

**Construction General Permit  
TAC Meeting #5  
May 22, 2018  
MINUTES**

Sections from the proposed 9VAC25-880 regulations are display like this. Sentences within these sections have been disconnect and comments have been placed below the sentence(s) they are referring to. Set to show “All Markup” under Review settings to see JBR highlighted comments. Comments represent what was in previous draft document not as part of these minutes.

“JBR” refers to Jaime Bauer Robb, Manager, Office of Stormwater Management

A full list of attendees and affiliations should be attached to the email.

General Timeline:

- JBR – will schedule two meetings with the intention of only needing one.
- The goal is to take the draft regulation to the SWCB in September with a July 1, 2019 goal of having an effective permit. We are trying to have this approved by spring. It is likely to be proposed to the SWCB in September with a public comment period in the fall. Hoping to have final proposed permit for the December SWCB.
- EPA Region 3 will need to complete their review this summer/fall. This is a federal NDPES review. DEQ does not anticipate that there would be anything too upsetting to EPA.
- For other permits, DEQ typically does outreach 60-90 days prior. DEQ will work with localities on this. Localities should start gearing up for permit expiration.

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1. ‘Portions of project under construction’ discussion continues from past TAC Meeting. Same consensus was reached: **UNDER CONSTRUCTION should be tied to actual land disturbance (i.e. moving dirt)**

**9VAC25-880-50. General permit application (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 was authorized to discharge under the expiring or expired general permit and who intends to continue coverage under this general permit shall:

1. JBR – This section is for administrative continuance.
2. Jerry Stonefield – If you have existing construction activities and they did not get 2014 permit coverage. You will have folks that will argue.
  - a. Jerry Stonefield – What this is saying is that an operator can submit for an expiring permit.
    - i. JBR – She will mark the concern down but this is the language that is consistent with other regulatory language.
    - ii. Norm Goulet – We need to maintain the separation between the GP and individual permits.
    - iii. JBR noted there are no individual permit for construction activities

(1) Submit a complete and accurate registration statement to the VSMP authority at least 60 days prior to the expiration date of the existing permit or a later submittal 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 shall submit a complete and accurate registration statement or transfer agreement form to the VSMP authority and a signed statement by the new operator acknowledging assumption of responsibility for any permanent stormwater management facility long term maintenance requirements prior to assuming operational control over site specifications or commencing work on-site.

1. JBR – This section’s main concern is the transfer of permit coverage for sites with shared BMPs and stabilization...
2. John Burke – Operators are not always the owners of the land. “Construction” should be in there too. The agreement needs to involve the owner and the land.
3. Keith White – If the agreement is not recorded the locality does not have any recourse to enforce the maintenance of the BMP.
  - a. Keith White – They require approval of the actual maintenance agreement at permit issuance. “be submitted to the VSMP authority for review and approval prior to ... issuance”
  - b. The sooner you get the maintenance recorded the sooner they can enforce it.

4. JBR – Q – If we are requiring the recordation early in the process what happens when there is a modification? How specific are they being? What if the facility changes?
  - a. Jerry Stonefield – Fairfax is very specific. If the operator changes then they have to vacate and resubmit new maintenance agreements.
  - b. Keith White – Whatever the maintenance agreement says, if it is recorded after the subdivision plat is recorded then good luck trying to enforce the maintenance agreement.
  - c. Jerry Stonefield – Recording it too early can be an issue as well. Need to do it at the same time as the plat.
  - d. Keith White – Q – Maybe time it with evidence of transfer of ownership?
  - e. Mike Wills – Q – Should the registration statement state the BMPs? Like the NOT does?
    - i. JBR – I thought that we had determined that we’re not going to list them on the registration statement because things change throughout projects.
    - ii. Jimmy Edmonds – Q – Does this create a problem for Loudoun County who maintains all the BMPs in ROWs. ?
      1. JBR – Yes, the language would not work.
    - iii. Kristin Carter – Q – What was the start of this issue? Maybe some of this issue can be fixed on the form and not in the regulation.
    - iv. Toni Small – The issue could be that the operator is the contractor and not the owner. You do not want the contractor stating that BMPs are ready to go.
    - v. Kristin Sadtler – DEQ has had enforcement issues with a developers coming in and building the houses. Then transferring the property to someone who builds the BMP. Then they transfer ownership between them. Neither will sign the maintenance agreement. They cannot terminate though. Getting the maintenance agreement recorded earlier in the process would help their issue.
    - vi. Jerry Stonefield – Q – How does DEQ process these?
      1. JBR – DEQ receives signed agreement, signs it, then sends the agreement back operator to do the recording back at the courthouse.
    - vii. JBