed in response to this comment.</p>
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		requiring construction operators to stabilize areas that are prone to erosion as soon as possible.	
Katlyn Schmitt (Waterkeepers Chesapeake) & Phillip Musegaas (Potomac Riverkeeper Network)	ESC Requirements	<p>The permit should require construction phasing or include language tailored to minimize the duration of exposed soils. This means that construction operators will only clear land that will be under construction in the near future. This practice can reduce off-site sediment loads by 36 percent for a typical construction projects and erosion “dramatically.”</p> <p>Without incorporating these practices, the state will need to include language requiring vegetative cover on as much of the site as possible for erosion and sediment control. Similarly, stronger language could be built into the permit around reducing impervious surfaces and promoting infiltration. Both of these are important for reducing the amount of stormwater runoff leaving any construction site.</p>	The proposed permit retains a requirement that stabilization be initiated immediately on disturbed areas when 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. No changes to the permit are proposed in response to this comment.
Katlyn Schmitt (Waterkeepers Chesapeake) & Phillip Musegaas (Potomac Riverkeeper Network)	ESC Requirements	<p>Perimeter controls must be secured around the site and remain in place until the site has been finally stabilized. While we recommend that the state remove perimeter controls from the permit (and replace them with controls that prevent both sediment and erosion), if perimeter controls are going to be included there should be basic parameters in place for their use. This also means incorporating the possible diversion of stormwater that comes on to the site (‘run-on’) and ensuring that it is conveyed safely around the site to minimize additional polluted runoff. To promote vegetation, the permit should also incorporate language to divert runoff from rooftops and other impervious surfaces to vegetated areas, if possible.</p>	The proposed permit retains requirements for operators of land-disturbing activities to design and implement erosion and sediment control measures that meet the Minimum Standards of the Virginia Erosion and Sediment Control regulations (9VAC25-840). No changes to the permit are proposed in response to this comment.

<p>Katlyn Schmitt (Waterkeepers Chesapeake) & Phillip Musegaas (Potomac Riverkeeper Network)</p>	<p>ESC Requirements</p>	<p>While the permit, as written, requires SWPPPS to “minimize the disturbance of steep slopes,” it should require the conveyance of stormwater runoff around the top of any steep slope and the stabilization of the slope as soon as possible. Conveyance of stormwater can be easily achieved with pipe slope drains or earthen berms.</p>	<p>The proposed permit retains requirements for operators of land-disturbing activities to design and implement erosion and sediment control measures that meet the Minimum Standards as required in the Virginia Erosion and Sediment Control regulations (9VAC25-840) including requirements for stabilization to be initiated where 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. Additionally, permanent or temporary soil stabilization must be applied to denuded areas within seven days after final grade is reached on any portion of the site. No changes to the permit are proposed in response to this comment.</p>
<p>Ryan Terry (Lane Construction)</p>	<p>Waste Disposal</p>	<p>PART II, STORMWATER POLLUTION PREVENTION PLAN, B. Contents., 4. Pollution prevention plan., e. (7), “Prevent the discharge of...excess concrete,...” creates issues on construction projects. Discharge in this instance needs to be more clearly defined. Consultants performing inspections for owners interpret this as any hardened concrete cannot touch the ground and must be removed from the site immediately. This becomes costly and difficult to manage. Since hardened concrete that is stored on a site that has bmp’s installed and maintained has no significant environmental risk, there is no benefit to enforcing the permit in this way. Paragraph (5) in the same section addresses concrete and concrete waste water. Adding “excess concrete” to paragraph (7) creates confusion on the enforcement of the permit and should be removed.</p>	<p>As defined in 9VAC25-870-10, <i>discharge</i> or <i>discharge of a pollutant</i> includes "Any addition of any pollutant or combination of pollutants to state waters from any point source." Additionally, pollutant is defined in 9VAC25-870-10 to include "...dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials...discharged into water." Please also note that the department has replaced the word "excess" with "waste" for clarification in response to other comments received. No change to the permit is proposed in response to this comment.</p>

Katlyn Schmitt (Waterkeepers Chesapeake) & Phillip Musegaas (Potomac Riverkeeper Network)	Waste Disposal	The SWPPP should also require the proper disposal of garbage and waste at sites, with special attention to hazardous materials and chemicals. In order to protect Virginia's surface waters, it is vital that these pollutants stay on site and do not runoff due to stormwater.	The proposed permit retains requirements for waste to be properly managed on site in accordance with local, state, and federal requirements. No changes to the permit are proposed in response to this comment.
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<p>Townhall Comment- No Name Provided</p>	<p>Waste Disposal</p>	<p>Part II.B.4.e.(9), proposes that waste containers be closed during precipitation events and at the end of the business day, or implementation of similarly effective practices... While this is an excellent pollution prevention concept and we do not intend to oppose it, it fails, in practice, when we try to implement such practices for large, roll-off dumpsters (e.g., 20- or 30-yard dumpsters), as the waste management industry does not, currently, have the ability to supply covers for these waste containers. In the past, when we have attempted similar measures, such as tarps, we've found that following a precipitation event of multiple-inches of rain or heavy, wet snow, the tarps fall into the roll-offs and are unretrievable without dispensing the stormwater within the dumpsters. In order to meet this requirement, the construction industry will need explicit guidance on how to meet the second half of this proposed requirement: "...or implementing other similarly effective practices. Minimization of exposure is not required in cases where the exposure to precipitation will not result in a discharge of pollutants...". In such a case, and simply as an example, would roll-off dumpsters positioned, without cover, in a sloped area that has containment berms along its lower three sides (the upper side utilized for access by the vendor) be sufficient to meet the "cases where the exposure to precipitation will not result in a discharge of pollutants", particularly in those cases of dumpster sizes that are unable to be supplied with covers?</p>	<p>Thank you for your comment, however, the requirement to cover waste containers at the end of the day and during precipitation events provides consistency with EPA's 2017 Construction General Permit and 40 CFR 450 (d)(2) to minimize the exposure of construction waste to precipitation. Alternative measures that prevent the discharge of stormwater exposed to waste materials such as the installation of berms, is an acceptable alternative covering a waste container. No changes to the permit are proposed in response to this comment.</p>
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Tyler Emery (American Electric Power)	Impaired, TMDL, and Exceptional Waters	<p>Section B.4. b. currently states: <i>Polychlorinated biphenyl (PCB) impaired waters. Discharges of stormwater from construction activities that include the demolition of any structure with at least 10,000 square feet of floor space built or renovated before January 1, 1980, to surface waters identified as impaired in the 2016 § 305(b)/303(d) Water Quality Assessment Integrated Report or for which a TMDL wasteload allocation has been established and approved prior to the term of this general permit for PCB are not eligible for coverage under this general permit unless the operator develops, implements, and maintains a SWPPP in accordance with Part II B 6 of this permit that minimizes the pollutants of concern and, when applicable, is consistent with the assumptions and requirements of the approved TMDL wasteload allocations, and implements an inspection frequency consistent with Part II G 2 a.</i></p> <p>AEP interprets these impaired surface waters being discharged to as the listed water bodies themselves, and not the entire upstream watershed of tributaries.</p>	The requirements for discharges to PCB impaired waters applies to the specific receiving water segment to which the site discharges. No changes to the permit are proposed as a result of this comment.
Peggy Sanner (Chesapeake Bay Foundation) & Bill Street (James River Association)	Impaired, TMDL, and Exceptional Waters	In view of the more frequent and more destructive storms that Virginia is experiencing, the Draft Permit should require the operator of sites discharging to these sensitive waters to achieve temporary or permanent soil stabilization within 3 (not 7) days after final grade is reached on any portion of the site. This timeframe should also apply if construction has temporarily ceased and the site is inactive for longer than 10 days.	This requirement is consistent with federal Construction and Development Effluent Limitation Guidelines and Standards (40 CFR 450.21 b). No changes to the permit are proposed as a result of this comment.

<p>Peggy Sanner (Chesapeake Bay Foundation) & Bill Street (James River Association)</p>	<p>Impaired, TMDL, and Exceptional Waters</p>	<p>The Draft Permit should set a maximum of 3 (not 7) days within which to take corrective action on control measures discovered during inspections not be operating properly.</p>	<p>The proposed permit retains requirements for corrective actions to be implemented as soon as practicable, but no later than 7 days after discovery. This requirement is consistent with EPA's 2017 Construction General Permit. No changes to the permit are proposed as a result of this comment.</p>
<p>Peggy Sanner (Chesapeake Bay Foundation) & Bill Street (James River Association)</p>	<p>Impaired, TMDL, and Exceptional Waters</p>	<p>The Draft Permit should require the operator to notify DEQ of instances of accumulated sediment deposits discovered on required inspections. Such notification will ensure DEQ can require appropriate, environmentally sensitive corrective steps.</p>	<p>Part III G and I of the permit requires the operator to provide notification to the department in the case of unauthorized discharges and provide reports of non-compliance. Deposition of sediment to a receiving water is not an authorized discharge under the general permit and therefore would require notification under the Part III provisions. No changes to the permit are proposed to the permit condition as a result of this comment.</p>

<p>Peggy Sanner (Chesapeake Bay Foundation) & Bill Street (James River Association)</p>	<p>Impaired, TMDL, and Exceptional Waters</p>	<p>The Draft Permit should require the operator to adopt specific, identified measures (e.g., Level 3 active sediment management) to protect these sensitive waters from risky turbidity levels. To assist operators in this effort, we recently requested that DEQ develop numeric turbidity standards for use across the Commonwealth. (e.g., the Maryland standard of 150 NTUs at any time or 50 NTUs as a monthly average). At a minimum, however, this permit should require appropriately heightened numeric levels of protection for these sensitive waters.</p>	<p>The proposed general permit is consistent with the requirements for protection of water quality contained in EPA’s 2017 construction general permit effective February 16, 2017.</p> <p>EPA established effluent limitation guidelines (ELGs) and new source performance standards (NSPS) to control the discharge of pollutants from construction activities in 40 CFR Part 450 referred to as the “Construction and Development Rule” or “C&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 a numeric limitation on the allowable level of turbidity in discharges from certain construction sites. On November 5, 2010, EPA finalized a stay (75 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&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 into NPDES permits.</p> <p>As currently written, the general permit requires construction activity operators to implement erosion and sediment controls and pollution prevention practices to address 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</p>
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			<p>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, 9VAC25-870-460.I of the Virginia Stormwater Management Program 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 department believes that the proposed general permit establishes the requirements necessary to protect water quality standards. No changes to the permit are proposed in response to this comment.</p>
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<p>Barbara Brumbaugh (City of Chesapeake)</p>	<p>Impaired, TMDL, and Exceptional Waters</p>	<p>If the site discharges to PCB-impaired waters, Part II(B)(6) requires that a permittee who will demolish a structure with at least 10,000 square feet of floor space that was built or renovated prior to January 1, 1980 develop a Stormwater Pollution Prevention Plan (“SWPPP”) to minimize the exposure of PCB-containing building materials to stormwater. The section goes on to provide examples of controls, including “...separating work areas from non-work areas and selecting appropriate personal protective equipment and tools, constructing a containment area so that all dust or debris generated by the work remains within the protected area, using tools that minimize dust and heat (<212°F).”The Construction GP is not the appropriate place to regulate demolition. An operator would not need to obtain a Construction GP if their activities are limited to demolition and do not include land disturbance greater than one acre. Demolition is covered by the Virginia Uniform Statewide Building Code, which may be a better place to include these requirements. While it is reasonable to require controls to minimize the exposure of PCB-containing materials to stormwater, it is unclear why personal protective equipment or recommended tools would be included in a SWPPP. In accordance with the definitions listed in 9VAC25 870-10, a SWPPP is “a document that is prepared in accordance with good engineering practices and that identifies potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges.” Safety protocols and tool selection are beyond the scope of a SWPPP. Additionally, SWPPP inspections are required to be conducted by qualified personnel. In accordance</p>	<p>The requirement for operators discharging to waters impaired for polychlorinated biphenyl (PCB) to implement controls to minimize the exposure of building materials containing PCB was added to the proposed permit in order to ensure that discharges meet water quality standards by preventing releases of PCB into receiving waters. The provisions only apply for demolition of a structure greater than 10,000 square feet built prior to January 1, 1980, and that require construction general permit coverage. The proposed condition mirrors language in EPA’s 2017 CGP. It is not the department’s intention to regulate the demolition of buildings or require VSMP inspectors to evaluate safety conditions on a site, but to ensure adequate protection of state waters. Upon further review, the department has determined that since PCB affixes to sediment, the proper implementation and maintenance of erosion and sediment control as well as proper waste management, both already required by the permit, provide the necessary minimization and control of PCB to protect surface waters. Therefore, the condition is not necessary. Conditions will be retained in the permit that require increased SWPPP inspections for those sites that discharge to surface waters that have a PCB impairment.</p>
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		<p>with the definitions listed in 9VAC25-870-10, qualified personnel refers to “a person ... 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.” VSMP inspectors are not qualified to evaluate safety conditions for the operator and their employees. The suggested revision is to omit Part II(B)(6) and instead include PCB-containing building materials in the existing language in Part II(B)(4)(e)(6). This section requires SWPPPs to include pollution prevention practices that “minimize the discharge of pollutants from storage, handling, and disposal of construction products, materials, and wastes including (i) building products such as asphalt sealants, copper flashing, roofing materials, adhesives, and concrete admixtures; (ii) pesticides, herbicides, insecticides, fertilizers, and landscape materials; (iii) construction and domestic wastes such as packing materials, scrap construction materials, masonry products, timber, pipe and electrical cuttings, plastics, Styrofoam, concrete, and other trash or building materials.” This revision will be protective of water quality by requiring the implementation of controls to minimize the exposure of PCB-containing building materials to stormwater.</p>
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<p>Hampton Roads Planning District Commission</p>	<p>Impaired, TMDL, and Exceptional Waters</p>	<p>If the site discharges to PCB-impaired waters, Part II(B)(6) requires that a permittee who will demolish a structure with at least 10,000 square feet of floor space that was built or renovated prior to January 1, 1980 develop a Stormwater Pollution Prevention Plan (“SWPPP”) to minimize the exposure of PCB-containing building materials to stormwater. The section goes on to provide examples of controls, including “...separating work areas from non-work areas and selecting appropriate personal protective equipment and tools, constructing a containment area so that all dust or debris generated by the work remains within the protected area, using tools that minimize dust and heat (<212°F).”The Construction GP is not the appropriate place to regulate demolition. An operator would not need to obtain a Construction GP if their activities are limited to demolition and do not include land disturbance greater than one acre. Demolition is covered by the Virginia Uniform Statewide Building Code, which may be a better place to include these requirements. While it is reasonable to require controls to minimize the exposure of PCB-containing materials to stormwater, it is unclear why personal protective equipment or recommended tools would be included in a SWPPP. In accordance with the definitions listed in 9VAC25 870-10, a SWPPP is “a document that is prepared in accordance with good engineering practices and that identifies potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges.” Safety protocols and tool selection are beyond the scope of a SWPPP. SWPPP inspections are required to be conducted by qualified personnel. In accordance with the</p>	<p>The requirement for operators discharging to waters impaired for polychlorinated biphenyl (PCB) to implement controls to minimize the exposure of building materials containing PCB was added to the proposed permit in order to ensure that discharges meet water quality standards by preventing releases of PCB into receiving waters. The provisions only apply for demolition of a structure greater than 10,000 square feet built prior to January 1, 1980, and that require construction general permit coverage. The proposed condition mirrors language in EPA’s 2017 CGP. It is not the department’s intention to regulate the demolition of buildings or require VSMP inspectors to evaluate safety conditions on a site, but to ensure adequate protection of state waters. Upon further review, the department has determined that since PCB affixes to sediment, the proper implementation and maintenance of erosion and sediment control as well as proper waste management, both already required by the permit, provide the necessary minimization and control of PCB to protect surface waters. Therefore, the condition is not necessary. Conditions will be retained in the permit that require increased SWPPP inspections for those sites that discharge to surface waters that have a PCB impairment.</p>
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	<p>definitions listed in 9VAC25-870-10, qualified personnel refers to “a person ... 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.” VSMP inspectors are not qualified to evaluate safety conditions for the operator and their employees. The suggested revision is to omit Part II(B)(6) and instead include PCB-containing building materials in the existing language in Part II(B)(4)(e)(6). This section requires SWPPPs to include pollution prevention practices that “minimize the discharge of pollutants from storage, handling, and disposal of construction products, materials, and wastes including (i) building products such as asphalt sealants, copper flashing, roofing materials, adhesives, and concrete admixtures; (ii) pesticides, herbicides, insecticides, fertilizers, and landscape materials; (iii) construction and domestic wastes such as packing materials, scrap construction materials, masonry products, timber, pipe and electrical cuttings, plastics, Styrofoam, concrete, and other trash or building materials.” This revision will be protective of water quality by requiring the implementation of controls to minimize the exposure of PCB-containing building materials to stormwater.</p>	
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<p>Kristin Carter (University of Virginia)</p>	<p>Impaired, TMDL, and Exceptional Waters</p>	<p>c. Part II, bullet B.6.b – For consistency with bullets B.5.b and B.7.b, should this state “Provide clear direction in the SWPPP that:”? I think the PCB-specific procedures should be replaced with the same ones for sites subject to sediment and nutrient TMDLs since PCBs can attach to sediments and be washed off site. The proposed PCB-specific procedures seem to be inappropriate for stormwater and E&SC inspectors to enforce and are more applicable to building and/or VOSH inspectors. Building demolition does not always equate to land disturbance so much of the PCB abatement activity could occur before SWM/E&SC inspectors are called in.</p>	<p>The requirement for operators discharging to waters impaired for polychlorinated biphenyl (PCB) to implement controls to minimize the exposure of building materials containing PCB was added to the proposed permit in order to ensure that discharges meet water quality standards by preventing releases of PCB into receiving waters. The provisions only apply for demolition of a structure greater than 10,000 square feet built prior to January 1, 1980, and that require construction general permit coverage. The proposed condition mirrors language in EPA’s 2017 CGP. It is not the department’s intention to regulate the demolition of buildings or require VSMP inspectors to evaluate safety conditions on a site, but to ensure adequate protection of state waters. Upon further review, the department has determined that since PCB affixes to sediment, the proper implementation and maintenance of erosion and sediment control as well as proper waste management, both already required by the permit, provide the necessary minimization and control of PCB to protect surface waters. Therefore, the condition is not necessary. Conditions will be retained in the permit that require increased SWPPP inspections for those sites that discharge to surface waters that have a PCB impairment.</p>
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<p>Lisa Ochsenhirt (VAMSA)</p>	<p>Impaired, TMDL, and Exceptional Waters</p>	<p>Part II(B)(6) of the Proposed CGP (9VAC25-880-70) requires that a permittee who will demolish a structure with at least 10,000 square feet of floor space built or renovated before January 1, 1980 include specific management controls in its stormwater pollution prevention plan (SWPPP) if the site will discharge to PCB impaired or TMDL waters. Controls are meant to minimize exposure of building materials that may contain PCBs to stormwater. Controls listed in the Proposed CGP include separating work and nonwork areas, using appropriate protective equipment and tools, containing dust within a protected area, and using tools that minimize dust and heat. VAMSA requests that DEQ not adopt specific PCB requirements at this time, including the requirements in Part II(B)(6). DEQ should instead address PCB requirements more generically, and without specific reference to the management controls that are explicitly delineated in Part II(B)(6) of the Proposed CGP. If DEQ wishes to consider more detailed future requirements, it should coordinate enforcement responsibility with other state and local agencies. VAMSA's request is based on two significant concerns. First, VAMSA is concerned that the Proposed CGP, as it is currently drafted, will be out of sync with existing local building codes relating to building demolition. Demolition is covered by the Virginia Uniform Statewide Building Code (USBC), and is largely the responsibility of local building inspectors. Respectfully, if DEQ has not already reached out, it should, at a minimum, specifically request feedback from the Virginia Department of Housing and Community Development (DHCD), the Virginia Board of Housing and Community Development (the Board, the citizen board responsible for</p>	<p>The requirement for operators discharging to waters impaired for polychlorinated biphenyl (PCB) to implement controls to minimize the exposure of building materials containing PCB was added to the proposed permit in order to ensure that discharges meet water quality standards by preventing releases of PCB into receiving waters. The provisions only apply for demolition of a structure greater than 10,000 square feet built prior to January 1, 1980, and that require construction general permit coverage. The proposed condition mirrors language in EPA's 2017 CGP. It is not the department's intention to regulate the demolition of buildings or require VSMP inspectors to evaluate safety conditions on a site, but to ensure adequate protection of state waters. Upon further review, the department has determined that since PCB affixes to sediment, the proper implementation and maintenance of erosion and sediment control as well as proper waste management, both already required by the permit, provide the necessary minimization and control of PCB to protect surface waters. Therefore, the condition is not necessary. Conditions will be retained in the permit that require increased SWPPP inspections for those sites that discharge to surface waters that have a PCB impairment.</p>
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	<p>adopting and amending the USBC), and local building inspectors before adding requirements that impact the demolition of buildings or structures. The USBC includes numerous requirements for buildings that may contain asbestos; it may be more appropriate to add requirements relating to PCBs to the USBC (and not the CGP) in a similar manner. VAMSA would look to the experts, including the DHCD, the Board, and local inspectors for advice about the most efficient way to work together to tackle this environmental issue. As an aside, it is possible that if a developer is demolishing a building on an existing site, but is not conducting any land-disturbance, the developer may be allowed to move forward without obtaining a land-disturbance permit. In these cases, VAMSA Members responsible for erosion and sediment (E&S) control and stormwater review would not be contacted about the project. If the Commonwealth's goal is to reduce stormwater discharges that may contain PCBs, we should apply rules consistently on all demolition across the State (permitted and non-permitted). Again, the USBC may be the more appropriate place to include these rules. Second, VAMSA is concerned that local employees are not trained to manage these requirements. Localities regularly send VSMP employees (working with public works, public utilities, or a planning department) to regulated sites to inspect for compliance with E&S control plans, stormwater management plans, SWPPPs, pollution prevention plans, and the CGP. Most employees are certified to conduct these inspections, and receive regular training to keep their skills up-to-date with current legal and regulatory requirements. These employees are not trained on</p>	
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	<p>how to review a SWPPP or inspect a permitted site that has specialized requirements for PCBs. For example, these employees are not familiar with the following: (1) the types of housing materials that may contain PCBs and how to identify them; (2) the appropriate protective gear that must be worn if there are PCB-containing materials on-site; or (3) the right tools to reduce dust and heat from materials that may contain PCBs. Moreover, appropriate protective gear presumably raises questions relating to worker safety. Local environmental inspectors are not trained to determine whether a SWPPP will protect construction workers during demolition or whether the SWPPP is being implementing in a way that is fully protective. VAMSA supports clean water goals, and our Members with MS4 permits are working steadfastly to implement best management practices to reduce applicable TMDL pollutants to the maximum extent practicable. VAMSA also acknowledges that DEQ has proposed these new measures because EPA included similar requirements in the 2017 CGP. However, as explained above, VAMSA opposes including specific PCB requirements in the Proposed CGP given the complex and significant issues above—i.e., the CGP and how it relates to the USBC, etc.</p>	
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<p>Tyler Emery (American Electric Power)</p>	<p>SWPPP</p>	<p>In Section G.2.b.(2) the inspection requirements changed from no later than 48 hours following a measurable storm event to no later than 24 hours following a measurable storm event.</p> <p>AEP's service territory covers large portions of the mountainous region of southwest Virginia. Travel time in difficult terrain on large linear projects is problematic and this is compounded in adverse weather conditions. AEP inspects multiple projects in these difficult areas and a 48-hour timeframe allows for mobilization of inspectors and completion of reviews of major project sites. Our recommendation is to change the language to "as soon as practical, but no later than 48 hours following a measurable storm event."</p>	<p>The proposed general permit change is a result of discussions of the general permit Technical Advisory Committee that determined SWPPP inspections immediately following storm events are essential to ensure the protection of water quality from the potential discharge of stormwater from construction sites. The requirement to inspect sites 24 hours after a storm event only applies when an operator chooses to inspect at a frequency of every 10 business days (or 5 business days if the site discharges to an impaired, TMDL approved, or exceptional water). Operators may choose an alternative SWPPP inspection frequency of once every 5 business days (or every 4 business days if the site discharges to an impaired or exceptional water) in which case the 24 hour requirement would not apply. No changes to the permit are proposed to the permit condition.</p>
<p>Tyler Emery (American Electric Power)</p>	<p>SWPPP</p>	<p>Section G.2.3. states that If adverse weather causes the safety of the inspection personnel to be in jeopardy, the inspection may be delayed until the next business day on which it is safe to perform the inspection. Any time inspections are delayed due to adverse weather conditions, evidence of the adverse weather conditions shall be included in the SWPPP with the dates of occurrence. AEP is very grateful for this addition to the General Permit. Safety is a critical part of our culture and we are very appreciative of VDEQ's considerations for safety as well. We recommend that documentation of the delay be kept in a log, on the inspection form, or similar document, kept in accordance with the SWPPP rather than literally a part of the SWPPP</p>	<p>Thank you for the comment. The department believes that it is appropriate for the operator to include documentation of adverse conditions as part of the SWPPP to explain why a SWPPP inspection may not meet the inspection frequency specified in the permit. Additionally, the permit requires inspection reports to be included as part of the SWPPP. No changes to the permit are proposed to the permit condition as a result of this comment.</p>

<p>Charlie White</p>	<p>SWPPP</p>	<p>I have been blessed after a lifetime of hard work and saving to get to move to and live on Beautiful Smith Mountain Lake for my retirement years. For approximately the last year and a half, I have witnessed large amounts of sediment from a nearby development, Kennedy Shores, flow into Smith Mountain Lake during rain events. I personally witnessed on the deck of my home a massive sea of yellow mud flowing into Smith Mountain Lake from Kennedy Shores on February 11, 2108. The rain occurred on the night of February 10th and morning of February 11th. These dates were a Saturday and a Sunday. The development was not being monitored by the developer or any state or local agency during this major rain event. Since the February 2018 event, I have taken pictures after many other large rain events when the site continued to let silt flow into SML. I reported the initial event to the developer, DEQ, Franklin County, and AEP. The only agency that showed me any significant concern was the DEQ but I learned after viewing this event that the primary enforcer was supposed to be Franklin County.</p> <p>As a follow up to my story above, I believe that sediment run-off should be the holy grail of concern under the Storm Water Permitting process. I also believe that the inspection process during and immediately after storm events needs to be beefed up substantially. With the Kennedy Shores property, I as a private citizen was often the only one inspecting the run off into the lake after storms. I believe that a self inspection process by the developer should be mandatory and it should be a process that would include pictures and scientific evidence that could be easily verified by the responsible</p>	<p>Proposed changes to the general permit revised the requirement for construction site operators to conduct inspections every 10 business days and 48 hours after a measureable storm event to every 10 business days (or 5 business days if the site discharges to an impaired, TMDL approved, or exceptional water) and 24 hours after a measurable storm event. Alternatively, construction site operators may conduct inspections once every 5-business days (or in the case of impaired, TMDL approved, or exceptional waters, every 4-business days). Additionally, the permit does not prohibit operators from including photographs as part of an inspection report. No additional changes to the permit condition are proposed as a result of this comment.</p>
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		inspection agency.	
Peggy Sanner (Chesapeake Bay Foundation) & Bill Street (James River Association)	SWPPP	<p>The Draft Permit would unwisely allow operators of linear projects to meet the SWPPP inspection requirements through representative inspections. Required site inspections serve many functions; these include determination of whether control measures have been installed in accordance with approved plans, whether the control measures have been incorrectly used, the effectiveness of the control measures in minimizing sediment discharges, and similar issues that are fundamental to ensuring the site does not discharge sediment and other pollutants into waterways. Experience with the large natural gas pipeline projects has shown that regular on the ground inspections of the entire length of the construction site's disturbed areas is essential. The Board should delete the provision in the Draft Permit that would allow "representative inspections" for pipeline or other linear activities.</p>	<p>The use of representative inspections is only authorized for those areas for which temporary or permanent stabilization has occurred in order to prevent disturbing these areas, where accessing the site may interfere with site stabilization. The concept of minimizing inspections of stabilized sites is consistent with EPA's 2017 Construction General Permit. No changes to the permit are proposed to this permit condition as a result of this comment.</p>

<p>Home Builders Association of Virginia</p>	<p>SWPPP</p>	<p>9VAC25-880-70 Part II.F.5 9VAC25-880-70 Part II.F.5 of Proposed Chapter 880 states: “The inspection report shall be included into the SWPPP no later than 4 business days after the inspection is complete.”Comment: DEQ’s requirement that a [hard copy] inspection report shall be included into the SWPPP no later than 4 business days after the inspection is complete is burdensome to the construction industry and in conflict with the Proposed Chapter 880. The Proposed Chapter 880, as does the existing permit, affords the permittee seven (7) days to implement the corrective action(s) identified in the inspection report. Many permittees utilize either proprietary or third party inspection software to generate and retain all inspection reports created to comply with the Permit. It is very likely that since the permittee is allowed seven (7) days to complete an action item identified on an inspection report, the permittee will not document an action item as complete on the electronic inspection report until the seventh day. Therefore, it is very likely that the permittee will only print out a completed hardcopy inspection report which may be on the seventh day. If the requirement to have the hardcopy report in the SWPPP in 4 business days remains and the permittee places an incomplete hardcopy inspection report into the SWPPP, then upon completion of the action items completed on days five, six and seven, the permittee would have to document the completion of the action item in their inspection software and on the hardcopy report in the SWPPP. This is duplicative and does not provides any tangible water quality benefit. Additionally, the requirement to have the hardcopy report in the SWPPP in 4 business days is in conflict with the intent of EPA’s paperwork reduction</p>	<p>Implementation and updates of SWPPPs are vital to ensuring that the protection of state water from construction sites. The department does not believe that the proposed revisions to the general permit requiring inspection reports to be included in the SWPPP within 4 days is burdensome to operators or creates circumstances that prohibit operators from implementing corrective measures within 7 days. No changes to the permit are proposed to this permit condition as a result of this comment.</p>
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		<p>policies. Therefore, it is strongly recommended that DEQ remove the language in 9VAC25-880-70 Part II.F.5 of Proposed Chapter 880 requiring the inspection reports be included in the SWPPP no later than 4 business days. Also, it is strongly recommended that DEQ add language to the Proposed Chapter 880 that affords the permittee the ability to use inspection software programs, and allows the permittee the ability to provide access to the electronic reports in a timely manner: “The permittee shall furnish in a timely manner, upon request, to DEQ or the VSMP authority copies of reports required to be kept by this permit.”</p>	
<p>John Woodburn (Goochland County)</p>	<p>SWPPP</p>	<p>9VAC25-880-70, Part II,G.2.a(2)Define “representative inspections” in this document, or reference where the term is discussed.</p>	<p>The proposed permit retains provisions for representative inspections as an option for operators to inspect control measures above and below an area of the site where stabilization has been initiated and where accessing the area may cause additional disturbance that increases the potential for erosion. The department believes that the condition as retained in the proposed permit provides adequate information regarding representative inspection requirements. No changes to the permit are proposed to this permit condition as a result of this comment.</p>

<p>Patricia VonOhlen</p>	<p>SWPPP</p>	<p>I am most concerned about sediment pollution that flows in the urban storm drains when I ride past road or near by road construction projects. I would like to see the permit strengthened to ensure more numerous and rigorous inspections. Along with firm inspection schedules, it will help to specify a specific the time frame construction permit holders need to correct any deficiencies. The protections (to prevent polluted storm water runoff) should be reflect the need for more stringent standards due to increased number of storms and intensity we are now experiencing. Inspectors should visit during rain events. So often, I ride by a site that has a coir log which seems to be intended to cover the storm drain. Yet, more often than not, this 'log' has been moved so that storm water (full of dirt/sediment from the construction) is allowed to flow freely down the storm drain. I'm assuming water would build up if not allowed to run-off. So possibly permits might require some other measures to hold exposed dirt in place so it will not end up in run-off. Maybe this would require construction supervisors to avoid digging and exposing excessive amounts of uncovered dirt for long periods of time between between activity. I have observed land disturbances that are left with no activity for long periods of time before work resumes. It seems that this problem could be addressed during permitting and inspecting. Thank you for considering my comments. I appreciate your work helping keep Virginia's waterways clean.</p>	<p>The proposed permit includes a requirement for operators to inspect sites 24 hours after a storm event at a frequency of every 10 business days (or 5 business days if the site discharges to an impaired. TMDL approved, or exceptional water). Operators may choose an alternative SWPPP inspection frequency of once every 5 business days (or every 4 business days if the site discharges to an impaired, TMDL approved, or exceptional water) which is equivalent to the frequency of measurable rainfall events in Virginia. Additionally, the proposed permit retains the requirement that corrective measures be implemented as soon as possible but no later than 7 days of after discovery unless the overseeing stormwater authority approves otherwise. The proposed permit also retains requirements for stabilization to be initiated immediately but no later than 7 days after final grade is reached on any portion of a site or temporarily ceased and will not resume for a period of greater than 14 days. "Immediately" is defined in the general permit regulation as "soon as practicable, but no later than the end of the next business day when the land disturbing activities have temporarily or permanently ceased." This requirement is consistent with requirements contained within EPA's 2017 Construction General Permit. No changes to the permit are proposed to this permit condition as a result of this comment.</p>
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Rogard Ross	SWPPP	<p>The Inspection Schedule - the current requirement for development by impaired waterways is for every 4 days OR every 5 days and within 1 day of a storm event; except if it happens over a long weekend when the next business day may be 4 or 5 days away. If there is a storm event, we really should require inspection with 24 hours; yes that may mean doing an inspection on a non-business day, but we really don't want damaged mitigation systems to go unfixed, especially if more rain is forecast. Let's tighten this up! .</p>	<p>The SWPPP inspection frequency in the proposed permit is consistent with the inspection requirements in EPA's 2017 Construction General Permit. The proposed permit also retains requirements for more frequency SWPPP inspections for those construction sites that discharge to impaired, TMDL approved, or exceptional waters. No changes to the permit are proposed to this permit condition as a result of this comment.</p>
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<p>Jody Greene (Wetland Studies and Solutions, Inc.)</p>	<p>SWPPP</p>	<p>Inspecting following adverse weather and Inspection report inclusion in the SWPPP The CGP provides various inspection frequency options. Adding next “scheduled” inspection to both the requirements for inspecting following adverse weather conditions and for report inclusion in the SWPPP provides the ability to resume inspections and file reports at the inspection the frequency that meets the requirements of the permit (4 days, 5 days, 10 days, rain events and monthly etc.). Additionally, unsafe conditions that delay inspections for multiple days, like a blizzard, would create a log jam problem for third party inspectors where all delayed inspections would be required on the next safe day. The recommendations below address these concerns.9VAC25-880-70: Part II G.2e Currently Proposede. If adverse weather causes the safety of the inspection personnel to be in jeopardy, the inspection may be delayed until the next business day on which it is safe to perform the inspection. Any time inspections are delayed due to adverse weather conditions, evidence of the adverse weather conditions shall be included in the SWPPP with the date(s) of occurrence.Recommended Change e. If adverse weather causes the safety of the inspection personnel to be in jeopardy, the inspection may be delayed until the next scheduled business day on which it is safe to perform the inspection. Any time inspections are delayed due to adverse weather conditions, evidence of the adverse weather conditions shall be included in the SWPPP with the date(s) of occurrence.9VAC25-880-70: Part II G.5 Currently Proposed5. The inspection report shall be included into the SWPPP no later than 4 business days after the inspection is complete.Recommended Change:5.</p>	<p>The new language in the proposed permit was included to address safety concerns of performing inspections during adverse weather conditions. The suggested language would ultimately decrease the number of SWPPP inspections and potentially lead to circumstances of permit non-compliance and adverse impacts to water quality. No changes to the permit are proposed to this permit condition as a result of this comment.</p>
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		The inspection report shall be included into the SWPPP no later than the next regularly scheduled inspection. 4 business days after the inspection is complete.	
Jimmy Edmonds (Loudoun County)	SWPPP	<p>9VAC25-880-70 PART II.A.4.e.7 This section, located under 9VAC25-880-70 PART II.A.4 “Pollution Prevention Plan,” lists several types of discharges that are prohibited. We recommend a wording change for clarity and for consistency with DEQ technical standards for concrete washout water. Replace the highlighted word with “waste.”</p> <p>9VAC25-880-70 PART II.A.4.e.7... “Prevent the discharge of fuels, oils, and other petroleum products, hazardous or toxic wastes, excess concrete, and sanitary wastes, and...”</p>	Thank you for your comment. The condition has been revised as suggested.
Katlyn Schmitt (Waterkeepers Chesapeake) & Phillip Musegaas (Potomac Riverkeeper Network)	SWPPP	The SWPPP should include language around protecting receiving waters adjacent to the construction site covered under the permit and stronger general pollution prevention measures. While erosion and sediment controls are recommended as BMPs throughout the construction site under the draft permit, construction operators should also be required to place additional controls in adjacent areas with receiving waters (or environmentally sensitive area).	In general, traditional erosion and sediment controls are employed to minimize the discharge of pollutants from construction activities. However, more frequent inspection requirements enhances an operator’s ability to find and correct problems before a discharge of pollutants to impaired waters occurs. No changes to the permit are proposed to this permit condition as a result of this comment.

Townhall Comment- No Name Provided	SWPPP	Per Part II.B.1.a, a signed copy of the registration statement is required to be available with the SWPPP. Often times, permitting is completed by an owner/developer or their representative and, subsequently, a Transfer Agreement is completed to assign the permit to a contractor. With the transfer agreement process, it is uncommon that a contractor acquires the original, signed copy of the registration statement. Would it be possible to update this section to indicate that a signed copy of the registration statement, OR a signed copy of the transfer agreement be required to be available with the SWPPP, since the DEQ would have copies of both of these documents on file for both entities anyway?	Thank you for your comment, however, it is the responsibility of the new owner to ensure they obtain the necessary information from the previous owner. In the event that the new owner is unable to obtain the previous SWPPP documents, the new owner can contact the VSMP authority to obtain a copy of the registration statement and permit coverage letter. No changes to the permit are proposed in response to this comment.
Jimmy Edmonds (Loudoun County)	SWPPP	VAC25-880-70 PART II.A.1 In this section, there is a reference to a SWPPP Template for land disturbing activities that disturb less than one (1) acre but are within a Common Plan of Development. Is DEQ planning to update all SWPPP templates based upon these amended regulations and when will they be available to local programs so that they we can alert our clients in a timely fashion?	The department will revise the SWPPP template and post the updated copy on the DEQ Construction Stormwater website prior to the registration due date.

<p>Catherine Lukaszewicz</p>	<p>Monitoring</p>	<p>There are several more improvements needed that have become apparent as a result of Virginia’s experience with pipeline construction (while not governed by the CGP the same challenges apply). Please further improve the CGP by including the following: Require use of filtering or settling of sediment laden or turbid flows of stormwater to remove sediment prior to discharge as well as require turbidity monitoring according to clear protocol (e.g., ambient conditions and at the me of discharge conditions) for projects discharging to waters impaired for sediment.</p>	<p>The proposed general permit is consistent with the requirements for protection of water quality contained in EPA’s 2017 Construction General permit effective February 16, 2017.</p> <p>EPA established effluent limitation guidelines (ELGs) and new source performance standards (NSPS) to control the discharge of pollutants from construction activities in 40 CFR Part 450 referred to as the “Construction and Development Rule” or “C&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 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&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 Sediment Control Program regulations, which require filtering and infiltration practices. 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,</p>
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<p>Peggy Sanner (Chesapeake Bay Foundation) and Bill Street (James River Association)</p>	<p>Monitoring</p>	<p>Virginia’s recent experience with major natural gas pipeline projects which the CGP program governs indirectly through DEQ-approved Standards and Specifications has amply demonstrated that discharges from land disturbing activities can cause significant and risky turbidity and sedimentation in receiving waterways. Yet, discharges leading to turbidity and sedimentation in receiving waters are inconsistent with Virginia’s water quality standards (WQS) general criteria: State waters, including wetlands, shall be free from substances attributable to sewage, industrial waste, or other waste in concentrations, amounts, or combinations which contravene established standards or interfere directly or indirectly with designated uses of such water or which are inimical or harmful to human, animal, plant, or aquatic life. Specific substances to be controlled include, but are not limited to: floating debris, oil, scum, and other floating materials; toxic substances (including those which bioaccumulate); substances that produce color, tastes, turbidity, odors, or settle to form sludge deposits; and substances which nourish undesirable or nuisance aquatic plant life. Turbidity and sedimentation have a variety of harmful effects on aquatic life. As CBF detailed to DEQ in connection with its triennial review of water quality standards, sediment loads can degrade aquatic life by sedimentation, which smothers stream bottoms with a layer of fine material that eliminates habitat. Sediment also increases the turbidity of the water through suspended solids, preventing sunlight from reaching underwater grasses and plants. In this way, turbidity can eliminate habitat, reduce food resources and degrade aquatic plants that form part of the food web for many</p>	<p>The proposed general permit is consistent with the requirements for protection of water quality contained in EPA’s 2017 construction general permit effective February 16, 2017. EPA established effluent limitation guidelines (ELGs) and new source performance standards (NSPS) to control the discharge of pollutants from construction activities in 40 CFR Part 450 referred to as the “Construction and Development Rule” or “C&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 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&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>As currently written, the general permit requires construction activity operators to implement erosion and sediment controls and pollution prevention practices to address 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</p>
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	<p>species. Turbidity can also reduce fish hatching success, affect the ability to acquire food, damage gill tissue, and even induce direct mortality. The Draft Permit duly prohibits discharges that cause, may reasonably be expected to cause, or contribute to a violation of water quality standards, and it requires permittees to ensure that discharges from construction sites do not cause or contribute to an excursion above any applicable water quality standard. Courts have held that permit conditions requiring adherence to narrative WQS are enforceable, and indeed, DEQ and the Attorney General are currently engaged in enforcement activities relating in part to stormwater runoff and sedimentation from pipeline construction activities. Nonetheless, as DEQ has publically stated it is unsure how to enforce Virginia's narrative turbidity WQS, we are not confident of the level or regularity of enforcement action regarding this standard at other, less prominent sites. To ensure protection of water quality from turbidity and sedimentation in the manner intended by the longstanding turbidity WQS, the reissued CGP should require appropriate monitoring for sediment-caused turbidity downstream of construction sites. At a minimum, monitoring according to an appropriate protocol would give the site operator the ability to discern whether its onsite controls are working effectively and to modify them where needed. Effective monitoring and reporting of results would also allow the operator and DEQ to understand the duration of any turbid discharges and, therefore, its likely effects on aquatic life. DEQ, which conducts real-time continuous turbidity monitoring before, during and after specific construction activities for</p>	<p>that the operator's discharge does not cause or contribute to an excursion above any applicable water quality standard. Also, 9VAC25-870-460.I of the Virginia Stormwater Management Program 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 department believes that the proposed general permit establishes the requirements necessary to protect water quality standards.</p> <p>In accordance with section 402(l)(2) of the Clean Water Act (CWA) discharges of stormwater runoff from the construction of oil and gas transmission pipelines are exempt from National Pollutant Discharge Elimination System (NPDES) and Virginia Pollutant Discharge Elimination System (VPDES) permitting. Therefore, Virginia's Construction General Permit is not applicable to the natural gas transmission pipeline projects. No changes to the permit are proposed in response to this comment. Please note, however, that Virginia regulates construction activities from pipelines through the annual standards and specifications program in accordance with the Virginia Erosion and Sediment Control Law and the Virginia Stormwater Management Act.</p>
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	<p>the natural gas pipeline projects, is certainly capable of devising and implementing an appropriate turbidity monitoring protocol. To the extent additional guidance is considered helpful, DEQ could consult with neighboring states, including Maryland, which also have and implement WQS for turbidity. Larger than most other land disturbing projects, the natural gas pipeline projects starkly illustrate the turbidity and sedimentation risks that smaller land disturbing projects can pose to local and downstream waterways. Virginia should learn from these examples and take the important step of requiring turbidity monitoring downstream of covered construction sites. That step will help protect water quality by warning of inadequate controls due to unanticipated weather events, inappropriate BMP installation, lax maintenance or other problems.</p>	
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<p>Logan Kendle (Superintendent Commercial Contractor)</p>	<p>Monitoring</p>	<p>I recommend the addition of required settling or filtering of sediment laden or Turbid stormwater prior to discharge. & Monitoring of said settling or filtering prior to discharge. I recommend the addition of public posting of those results in a log attached to the electronically available SWPPP permit.</p>	<p>The proposed general permit is consistent with the requirements for protection of water quality contained in EPA’s 2017 Construction General permit effective February 16, 2017. EPA established effluent limitation guidelines (ELGs) and new source performance standards (NSPS) to control the discharge of pollutants from construction activities in 40 CFR Part 450 referred to as the “Construction and Development Rule” or “C&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 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&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 Sediment Control Program regulations which requires filtering and infiltration practices. 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</p>
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			<p>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, 9VAC25-870-460.I of the Virginia Stormwater Management Program 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 department believes that the proposed general permit establishes the requirements necessary to protect water quality standards. No changes to the permit are proposed in response to this comment.</p>
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Rogard Ross	Monitoring	<p>Sediment runoff is a major concern. I do not think it would be unreasonable to require the site operator to monitor turbidity in the runoff from the construction sites and take proactive steps to eliminate sediment runoff in alignment with their SWPPP</p>	<p>The proposed general permit is consistent with the requirements for protection of water quality contained in EPA’s 2017 Construction General permit effective February 16, 2017. EPA established effluent limitation guidelines (ELGs) and new source performance standards (NSPS) to control the discharge of pollutants from construction activities in 40 CFR Part 450 referred to as the “Construction and Development Rule” or “C&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 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&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 Sediment Control Program regulations, which require filtering and infiltration practices. 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</p>
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			<p>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, 9VAC25-870-460.I of the Virginia Stormwater Management Program 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 department believes that the proposed general permit establishes the requirements necessary to protect water quality standards. No changes to the permit are proposed in response to this comment.</p>
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<p>Denise Mosca</p>	<p>Monitoring</p>	<p>After experiencing more frequent, intense storms currently, please reconsider the use of historical storm record guidelines underlying the recommendations and requirements for this permit. For example, please revisit inspection schedules and shortening timeframes to make corrections after inspections so that the occurrence of more severe storms do not result in consistently more severe impacts. In addition, some form of settling prior to discharge should be a requirement, as well as the elimination of representative inspections for linear activities. For projects with discharge to waters impaired due to sediment, background and discharging turbidity monitoring should be required.</p>	<p>Thank you for your comment, however revisions to the storm event used for erosion and sediment control measure sizing is outside the scope of this regulatory action. Additionally, the proposed general permit is consistent with the requirements for protection of water quality contained in the EPA 2017 Construction General permit effective February 16, 2017. EPA established effluent limitation guidelines (ELGs) and new source performance standards (NSPS) to control the discharge of pollutants from construction activities in 40 CFR Part 450 referred to as the “Construction and Development Rule” or “C&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 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&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 Sediment Control Program regulations, which require filtering and infiltration practices. The permit also incorporates the</p>
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			narrative technology-based effluent limitations contained in 40 CFR Part 450. No revisions to the permit are proposed as a result of this comment.
Melanie Mason (City of Alexandria)	"Portions of a project not under construction"	9VAC25-880-45 2(b)(3)(d)(1): Please clarify that this definition means that construction has begun on any portion of the project included on the stormwater management plan, including regional stormwater facilities.	The language proposed in 9VAC 25-880-45 was added to provide further clarification regarding the applicability of the stormwater technical criteria contained in the Virginia Stormwater Management Program regulation, 9VAC25-870. After receiving numerous comments during the comment period, the department has determined that the language has caused more confusion than clarification. Therefore, the language proposed in 9VAC25-880-45 is being removed from the proposed permit and a discussion of applicable technical criteria has been included in the fact sheet.
Hampton Roads Planning District Commission	"Portions of a project not under construction"	The definition of "portions of a project not under construction" included in Section 9VAC25-880-45.2.d (1) is subject to various interpretations and should be clarified. It is our understanding that DEQ's intent is to have Part IIC (9VAC25-870-93 et seq.) continue to apply to the portions of a project that are addressed in the approved stormwater management plan, and where land disturbance has begun by either June 30, 2024 for time limits on applicability projects or June 30, 2019 for grandfathered projects. The suggested revision is to add the following language to Section 9VAC25-880-45.2.d (1) of the permit: "All portions of the project covered by the approved stormwater management plan that were developed in accordance with Part IIC shall remain subject to Part IIC so long as land disturbance has commenced by either June 30, 2024 for projects meeting subdivision 2a or June 30, 2019 for projects meeting subdivision 2b of this section."	The language proposed in 9VAC 25-880-45 was added to provide further clarification regarding the applicability of the stormwater technical criteria contained in the Virginia Stormwater Management Program regulation, 9VAC25-870. After receiving numerous comments during the comment period, the department has determined that the language has caused more confusion than clarification. Therefore, the language proposed in 9VAC25-880-45 is being removed from the proposed permit and a discussion of applicable technical criteria has been included in the fact sheet.

Hampton Roads Planning District Commission	"Portions of a project not under construction"	Another suggestion that will help permittees determine which projects remain under Part IIC is to include the examples that were provided to the TAC in May 2018 in the Fact Sheet for the permit. The project examples, including a road widening project, a utility readjustment, and a phased subdivision, were particularly helpful to the TAC discussions and would also be helpful to permittees.	The language proposed in 9VAC 25-880-45 was added to provide further clarification regarding the applicability of the stormwater technical criteria contained in the Virginia Stormwater Management Program regulation, 9VAC25-870. After receiving numerous comments during the comment period, the department has determined that the language has caused more confusion than clarification. Therefore, the language proposed in 9VAC25-880-45 is being removed from the proposed permit and a discussion of applicable technical criteria has been included in the fact sheet.
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<p>Mark Williams (Koontz Bryant Johnson Williams)</p>	<p>“Portions of a project not under construction”</p>	<p>Section 9VAC25-880-45, item B (draft) states “...Portions of the project not under construction as of June 30, 2024 shall no longer be eligible to use the technical design criteria in Part II C of the VSMP regulation.”</p> <p>Items to note:</p> <p>a. Section 9VAC25-870-47 (under the general “Part II” of the Chapter 870 VSMP Regulations NOT the Chapter 880 General Permit Regulations), section B states similar language (i.e.- “After such time, portions of the project not under construction shall be subject to any new technical criteria adopted by the board”). It is my understanding that changes to Chapter 870 have NOT been authorized; Therefore, only the interpretation of the term “portions of a project not under construction” can be addressed. Unfortunately, this wording doesn’t account for items outside the control of the engineer or developer.</p> <p>b. Section 9VAC25-880-45, item B4 (draft) defines “...Portions of the project not under construction” Based on the current wording of the regulations (related to “portions of a project not under construction”), a locality could approve a site plan (which may have taken 8 months or more to get approved) in late June of 2024. In many localities, the actual issuance of a land disturbance permit is not done until the pre-construction meeting, which needs to be scheduled with the authority. If the locality, as the authority, approved a plan in late June of 2024, they could find themselves setting up a pre-construction meeting in July, knowing the plans at that time will not be in compliance with the regulations (as the project may not be under construction prior to June 30, 2019, depending on the DEQ’s definition of “under construction”).</p>	<p>The language proposed in 9VAC 25-880-45 was added to provide further clarification regarding the applicability of the stormwater technical criteria contained in the Virginia Stormwater Management Program regulation, 9VAC25-870. After receiving numerous comments during the comment period, the department has determined that the language has caused more confusion than clarification. Therefore, the language proposed in 9VAC25-880-45 is being removed from the proposed permit and a discussion of applicable technical criteria has been included in the fact sheet.</p> <p>Additionally, suggested changes to the provisions of Section 47 and 48 of the Virginia Stormwater Management Program regulation, 9VAC25-870, are not authorized under the regulatory action to amend the general permit. Also, please note that the provisions of 9VAC25-870-47 and 48 that allow certain projects to use the post development stormwater technical criteria in effect prior to July 1, 2014 criteria apply specifically to stormwater management associated with land-disturbing activities. The vesting requirements set out in the Code of Virginia in § 15.2-2209.1 have no relationship to the stormwater provisions and the technical criteria that are applicable to a given project as stated in the VSMP regulatory development documents from 2011.</p>
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		<p>Could this section be modified to require “Plan Approval” by June 30, 2019 for grandfathered projects and “Plan Approval” by June 30, 2024 for projects with previous permit coverage and which are renewed. Since Chapter 870 uses the same language, and changes to Chapter 870 have not been authorized, can the suggested change noted above be made (by superseding Chapter 870 via changes within Chapter 880)?</p> <p>A preferred addition to the definition of “portions of a project not under construction” would be a statement that any project or portions of projects meeting the vesting requirements of Virginia Code § 15.2-2307, paragraph A would be deemed to be a project under construction. This would allow ongoing residential projects with approved zoning and tentative plans to continue moving toward completion of the overall project under the same criteria that was known to them when the project started. Arbitrary dates should not be defined for developers who have and continue to invest substantial sums of money actively pursuing completion of their multi-phased projects. Will the DEQ be willing to include language within the definition for “portions of a project not under construction” that includes any project or portions of projects meeting the vesting requirements of Virginia Code § 15.2-2307, paragraph A?</p>	
John Woodburn (Goochland County)	"Portions of a project not under construction"	9VAC25-880-45.2.b(1). Grandfathering – If grandfathered, how does the ‘portions of project not under construction’ part get implemented?	The department has included information regarding applicable post development stormwater technical criteria in the fact sheet. No changes to permit are proposed in response to this comment.

<p>Kristin Carter (University of Virginia)</p>	<p>"Portions of a project not under construction"</p>	<p>9VAC25-880-45 – For paragraph 2.d.2, why do locality, state and federal projects have until 12/31/2020 to issue a contract and consider that equivalent to initiating construction on by 06/30/19? A year and a half seems like an excessive grace period beyond what was originally intended for grandfathered projects.</p>	<p>Thank you for comment. Language in the proposed permit was not intended to change applicability of the Part II C criteria as authorized under 9VAC25-870-47 or 48 of the Virginia Stormwater Management regulation. The language originally proposed in 9VAC 25-880-45 was added to provide further clarification regarding the applicability of the stormwater technical criteria contained in the Virginia Stormwater Management Program regulation, 9VAC25-870. After receiving numerous comments during the comment period, it is clear to the department that the language did not provide clarification and introduced confusion. Therefore, the language is being removed from the proposed permit and a discussion of applicable technical criteria has been included in the fact sheet.</p>
<p>Jimmy Edmonds (Loudoun County)</p>	<p>"Portions of a project not under construction"</p>	<p>9VAC25-880-45.B.4(a) The definition for “portions of a project not under construction” is provided. Does the first part of the definition, “any construction activity permitted as described in 9VAC-25-880-45 B 1 or 2 and included on an approved stormwater management plan for which land disturbance has not commenced for any activities on the approved stormwater management plan...” infer that this includes any proposed land disturbance on a site for which the stormwater plan/measures are proposed (e.g., Phase 1 ESC measure installation on a project that has an approved SWM Plan)? In other words, please verify that the definition does not limit the land disturbance to that involved in the construction of SWM facilities (which typically takes place very late in project construction).</p>	<p>Thank you for comment. Language in the proposed permit was not intended to change applicability of the Part II C criteria as authorized under 9VAC25-870-47 or 48 of the Virginia Stormwater Management regulation. The language originally proposed in 9VAC 25-880-45 was added to provide further clarification regarding the applicability of the stormwater technical criteria contained in the Virginia Stormwater Management Program regulation, 9VAC25-870. After receiving numerous comments during the comment period, it is clear to the department that the language did not provide clarification and introduced confusion. Therefore, the language is being removed from the proposed permit and a discussion of applicable technical criteria has been included in the fact sheet.</p>

<p>Jimmy Edmonds (Loudoun County)</p>	<p>"Portions of a project not under construction"</p>	<p>9VAC25-880-45.B.4(a) Detailed guidance from DEQ on the interpretation of the definition of "portions of a project not under construction" is requested. Please provide recommendations and guidance related to procedures for a local VSMP program to follow in determining this project status and in revoking the "grandfathered" status of a project and enforcing the new criteria should it be determined that construction has not begun. This process has the potential to be resource demanding for local VSMPs.</p>	<p>Thank you for comment. Language in the proposed permit was not intended to change applicability of the Part II C criteria as authorized under 9VAC25-870-47 or 48 of the Virginia Stormwater Management regulation. The language originally proposed in 9VAC 25-880-45 was added to provide further clarification regarding the applicability of the stormwater technical criteria contained in the Virginia Stormwater Management Program regulation, 9VAC25-870. After receiving numerous comments during the comment period, it is clear to the department that the language did not provide clarification and introduced confusion. Therefore, the language is being removed from the proposed permit and a discussion of applicable technical criteria has been included in the fact sheet.</p>
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<p>Melanie Mason (City of Alexandria)</p>	<p>Part II C Technical Criteria</p>	<p>9VAC25-880-45 2(b)(1): Per DEQ guidance memo 14-2014 issued August 25, 2014, land-disturbing activities that obtain first-time coverage under the 2014 general permit, with the exception of “grandfathered” projects or projects served by an existing stormwater management facility, are subject to the new Part II B technical criteria for two (2) additional general permit cycles. Any land-disturbing activities served by an existing on-site or off-site stormwater management facility, including a regional (watershed wide) stormwater management facility, designed and implemented in accordance with the old Part II C technical criteria remain subject to the old Part II C technical criteria for two (2) additional general permit cycles. The use of grandfathered existing on site or offsite facilities, including regional facilities designed to meet the Part IIC criteria is not reflected in the language in the proposed permit. This will affect projects that have been permitted to use a regional facility designed to the Part IIC criteria, but have not yet begun construction or still have portions of the project that are not under construction. Please include language consistent with the guidance.</p>	<p>Thank you for comment. Language in the proposed permit was not intended to change applicability of the Part II C criteria as authorized under 9VAC25-870-47 or 48 of the Virginia Stormwater Management regulation. The language originally proposed in 9VAC 25-880-45 was added to provide further clarification regarding the applicability of the stormwater technical criteria contained in the Virginia Stormwater Management Program regulation, 9VAC25-870. After receiving numerous comments during the comment period, it is clear to the department that the language did not provide clarification and introduced confusion. Therefore, the language is being removed from the proposed permit and a discussion of applicable technical criteria has been included in the fact sheet.</p>
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<p>Barbara Brumbaugh (City of Chesapeake)</p>	<p>Part II C Technical Criteria</p>	<p>Section 9VAC25-880-45.2.b (2) of the proposed Construction GP includes the requirements for locality, state, and federal projects to be eligible to conduct land disturbance in accordance with Part II C (9VAC25-870-93 et seq.). The provision specifically states that the project has to meet the grandfathering requirements of 9VAC25-870-48 B, which includes an obligation of funding prior to July 1, 2012. There are situations in which a local government project has approved plans; however, funding was obligated after July 1, 2012. It is expected that most local government projects that are grandfathered would have secured funding by July 1, 2012 and met the requirements of 9VAC25-870-48 B; however, local government budgets are impacted by any number of factors beyond a locality's control, such as extreme weather events. Local governments need flexibility in terms of funding schedules to allow them to manage their limited resources in the most cost effective manner. Extending the applicability of Part IIC to projects grandfathered under Parts A and B of 9VAC25-870-48 will provide flexibility to local governments. The suggested revision is to add a reference to Part A of 9VAC25-870-48 to the following sentence in Section 9VAC25-880-45.2.b(2) of the Construction GP: "For locality, state, and federal projects, any operator that obtained initial permit authorization to discharge under the general permit effective July 1, 2014, for projects meeting the requirements of 9VAC25-870-48 A or B, has maintained continuous permit coverage since initial permit coverage was approved, and obtains coverage under the general permit effective July 1, 2019, shall conduct land disturbance in accordance with Part II C (9VAC25-870-93 et seq.) of the</p>	<p>Thank you for comment. Language in the proposed permit was not intended to change applicability of the Part II C criteria as authorized under 9VAC25-870-47 or 48 of the Virginia Stormwater Management regulation. The language originally proposed in 9VAC 25-880-45 was added to provide further clarification regarding the applicability of the stormwater technical criteria contained in the Virginia Stormwater Management Program regulation, 9VAC25-870. After receiving numerous comments during the comment period, it is clear to the department that the language did not provide clarification and introduced confusion. Therefore, the language is being removed from the proposed permit and a discussion of applicable technical criteria has been included in the fact sheet. Additionally, the proposed changes to 9VAC25-870 are outside of the scope of this regulatory action.</p>
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		VSMP Regulation or more stringent standards at the operator's discretion.”	
Barbara Brumbaugh (City of Chesapeake)	Part II C Technical Criteria	§15.2-2209.1. of the Code of Virginia, which was promulgated to address the housing crisis, extends the approval of any subdivision recorded plat or final site plan that was outstanding as of January 1, 2017 to July 1, 2020. This requirement is inconsistent with the grandfathering provisions in Section 9VAC25-880-45.b that specify an expiration date of June 30, 2019 for the stormwater management plans of grandfathered projects. The City recommends that DEQ review the legislation and the proposed Construction GP to ensure that the expiration dates are consistent and do not present conflicting information to the development community.	The provisions of 9VAC25-870-47 and 48 that allow certain projects to use the post development stormwater technical criteria in effect prior to July 1, 2014 criteria apply specifically to stormwater management associated with land-disturbing activities. The vesting requirements set out in the Code of Virginia in § 15.2-2209.1 have no relationship to the stormwater provisions and the technical criteria that are applicable to a given project as stated in the VSMP regulatory development documents from 2011. No changes to the permit are proposed in response to this comment.

Hampton Roads Planning District Commission	Part II C Technical Criteria	<p>Section 9VAC25-880-45.2.b (2) of the proposed Construction GP includes the requirements for locality, state, and federal projects to be eligible to conduct land disturbance in accordance with Part II C (9VAC25-870-93 et seq.). The provision specifically states that the project has to meet the grandfathering requirements of 9VAC25-870-48 B, which includes an obligation of funding prior to July 1, 2012. There are situations in which a local government project has approved plans; however, funding was obligated after July 1, 2012. It is expected that most local government projects that are grandfathered would have secured funding by July 1, 2012 and met the requirements of 9VAC25-870-48 B; however, local government budgets are impacted by any number of factors beyond a locality's control, such as extreme weather events. Local governments need flexibility in terms of funding schedules to allow them to manage their limited resources in the most cost effective manner. Extending the applicability of Part IIC to projects grandfathered under Parts A and B of 9VAC25-870-48 will provide flexibility to local governments. The suggested revision is to add a reference to Part A of 9VAC25-870-48 to the following sentence in Section 9VAC25-880-45.2.b(2) of the Construction GP: "For locality, state, and federal projects, any operator that obtained initial permit authorization to discharge under the general permit effective July 1, 2014, for projects meeting the requirements of 9VAC25-870-48 A or B, has maintained continuous permit coverage since initial permit coverage was approved, and obtains coverage under the general permit effective July 1, 2019, shall conduct land disturbance in accordance with Part II C (9VAC25-870-93 et seq.) of the</p>	<p>Thank you for comment. Language in the proposed permit was not intended to change applicability of the Part II C criteria as authorized under 9VAC25-870-47 or 48 of the Virginia Stormwater Management regulation. The language originally proposed in 9VAC 25-880-45 was added to provide further clarification regarding the applicability of the stormwater technical criteria contained in the Virginia Stormwater Management Program regulation, 9VAC25-870. After receiving numerous comments during the comment period, it is clear to the department that the language did not provide clarification and introduced confusion. Therefore, the language is being removed from the proposed permit and a discussion of applicable technical criteria has been included in the fact sheet. Additionally, the proposed changes to 9VAC25-870 are outside of the scope of this regulatory action.</p>
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		VSMP Regulation or more stringent standards at the operator's discretion.”	
Hampton Roads Planning District Commission	Part II C Technical Criteria	§15.2-2209.1. of the Code of Virginia, which was promulgated to address the housing crisis, extends the approval of any subdivision recorded plat or final site plan that was outstanding as of January 1, 2017 to July 1, 2020. This requirement is inconsistent with the grandfathering provisions in Section 9VAC25-880-45.b that specify an expiration date of June 30, 2019 for the stormwater management plans of grandfathered projects. The suggestion is for the DEQ to review the legislation and the proposed Construction GP to address the inconsistent expiration dates and to provide guidance to permittees.	The provisions of 9VAC25-870-47 and 48 that allow certain projects to use the post development stormwater technical criteria in effect prior to July 1, 2014 criteria apply specifically to stormwater management associated with land-disturbing activities. The vesting requirements set out in the Code of Virginia in § 15.2-2209.1 have no relationship to the stormwater provisions and the technical criteria that are applicable to a given project as stated in the VSMP regulatory development documents from 2011. No changes to the permit are proposed in response to this comment.
Jimmy Edmonds (Loudoun County)	Part II C Technical Criteria	9VAC25-880-45.B.1 This section describes “time limits of applicability.” We recommend the following sentence be amended for clarity: 9VAC25-880-45.B.1 “...project not under construction as of June 30, 2024 shall no longer be eligible to use the technical design criteria in Part II C of the VSMP regulation.” Amend highlighted language to read, “subject to the technical design criteria in Part IIC of the VSMP Regulations, and shall become subject to and shall be conducted in accordance with the technical criteria in Part II B.”	Language in the proposed permit was not intended to change applicability of the Part II C criteria as authorized under 9VAC25-870-47 or 48 of the Virginia Stormwater Management regulation. The language originally proposed in 9VAC 25-880-45 was added to provide further clarification regarding the applicability of the stormwater technical criteria contained in the Virginia Stormwater Management Program regulation, 9VAC25-870. After receiving numerous comments during the comment period, it is clear to the department that the language did not provide clarification and introduced confusion. Therefore, the language is being removed from the proposed permit and a discussion of applicable technical criteria has been included in the fact sheet.

<p>Jon Tibbs (McAirlaid's Inc)</p>	<p>Part II C Technical Criteria</p>	<p>McAirlaid's, Inc. submitted a master plan (copy attached) to DEQ in May 2007. This master plan reflected all phase of development for the site. McAirlaid's, Inc. renewed our General Permit in 2014 and received approval from DEQ on 19 Sept 14 (copy attached). This renewal process also included a master plan (copy attached) that demonstrated all phases of the project. The reason to renew and not close this permit was to allow us to construct the final phase of our approved site (Phase V) as business allows under the erosion and sediment control laws and regulations at the time the General Permit was issued and not be subject to any changes that may develop to the laws since that time (grandfather). We continue to maintain the maintenance fee with Franklin County. Will McAirlaid's, Inc. be allowed to construct Phase V under the laws that govern the 2014 permit if we continue to update the General Permit with no changes to the master plan?</p> <p>McAirlaid's, Inc. wishes to understand more clearly the definition of "under construction". With our SWPPP, our continued renewals of the General Permit, and paying the yearly maintenance fee, we consider our site still "under construction". Will the "substantial changes to the existing regulation" that are predicted by DEQ allow McAirlaid's, Inc. to continue along our existing path and allow us to construct our Phase V addition under laws and regulations governing the 2014 general permit?</p> <p>To simplify, McAirlaid's, Inc. feels that we were very forward thinking during the design of the master plan in 2007; therefore submitting this plan to DEQ and subsequently receiving approval in 2007. We have maintained our General Permit with no changes to the</p>	<p>Thank you for comment. The language proposed in 9VAC 25-880-45 was added to provide further clarification regarding the applicability of the stormwater technical criteria contained in the Virginia Stormwater Management Program regulation, 9VAC25-870. After receiving numerous comments during the comment period, the department has determined that the language has caused more confusion than clarification. The department has included information in the fact sheet regarding applicability of the post development stormwater technical criteria.</p> <p>As authorized in 9VAC25-870-47 of the Virginia Stormwater Management regulation, "land-disturbing activities that obtain an initial state permit or commence land disturbance prior to July 1, 2014, shall be conducted in accordance with the Part II C (9VAC25-870-93 et seq.) technical criteria of this chapter." These projects remain subject to the Part II C criteria until July 1, 2024, at which time those portions of the project not under construction shall become subject to any new technical criteria.</p> <p>Additionally, as clarified in Guidance Memo 14-2014 issued by the department on August 25, 2014, any land-disturbing activities served by an existing on-site or off-site stormwater management facility, including a regional (watershed-wide) stormwater management facility, designed and implemented in accordance with the old Part II C technical criteria remain subject to the old Part II C technical criteria until July 1, 2024 as long as the land-use assumptions upon which the stormwater management facility was designed and implemented have not changed (e.g., an unanticipated increase in</p>
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		master plan with the understanding that we will, as business opportunities allow, build out this site in accordance with this master plan. Our fear, due to a lack of clear understanding, is that we will either end up with a detention pond on our site (currently shared by the park), or we will not be allowed to complete the master plan at all.	impervious cover).
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<p>Monte Lewis (ED Lewis and Assoc)</p>	<p>Part II C Technical Criteria</p>	<p>We still have a few projects under the IIC requirements where the overall storm water plan has been worked out but the last sections or phases have not been started. If the IIB requirements are applied to the rest of the project it would be disastrous. Layouts of the site have been approved in zoning and tentative approvals. Storm water management systems have been planned and some have been installed based on 2C requirements for the entire project. Our clients have spent an enormous amount of capital outlay for these projects based on the IIC requirements. When we renewed our permits in 2014 we were told that we would have 2 permit cycles under these regulations. I think if we have a permit and the registration statement stated the overall project area was let's say 100 acres then we should be allowed to renew for the entire 100 acres under the requirements at that time. Let the IIC permits play out with the development of the project like it was intended. That is only fair and equitable. For instance, If we change a bmp location on a tentative plan in Chesterfield they will void that tentative and we have to meet all of their current regulations relative to setbacks, buffers , etc. which has nothing to do with renewing a permit that we already have in hand.</p>	<p>Thank you for comment. Language in the proposed permit was not intended to change applicability of the Part II C criteria as authorized under 9VAC25-870-47 or 48 of the Virginia Stormwater Management regulation. The language originally proposed in 9VAC 25-880-45 was added to provide further clarification regarding the applicability of the stormwater technical criteria contained in the Virginia Stormwater Management Program regulation, 9VAC25-870. After receiving numerous comments during the comment period, it is clear to the department that the language did not provide clarification and introduced confusion. Therefore, the language is being removed from the proposed permit and a discussion of applicable technical criteria has been included in the fact sheet.</p> <p>As authorized in 9VAC25-870-47 of the Virginia Stormwater Management regulation, "land-disturbing activities that obtain an initial state permit or commence land disturbance prior to July 1, 2014, shall be conducted in accordance with the Part II C (9VAC25-870-93 et seq.) technical criteria of this chapter." These projects remain subject to the Part II C criteria until July 1, 2024, at which time those portions of the project not under construction shall become subject to any new technical criteria.</p> <p>Additionally, as clarified in Guidance Memo 14-2014 issued by the department on August 25, 2014, any land-disturbing activities served by an existing on-site or off-site stormwater management facility, including a regional (watershed-wide) stormwater management facility, designed and implemented in accordance with the old Part II C technical criteria remain subject to the old Part II C</p>
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			technical criteria until July 1, 2024 as long as the land-use assumptions upon which the stormwater management facility was designed and implemented have not changed (e.g., an unanticipated increase in impervious cover).
Jimmy Edmonds (Loudoun County)	Part II C Technical Criteria	9VAC25-880-45.B.4(b) Based upon the language in this section, we believe that local, state, & federal projects which fall under “time limits on applicability” and which have a contract award issued by December 31, 2020 will remain grandfathered to the II C Technical Criteria in perpetuity. Was this the intent of this section?	Thank you for comment. Language in the proposed permit was not intended to change applicability of the Part II C criteria as authorized under 9VAC25-870-47 or 48 of the Virginia Stormwater Management regulation. The language proposed in 9VAC 25-880-45 was added to provide further clarification regarding the applicability of the stormwater technical criteria contained in the Virginia Stormwater Management Program regulation, 9VAC25-870. After receiving numerous comments during the comment period, the department has determined that the language has caused more confusion than clarification. Therefore, the language is being removed from the proposed permit and a discussion of applicable technical criteria has been included in the fact sheet.

<p>Alvin Mistr (Midview Management Corporation)</p>	<p>Part II C Technical Criteria</p>	<p>There are specific concerns to interpretations of the sections of the Regulations regarding grandfathered status and previously permitted status. These interpretations of the Regulations will potentially have severe implications to the ability of numerous landowners to re-develop the Innsbrook Office Park. The Innsbrook Owners Association (operator) obtained Coverage under the 2009 VPDES on June 6, 2014 (VAR10E112). Subsequently, the IOA obtained Coverage under the 2014 VPDES General Construction Permit (VAR10E112) on August 22, 2014. Henrico County, as the VSMP Authority, deemed, via a letter from Keith White dated July 20, 2011, that the Innsbrook Comprehensive Stormwater Management Plan (ICSMP) was consistent with the stormwater management plan being administered by Henrico County. In doing so, the County agreed that the ICSMP was a "document equivalent thereto" to a currently valid proffered or conditional zoning plan, preliminary or final subdivision plat, preliminary or final site plan, or zoning with a plan of development. This was in accordance with the "Guidance Document on the implementation of the Virginia Stormwater Management Regulations Grandfathering Provision" dated May 15, 2012, and signed by DCR Director David E. Johnson. By virtue of VAR10E112, the entire Innsbrook Office Park was previously permitted for two permit cycles, and the Innsbrook Owners Association relied on this status to move forward with plans to re-develop all of the office park under UMU zoning standards. The County had already designated Innsbrook, as well as some of the surrounding area, as an Urban Development Area (UDA), which is a prerequisite to requesting UMU</p>	<p>Thank you for comment. Language in the proposed permit was not intended to change applicability of the Part II C criteria as authorized under 9VAC25-870-47 or 48 of the Virginia Stormwater Management regulation. The language proposed in 9VAC 25-880-45 was added to provide further clarification regarding the applicability of the stormwater technical criteria contained in the Virginia Stormwater Management Program regulation, 9VAC25-870. After receiving numerous comments during the comment period, the department has determined that the language has caused more confusion than clarification. Therefore, the language is being removed from the proposed permit and a discussion of applicable technical criteria has been included in the fact sheet.</p> <p>As authorized in 9VAC25-870-47 of the Virginia Stormwater Management regulation, "land-disturbing activities that obtain an initial state permit or commence land disturbance prior to July 1, 2014, shall be conducted in accordance with the Part II C (9VAC25-870-93 et seq.) technical criteria of this chapter." These projects remain subject to the Part II C criteria until July 1, 2024, at which time those portions of the project not under construction shall become subject to any new technical criteria. Additionally, as clarified in Guidance Memo 14-2014 issued by the department on August 25, 2014, any land-disturbing activities served by an existing on-site or off-site stormwater management facility, including a regional (watershed-wide) stormwater management facility, designed and implemented in accordance with the old Part II C technical criteria remain subject to the old Part II C technical criteria until July 1, 2024 as long as the</p>
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	<p>zoning. All of the calculations in the ICSMP were in accordance with the technical criteria of Part II C of the Regulations. These calculations of phosphorus reductions by the Innsbrook Lakes have been utilized in the preparation of Plans of Development since the time the ICSMP was deemed to be consistent with the Stormwater Regulations. Changes to the method of calculating water quality requirements with the 2019 permit cycle will have potentially dire consequences for the re-development of Innsbrook. The intentions of the owners, at this time, are to re-develop Innsbrook as an Innovation District. This will allow the owners within Innsbrook to initiate innovative methods of treating stormwater runoff and utilizing new technological advances for reducing nutrient loads, which have not yet been approved by the Virginia BMP Clearinghouse. Henrico County has the legal authority to designate areas of the County as Technology Zones. Designating Innsbrook as a Technology Zone would allow the County flexibility in making waivers to regulations and their implementation. With that in mind, the IOA proposes to treat all of Innsbrook as a single complete project with numerous phases to be developed over the next couple of decades. As each of the 110± parcels within Innsbrook is re-developed and exceeds the impervious area allotment as determined by the ICSMP, that parcel must provide additional on-site treatment (pollutant reduction) or purchase nutrient offset credits from an authorized Nutrient Trading Bank. While purchasing nutrient offset credits meets the legal requirements of the Regulations, a purchase of offsite credits does nothing to enhance the water quality of the lakes. The Innsbrook Lakes currently have</p>	<p>land-use assumptions upon which the stormwater management facility was designed and implemented have not changed (e.g., an unanticipated increase in impervious cover).</p> <p>Please note that the 2014 Construction General Permit required operators to update the required Stormwater Pollution Prevention Plan within 60 days of receiving permit coverage. A component of the SWPPP is an approved erosion and sediment control plan for the amount of land disturbance for which permit coverage was authorized. The proposed permit retains the same requirement for the SWPPP to contain an approved erosion and sediment control.</p> <p>It should also be noted that applicability of the Part II C technical criteria in accordance with 9VAC 25-870-47 of the Virginia Stormwater Management Program regulation applies only to new land disturbing activities. Re-development of parcels ("development on prior developed lands" as defined in 9VAC25-870-10 of the Virginia Stormwater Management Program regulation) require a decrease in phosphorus load from the site as set forth in 9VAC25-870-63 A.2. Lastly, compliance with the stormwater technical criteria of Part II B or Part II C can only be achieved through the implementation of best management practices approved for use on Virginia BMP Clearinghouse list in 9VAC25-870-65 or as allowed under the Off-Site Compliance Options listed in 9VAC25-870-69.</p>
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	<p>BMP removal efficiencies between 50% and 60%. Sampling of the outfall of Lake Rooty (Lake #5) indicates that the lakes are actually removing more phosphorus than has been calculated. In order to verify the water quality benefits of the Lakes, Innsbrook proposes to monitor each of the five lakes to determine whether that lake is exceeding the nutrient removal efficiency as currently allowed by the BMP Clearinghouse. When the removal efficiency exceeds that allowed by current guidelines for a specified length of time, Innsbrook would get credit for the additional nutrient removal. These lakes have served as a Regional BMP for the Innsbrook Office Park since its inception. It is in the best interest of Innsbrook, Henrico County and the DEQ for these lakes to be allowed to continue to function as a Regional BMP. The Innsbrook Owners Association wants assurances, either from Henrico County, DEQ, or through clarifications for Chapter 880 of the Virginia Stormwater Regulations, that the re-development of Innsbrook can continue based on the technical criteria in Part II C. The VSMP, which is currently valid, must be extended and remain in effect. If there are requirements that must be met, such as, E&S plans for individual sites, we need to discuss that immediately so that we have sufficient time for the preparation of said requirements.</p>	
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<p>Paul Kreckman (Innsbrook Owners Association)</p>	<p>Part II C Technical Criteria</p>	<p>Representatives of the Innsbrook Owners Association have been reviewing the draft changes to Chapter 880 of the Virginia Stormwater Regulations. I represent the Innsbrook Owners Association which obtained General Permit coverage (VAR10E112) for the entire 630 acres of the Innsbrook Office Park. The Innsbrook Owners Association (operator) obtained Coverage under the 2009 VPDES on June 6, 2014 (VAR10E112). Subsequently, the IOA obtained Coverage under the 2014 VPDES General Construction Permit (VAR10E112) on August 22, 2014. Henrico County, as the VSMP Authority, deemed, via a letter from Keith White dated July 20, 2011, that the Innsbrook Comprehensive Stormwater Management Plan (ICSMP) was consistent with the stormwater management plan operated by Henrico County. In doing so, the County agreed that the ICSMP was a "document equivalent thereto" to a currently valid proffered or conditional zoning plan, preliminary or final subdivision plat, preliminary or final site plan, or zoning with a plan of development. This was in accordance with the "Guidance Document on the implementation of the Virginia Stormwater Management Regulations Grandfathering Provision" dated May 15, 2012, and signed DCR Director, David E. Johnson. The IOA obtained coverage under both the 2009 and 2014 Regulations to provide a level of certainty to developers desiring to have operations in Innsbrook as well as current owners who will redevelop their sites at some point in the future. By virtue of those permits, Innsbrook had previously permitted status, with the assurance that Innsbrook could redevelop under those regulations for two permit cycles until June 30, 2024. A</p>	<p>Thank you for comment. Language in the proposed permit was not intended to change applicability of the Part II C criteria as authorized under 9VAC25-870-47 or 48 of the Virginia Stormwater Management regulation. The language proposed in 9VAC 25-880-45 was added to provide further clarification regarding the applicability of the stormwater technical criteria contained in the Virginia Stormwater Management Program regulation, 9VAC25-870. After receiving numerous comments during the comment period, the department has determined that the language has caused more confusion than clarification. Therefore, the language is being removed from the proposed permit and a discussion of applicable technical criteria has been included in the fact sheet.</p> <p>As authorized in 9VAC25-870-47 of the Virginia Stormwater Management regulation, "land-disturbing activities that obtain an initial state permit or commence land disturbance prior to July 1, 2014, shall be conducted in accordance with the Part II C (9VAC25-870-93 et seq.) technical criteria of this chapter." These projects remain subject to the Part II C criteria until July 1, 2024, at which time those portions of the project not under construction shall become subject to any new technical criteria. Additionally, as clarified in Guidance Memo 14-2014 issued by the department on August 25, 2014, any land-disturbing activities served by an existing on-site or off-site stormwater management facility, including a regional (watershed-wide) stormwater management facility, designed and implemented in accordance with the old Part II C technical criteria remain subject to the old Part II C technical criteria until July 1, 2024 as long as the</p>
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	<p>substantial amount of planning and capital has been expended with the understanding that Innsbrook could be redeveloped using the Technical Criteria of Part II C of the stormwater regulations. Redevelopment of individual parcels within Innsbrook have been developed under the General Permit (VAR10E112). The calculations in the ICSMP were utilized for this development and were in accordance with the technical criteria of Part II C of the Regulations. These calculations of phosphorus reductions by the Innsbrook Lakes have been utilized in the preparation of Plans of Development since the time the ICSMP was deemed to be consistent with the Stormwater Regulations. Changes to the method of calculating water quality requirements with the 2019 permit cycle will have potentially dire consequences for the re-development of Innsbrook.</p> <p>Innsbrook did not have an overall Erosion & Sediment Control plan for the entire office park. Instead E&S plans were submitted for each parcel as it was redeveloped. This has been accepted and approved by the VSMP Authority for the last several years. In addition, no overall SWPPP was required by the VSMP Authority and none was prepared. Individual SWPPP's were prepared for each site as it was developed. This has been the case with several projects and has been accepted by the VSMP Authority. It is our hope that this interpretation of the Regulations will continue. Our intentions, at this time, are to re-develop Innsbrook into a high level mixed use community by virtue of Urban Mixed Use (UMU) zoning standards. Henrico County officials are on board with us to create an Innovation District that will include cutting edge methods of urban</p>	<p>land-use assumptions upon which the stormwater management facility was designed and implemented have not changed (e.g., an unanticipated increase in impervious cover).</p> <p>Also, the 2014 Construction General Permit required operators to update the required Stormwater Pollution Prevention Plan within 60 days of receiving permit coverage. A component of the SWPPP is an approved erosion and sediment control plan for the amount of land disturbance for which permit coverage was authorized. The proposed permit retains the same requirement for the SWPPP to contain an approved erosion and sediment control.</p> <p>Additionally, it should be noted that applicability of the Part II C technical criteria in accordance with 9VAC 25-870-47 of the Virginia Stormwater Management Program regulation applies only to new land disturbing activities. Re-development of parcels ("development on prior developed lands" as defined in 9VAC25-870-10 of the Virginia Stormwater Management Program regulation) require a decrease in phosphorus load from the site as set forth in 9VAC25-870-63 A.2. Lastly, compliance with the stormwater technical criteria of Part II B or Part II C can only be achieved through the implementation of best management practices approved for use on Virginia BMP Clearinghouse list in 9VAC25-870-65 or as allowed under the Off-Site Compliance Options listed in 9VAC25-870-69.</p>
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	<p>design and will include innovative methods of treating stormwater runoff and utilizing new advanced technologies for reducing nutrient loads as they enter our Lakes. Some of these methods may not have been approved by the BMP Clearinghouse. We will work with the appropriate agencies in developing sampling protocols that can be used for assessing the efficiency of the Lakes in removing phosphorus and ultimately obtaining approval of the advanced technologies. The IOA proposes to continue to treat all of Innsbrook as a single complete project with numerous phases to be developed over the next couple of decades. As each of the 110± parcels within Innsbrook is re-developed and exceeds the impervious area allotment as determined by the ICSMP, that parcel must provide additional on-site treatment (pollutant reduction) or purchase nutrient offset credits from an authorized Nutrient Trading Bank. Innsbrook proposes to monitor each of the five lakes to determine whether that lake is exceeding the nutrient removal efficiency as currently allowed by the BMP Clearinghouse. When the removal efficiency exceeds that allowed by current guidelines for a specified length of time, Innsbrook would get credit for the additional nutrient removal. The Innsbrook Owners Association wants assurances, either from Henrico County, DEQ, or through clarifications for Chapter 880 of the Virginia Stormwater Regulations, that the re-development of Innsbrook can continue based on the technical criteria in Part II C. The VSMP, which is currently valid, must be extended and remain in effect. If there are requirements that must be met, such as, E&S plans for individual sites, we need to discuss that immediately so that we have sufficient time for the preparation</p>	
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<p>Bruce Kay (President, Innsbrook Owners Association)</p>	<p>Part II C Technical Criteria</p>	<p>Representatives of the Innsbrook Owners Association have been reviewing the draft changes to Chapter 880 of the Virginia Stormwater Regulations. I represent the Innsbrook Owners Association which obtained General Permit coverage (VAR10E112) for the entire 630 acres of the Innsbrook Office Park. The Innsbrook Owners Association (operator) obtained Coverage under the 2009 VPDES on June 6, 2014 (VAR10E112). Subsequently, the IOA obtained Coverage under the 2014 VPDES General Construction Permit (VAR10E112) on August 22, 2014. Henrico County, as the VSMP Authority, deemed, via a letter from Keith White dated July 20, 2011, that the Innsbrook Comprehensive Stormwater Management Plan (ICSMP) was consistent with the stormwater management plan operated by Henrico County. In doing so, the County agreed that the ICSMP was a "document equivalent thereto" to a currently valid proffered or conditional zoning plan, preliminary or final subdivision plat, preliminary or final site plan, or zoning with a plan of development. This was in accordance with the "Guidance Document on the implementation of the Virginia Stormwater Management Regulations Grandfathering Provision" dated May 15, 2012, and signed DCR Director, David E. Johnson. The IOA obtained coverage under both the 2009 and 2014 Regulations to provide a level of certainty to developers desiring to have operations in Innsbrook as well as current owners who will redevelop their sites at some point in the future. By virtue of those permits, Innsbrook had previously permitted status, with the assurance that Innsbrook could redevelop under those regulations for two permit cycles until June 30, 2024. A</p>	<p>Thank you for comment. Language in the proposed permit was not intended to change applicability of the Part II C criteria as authorized under 9VAC25-870-47 or 48 of the Virginia Stormwater Management regulation. The language proposed in 9VAC 25-880-45 was added to provide further clarification regarding the applicability of the stormwater technical criteria contained in the Virginia Stormwater Management Program regulation, 9VAC25-870. After receiving numerous comments during the comment period, the department has determined that the language has caused more confusion than clarification. Therefore, the language is being removed from the proposed permit and a discussion of applicable technical criteria has been included in the fact sheet.</p> <p>As authorized in 9VAC25-870-47 of the Virginia Stormwater Management regulation, "land-disturbing activities that obtain an initial state permit or commence land disturbance prior to July 1, 2014, shall be conducted in accordance with the Part II C (9VAC25-870-93 et seq.) technical criteria of this chapter." These projects remain subject to the Part II C criteria until July 1, 2024, at which time those portions of the project not under construction shall become subject to any new technical criteria.</p> <p>Additionally, as clarified in Guidance Memo 14-2014 issued by the department on August 25, 2014, any land-disturbing activities served by an existing on-site or off-site stormwater management facility, including a regional (watershed-wide) stormwater management facility, designed and implemented in accordance with the old Part II C technical criteria remain subject to the old Part II C</p>
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	<p>substantial amount of planning and capital has been expended with the understanding that Innsbrook could be redeveloped using the Technical Criteria of Part II C of the stormwater regulations. Redevelopment of individual parcels within Innsbrook have been developed under the General Permit (VAR10E112). The calculations in the ICSMP were utilized for this development and were in accordance with the technical criteria of Part II C of the Regulations. These calculations of phosphorus reductions by the Innsbrook Lakes have been utilized in the preparation of Plans of Development since the time the ICSMP was deemed to be consistent with the Stormwater Regulations. Changes to the method of calculating water quality requirements with the 2019 permit cycle will have potentially dire consequences for the re-development of Innsbrook.</p> <p>Innsbrook did not have an overall Erosion & Sediment Control plan for the entire office park. Instead E&S plans were submitted for each parcel as it was redeveloped. This has been accepted and approved by the VSMP Authority for the last several years. In addition, no overall SWPPP was required by the VSMP Authority and none was prepared. Individual SWPPP's were prepared for each site as it was developed. This has been the case with several projects and has been accepted by the VSMP Authority. It is our hope that this interpretation of the Regulations will continue. Our intentions, at this time, are to re-develop Innsbrook into a high level mixed use community by virtue of Urban Mixed Use (UMU) zoning standards. Henrico County officials are on board with us to create an Innovation District that will include cutting edge methods of urban</p>	<p>technical criteria until July 1, 2024 as long as the land-use assumptions upon which the stormwater management facility was designed and implemented have not changed (e.g., an unanticipated increase in impervious cover).</p> <p>Also, the 2014 Construction General Permit required operators to update the required Stormwater Pollution Prevention Plan within 60 days of receiving permit coverage. A component of the SWPPP is an approved erosion and sediment control plan for the amount of land disturbance for which permit coverage was authorized. The proposed permit retains the same requirement for the SWPPP to contain an approved erosion and sediment control.</p> <p>It should be noted that applicability of the Part II C technical criteria in accordance with 9VAC 25-870-47 of the Virginia Stormwater Management Program regulation applies only to new land disturbing activities. Re-development of parcels ("development on prior developed lands" as defined in 9VAC25-870-10 of the Virginia Stormwater Management Program regulation) require a decrease in phosphorus load from the site as set forth in 9VAC25-870-63 A.2. Lastly, compliance with the stormwater technical criteria of Part II B or Part II C can only be achieved through the implementation of best management practices approved for use on Virginia BMP Clearinghouse list in 9VAC25-870-65 or as allowed under the Off-Site Compliance Options listed in 9VAC25-870-69.</p>
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	<p>design and will include innovative methods of treating stormwater runoff and utilizing new advanced technologies for reducing nutrient loads as they enter our Lakes. Some of these methods may not have been approved by the BMP Clearinghouse. We will work with the appropriate agencies in developing sampling protocols that can be used for assessing the efficiency of the Lakes in removing phosphorus and ultimately obtaining approval of the advanced technologies. The IOA proposes to continue to treat all of Innsbrook as a single complete project with numerous phases to be developed over the next couple of decades. As each of the 110+ parcels within Innsbrook is re-developed and exceeds the impervious area allotment as determined by the ICSMP, that parcel must provide additional on-site treatment (pollutant reduction) or purchase nutrient offset credits from an authorized Nutrient Trading Bank. Innsbrook proposes to monitor each of the five lakes to determine whether that lake is exceeding the nutrient removal efficiency as currently allowed by the BMP Clearinghouse. When the removal efficiency exceeds that allowed by current guidelines for a specified length of time, Innsbrook would get credit for the additional nutrient removal. The Innsbrook Owners Association wants assurances, either from Henrico County, DEQ, or through clarifications for Chapter 880 of the Virginia Stormwater Regulations, that the re-development of Innsbrook can continue based on the technical criteria in Part II C. The VSMP, which is currently valid, must be extended and remain in effect. If there are requirements that must be met, such as, E&S plans for individual sites, we need to discuss that immediately so that we have sufficient time for the preparation</p>	
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<p>Sidney Gunst (Innsbrook Corporation)</p>	<p>Part II C Technical Criteria</p>	<p>Representatives of the Innsbrook Owners Association have been reviewing the draft changes to Chapter 880 of the Virginia Stormwater Regulations. As the owner of the Shoppes at Innsbrook, which are covered under the overall permit (VAR10E112). The Shoppes also obtained separate coverage for the 10.5 acres of the Shoppes (VAR10). I am specifically concerned that new interpretations to my previously permitted status for the Shoppes may impede my ability to re-develop the Shoppes into a state-of-the-art UMU development that both the Commonwealth of Virginia and Henrico County could use as an economic development tool in attracting new businesses to Virginia. The Innsbrook Owners Association (operator) obtained Coverage under the 2009 VPDES on June 6, 2014 (VAR10E112). Subsequently, the IOA obtained Coverage under the 2014 VPDES General Construction Permit (VAR10E112) on August 22, 2014. Henrico County, as the VSMP Authority, deemed, via a letter from Keith White dated July 20, 2011, that the Innsbrook Comprehensive Stormwater Management Plan (ICSMP) was consistent with the stormwater management plan being administered by Henrico County. In doing so, the County agreed that the ICSMP was a "document equivalent thereto" to a currently valid proffered or conditional zoning plan, preliminary or final subdivision plat, preliminary or final site plan, or zoning with a plan of development. This was in accordance with the "Guidance Document on the implementation of the Virginia Stormwater Management Regulations Grandfathering Provision" dated May 15, 2012, and signed by DCR Director, David E. Johnson. By virtue of VAR10E112, the entire Innsbrook Office Park (including</p>	<p>Thank you for comment. Language in the proposed permit was not intended to change applicability of the Part II C criteria as authorized under 9VAC25-870-47 or 48 of the Virginia Stormwater Management regulation. The language proposed in 9VAC 25-880-45 was added to provide further clarification regarding the applicability of the stormwater technical criteria contained in the Virginia Stormwater Management Program regulation, 9VAC25-870. After receiving numerous comments during the comment period, the department has determined that the language has caused more confusion than clarification. Therefore, the language is being removed from the proposed permit and a discussion of applicable technical criteria has been included in the fact sheet.</p> <p>As authorized in 9VAC25-870-47 of the Virginia Stormwater Management regulation, "land-disturbing activities that obtain an initial state permit or commence land disturbance prior to July 1, 2014, shall be conducted in accordance with the Part II C (9VAC25-870-93 et seq.) technical criteria of this chapter." These projects remain subject to the Part II C criteria until July 1, 2024, at which time those portions of the project not under construction shall become subject to any new technical criteria.</p> <p>Additionally, as clarified in Guidance Memo 14-2014 issued by the department on August 25, 2014, any land-disturbing activities served by an existing on-site or off-site stormwater management facility, including a regional (watershed-wide) stormwater management facility, designed and implemented in accordance with the old Part II C technical criteria remain subject to the old Part II C</p>
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	<p>the Shoppes) was previously permitted for two permit cycles. I have relied on this status to move forward with plans to re-develop the Shoppes under UMU zoning standards. Henrico County is excited about the possibility of turning this Urban Development Area (UDA) into a magnet for development with UMU zoning. It is my intention to redevelop the Shoppes into a high level mixed-use community by virtue of UMU zoning. My development will be consistent with the intent of the Owners Association to create an Innovation District that will include cutting edge methods of urban design and will include innovative methods of treating stormwater runoff and utilizing new technological advances for reducing nutrient loads, which have not yet been approved by the Virginia BMP Clearinghouse. It is critical for the development of the Urban Mixed Use community for all parcels to utilize the Lakes of Innsbrook, which provide a Regional BMP, as the stormwater management system as approved in the Innsbrook Comprehensive Stormwater Management Plan. I desire assurances, either from Henrico County, DEQ, or through clarifications for Chapter 880 of the Virginia Stormwater Regulations, that the Shoppes can be re-developed using the technical criteria in Part II C. The VSMP, which is currently valid, must be extended and remain in effect. If there are requirements that must be met, such as, E&S plans for individual sites, we need to discuss that immediately so that we have sufficient time for the preparation of said requirements.</p>	<p>technical criteria until July 1, 2024 as long as the land-use assumptions upon which the stormwater management facility was designed and implemented have not changed (e.g., an unanticipated increase in impervious cover).</p> <p>Also, the 2014 Construction General Permit required operators to update the required Stormwater Pollution Prevention Plan within 60 days of receiving permit coverage. A component of the SWPPP is an approved erosion and sediment control plan for the amount of land disturbance for which permit coverage was authorized. The proposed permit retains the same requirement for the SWPPP to contain an approved erosion and sediment control.</p> <p>It should be noted that applicability of the Part II C technical criteria in accordance with 9VAC 25-870-47 of the Virginia Stormwater Management Program regulation applies only to new land disturbing activities. Re-development of parcels ("development on prior developed lands" as defined in 9VAC25-870-10 of the Virginia Stormwater Management Program regulation) require a decrease in phosphorus load from the site as set forth in 9VAC25-870-63 A.2.</p> <p>Lastly, compliance with the stormwater technical criteria of Part II B or Part II C can only be achieved through the implementation of best management practices approved for use on Virginia BMP Clearinghouse list in 9VAC25-870-65 or as allowed under the Off-Site Compliance Options listed in 9VAC25-870-69.</p>
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<p>Jane DuFrane (Highwoods Properties)</p>	<p>Part II C Technical Criteria</p>	<p>Representatives of the Innsbrook Owners Association have been reviewing the draft changes to Chapter 880 of the Virginia Stormwater Regulations. Highwoods Markel is the developer of the Innsbrook Central Business District in Innsbrook. This project was covered under the Innsbrook overall permit (VAR10E112). The ICBD also obtained separate coverage for the 39.5 acre project (VAR10). I am specifically concerned that new interpretations to the previously permitted status for the ICBD may impede our ability to re-develop this land into a state of the art UMU development that both the Commonwealth of Virginia and Henrico County could use as an economic development tool in attracting new businesses to Virginia. The Innsbrook Owners Association (operator) obtained Coverage under the 2009 VPDES on June 6, 2014 (VAR10E112). Subsequently, the IOA obtained Coverage under the 2014 VPDES General Construction Permit (VAR10E112) on August 22, 2014. Henrico County, as the VSMP Authority, deemed, via a letter from Keith White dated July 20, 2011, that the Innsbrook Comprehensive Stormwater Management Plan (ICSMP) was consistent with the stormwater management plan being administered by Henrico County. In doing so, the County agreed that the ICSMP was a "document equivalent thereto" to a currently valid proffered or conditional zoning plan, preliminary or final subdivision plat, preliminary or final site plan, or zoning with a plan of development. This was in accordance with the "Guidance Document on the implementation of the Virginia Stormwater Management Regulations Grandfathering Provision" dated May 15, 2012, and signed by DCR Director, David E. Johnson. By virtue of VAR 10E112, the entire</p>	<p>Thank you for comment. Language in the proposed permit was not intended to change applicability of the Part II C criteria as authorized under 9VAC25-870-47 or 48 of the Virginia Stormwater Management regulation. The language proposed in 9VAC 25-880-45 was added to provide further clarification regarding the applicability of the stormwater technical criteria contained in the Virginia Stormwater Management Program regulation, 9VAC25-870. After receiving numerous comments during the comment period, the department has determined that the language has caused more confusion than clarification. Therefore, the language is being removed from the proposed permit and a discussion of applicable technical criteria has been included in the fact sheet.</p> <p>As authorized in 9VAC25-870-47 of the Virginia Stormwater Management regulation, "land-disturbing activities that obtain an initial state permit or commence land disturbance prior to July 1, 2014, shall be conducted in accordance with the Part II C (9VAC25-870-93 et seq.) technical criteria of this chapter." These projects remain subject to the Part II C criteria until July 1, 2024, at which time those portions of the project not under construction shall become subject to any new technical criteria.</p> <p>Additionally, as clarified in Guidance Memo 14-2014 issued by the department on August 25, 2014, any land-disturbing activities served by an existing on-site or off-site stormwater management facility, including a regional (watershed-wide) stormwater management facility, designed and implemented in accordance with the old Part II C technical criteria remain subject to the old Part II C</p>
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	<p>Innsbrook Office Park (including the Innsbrook Central Business District) was previously permitted for two permit cycles. We have relied on this status to move forward with plans to re-develop the ICBBD under UMU zoning standards. Henrico County is excited about the possibilities for this parcel. It is our intention to redevelop the ICBBD into a high level mixed use community by virtue of UMU zoning. The development will be consistent with the intent of the Owners Association to create an Innovation District that will include cutting edge methods of urban design and will include innovative methods of treating stormwater runoff and utilizing new technological advances for reducing nutrient loads, which have not yet been approved by the Virginia BMP Clearinghouse. It is critical for the development of the Urban Mixed Use community for all parcels to utilize the lakes of Innsbrook as the stormwater management system as approved in the Innsbrook Comprehensive Stormwater Management Plan. We desire assurances, either from Henrico County, DEQ, or through clarifications for Chapter 880 of the Virginia Stormwater Regulations, that the ICBBD can be re-developed using the technical criteria in Part II C. The VSMP, which is currently valid, must be extended and remain in effect. If there are requirements that must be met, such as, E&S plans for individual sites, we need to discuss that immediately so that we have sufficient time for the preparation of said requirements.</p>	<p>technical criteria until July 1, 2024 as long as the land-use assumptions upon which the stormwater management facility was designed and implemented have not changed (e.g., an unanticipated increase in impervious cover).</p> <p>Also, the 2014 Construction General Permit required operators to update the required Stormwater Pollution Prevention Plan within 60 days of receiving permit coverage. A component of the SWPPP is an approved erosion and sediment control plan for the amount of land disturbance for which permit coverage was authorized. The proposed permit retains the same requirement for the SWPPP to contain an approved erosion and sediment control.</p> <p>Additionally, it should be noted that applicability of the Part II C technical criteria in accordance with 9VAC 25-870-47 of the Virginia Stormwater Management Program regulation applies only to new land disturbing activities. Re-development of parcels ("development on prior developed lands" as defined in 9VAC 25-870-10 of the Virginia Stormwater Management Program regulation) require a decrease in phosphorus load from the site as set forth in 9VAC 25-870-63 A.2.</p> <p>Lastly, compliance with the stormwater technical criteria of Part II B or Part II C can only be achieved through the implementation of best management practices approved for use on Virginia BMP Clearinghouse list in 9VAC 25-870-65 or as allowed under the Off-Site Compliance Options listed in 9VAC 25-870-69.</p>
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<p>Jane DuFrane (Highwoods Markel)</p>	<p>Part II C Technical Criteria</p>	<p>Representatives of the Innsbrook Owners Association have been reviewing the draft changes to Chapter 880 of the Virginia Stormwater Regulations. Highwoods Properties is the developer of the Innsbrook North project in the Innsbrook Office Park. This project was covered under the Innsbrook overall permit (VAR10E112). Highwoods obtained separate coverage for the project (VAR10). I am specifically concerned that new interpretations to the previously permitted status for Innsbrook North may impede our ability to complete the development of this project. The Innsbrook Owners Association (operator) obtained Coverage under the 2009 VPDES on June 6, 2014 (VARIOE112). Subsequently, the IOA obtained Coverage under the 2014 VPDES General Construction Permit (VARIOE112) on August 22, 2014. Henrico County, as the VSMP Authority, deemed, via a letter from Keith White dated July 20, 2011, that the Innsbrook Comprehensive Stormwater Management Plan (ICSMP) was consistent with the stormwater management plan being administered by Henrico County. In doing so, the County agreed that the ICSMP was a "document equivalent thereto" to a currently valid proffered or conditional zoning plan, preliminary or final subdivision plat, preliminary or final site plan, or zoning with a plan of development. This was in accordance with the "Guidance Document on the implementation of the Virginia Stormwater Management Regulations Grandfathering Provision" dated May 15, 2012, and signed by DCR Director, David E. Johnson. By virtue of VARIOE112, the entire Innsbrook Office Park (including the Innsbrook Central Business District) was previously permitted for two permit cycles. We have</p>	<p>Thank you for comment. Language in the proposed permit was not intended to change applicability of the Part II C criteria as authorized under 9VAC25-870-47 or 48 of the Virginia Stormwater Management regulation. The language proposed in 9VAC 25-880-45 was added to provide further clarification regarding the applicability of the stormwater technical criteria contained in the Virginia Stormwater Management Program regulation, 9VAC25-870. After receiving numerous comments during after the comment period, the department has determined that the language has caused more confusion than clarification. Therefore, the language is being removed from the proposed permit and a discussion of applicable technical criteria has been included in the fact sheet.</p> <p>As authorized in 9VAC25-870-47 of the Virginia Stormwater Management regulation, "land-disturbing activities that obtain an initial state permit or commence land disturbance prior to July 1, 2014, shall be conducted in accordance with the Part II C (9VAC25-870-93 et seq.) technical criteria of this chapter." These projects remain subject to the Part II C criteria until July 1, 2024, at which time those portions of the project not under construction shall become subject to any new technical criteria.</p> <p>Additionally, as clarified in Guidance Memo 14-2014 issued by the department on August 25, 2014, any land-disturbing activities served by an existing on-site or off-site stormwater management facility, including a regional (watershed-wide) stormwater management facility, designed and implemented in accordance with the old Part II C technical criteria remain subject to the old Part II C</p>
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	<p>relied on this status to move forward with plans to re-develop the ICBBD under UMU zoning standards. Henrico County has approved two buildings on this parcel. It is imperative that the County, as the VSMP Authority, can approve additional buildings on this site under the same interpretations of the Regulations that have been used for the initial phases of this development. It is the intention of Highwoods Properties to complete the development of Innsbrook North. The development will be consistent with the intent of the Owners Association to create an Innovation District that will include cutting edge methods of urban design and will include innovative methods of treating stormwater runoff and utilizing new technological advances for reducing nutrient loads, which have not yet been approved by the Virginia BMP Clearinghouse. It is critical for the development of the Urban Mixed Use community for all parcels to utilize the lakes of Innsbrook as the stormwater management system as approved in the Innsbrook Comprehensive Stormwater Management Plan. We desire assurances, either from Henrico County, DEQ, or through clarifications for Chapter 880 of the Virginia Stormwater Regulations, that the ICBBD can be re-developed using the technical criteria in Part II C. The VSMP, which is currently valid, must be extended and remain in effect. If there are requirements that must be met, such as, E&S plans for individual sites, we need to discuss that immediately so that we have sufficient time for the preparation of said requirements</p>	<p>technical criteria until July 1, 2024 as long as the land-use assumptions upon which the stormwater management facility was designed and implemented have not changed (e.g., an unanticipated increase in impervious cover).</p> <p>Also, the 2014 Construction General Permit required operators to update the required Stormwater Pollution Prevention Plan within 60 days of receiving permit coverage. A component of the SWPPP is an approved erosion and sediment control plan for the amount of land disturbance for which permit coverage was authorized. The proposed permit retains the same requirement for the SWPPP to contain an approved erosion and sediment control.</p> <p>Additionally, it should be noted that applicability of the Part II C technical criteria in accordance with 9VAC 25-870-47 of the Virginia Stormwater Management Program regulation applies only to new land disturbing activities. Re-development of parcels ("development on prior developed lands" as defined in 9VAC25-870-10 of the Virginia Stormwater Management Program regulation) require a decrease in phosphorus load from the site as set forth in 9VAC25-870-63 A.2.</p> <p>Lastly, compliance with the stormwater technical criteria of Part II B or Part II C can only be achieved through the implementation of best management practices approved for use on Virginia BMP Clearinghouse list in 9VAC25-870-65 or as allowed under the Off-Site Compliance Options listed in 9VAC25-870-69.</p>
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<p>Mark Williams (Koontz Bryant Johnson Williams)</p>	<p>Part II C Technical Criteria</p>	<p>Based on conversations with various VSMP authorities, there is uncertainty whether phased projects, which were covered under the 2009 general permit and which continued permit coverage in 2014, will be renewed under the general permit effective July 1, 2019 for projects which have approval of ESC plans on initial phases, however, do not have ESC plan approval on all phases of a project. This uncertainty applies for projects that have coverage for a total land area of development which encompasses all phases of a project. In reviewing this issue, the following items were noted: a. The upcoming general permit, effective July 2019, will be the first permit cycle in which localities (as the authority) are responsible for reviewing renewal applications and determining if all requirements of the regulations have been met for renewing coverage; b. 9VAC25-880-30, Item A1 (Draft) requires that the Operator submits a complete and accurate registration statement prior to being given "Authorization to Discharge"; c. 9VAC25-880-30, Item A4, sub-items a and b (Draft) requires that the Operator obtain approval of an ESC plan (per Chapter 840) and a SWM (per Chapter 870) prior to being given "Authorization to Discharge"; d. 9VAC25-880-45, Item B (Draft) states that operators having permit coverage under the 2009 and 2014 cycles, who obtain renewed coverage under the 2019 cycle can conduct land disturbance in accordance with Part IIC of the VSMP regulations (Chapter 870); e. 9VAC25-880-50, Item B, sub-items 1-18 (Draft) lists required items for a registration statement. Sub-item number 7 states "If the construction activity was previously authorized to discharge under the general permit effective July 1, 2014, the dates of ESC plan approval". The plural word "dates"</p>	<p>As you have stated, both the 2014 and proposed 2019 general permits require an approved erosion and sediment control plans as part of Stormwater Pollution Prevention Plan prior to permit coverage being issued. Both permits also require as part of the registration requirements that the operator indicate both the estimated area to be disturbed and the total development area. These areas may be the same or, in the case of a large planned development, the areas may be different. Regardless, authorization for land disturbance applies to the estimated area of disturbance for which an erosion and sediment control has been approved. It is not the department's intention to require approved erosion and sediment control plans for the entire development, unless the operator is applying for coverage to initiate land disturbance on all phases of the development. Therefore, an erosion and sediment control plan must only be developed for the estimated area of disturbance for which the operator is requesting coverage. Prior to land disturbance in each additional phase, an erosion and sediment control for that phase must be approved by the local Virginia Erosion and Sediment Control Program authority, and a request to modify permit coverage through a revised Construction General Permit registration statement must be submitted to the appropriate VSMP authority. Alternatively, if the operator indicates on the Construction General Permit registration statement that the estimated area to be disturbed is equal to the total development area, then an approved erosion and sediment control plan for the entire development must be obtained prior to permit coverage being issued. Demonstration of compliance with the Part II C</p>
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	<p>would imply that multiple plans could be involved (i.e.- individual phases, with separately approved ESC plans for each section, within a larger common plan of development); f. Guidance Memo No. 14-2002 states: “For reissuance under the 2014 general permit erosion and sediment control plan approval is not required prior to submitting a registration statement for existing construction activities.” This guidance document further noted that ESC plan approval was, however, required within 60 days after the date of coverage. It did not specify if the ESC plan had to include the entire larger common plan of development or if only an ESC plan for the first phase to be constructed was required. Further clarification discussing requirements for ongoing projects, in which ESC plans were already prepared for previous phases, was not included within the guidance memo; g. VAR 10, Part II, Item B, sub-item 2 outlines ESC plan requirements and sub-item 3 outlines SWM requirements to be included within the SWPPP. The regulations require that the SWPPP be prepared prior to submitting a registration statement; Therefore, the requirement of an ESC and SWM plan are required for permit coverage. That said, no mention is made regarding sections of a phased project that are part of a larger common area of development and which are not yet designed at the time the registration statement is submitted.</p> <p>As noted within item “a” above, this is the first general permit cycle in which localities are the acting authority responsible for renewing permits (the DEQ approved renewals for the 2014 cycle). As such, multiple independent entities will now be responsible for reviewing permit renewal applications and each entity could</p>	<p>technical criteria must be documented for the entire project through a stormwater management plan or by way of a description of, and necessary calculations supporting, all post-construction stormwater management measures that will be installed prior to the completion of the construction process.</p> <p>Additionally, as clarified in Guidance Memo 14-2014 issued by the department on August 25, 2014, any land-disturbing activities served by an existing on-site or off-site stormwater management facility, including a regional (watershed-wide) stormwater management facility, designed and implemented in accordance with the old Part II C technical criteria remain subject to the old Part II C technical criteria until July 1, 2024 as long as the land-use assumptions upon which the stormwater management facility was designed and implemented have not changed (e.g., an unanticipated increase in impervious cover).</p> <p>Information regarding applicable post-development stormwater technical criteria has been added to the fact sheet.</p>
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	<p>have different interpretations on whether a given project meets the requirements for renewal. For that reason, it would seem prudent for the DEQ to issue a Guidance Document to clarify, for phased projects having permit coverage for a larger area of development, whether:</p> <p>i. Approved ESC and SWM plans, addressing all phases of a project, which comprise the total coverage area listed on a 2009 permit and which renewed coverage in 2014, is required for renewal of coverage under the general permit effective July 1, 2019.; OR</p> <p>ii. An approved ESC plan for at least one phase of a multi-phase project, having coverage for a larger development area under the 2009 permit and which renewed coverage in 2014, is required for renewal of coverage under the general permit effective July 1, 2019. An approved SWM plan, addressing all phases of a project, which comprise the total coverage area listed on a 2009 permit and which renewed coverage in 2014, is required for renewal of coverage under the general permit effective July 1, 2019. OR- (Preferred)</p> <p>iii. Projects shall remain subject to Part IIC requirements of chapter 870 so long as the vested conditions outlined in Virginia Code section § 15.2-2307, paragraph A are met for those projects subject to Part IIC requirements of chapter 870 prior to permit renewal for the 2018-2024 CGP cycle.</p> <p>Notes:</p> <ul style="list-style-type: none">· In option ii, it would seem reasonable that a SWM plan should be in place for the overall project area. However, the same does not seem reasonable for ESC plans. It is our opinion that a requirement to have an ESC covering the entire overall area of development has unintended negative consequences. <p>The attached “Example A” sketch was prepared to better address</p>	
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	<p>related concerns to question #1 above. Using this “Example A” document, what SWM design criteria (i.e.- Part IIB or IIC) would be required if sections 4, 5 and 6 were not yet designed and if the reviewing authority did not renew coverage under the 2019-2024 permit cycle? In this scenario, assume the SWM pond as well as sections 1, 2, and 3 were designed using Part IIC criteria, had been approved by the authority, and had already been constructed during the 2014-2019 permit cycle under an active general permit. Further assume that all storm related infrastructure within sections 1,2, and 3 as well as the downstream pond was designed/ sized, using Part IIC criteria, to accommodate future sections 4, 5, and 6 (under the assumption that the active permit would be renewed and sections 4, 5, and 6 would be completed or under construction during the 2019-2024 permit cycle). To reiterate, in this scenario, the pond shown on “Exhibit A” was built to accommodate the entire subdivision (i.e.- all 6 proposed sections) using Part IIC criteria. Also, assume there is only an approved ESC plan for sections 1, 2 and 3 and that all three non-approved sections (sections 4, 5 and 6) were included in the total site acreage covered by the general permit, however, do not have approved ESC plans. Only the SWM plan (i.e.- not an ESC plan) exists that addresses the entire site area covered by the permit. Note: I’m not aware of any documentation provided by either the DEQ or by a locality (i.e.- the current reviewing authority) which indicates that, for phased projects, an approved ESC plan is required for sections not yet designed. The guidance document referenced in item “f” of question #1 above states that ESC plan approval is required within 60 days of coverage renewal</p>	
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	<p>(so enforcement of this requirement would have been AFTER July 1, 2014 and was the responsibility of those localities that were VSMP reviewing authorities). I am not aware of any notices or violations being issued by a locality for projects prepared by our office which did not have ESC plan approval for “future” phases of a project within the required 60 days; Therefore, it stands to reason that the “intent” was to ensure an approved ESC plan was in place for ONLY the phase of a project to initially be constructed and not the entire area covered by the general permit. As required, and pursuant to VAR-10, Part II, Section B, the SWPPP would be amended/ modified/updated as future sections were approved (i.e.- as approval of a future section would constitute a “change in the design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to surface waters and that has not been previously addressed in the SWPPP” as noted in subsection 1). In the scenario noted within this question (question 3), future plans would be extremely difficult for localities to review. How would upstream sections be designed to Part IIB criteria that flow to sections that were designed under Part IIC criteria? The only practical way to do this would be to isolate the upstream sections, treating them as a separate project with separate SWM controls. Doing so would result in the existing basin (previously designed under Part IIC) to be over designed. Further, independently meeting SWM requirements for the upstream sections would have extreme impacts to those sections. For residential projects, numerous lots would be lost in order to accommodate entirely new SWM basins, which would result in</p>	
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		<p>substantial changes to the layout, which would require amendments to the previously approved tentative... which would be required to go back through the governmental approval process. This would seem to conflict with State vesting laws. The number of projects that are currently being designed under Part IIC design criteria is finite and continues to dwindle over time. It is unclear why the regulations need to include excessive amounts information to account for what is a relatively small and finite quantity of projects. The ability for developers to finish multi-phased projects (having investing millions of dollars in some cases) under the same laws they were required to abide by at the time the projects started should be afforded to them (similar to state vesting laws).</p>	
<p>John Woodburn (Goochland County)</p>	<p>Conditions Applicable to All VPDES Permits</p>	<p>9VAC25-880-70 – Part III.L – Duty to comply – Suggest that language should be added indicated the permit compliance requires compliance with Code of Virginia Chapter 3.1 – State Water Control Law and implementing regulations, as well as local ordinances adopted pursuant to the state code. Violations will be subject to enforcement and penalties as stated in these laws, regulations and ordinances.</p>	<p>The department believes the language as included in the proposed general permit provides operators with the appropriate notice regarding compliance with other applicable requirements. Additionally, the permit contains language as suggested. 9VAC 25-880-30 G states that "approval for coverage under this general permit does not relieve any operator of the responsibility to comply with any other applicable federal, state or local statute, ordinance or regulation." No changes to the permit are proposed in response to this comment.</p>
<p>John Woodburn (Goochland County)</p>	<p>Conditions Applicable to All VPDES Permits</p>	<p>9VAC25-880-70, Part III, V.Upset – This section is written as to be used for discharge from a wastewater plant. Can this be rewritten to be more applicable to construction activity sites?</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. Typically, an upset is associated with a wastewater treatment plant; however, this language must be retained as contained in the VSMP regulation. No changes to the permit are proposed in response to this comment.</p>

<p>John Woodburn (Goochland County)</p>	<p>Permit Suspension</p>	<p>There is no mention in the permit or 9VAC25880 about a permit being suspended for noncompliance (including failure to pay required fees). Is it possible to do so and would you consider such language in the permit.? (Note that there is language in 9VAC25-870-750 – Due dates for State permits under B. that states “No state permit will be reissued or automatically continued without payment of the required fee.” What is the meaning of automatically continued – is a permit that is not automatically continued suspended? Terminated?)</p>	<p>The VSMP regulation serves as the basis for the Construction General Permit regulation. As you point out, 9VAC25-870-750 authorizes VSMP authorities to withhold reissuance of permit coverage or automatic permit continuance until such time that annual permit maintenance fees are paid. Automatic continuance of permit coverage is authorized in situations in which the permit expires at no fault of the permittee such as if the department fails to issue permit coverage by the expiration because of the number of coverage requests being processed. Under automatic continuance, the permittee is authorized to continue operating under the expiring permit until the new permit coverage is processed. In order to qualify for automatic continuance a permittee must submit the registration statement for reissuance by the required due date and be current on any annual maintenance fees. The VSMP regulation does not authorize the department or local VSMPs to terminate permit coverage if annual maintenance fees are not paid. No changes to the permit are proposed in response to this comment.</p>
<p>John Woodburn (Goochland County)</p>	<p>Revoke and Reissuance of Permit Coverage</p>	<p>What is the purpose to revoking and reissuing a permit, and why would you do this rather than terminate a permit for non-compliance?</p>	<p>Permit coverage under the general permit can be revoked and reissued under an individual permit if the department determines that general permit coverage is not appropriate. No changes to the permit are proposed in response to this comment.</p>

Charlie White	Enforcement	<p>I also think that the enforcement process as it exists now is extremely broken. There is somewhat of a conflict of interest with the county that is welcoming development which will be providing them with a new tax base and monitoring the developer to make them comply with the regulations. You would think that the county would only want quality development in their county that would result in long term quality developments for a long term quality tax base. That is not what has seemed to be the case with what I have witnessed in the last year and a half in Franklin County. I have been reporting the obvious violations via pictures to DEQ, Franklin County, and AEP. I have asked in my emails for a response to what was going to be done to correct the violations. I received many responses from the DEQ, only once from Franklin County, and none from AEP. I believe that the DEQ should use their authority to step in and take over situations like I have witnessed where the local authority is either incapable or unwilling to use the authority that they have to force the developer to comply with the environmental regulations and laws.</p>	<p>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 Virginia Stormwater Management Act, and associated regulations, establish the requirements for administration of the programs by local governments including enforcement of the programs. The department oversees these local programs and has the authority to take enforcement actions and exercises that authority as necessary. No changes to the permit are proposed in response to this comment.</p>
Rogard Ross	Miscellaneous	<p>I wish to commend the agencies for several positive aspects of the new permit including the continued requirement for the developer to meet all applicable water quality standards, continuing to require the SWPPP to be available for public review, and required the use of pollution credits to be well documented.</p>	<p>Thank you for your comment.</p>
Scott Thomas	Miscellaneous	<p>I am writing in support of reissuance of the proposed regulation for general permit for stormwater associated with construction activities, including requirements for a stormwater pollution prevention plan.</p>	<p>Thank you for your comment.</p>

<p>Jimmy Edmonds (Loudoun County)</p>	<p>Miscellaneous</p>	<p>Does DEQ plan to provide guidance regarding the processing of renewals in the State CGP system? For example, will permit numbers remain the same and will data need to be reentered (based upon amended Registration Statement) or will existing data simply be brought forward.</p>	<p>Thank you for your question. The department has been and will continue to communicate regularly with VSMP authorities to provide guidance for the permit coverage reissuances through emails, webinars, and individually. No changes to the permit are proposed in response to this comment.</p>
<p>Jimmy Edmonds (Loudoun County)</p>	<p>Miscellaneous</p>	<p>Does DEQ plan to provide guidance on how payment of the annual VSMP maintenance fees could affect the July 1, 2019 permit reissuance (e.g., should an Operator fail to make the 2018 payment)?</p>	<p>Thank you for your question. Please note that as stated in 9VAC25-870-50 B, "no state permit will be reissued or automatically continued without payment of the required [maintenance] fee." No changes to the permit are proposed as a result of this comment.</p>

<p>Dean Hawkins (Landscape Architects & Land Development Planners)</p>	<p>Miscellaneous</p>	<p>I am writing to express my opinion on your department's upcoming public hearing on the above referenced matter. Specifically this will involve consideration by the Commonwealth of Virginia regarding the reissuance and continuation of the regulation and permitting program contained therein. The current program is set to expire on June 30, 2019. If the program is continued it will be, as I understand, for another four year permitting cycle until the same date in 2023.</p> <p>In my almost forty years now as a practicing Landscape Architect, I do not think that I have ever seen a regulation which is more redundant and unnecessary as this particular one. The plans which I prepare have increased in complexity over the years in many ways. I do think that the environment is better served and protected than when I started my career, but the VPDES permit from my perspective has had no beneficial effect. I say this because the locality in which I practice to the greatest degree, Chesterfield County, is one of the most intensely developed in the state and has a very good track record of ensuring protections to the environment. Why then must this additional layer of regulation be imposed in the form of another permit from the Commonwealth?</p> <p>From the Public Notice-Environmental Regulation, listed changes include items which could be reviewed and addressed, as they are now, by local reviewers and inspectors. I find that this is the most reasonable and efficient approach. The end result would be the same. All of this regulation is accompanied by a fee for the 4-year permit term. What if the life of the project straddles the permit start/termination date...another separate permit fee is required. This</p>	<p>Discharges from land disturbing activities that disturb one or more acres, and discharges from smaller sites that are part of a larger common plan of development or sale require permitting under EPA's National Pollutant Discharge Elimination System (NPDES) program. Virginia has been delegated the authority from EPA to implement the NPDES program through the Virginia Pollutant Discharge Elimination System (VPDES) program. In accordance with the Virginia Stormwater Management Act and Virginia Stormwater Management Program regulation, certain local governments, such as Chesterfield County, are required to administer the state's stormwater program. However, the department oversees the local governments' administration of the program and retains authority to inspect permitted sites and implement enforcement actions as necessary. Also for clarification, the term of the permit is 5 years and proposed permit is set to expire on June 30, 2024. No changes to the permit are proposed as a result of this comment.</p>
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		<p>is costly and unnecessary. I had a project which was approved and inspected locally by the County of Chesterfield, but was then audited by your department. I was required to submit over 200 pages of plans and reports with no exceptions taken. This occupied almost a day of time with no compensation and to no avail. I say that the current VPDES regulations be reduced, or better yet eliminated, rather than expanded as proposed.</p>	
<p>Catherine Lukaszewicz</p>	<p>Miscellaneous</p>	<p>I also fully support the new requirements of documentation on nutrient credits, list of water quality BMPs & waterways impacted by discharges, & maintenance agreement as well the requirement for professional certifications that stormwater management facilities have been constructed in accordance with approved plan. Documentation and public availability of such documents is vital for public accountability.</p>	<p>Thank you for your comment.</p>
<p>Katlyn Schmitt (Waterkeepers Chesapeake) & Phillip Musegaas (Potomac Riverkeeper Network)</p>	<p>Miscellaneous</p>	<p>The permit should also include specific language around avoiding any disturbance to natural channels or vegetation along natural channels.</p>	<p>The proposed permit retains requirements for operators of land-disturbing activities to design and implement erosion and sediment control measures that meet the Minimum Standards of the Virginia Erosion and Sediment Control Program regulations (9VAC25-840). Additionally, the permit retains requirements for natural buffers to be maintained around surface waters. No changes to the permit are proposed in response to this comment.</p>

Logan Kendle (Superintendent Commercial Contractor)	Miscellaneous	I like that the permits will be electronically available on the web.	The general VPDES permit for discharges of stormwater from construction activities is a general permit regulation that is available at: https://law.lis.virginia.gov/admincode/title9/agency25/ . A list of construction activities covered under the permit is available on DEQ's Construction Stormwater website at: https://www.deq.virginia.gov/Programs/Water/StormwaterManagement/VSMPPPermits/ConstructionGeneralPermit.aspx . Permit coverage letters for each construction activity are not available online. Request for copies may be made to the department in accordance with the Virginia Freedom of Information Act. No revisions to the permit are proposed as a result of this comment.
Logan Kendle (Superintendent Commercial Contractor)	Miscellaneous	I hope that the discharged water body is prominently displayed and shown preferably on the display board at the front of job sites.	Information regarding water bodies to which a regulated construction site discharges is available in the Stormwater Pollution Prevention Plan. Operators are required to make the SWPPP available for review by interested parties in accordance with Part II E of the permit. No revisions to the permit are proposed as a result of this comment.
Logan Kendle (Superintendent Commercial Contractor)	Miscellaneous	I support the prohibition of discharges that will knowingly violate local water quality standards.	Thank you for your comment.
Logan Kendle (Superintendent Commercial Contractor)	Miscellaneous	I support requirement of list of permanent water quality BMP's AND list of waterways receiving discharges.	Information regarding permanent water quality BMPs and receiving waters are available in the Stormwater Pollution Prevention Plan. Operators are required to make the SWPPP available for review by interested parties in accordance with Part II E of the permit. No revisions to the permit are proposed as a result of this comment.

Logan Kendle (Superintendent Commercial Contractor)	Miscellaneous	I support the requirement of professional certification and maintenance plans of permanent stormwater management facilities.	Thank you for your comment.
Randy Abbott	Pipelines	I met you at the Roanoke meeting last month and have decided to submit my main concern about the MVP project. Here in the valley and ridge region there are complicated relationships between the water and the land, like for instance when the pipeline workers dig into the water table, a new spring is created and the springs at a higher level may dry up, along with the branches fed by those springs. Those branches are the home for minnows, salamanders, box turtles, and other delicate creatures. I have many other concerns about the pipelines, but that is my main concern. I think running a pipeline through this region is a very poorly thought out scheme that should be aborted.	In accordance with section 402(1)(2) of the Clean Water Act (CWA) discharges of stormwater runoff from the construction of oil and gas transmission pipelines are exempt from National Pollutant Discharge Elimination System (NPDES) permitting and Virginia Pollutant Discharge Elimination System (VPDES) permitting. Therefore, Virginia's Construction General Permit is not applicable to the natural gas transmission pipeline projects. No changes to the permit are proposed in response to this comment. Please note, however, that Virginia regulates pipeline construction activities through the annual standards and specifications program in accordance with the Virginia Erosion and Sediment Control Law and the Virginia Stormwater Management Act.

<p>Katlyn Schmitt (Waterkeepers Chesapeake) & Phillip Musegaas (Potomac Riverkeeper Network)</p>	<p>Pipelines</p>	<p>Pipeline construction covered under the permit should require additional protective measures. Echoing the recommendations from the Choose Clean Water Coalition, we urge DEQ to build in specific requirements for the construction of pipelines. With inspectors finding more than 300 erosion and stormwater control violations in Virginia for the Mountain Valley Pipeline over a 6-month span earlier this year, it's even more imperative that the state address the runoff pollution associated with this type of activity. More specifically, the state should require the use of filtering or settling of sediment laden or turbid flows of stormwater to remove sediment prior to discharge, turbidity monitoring according to clear protocol (e.g., ambient conditions and at the time of discharge conditions) for projects discharging to waters impaired for sediment, and delete the current provision allowing "representative inspections" for pipeline or other linear activities.</p>	<p>In accordance with section 402(1)(2) of the Clean Water Act (CWA) discharges of stormwater runoff from the construction of oil and gas transmission pipelines are exempt from National Pollutant Discharge Elimination System (NPDES) permitting and Virginia Pollutant Discharge Elimination System (VPDES) permitting. Therefore, Virginia's Construction General Permit is not applicable to the natural gas transmission pipeline projects. No changes to the permit are proposed in response to this comment. Please note, however, that Virginia regulates pipeline construction activities through the annual standards and specifications program in accordance with the Virginia Erosion and Sediment Control Law and the Virginia Stormwater Management Act.</p>
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David and Betty Werner	Pipelines	<p>As the following pictures show, we don't believe that our current stormwater protections are adequate to stop sedimentation runoff into our streams. Our farm is bordered by two protected streams (Teels Creek and Little Creek) and Mountain Valley Pipeline is building their pipeline on our pasture between these two creeks (eventually to cross them if/when they receive permits to do so). Either MVP's BMP's are insufficient, or they are violating the state's statutes, or the state's statute is insufficient to stop this erosion. (Pictures from MVP were submitted)</p>	<p>In accordance with section 402(1)(2) of the Clean Water Act (CWA) discharges of stormwater runoff from the construction of oil and gas transmission pipelines are exempt from National Pollutant Discharge Elimination System (NPDES) permitting and Virginia Pollutant Discharge Elimination System (VPDES) permitting. Therefore, Virginia's Construction General Permit is not applicable to the natural gas transmission pipeline projects. No changes to the permit are proposed in response to this comment. Please note, however, that Virginia regulates pipeline construction activities through the annual standards and specifications program in accordance with the Virginia Erosion and Sediment Control Law and the Virginia Stormwater Management Act. The documentation that was provided with this comment has been passed on to the department's stormwater compliance inspection staff. No changes to the permit are proposed in response to this comment.</p>
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Sandy Collins (Friends of Accotink)	Pipelines	Given the recent demonstrated failure of pipeline construction contractors to meet the requirements of the SWPPPs and other components of the Construction Stormwater General Permit, and the potential for these failures to affect numerous watersheds over their length, we request that pipeline and other linear facility construction activities be required to: implement best management practices to remove suspended sediment from stormwater prior to discharge to the receiving water; be required to monitor for turbidity (ambient conditions in receiving water and in discharge) when discharging to a water impaired for sediment; and be required to conduct regular inspections in accordance with other construction activities covered under the General Permit and not be allowed to conduct "representative inspections.	In accordance with section 402(l)(2) of the Clean Water Act (CWA) discharges of stormwater runoff from the construction of oil and gas transmission pipelines are exempt from National Pollutant Discharge Elimination System (NPDES) permitting and Virginia Pollutant Discharge Elimination System (VPDES) permitting. Therefore, Virginia's Construction General Permit is not applicable to the natural gas transmission pipeline projects. No changes to the permit are proposed in response to this comment. Please note, however, that Virginia regulates pipeline construction activities through the annual standards and specifications program in accordance with the Virginia Erosion and Sediment Control Law and the Virginia Stormwater Management Act.
Barbara Brumbaugh (City of Chesapeake)	Typographical Error	Section 9VAC25-880-70 Part II.B.3.a appears to reference itself in the first sentence. The suggested revision is to delete "and 3 a" in the first sentence.	Thank you for your comment. The error in numbering has been corrected.
Home Builders Association of Virginia	Typographical Error	9VAC25-880-60 Subparts C and D at the end of this Section should be numbered D and E (a new subpart C was added earlier)	Thank you for your comment. The error in numbering has been corrected.
Home Builders Association of Virginia	Typographical Error	9VAC25-880-70 Part II, B (SWPPP amendments) should be numbered C (a new subpart B – SWPPP Contents, was added earlier). This will require renumbering all subparts B-G in this Part.	Thank you for your comment. The error in numbering has been corrected.
Home Builders Association of Virginia	Typographical Error	Part II.F.2.c – I believe the reference here – “the inspection frequency as described in subdivision b and c” should actually be “subdivision a and b”.	Thank you for your comment. The error in numbering has been corrected.
Home Builders Association of Virginia	Typographical Error	Part II.F.2.c – the subpart that begins “Except as prohibited in Part II.F.2.a.(2)” should actually be “d” instead of “c”	Thank you for your comment. The error in numbering has been corrected.

Home Builders Association of Virginia	Typographical Error	Several other references will also need to be renumbered. A thorough check is needed.	Thank you for your comment. The error in numbering has been corrected.
Home Builders Association of Virginia	Typographical Error	<p>9VAC25-880-50 B.7 There are two item No. 7 in section 9VAC25-880-50 B. of Proposed Chapter 880:</p> <p>“7. If stormwater management plans for the construction activity have been approved by an entity with department approved annual standards and specifications, the name of the entity with the department approved annual standards and specifications. A copy of the annual standard and specification entity form shall be submitted with the registration statement.” “7. If the construction activity was previously authorized to discharge under the general permit effective July 1, 2014, the dates of erosion and sediment control plan approval;”</p> <p>Comment: It is recommended that DEQ renumber the remaining items in 9VAC25-880-50 B. of Proposed Chapter 880 after the first item No. 7.</p>	Thank you for your comment. The error in numbering has been corrected.
Hampton Roads Planning District Commission	Typographical Error	Section 9VAC25-880-70 Part II.B.3.a appears to reference itself in the first sentence. The suggested revision is to delete “and 3 a” in the first sentence.	Thank you for your comment. The error in numbering has been corrected.
Kristin Carter (University of Virginia)	Typographical Error	b. Part II, bullet B.3.a – There were extra words in the marked up copy posted in the Virginia Register that should be deleted: “Except for those projects identified in Part II B 3 b and 3, a stormwater management plan...”	Thank you for your comment. The error in numbering has been corrected.
Jimmy Edmonds (Loudoun County)	Typographical Error	9VAC25-880-50.B.7 The numbering for this section is inadvertently repeated in the subsequent section. Amend the repeated section to read 9VAC-880-50.B.8 and similarly amend the subsequent 11 subsections (resulting in a total of 19 subsections under 9VAC-880-50.B vs. 18)	Thank you for your comment. The error in numbering has been corrected.

Mark Williams (Koontz Bryant Johnson Williams)	Typographical Error	Section 9VAC25-880-50, Item B (Draft); sub-item 7... there are two #7's listed, which should be corrected. Doing so will increase subsequent numbers by a value of 1. For the purpose of this document, the numbers currently shown within the draft regulations will be referenced.	Thank you for your comment. The error in numbering has been corrected.
Kristin Carter (University of Virginia)	Typographic error	d. Part II, bullet G.2.a – For consistency, should this bullet read “For construction activities that discharge to a surface water identified in Part II B 5 and B 6 as impaired or having an approved TMDL or Part II B 5 II B 7 as exceptional...”?	Thank you for your comment. The error in this reference has been corrected

Commenter	Topic	Comment	Department Response
Keith Oster (Sullivan Donahoe, Ingalls)	Part II C Technical Criteria	Expressed concerns regarding inconsistencies with Virginia Code 15.2 that grandfather certain development plans due to the housing crisis.	The provisions of 9VAC25-870-47 and 48 that allow certain projects to use the post development stormwater technical criteria in effect prior to July 1, 2014 criteria apply specifically to stormwater management associated with land-disturbing activities. The vesting requirements set out in the Code of Virginia in § 15.2-2209.1 have no relationship to the stormwater provisions and the technical criteria that are applicable to a given project as stated in the VSMP regulatory development documents from 2011. No changes to the permit are proposed in response to this comment.
Keith Oster (Sullivan Donahoe, Ingalls)	Part II C Technical Criteria	Expressed concerns regarding applicable technical criteria and relationship to having an approved erosion and sediment control plan.	The 2014 Construction General Permit required operators to update the required Stormwater Pollution Prevention Plan within 60 days of receiving permit coverage. A component of the SWPPP is an approved erosion and sediment control plan for the amount of land disturbance for which permit coverage was authorized. The proposed permit retains the same requirement for the SWPPP to contain an approved erosion and sediment control. No changes to the permit are proposed in response to this comment.

Keith Oster (Sullivan Donahoe, Ingalls)	9VAC25-880-45 "Portions of a project not under construction"	Expressed question on what is considered a project and a portion of a project.	Language in the proposed permit was not intended to change applicability of the Part II C criteria as authorized under 9VAC25-870-47 or 48 of the Virginia Stormwater Management regulation. The language originally proposed in 9VAC 25-880-45 was added to provide further clarification regarding the applicability of the stormwater technical criteria contained in the Virginia Stormwater Management Program regulation, 9VAC25-870. After receiving numerous comments during the comment period, it is clear to the department that the language did not provide clarification and introduced confusion. Therefore, the language is being removed from the proposed permit and a discussion of applicable technical criteria has been included in the fact sheet.
Keith Oster (Sullivan Donahoe, Ingalls)	Part II C Technical Criteria	Expressed concerns regarding new registration statement requirement to provide date of approved erosion and sediment control plan. Registration statement includes two items: area of development and area of disturbance. Is area of development the project area. If you don't have ESC plans, it does not to qualify under VPDES.	The 2014 Construction General Permit required operators to update the required Stormwater Pollution Prevention Plan within 60 days of receiving permit coverage. A component of the SWPPP is an approved erosion and sediment control plan for the amount of land disturbance for which permit coverage was authorized. The proposed permit retains the same requirement for the SWPPP to contain an approved erosion and sediment control.
Mark Williams (Koontz Bryant Johnson Williams)	Part II C Technical Criteria	Express concerns about being able to renew permits for phased projects based on the proposed permit language where there are master stormwater plans, but do not have approved ESC plans.	The 2014 Construction General Permit required operators to update the required Stormwater Pollution Prevention Plan within 60 days of receiving permit coverage. A component of the SWPPP is an approved erosion and sediment control plan for the amount of land disturbance for which permit coverage was authorized. The proposed permit retains the same requirement for the SWPPP to contain an approved erosion and sediment control.

<p>Mark Williams (Koontz Bryant Johnson Williams)</p>	<p>Section 30: Authorization to Discharge</p>	<p>Asked what does that it mean for coverages to be automatically continued for operators who submit complete registration statement?</p>	<p>Item H in section 30 of 9VAC25-880 allows that in the circumstance that the general permit expires and the permittee has submitted a complete registration statement in accordance with the requirements of 9VAC25-880-50, the permittee may continue to operate under the 2014 permit until such time that the department approves coverage under the new general permit. This "administrative continuance" is authorized under the Clean Water Act, federal National Pollutant Discharge Elimination System regulations, and the Virginia Pollutant Discharge Elimination System regulations. This proposed updated language provides consistency with other VPDES general permit regulations. No changes to the permit are proposed in response to this comment.</p>
<p>Mark Williams (Koontz Bryant Johnson Williams)</p>	<p>"Portions of a project not under construction"</p>	<p>Asked what is the definition of a portion of a project not under construction? <i>Note: written comments also submitted.</i></p>	<p>The language originally proposed in 9VAC 25-880-45 was added to provide further clarification as it pertains to "portions of a project not under construction" regarding the applicability of the stormwater technical criteria contained in the Virginia Stormwater Management Program regulation, 9VAC25-870. After receiving numerous comments during the comment period, it is clear to the department that the language did not provide clarification and introduced confusion. Therefore, the language is being removed from the proposed permit and a discussion of applicable technical criteria has been included in the fact sheet.</p>

<p>Mark Williams (Koontz Bryant Johnson Williams)</p>	<p>Registration Statement</p>	<p>Asked question about new requirement for site map to be submitted with the registration statement and include LOD. Is that the LOD for the entire project or a phase of the project? Expressed concerns with practicality of showing construction entrance on site map. .</p>	<p>Registration statement requirements for a site map were added at the recommendation of the technical advisory committee. The map is meant to demonstrate the land disturbing activity for the proposed project that includes the estimated area to be disturbed under the permit coverage being sought as well as denote and distinguish future phases of land disturbance. Detailed information for future phases is not necessary until such time that the operator registers for permit coverage for the future phase, but the map should outline the estimated limits of disturbance for future phases. The permit condition has been revised to provide further clarification.</p>
<p>Mark Williams (Koontz Bryant Johnson Williams)</p>	<p>Registration Statement</p>	<p>Asked when a BMP maintenance agreement would not be required.</p>	<p>A BMP (or stormwater management facility) maintenance agreement is only required if the operator is proposing stormwater management facilities in order to demonstrate compliance with the post-development water quality and/or quantity technical criteria. There are occasions that stormwater management facilities are not required to demonstrate and therefore no maintenance agreement would be required. No changes to the permit are proposed in response to this comment.</p>
<p>Mark Williams (Koontz Bryant Johnson Williams)</p>	<p>Notice of Termination</p>	<p>Requested more clarity to the level of details are necessary on the as-builts (construction record drawings). Specifically asked what are the level of tolerances and stated that the required engineering certification doesn't allow for tolerances.</p>	<p>As specified in 9VAC 25-870-55 D of the VSMP regulation, the construction records drawing must include the as-built plans of the actual permanent stormwater management facilities constructed and the seal and signature of a professional registered in the Commonwealth of Virginia, certifying that the stormwater management facilities have been constructed in accordance with the approved plan. No changes to the permit are proposed in response to this comment.</p>

<p>Mark Williams (Koontz Bryant Johnson Williams)</p>	<p>Registration Statement</p>	<p>Requested clarity on the required information for estimated area of land disturbance and total development. Experienced a situation for small retail development that had associated road improvements. Listed area that for retail development as well as the offsite road improvements in the area of estimated disturbance area, but the registration statement was returned because area of disturbance was greater than total development.</p>	<p>The estimated area to be disturbed as reported by the operator on the registration statement is the area for which the operator is applying for coverage. It should not include areas of offsite land disturbance if the operator does not have operational control of those activities. No charges to the permit are proposed in response to this comment. Additional information regarding registration statement requirements is available on the registration statement instructions.</p>
<p>Richard Street (Spotsylvania County)</p>	<p>Part II C Technical Criteria</p>	<p>Expressed concerns regarding inconsistencies with Virginia Code 15.2 that grandfathers certain development plans due to the housing crisis.</p>	<p>The provisions of 9VAC25-870-47 and 48 that allow certain projects to use the post-development stormwater technical criteria in effect prior to July 1, 2014 criteria apply specifically to stormwater management associated with land-disturbing activities. The vesting requirements set out in the Code of Virginia in § 15.2-2209.1 have no relationship to the stormwater provisions and the technical criteria that are applicable to a given project as stated in the VSMP regulatory development documents from 2011. No changes to the permit are proposed in response to this comment.</p>
<p>Richard Street (Spotsylvania County)</p>	<p>SWPPP Inspections</p>	<p>Requested clarification regarding SWPPP inspection frequency. Is the requirement calendar days or business days?</p>	<p>As stated in the 2014 general permit and retained in the 2019 proposed permit, SWPPP inspection frequencies are based on business days. No changes to the permit are proposed in response to this comment.</p>
<p>Richard Street (Spotsylvania County)</p>	<p>Notice of Termination</p>	<p>Expressed question if as-builts (construction record drawings) are required for all stormwater structures or BMPs.</p>	<p>As specified in 9VAC 25-870-55 D of the VSMP regulation, the construction records drawing are required to be submitted to the VSMP authority for any permanent stormwater management facility. No changes to the permit are proposed in response to this comment.</p>

Spud Mistr (representing Innsbrook)	Part II C Technical Criteria	Permits under 2009 and 2014 cycle are eligible for Part IIC technical criteria. Locality could determine it was a plan or approved or equal to lieu of a plan. Plan accepted. ESC and 2014 regulations. You have to have approved ESC under 2014 permit or AILP. Doesn't say you have to submit a plan, just accept the requirements of the state. Lakes that are the BMP designed and calculated under Part IIC. Requested clarification on the previously permitted status.	The 2014 Construction General Permit required operators to update the required Stormwater Pollution Prevention Plan within 60 days of receiving permit coverage. A component of the SWPPP is an approved erosion and sediment control plan for the amount of land disturbance for which permit coverage was authorized. The proposed permit retains the same requirement for the SWPPP to contain an approved erosion and sediment control. Information regarding the post-development technical criteria and requirements for an approved erosion and sediment control plan have been included in the fact sheet.
Elizabeth Wright (citizen, City of Alexandria)	Miscellaneous	Expressed concerns efficiency and communication of VSMP authorities regarding citizen complaints. Would like to see online database to document citizen complaints and agency responses.	This comment is outside of the scope of this regulatory action.
Logan Kendell	Miscellaneous	Expressed support the requirement of documentation of nutrient credits.	Thank you for your comment.
Logan Kendell	Monitoring	Recommended the addition of required settling or filtering of sediment laden or Turbid stormwater prior to discharge. & Monitoring of said settling or filtering prior to discharge. I recommend the addition of public posting of those results in a log attached to the electronically available SWPPP permit.	The proposed general permit is consistent with the requirements for protection of water quality contained in EPA's 2017 Construction General permit effective February 16, 2017. EPA established effluent limitation guidelines (ELGs) and new source performance standards (NSPS) to control the discharge of pollutants from construction activities in 40 CFR Part 450 referred to as the "Construction and Development Rule" or "C&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 FR 68215), effective January 4, 2011, for 40 CFR Parts 450.22 (a)

			<p>and (b) that contained the numeric turbidity limitations as the result of a petition. EPA published amendments to the C&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 Sediment Control Program regulations, which require filtering and infiltration practices. 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, 9VAC25-870-460.I of the Virginia Stormwater Management Program 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 department believes that the proposed general permit establishes the requirements necessary to protect water quality standards. No changes to the permit are proposed in response to this comment.</p>
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Logan Kendell	Miscellaneous	I like that the permits will be electronically available on the web.	The general VPDES permit for the discharge of stormwater from construction activities is a general permit regulation that is available at: https://law.lis.virginia.gov/admincode/title9/agency25/ . A list of construction activities covered under the permit is available on DEQ's Construction Stormwater website at: https://www.deq.virginia.gov/Programs/Water/StormwaterManagement/VSMPPermits/ConstructionGeneralPermit.aspx . Permit coverage letters for each construction activity are not available online. Request for copies may be made to the department in accordance with the Virginia Freedom of Information Act. No revision to the permit is proposed as a result of this comment.
Logan Kendell	Miscellaneous	I hope that the discharged water body is prominently displayed and shown preferably on the display board at the front of job sites.	Information regarding water bodies to which a regulated construction site discharge is available in the Stormwater Pollution Prevention Plan. Operators are required to make the SWPPP available for review by interested parties in accordance with Part II E of the permit. No revision to the permit is proposed as a result of this comment.
Logan Kendell	Miscellaneous	I support the prohibition of discharges that will knowingly violate local water quality standards.	No revision to the permit is proposed as a result of this comment.
Logan Kendell	Miscellaneous	I support requirement of list of permanent water quality BMP's AND list of waterways receiving discharges.	Information regarding permanent water quality BMPs and receiving waters are available in the Stormwater Pollution Prevention Plan. Operators are required to make the SWPPP available for review by interested parties in accordance with Part II E of the permit. No revision to the permit is proposed as a result of this comment.
Logan Kendell	Miscellaneous	I support the requirement of professional certification and maintenance plans of permanent stormwater management facilities.	No revision to the permit is proposed as a result of this comment.

<p>Keith Oster (Sullivan, Donahoe, Ingalls)</p>	<p>Part II C Technical Criteria</p>	<p>Requested more clarity for post development stormwater technical criteria to prevent different interpretations by the Department and local VSMPs, specifically as it pertains to project that have commenced land disturbance related to the approved ESC plan requirements.</p>	<p>Language in the proposed permit was not intended to change applicability of the Part II C criteria as authorized under 9VAC25-870-47 or 48 of the Virginia Stormwater Management regulation. The language originally proposed in 9VAC 25-880-45 was added to provide further clarification regarding the applicability of the stormwater technical criteria contained in the Virginia Stormwater Management Program regulation, 9VAC25-870. After receiving numerous comments during the comment period, it is clear to the department that the language did not provide clarification and introduced confusion. Therefore, the language is being removed from the proposed permit and a discussion of applicable technical criteria has been included in the fact sheet.</p>
<p>Greg Koontz (Koontz, Bryant, Johnson, Williams)</p>	<p>Part II C Technical Criteria</p>	<p>Reiterated comments from other commenters on post development stormwater technical criteria. Expressed concern with how regulators look at portions of projects differently than engineers. Stakeholders believe grandfathering under 15.2 of the Virginia Code to address the housing crisis need to align with grandfathering under the stormwater requirements. Stated that erosion and sediment plans are not developed for an entire permitted are and further clarity is needed to recognize the construction sequencing of phased projects.</p>	<p>Language in the proposed permit was not intended to change applicability of the Part II C criteria as authorized under 9VAC25-870-47 or 48 of the Virginia Stormwater Management regulation. The language originally proposed in 9VAC 25-880-45 was added to provide further clarification regarding the applicability of the stormwater technical criteria contained in the Virginia Stormwater Management Program regulation, 9VAC25-870. After receiving numerous comments during the comment period, it is clear to the department that the language did not provide clarification and introduced confusion. Therefore, the language is being removed from the proposed permit and a discussion of applicable technical criteria has been included in the fact sheet.</p> <p>Additionally, the provisions of 9VAC25-870-47 and 48 that allow certain projects to use the post development stormwater technical criteria in effect prior to July 1,</p>

			<p>2014 criteria apply specifically to stormwater management associated with land-disturbing activities. The vesting requirements set out in the Code of Virginia in § 15.2-2209.1 have no relationship to the stormwater provisions and the technical criteria that are applicable to a given project as stated in the VSMP regulatory development documents from 2011.</p>
<p>Kay Cabe (3E Consultants)</p>	<p>Registration Statement</p>	<p>Expressed concerns regarding triggers that could require the redesign of plans. Stated that for erosion and sediment control plans and stormwater management plans, the implications of requiring revisions are more far reaching than just redesigning plans. Could result in changes to conditional use, zoning, and other local approvals because requirements for previous approvals may have changed.</p>	<p>Language in the proposed permit was not intended to change applicability of the Part II C criteria as authorized under 9VAC25-870-47 or 48 of the Virginia Stormwater Management regulation. The language originally proposed in 9VAC 25-880-45 was added to provide further clarification regarding the applicability of the stormwater technical criteria contained in the Virginia Stormwater Management Program regulation, 9VAC25-870. After receiving numerous comments during the comment period, it is clear to the department that the language did not provide clarification and introduced confusion. Therefore, the language is being removed from the proposed permit and a discussion of applicable technical criteria has been included in the fact sheet.</p>
<p>Monte Lewis (ED)</p>	<p>Miscellaneous</p>	<p>Stated that the proposed permit is not clear enough and requirements need clarification.</p>	<p>Revisions to the proposed permit and fact sheet have been introduced</p>

Lewis and Associates)			to provide clarify regarding permit requirements.
Monte Lewis (ED Lewis and Associates)	Registration Statement	Expressed concerns on why registration statement requires reporting of estimated disturbed area and total development in 100th of an acre.	This requirement is retained from the 2014 general permit. This level of specificity for purposes of post-development stormwater calculations.
Chris Workman (Chesterfield County)	Registration Statement	Expressed concerns on why registration statement requires reporting of estimated disturbed area and total development in 100th of an acre.	This requirement is retained from the 2014 general permit. This level of specificity for purposes of post-development stormwater calculations.
Chris Workman (Chesterfield County)	SWPPP Inspections	Stated that SWPPP inspection frequency for impaired waters should be revised to once every 5 days instead of once every 4 days for consistency in inspections from week to week.	During the 2014 general permit development, an analysis was performed regarding frequency of rainfall events. The results indicated that inspections conducted at a frequency of every 4 days results in approximately the same number of inspections as if they were conducted every 5 days and 24 hours after a rainfall event. The option to conduct inspections at a frequency of every 4 days was provided to operators as an alternative to tracking measurable precipitation events. No changes are proposed in response to this comment.
Dave Levy (Citizen, City of Alexandria)	Technical Criteria	Expressed that BMPs should be applied based on phased construction planning.	This comment is outside of the scope of this regulatory action.
Ruth Sherman (Citizen)	MVP Pipeline	Expressed opposition to MVP Pipeline	In accordance with section 402(l)(2) of the Clean Water Act (CWA) discharges of stormwater runoff from the construction of oil and gas transmission pipelines are exempt from National Pollutant Discharge Elimination System (NPDES) permitting and Virginia Pollutant Discharge Elimination System (VPDES) permitting. Therefore, Virginia's Construction General Permit is not applicable to the natural gas transmission pipeline projects. No changes to the permit are proposed in response to this comment. Please note, however, that Virginia regulates pipeline construction activities through the
Betty Werner (Citizen)	MVP Pipeline	Expressed opposition to MVP Pipeline	
David Werner (Citizen)	MVP Pipeline	Expressed opposition to MVP Pipeline	
Lynda Majors (Citizen)	MVP Pipeline	Expressed opposition to MVP Pipeline	
Tina Badger (Citizen)	MVP Pipeline	Expressed opposition to MVP Pipeline	
Freeda Carhcat (Citizen)	MVP Pipeline	Expressed opposition to MVP Pipeline	

Mara Robbins (Citizen)	MVP Pipeline	Expressed opposition to MVP Pipeline	annual standards and specifications program in accordance with the Virginia Erosion and Sediment Control Law and the Virginia Stormwater Management Act.
Christy Renee (Citizen)	MVP Pipeline	Expressed opposition to MVP Pipeline	
Elizabeth Conners (Citizen)	MVP Pipeline	Expressed opposition to MVP Pipeline	
Anne Lusby Denham (Citizen)	MVP Pipeline	Expressed opposition to MVP Pipeline	
David Denham (Citizen)	MVP Pipeline	Expressed opposition to MVP Pipeline	
Crystal Mello (Citizen)	MVP Pipeline	Expressed opposition to MVP Pipeline	
Fred Donaher (Citizen)	MVP Pipeline	Expressed opposition to MVP Pipeline	
Joshua ? (Citizen)	MVP Pipeline	Expressed opposition to MVP Pipeline	
Dennis Royer (Citizen)	MVP Pipeline	Expressed opposition to MVP Pipeline	
Tammy Belinsky	MVP Pipeline	Expressed opposition to MVP Pipeline	
Nadean Carson (Parker Design Group)	Registration Statement	Site Map: What is the format? Will there be more definitions of what is to be provided?	A street map, topographic map, or aerial map provided in an 8.5 x 11 inch format as part of the registration statement will satisfy the requirement. Please note that the site map should not be submitted as a plan-sized sheet. Additionally, a VSMP authority may allow a vicinity map included with the stormwater management plan to satisfy this requirement. The registration statement requirements will have been updated for clarity.
Nadean Carson (Parker Design Group)	SWPPP	– Pollution Prevention Plan – prevention of “excess concrete” is that concrete or concrete washout	This requirement applies to the discharge of waste concrete that is excess to the needs of the project. Please note that the permit language has been revised from “excess concrete” to “waste concrete” for clarity.

Nadean Carson (Parker Design Group)	SWPPP	SWPPP needs to identify if discharge is to PCB impaired waters. Is there a way for SWPPP preparers to identify that information ahead of RS submittal?	The department will be identifying discharges to waters impaired for PCB or for which a TMDL has been approved. Operators will be notified of additional requirements through permit coverage letters like was done for nutrient and sediment impairments and TMDLs. Additionally, prior to receiving the permit coverage letter, interested parties can use the Virginia Environmental GIS on DEQ's website (https://www.deq.virginia.gov/ConnectWithDEQ/VEGIS.aspx) to identify surface water impairments and other information.
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Substantive changes to the existing regulation are:

- Updating permit effective and expiration dates and Water Quality Assessment Integrated Report date;
- Revising the authorization for the discharge of potable water as a nonstormwater discharge only when managed in a manner to avoid an instream impact;
- Requiring the submittal of site map with the registration to identify the area where land disturbance will occur;
- Requiring information with the registration regarding an entity with department-approved annual standards and specifications if a project is being conducted under the annual standards and specifications program;
- Requiring in the registration the erosion and sediment control (ESC) plan approval date to ensure requirements to obtain ESC plan approval prior to general permit coverage have been met;
- Requiring with the registration the date land-disturbing activities commenced, if applicable;
- Requiring with the registration a letter of availability of nutrient credits if the project will meet post development stormwater requirements through the use of the nonpoint source nutrient trading program;
- Clarifying that stormwater management maintenance agreements are required prior to termination for best management practices used to meet post-development water quality and/or water quantity technical criteria;
- Clarifying that a notice of termination is not required for single-family residential structures that are not required to submit a registration statement;
- Requiring construction record drawings be submitted with the notice of termination in accordance with requirements of the Virginia Stormwater Management Program regulation (9VAC25-870-55);
- Adding a requirement that for individual lots in residential construction only, operators are to provide homeowners with written information about the importance of final stabilization and requiring signed documentation that the homeowner has been notified as part of the Stormwater Pollution Prevention Plan (SWPPP) documents that are to be maintained for 3 years after the completion of the project;
- Including SWPPP requirements for discharges to waters impaired for Polychlorinated biphenyl (PCB) where the construction activity includes the demolition of a building with an area of 10,000 square feet or greater and that was originally constructed or renovated prior to January 1, 1980;
- Including requirements that waste containers be covered or similar actions taken to minimize the exposure of waste materials to precipitation;
- Revising frequency in which an operator must conduct a SWPPP inspection from 48 hours after a measurable storm event to 24 hours after a measurable storm event in addition to once every 10 days, or once every 5 days if the site discharges to an impaired surface water;
- Including a provision that allows an operator to delay a SWPPP inspection during adverse weather conditions if it is unsafe to conduct the inspection;

- Including a requirement that SWPPP inspection reports be included with the SWPPP no later than 4 days following the inspection; and
- Where appropriate, changing language to match other VPDES general permits for consistency.

Regulatory text:

Items highlighted in green indicate changes to the proposed permit since the September 20, 2019 State Water Control Board meeting when the Board authorized staff to proceed with the public participation portion of the regulatory process.

STATE WATER CONTROL BOARD

Amend and Reissue the Construction Stormwater General Permit

9VAC25-880-1. Definitions.

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

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

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

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

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

1. All soil disturbing activities at the site have been completed and a permanent vegetative cover has been established on denuded areas not otherwise permanently stabilized. Permanent vegetation shall not be considered established until a ground cover is achieved that is uniform (e.g., evenly distributed), mature enough to survive, and will inhibit erosion.
2. For individual lots in residential construction, final stabilization can occur by either:
 - a. The homebuilder completing final stabilization as specified in subdivision 1 of this definition; or
 - b. The homebuilder establishing temporary soil stabilization, including perimeter controls for an individual lot prior to occupation of the home by the homeowner, and **informing providing written notification to** the homeowner of the need for, and benefits of, final stabilization. **The 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]**
3. For construction projects on land used for agricultural purposes, final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to surface waters, and areas that are not being returned to their preconstruction agricultural use ~~must~~ shall meet the final stabilization criteria specified in subdivision 1 or 2 of this definition.

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

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

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

"Initiation of stabilization activities" means:

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

This list is not exhaustive.

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

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

9VAC25-880-10. Purpose.

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

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

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

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

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

9VAC25-880-30. Authorization to discharge.

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

1. The operator submits a complete and accurate registration statement, ~~if required to do so,~~ in accordance with 9VAC25-880-50, unless not required, and receives acceptance of the registration by the board;
2. The operator submits any permit fees, ~~if required to do so~~ unless not required, in accordance with 9VAC25-870-700 et seq.;
3. The operator complies with the applicable requirements of 9VAC25-880-70;
4. The operator obtains approval of:
 - a. An erosion and sediment control plan from the appropriate Virginia Erosion and Sediment Control Program (VESCP) authority as authorized under the Erosion and Sediment Control Regulations (9VAC25-840), unless the operator receives from the VESCP authority an "agreement in lieu of a plan" as defined in 9VAC25-840-10 or prepares the erosion and sediment control plan in accordance with annual standards and specifications approved by the department. ~~The operator of any land disturbing activity that is not required to obtain erosion and sediment control plan approval from a VESCP authority or is not required to adopt department approved annual standards and specifications shall submit the erosion and sediment control plan to the department for review and approval; and~~
 - b. [Except as specified in 9VAC25-880-70 Part II B 3 b. A a] stormwater management plan from the appropriate ~~VSMP~~ authority as authorized under the Virginia Stormwater Management Program (VSMP) authority as authorized under the VSMP Regulation (9VAC25-870), unless the operator receives from the VSMP authority an "agreement in lieu of a stormwater management plan" as defined in 9VAC25-870-10 or prepares the stormwater management plan in accordance with annual standards and specifications approved by the department. ~~The operator of any land disturbing activity that is not required to obtain stormwater management plan approval from a VSMP authority or is not required to adopt department approved annual~~

~~standards and specifications shall submit the stormwater management plan to the department for review and approval; and~~

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

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

1. The operator is required to obtain an individual permit in accordance with 9VAC25-870-410 B;
2. The operator is proposing discharges to surface waters specifically named in other board regulations that prohibit such discharges;
3. The discharge causes, may reasonably be expected to cause, or contributes to a violation of water quality standards (9VAC25-260);
4. The discharge violates or would violate the antidegradation policy in the Water Quality Standards (9VAC25-260-30); or
5. The discharge is not consistent with the assumptions and requirements of an applicable TMDL approved prior to the term of this general permit.

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

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

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

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

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

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

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

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

H. Continuation of general permit coverage.

1. Any operator that was authorized to discharge under the general permit issued in 2009 and that submits Permit coverage shall expire at the end of its term. However, expiring permit coverages are automatically continued if the owner has submitted a complete and accurate registration statement on or before June 30, 2014 at least 60 days prior to the expiration date of the permit, or a later submittal date established by the board, which cannot extend beyond the expiration date of the permit. The permittee is authorized to continue to discharge ~~under the terms of the 2009 general permit~~ until such time as the board either:

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

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

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

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

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

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

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

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

2. Existing construction activities.

a. Time limits on applicability of approved technical design criteria. Any operator that obtained authorization to discharge under the general permits effective July 1, 2009, and July 1, 2014, for projects meeting the requirements of 9VAC25-870-47 B, has maintained continuous permit coverage since initial permit coverage was approved, and obtains coverage under the general permit effective July 1, 2019, shall conduct land disturbance in accordance with the requirements of Part II C (9VAC25-870-93 et seq.) of the VSMP Regulation or to more stringent standards at the operator's discretion. Portions of the project not under

construction as of June 30, 2024, shall no longer be eligible to use the technical design criteria in Part II C of the VSMP Regulation.

b. Grandfathering.

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

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

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

e. Any operator that obtained authorization to discharge under the general permit effective on July 1, 2014, and obtained stormwater management plan approval consistent with Part II B (9VAC25-870-62 et seq.) of the VSMP Regulation shall continue to be subject to the requirements of Part II B of the VSMP Regulation for two additional permit cycles. After such time, portions of the project not under construction shall become subject to any new technical criteria adopted by the board.

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

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

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

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

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

1. New construction activities.

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

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

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

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

c. Any operator proposing a new stormwater discharge associated with the construction of a single-family detached residential structure, within or outside a common plan of development or sale, is authorized to

discharge under this general permit and is not required to submit a registration statement or the department portion of the permit fee.

2. Existing construction activities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. 6. Nature of the construction activity (e.g., commercial, industrial, residential, agricultural, oil and gas, etc.);
7. If stormwater management plans for the construction activity have been approved by an entity with department approved annual standards and specifications, the name of the entity with the department approved annual standards and specifications. A copy of the annual standard and specification entity form shall be submitted with the registration statement;

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

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

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

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

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

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

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

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

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

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

10. [18. 16.] A stormwater pollution prevention plan (SWPPP) ~~must~~ shall be prepared in accordance with the requirements of the General VPDES Permit for Stormwater Discharges from Construction Activities prior to submitting the registration statement. By signing the registration statement the operator certifies that the SWPPP has been prepared; and

11. [19. 17.] The following certification: "I certify under penalty of law that I have read and understand this registration statement and that this document and all attachments were prepared in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

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

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

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

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

2. Another operator has assumed control over all areas of the site that have not been finally stabilized and obtained coverage for the ongoing discharge;
3. Coverage under an alternative VPDES or state permit has been obtained; or
4. For individual lots in residential construction only, ~~temporary soil~~ final stabilization as defined in 9VAC25-880-1 has been completed [including providing written notification to the homeowner and incorporating a copy of the notification and signed certification statement into the SWPPP,] and the residence has been transferred to the homeowner.

B. Notice of termination due date and effective date.

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

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

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

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

1. Name, contact, mailing address, telephone number, and email address, if available, of the construction activity operator;
2. Name and physical location ~~if available~~ address of the construction activity, when available, covered under this general permit, including city or county, and latitude and longitude in decimal degrees: (six digits - ten-thousandths place);
3. The general permit registration number;
4. The basis for submission of the notice of termination, pursuant to subsection A of this section;
5. Where applicable, a list of the on-site and off-site permanent control measures (both structural and nonstructural) that were installed to comply with the stormwater management water quality and water quantity technical criteria. For each permanent control measure that was installed, the following information shall be included:
 - a. The type of permanent control measure installed and the date that it became functional as a permanent control measure;
 - b. The location ~~if available~~ of the permanent control measure, including city or county, and latitude and longitude in decimal degrees;
 - c. The receiving water ~~of to which~~ the permanent control measures discharge; and
 - d. The number of total and impervious acres treated by the permanent control ~~measure~~ measures to the nearest ~~one-tenth~~ one-hundredth of an acre);
6. Where applicable, the following information related to participation in a regional stormwater management plan. For each regional stormwater management facility, the following information shall be included:
 - a. The type of regional facility to which the site contributes;
 - b. The location ~~if available~~ of the regional facility, including city or county, and latitude and longitude in decimal degrees; and
 - c. The number of total and impervious site acres treated by the regional facility (to the nearest ~~one-tenth~~ one-hundredth of an acre);

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

a. The name of the nonpoint nutrient credit generating entity from which perpetual nutrient credits were acquired; and

b. The number of perpetual nutrient credits acquired (lbs. per acre per year).

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

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

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

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

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

~~D. E.~~ Termination by the board. The board may terminate coverage under this general permit during its term and require application for an individual permit or deny a general permit renewal application on its own initiative in accordance with the Act, this chapter, and the VSMP Regulation, 9VAC25-870.

9VAC25-880-70. General permit.

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

General Permit No.: VAR10

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

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

GENERAL VPDES PERMIT FOR DISCHARGES OF STORMWATER FROM CONSTRUCTION ACTIVITIES AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA STORMWATER MANAGEMENT PROGRAM AND THE VIRGINIA STORMWATER MANAGEMENT ACT

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

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

PART I DISCHARGE AUTHORIZATION AND SPECIAL CONDITIONS

A. Coverage under this general permit.

1. During the period beginning with the date of coverage under this general permit and lasting until the general permit's expiration date, the operator is authorized to discharge stormwater from construction activities.
2. This general permit also authorizes stormwater discharges from support activities (e.g., concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, borrow areas) located on-site or off-site provided that:

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

B. Limitations on coverage.

1. Post-construction discharges. This general permit does not authorize stormwater discharges that originate from the site after construction activities have been completed and the site, including any support activity sites covered under the general permit registration, has undergone final stabilization. Post-construction industrial stormwater discharges may need to be covered by a separate VPDES permit.
2. Discharges mixed with nonstormwater. This general permit does not authorize discharges that are mixed with sources of nonstormwater, other than those discharges that are identified in Part I E (Authorized nonstormwater discharges) and are in compliance with this general permit.
3. Discharges covered by another state permit. This general permit does not authorize discharges of stormwater from construction activities that have been covered under an individual permit or required to obtain coverage under an alternative general permit.
4. Impaired waters and ~~TMDL~~ total maximum daily load (TMDL) limitation.

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

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

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

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

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

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

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

b. Polychlorinated biphenyl (PCB) impaired waters. Discharges of stormwater from construction activities that include the demolition of any structure with at least 10,000 square feet of floor space built or renovated before January 1, 1980, to surface waters identified as impaired in the 2016 § 305(b)/303(d) Water Quality Assessment Integrated Report or for which a TMDL wasteload allocation has been established and approved

prior to the term of this general permit for PCB are not eligible for coverage under this general permit unless the operator develops, implements, and maintains a SWPPP in accordance with Part II B 6 of this permit that minimizes the pollutants of concern and, when applicable, is consistent with the assumptions and requirements of the approved TMDL wasteload allocations, and implements an inspection frequency consistent with Part II G 2 a.

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

- ~~a. The exceptional water(s) shall be identified in the SWPPP;~~
- ~~b. Permanent or temporary soil stabilization shall be applied to denuded areas within seven days after final grade is reached on any portion of the site;~~
- ~~c. Nutrients shall be applied in accordance with manufacturer's recommendations or an approved nutrient management plan and shall not be applied during rainfall events; and~~
- ~~d. The applicable SWPPP inspection requirements specified in Part II F 2 shall be amended as follows:~~
 - ~~(1) Inspections shall be conducted at a frequency of (i) at least once every four business days or (ii) at least once every five business days and no later than 48 hours following a measurable storm event. In the event that a measurable storm event occurs when there are more than 48 hours between business days, the inspection shall be conducted on the next business day; and~~
 - ~~(2) Representative inspections used by utility line installation, pipeline construction, or other similar linear construction activities shall inspect all outfalls discharging to exceptional waters.~~

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

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

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

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

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

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

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

F. Termination of general permit coverage.

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

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

2. The notice of termination ~~should~~ shall be submitted no later than 30 days after one of the above conditions in subdivision 1 of this subsection is met. ~~Authorization to discharge terminates at midnight on the date that the notice of termination is submitted for the conditions set forth in subdivisions 1 b through 1 d of this subsection.~~

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

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

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

G. Water quality protection.

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

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

- a. Modify or implement additional control measures in accordance with Part II ~~B~~ C to adequately address the identified water quality concerns;
- b. Submit valid and verifiable data and information that are representative of ambient conditions and indicate that the receiving water is attaining water quality standards; or
- c. Submit an individual permit application in accordance with 9VAC25-870-410 B 3.

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

PART II STORMWATER POLLUTION PREVENTION PLAN

A. Stormwater pollution prevent plan.

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

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

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

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

1. General information.

- a. A signed copy of the registration statement, if required, for coverage under the general VPDES permit for discharges of stormwater from construction activities;
- b. Upon receipt, a copy of the notice of coverage under the general VPDES permit for discharges of stormwater from construction activities (i.e., notice of coverage letter);
- c. Upon receipt, a copy of the general VPDES permit for discharges of stormwater from construction activities;
- d. A narrative description of the nature of the construction activity, including the function of the project (e.g., low density residential, shopping mall, highway, etc.);
- e. A legible site plan identifying:
 - (1) Directions of stormwater flow and approximate slopes anticipated after major grading activities;
 - (2) Limits of land disturbance including steep slopes and natural buffers around surface waters that will not be disturbed;
 - (3) Locations of major structural and nonstructural control measures, including sediment basins and traps, perimeter dikes, sediment barriers, and other measures intended to filter, settle, or similarly treat sediment, that will be installed between disturbed areas and the undisturbed vegetated areas in order to increase sediment removal and maximize stormwater infiltration;
 - (4) Locations of surface waters;
 - (5) Locations where concentrated stormwater is discharged;
 - (6) Locations of any support activities, ~~when applicable and when required by the VSMP authority~~, including ~~but not limited to~~ (i) areas where equipment and vehicle washing, wheel wash water, and other wash water is to occur; (ii) storage areas for chemicals such as acids, fuels, fertilizers, and other lawn care chemicals; (iii) concrete wash out areas; (iv) vehicle fueling and maintenance areas; (v) sanitary waste facilities, including those temporarily placed on the construction site; and (vi) construction waste storage; and
 - (7) When applicable, the location of the on-site rain gauge or the methodology established in consultation with the VSMP authority used to identify measurable storm events for inspection ~~purposes~~ as allowed by Part II G 2 a (1)(ii) or Part II F G 1 2 b (2).

2. Erosion and sediment control plan.

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

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

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

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

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

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

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

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

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

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

(8) ~~Ensures that~~ Ensure initiation of stabilization activities, as defined in 9VAC25-880-1, of disturbed areas ~~will be initiated~~ immediately whenever any clearing, grading, excavating, or other land-disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 days; and

(9) ~~Utilizes~~ Utilize outlet structures that withdraw stormwater from the surface (i.e., above the permanent pool or wet storage water surface elevation), unless infeasible, when discharging from sediment basins or sediment traps.

3. Stormwater management plan.

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

b. ~~Existing construction activities. Any~~ For any operator [that was authorized to discharge under the general] permit issued in 2009, and that intends to continue coverage under this general permit, shall ensure compliance with permits effective July 1, 2009, and July 1, 2014, for projects] meeting the requirements conditions of 9VAC25-870-93 through 9VAC25-870-99 of the VSMP Regulation, including but not limited to the water quality and quantity requirements The 9VAC25-870-47 [B, B of the VSMP regulation,] an approved stormwater management plan is not required. In lieu of an approved stormwater management plan, the SWPPP shall include a description of, and all necessary calculations supporting, all post-construction stormwater management measures that will be installed prior to the completion of the

construction process to control pollutants in stormwater discharges after construction operations have been completed. Structural measures should be placed on upland soils to the degree possible. Such measures must be designed and installed in accordance with applicable VESCP authority, VSMP authority, state, and federal requirements, and any necessary permits must be obtained.

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

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

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

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

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

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

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

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

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

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

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

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

(7) Prevent the discharge of fuels, oils, and other petroleum products, hazardous or toxic wastes, **excess waste**, concrete, and sanitary wastes; ~~and~~

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

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

f. Describe procedures for providing pollution prevention awareness of all applicable wastes, including any wash water, disposal practices, and applicable disposal locations of such wastes, to personnel in order to comply with the conditions of this general permit. The operator shall implement the procedures described in the SWPPP.

5. SWPPP requirements for discharges to ~~impaired waters, surface waters with an applicable TMDL wasteload allocation established and approved prior to the term of this general permit, and exceptional waters.~~ The SWPPP shall: nutrient and sediment impaired waters. For discharges to surface waters (i) identified as impaired in the 2016 § 305(b)/303(d) Water Quality Assessment Integrated Report or (ii) with an applicable TMDL wasteload allocation established and approved prior to the term of this general permit for sediment for a sediment-related parameter (i.e., total suspended solids or turbidity) or nutrients (i.e., nitrogen or phosphorus), the operator shall:

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

b. Provide clear direction in the SWPPP that:

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

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

(3) A modified inspection schedule shall be implemented in accordance with ~~Part I B 4 or Part I B 5~~ II G 2

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

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

b. [Include procedures in the SWPPP for:

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

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

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

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

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

b. Provide clear direction in the SWPPP that:

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

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

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

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

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

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

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

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

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

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

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

a. A record of dates when:

(1) Major grading activities occur;

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

(3) Stabilization measures are initiated;

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

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

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

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

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

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

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

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

~~D.~~ E. SWPPP availability.

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

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

3. The operator shall make the SWPPP available for public review in an electronic format or in hard copy. Information for public access to the SWPPP shall be posted and maintained in accordance with Part II ~~E~~ D. If

not provided electronically, public access to the SWPPP may be arranged upon request at a time and at a publicly accessible location convenient to the operator or his designee but shall be no less than once per month and shall be during normal business hours. Information not required to be contained within the SWPPP by this general permit is not required to be released.

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

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

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

~~F.~~ G. SWPPP Inspections.

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

2. Inspection schedule.

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

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

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

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

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

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

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

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

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

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

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

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

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

3. Inspection requirements.

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

- (1) Record the date and time of the inspection ~~and and,~~ when ~~applicable applicable,~~ the date and rainfall amount of the last measurable storm event;
- (2) Record the information and a description of any discharges occurring at the time of the inspection or evidence of discharges occurring prior to the inspection;
- (3) Record any land-disturbing activities that have occurred outside of the approved erosion and sediment control plan;
- (4) Inspect the following for installation in accordance with the approved erosion and sediment control plan, identification of any maintenance needs, and evaluation of effectiveness in minimizing sediment discharge, including whether the control has been inappropriately or incorrectly used:
 - (a) All perimeter erosion and sediment controls, such as silt fence;
 - (b) Soil stockpiles, when applicable, and borrow areas for stabilization or sediment trapping measures;
 - (c) Completed earthen structures, such as dams, dikes, ditches, and diversions for stabilization and effective impoundment or flow control;
 - (d) Cut and fill slopes;
 - (e) Sediment basins and traps, sediment barriers, and other measures installed to control sediment discharge from stormwater;
 - (f) Temporary or permanent ~~channel, flume, channels, flumes,~~ or other slope drain structures installed to convey concentrated runoff down cut and fill slopes;
 - (g) Storm inlets that have been made operational to ensure that sediment laden stormwater does not enter without first being filtered or similarly treated; and
 - (h) Construction vehicle access routes that intersect or access paved or public roads for minimizing sediment tracking;
- (5) Inspect areas that have reached final grade or that will remain dormant for more than 14 days ~~for initiation of stabilization activities; to ensure:~~
 - (a) Initiation of stabilization activities have occurred immediately, as defined in 9VAC25-880-1; and
 - (b) Stabilization activities have been completed within seven days of reaching grade or stopping work;
- ~~(6) Inspect areas that have reached final grade or that will remain dormant for more than 14 days for completion of stabilization activities within seven days of reaching grade or stopping work;~~
(7) (6) Inspect for evidence that the approved erosion and sediment control plan, "agreement in lieu of a plan," or erosion and sediment control plan prepared in accordance with department-approved annual standards and specifications has not been properly implemented. This includes ~~but is not limited to:~~
 - (a) Concentrated flows of stormwater in conveyances such as rills, ~~rivulets rivulets,~~ or channels that have not been filtered, settled, or similarly treated prior to discharge, or evidence thereof;
 - (b) Sediment laden or turbid flows of stormwater that have not been filtered or settled to remove sediments prior to discharge;
 - (c) Sediment deposition in areas that drain to unprotected stormwater inlets or catch basins that discharge to surface waters. Inlets and catch basins with failing ~~sediments sediment~~ controls due to improper installation, lack of maintenance, or inadequate design are considered unprotected;
 - (d) Sediment deposition on any property (including public and private streets) outside of the construction activity covered by this general permit;
 - (e) Required stabilization has not been initiated or completed or is not effective on portions of the site;

- (f) Sediment basins without adequate wet or dry storage volume or sediment basins that allow the discharge of stormwater from below the surface of the wet storage portion of the basin;
- (g) Sediment traps without adequate wet or dry storage or sediment traps that allow the discharge of stormwater from below the surface of the wet storage portion of the trap; and
- (h) Land disturbance or sediment deposition outside of the approved area to be disturbed;
- (8) (7) Inspect pollutant generating activities identified in the pollution prevention plan for the proper implementation, maintenance maintenance, and effectiveness of the procedures and practices;
- (9) (8) Identify any pollutant generating activities not identified in the pollution prevention plan; and
- (10) (9) Identify and document the presence of any evidence of the discharge of pollutants prohibited by this general permit.

4. Inspection report. Each inspection report shall include the following items:

- a. The date and time of the inspection and and, when applicable, the date and rainfall amount of the last measurable storm event;
- b. Summarized findings of the inspection;
- c. The ~~location(s)~~ locations of prohibited discharges;
- d. The ~~location(s)~~ locations of control measures that require maintenance;
- e. The ~~location(s)~~ locations of control measures that failed to operate as designed or proved inadequate or inappropriate for a particular location;
- f. The ~~location(s)~~ locations where any evidence identified under Part II F G 3 a (7) (6) exists;
- g. The ~~location(s)~~ locations where any additional control measure is needed ~~that did not exist at the time of inspection;~~
- h. A list of corrective actions required (including any changes to the SWPPP that are necessary) as a result of the inspection or to maintain permit compliance;
- i. Documentation of any corrective actions required from a previous inspection that have not been implemented; and
- j. The date and signature of the qualified personnel and the operator or its duly authorized representative.

5. The inspection report shall be included into the SWPPP no later than four business days after the inspection is complete.

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

G. H. Corrective actions.

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

PART III
CONDITIONS APPLICABLE TO ALL VPDES PERMITS

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

A. Monitoring.

1. Samples and measurements taken for the purpose of monitoring shall be representative of the monitoring activity.
2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this general permit. Analyses performed according to test procedures approved under 40 CFR Part 136 shall be performed by an environmental laboratory certified under regulations adopted by the Department of General Services (1VAC30-45 or 1VAC30-46).
3. The operator shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.

B. Records.

1. Monitoring records and reports shall include:

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

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

C. Reporting monitoring results.

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

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

information as may be necessary to accomplish the purposes of the CWA and the Virginia Stormwater Management Act. The operator shall also furnish to the board, department, EPA, or VSMP authority, upon request, copies of records required to be kept by this general permit.

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

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

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

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

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

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

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

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

1. An oral report to the department and the VSMP authority shall be provided within 24 hours from the time the operator becomes aware of the circumstances. The following shall be included as information that shall be reported within 24 hours under this subdivision:
 - a. Any unanticipated bypass; and
 - b. Any upset that causes a discharge to surface waters.
2. A written report shall be submitted within five days and shall contain:
 - a. A description of the noncompliance and its cause;

- b. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
- c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

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

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

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

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

J. Notice of planned changes.

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

- a. The operator plans an alteration or addition to any building, structure, facility, or installation that may meet one of the criteria for determining whether a facility is a new source in 9VAC25-870-420;
- b. The operator plans an alteration or addition that would significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are not subject to effluent limitations in this general permit; or

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

K. Signatory requirements.

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

- a. For a corporation: by a responsible corporate officer. For the purpose of this chapter, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy-making or decision-making functions for the corporation; or (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for state permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
- b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or
- c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this chapter, a principal executive officer of a public agency includes: (i) the chief executive officer of the agency or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

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

- a. The authorization is made in writing by a person described in Part III K 1;
- b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall

responsibility for environmental matters for the operator. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

U. Bypass.

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

2. Notice.

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

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

3. Prohibition of bypass.

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

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

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and

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

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

V. Upset.

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

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

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

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

a. An upset occurred and that the operator can identify the ~~cause(s)~~ cause of the upset;

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

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

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

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

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

1. Enter upon the operator's premises where a regulated facility or activity is located or conducted, or where records ~~must~~ shall be kept under the conditions of this general permit;
2. Have access to and copy, at reasonable times, any records that ~~must~~ shall be kept under the conditions of this general permit;
3. Inspect and photograph at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this general permit; and
4. Sample or monitor at reasonable times, for the purposes of ensuring state permit compliance or as otherwise authorized by the Clean Water Act or the Virginia Stormwater Management Act, any substances or parameters at any location.

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

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

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

1. State permits are not transferable to any person except after notice to the department. Except as provided in Part III Y 2, a state permit may be transferred by the operator to a new operator only if the state permit has been modified or revoked and reissued, or a minor modification made, to identify the new operator and incorporate such other requirements as may be necessary under the Virginia Stormwater Management Act and the Clean Water Act.
2. As an alternative to transfers under Part III Y 1, this state permit may be automatically transferred to a new operator if:
 - a. The current operator notifies the department at least 30 days in advance of the proposed transfer of the title to the facility or property;
 - b. The notice includes a written agreement between the existing and new operators containing a specific date for transfer of state permit responsibility, coverage, and liability between them; and
 - c. The department does not notify the existing operator and the proposed new operator of its intent to modify or revoke and reissue the state permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part III Y 2 b.
3. For ongoing construction activity involving a change of operator, the new operator shall accept and maintain the existing SWPPP, or prepare and implement a new SWPPP prior to taking over operations at the site.

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

9VAC25-880-100. Delegation of authority.

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

REPORT ON FACILITIES IN SIGNIFICANT NONCOMPLIANCE: One new permittee was reported to EPA on the Quarterly Noncompliance Report as being in significant noncompliance (SNC) for the quarter ending September 30, 2018. The permittee, the facility and the reported instances of noncompliance are as follows:

1. Permittee/Facility: **Western Virginia Water Authority/WVWA WPCP**

Type of Noncompliance:	Failure to Meet Permit Effluent Limits (5-day Biochemical Oxygen Demand-BOD5)
City/County	Roanoke, Virginia
Receiving Water:	Roanoke River
Impaired Water:	The Roanoke River is listed as impaired for fish consumption, recreation and aquatic life uses. The causes of the fish consumption impairment are PCBs and Mercury, the aquatic life use is impaired for benthics and the recreational use is impaired for bacteria.
River Basin:	Roanoke River Basin
Dates of Noncompliance:	August and September 2018
Requirements Contained In:	VPDES Permit
DEQ Region:	Blue Ridge Regional Office

The Authority analyzed its plant, changed vendors and called in experts to identify the cause of the exceedances. The Authority attributes the exceedances to a septic hauler whose disposal inhibited the treatment process at the plant. The Authority has taken action to prevent future disposal from that hauler and source. DEQ's Blue Ridge Regional Office has issued two Warning Letters and a Notice of Violation to the Authority. DEQ BRRO staff are in discussions with the Authority to resolve the enforcement action.

TYSON FARMS, INC., TEMPERANCEVILLE, VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM (VPDES) PERMIT PROGRAM, CONSENT ORDER WITH CIVIL CHARGE AND CORRECTIVE ACTION PLAN Tyson Farms, Inc. ("Tyson") is a manufacturing operation located in Temperanceville. The manufacturing operation consists of a poultry hatchery, which supplies chicks to contract growers, and poultry processing ("Facility"). Poultry processing including the slaughtering, defeathering, eviscerating, chilling, packaging, and shipping of poultry products for human consumption to an offsite destination.

DEQ re-issued VPDES Permit No. VA0004049 ("Permit") to Tyson on January 1, 2016 (expires on December 31, 2020). The Permit authorizes Tyson to discharge stormwater and wastewater resulting from poultry processing and rendering operations. The Permit requires Tyson to monitor and report compliance with effluent limits for biological oxygen demand (BOD₅), ammonia, fecal coliform, *E.coli*, and total suspended solids (TSS).

In submitting Discharge Monitoring Reports ("DMRs"), as required by the Permit, Tyson listed that it exceeded discharge limits contained in Part I.A.1 of the Permit for ammonia for the March 2015, August 2015, and August 2016 reporting periods, TSS, *E. coli*, and fecal coliform for the March 2015 reporting period, and BOD₅ for the September 2015 reporting period. Tyson also failed to provide a letter of explanation for non-compliance with its Permit limits.

DEQ issued to Tyson a Notice of Violation ("NOV") No. W2015-09-T-0003 on October 27, 2015 for the aforementioned violations. Tyson signed a proposed consent order to resolve the NOV on December 16, 2016 ("proposed December 2016 Order"), and then again on June 20, 2017 ("proposed June 2017 Order") following changes made to the proposed December 2016 Order in response to public comments (increased civil charge and enhanced CAP). On July 19, 2017, the proposed June 2017 Order was presented to the State Water Control Board ("SWCB") for approval. SWCB did not approve the Order, but advised DEQ to seek a higher civil penalty and more defined goals and dates for each CAP corrective action. Tyson signed a revised Order ("July 2018 Order") on July 25, 2018 that contained an additional increased civil charge. Tyson signed a revised Order ("proposed January 2019 Order") on January 16, 2019 that contained the CAP as Appendix A and added Appendix B with conditions for solids handling and water conservation.

On October 12, 2017, Tyson submitted a CAP, under which it is currently in compliance. The CAP and schedule require that Tyson fully examine the cause(s) of ammonia, TSS, *E. coli*, fecal coliform, and BOD₅ exceedances at the Facility and describe actions that Tyson had taken or planned to take to comply consistently with the discharge limits established in the Permit. The CAP also includes a plan to address excess solids in the anaerobic lagoon on a continuous basis, water conservation goals, and plans for a third-party engineering process review for improved solids handling.

The land application of solids from Facility lagoons is a reoccurring operation and began again in spring 2019. A lagoon refurbishment is scheduled to begin in the fall of 2019 with completion no later than January 1, 2020 as listed in the proposed January 2019 Order.

Tyson has continued to evaluate its water consumption. During 2018, Tyson recognized a 6.7% reduction in groundwater use and 9.09% reduction in wastewater discharge compared to 2017. Tyson has updated its internal water conservation plan dated March 8, 2019.

Tyson submitted a third-party evaluation of its wastewater treatment operations on December 18, 2017. In addition to the audit of its wastewater treatment operations, Tyson also conducted a multi-media audit that was completed the week of July 16, 2018.

In addition to the CAP requirements set forth in the October 2017 CAP, Tyson has also submitted a revised solids disposal plan, O&M Manual, wastewater process control document, and updated wastewater flow diagram.

To date, Tyson has not had additional violations of the VPDES permit.

Civil Charge: \$30,160.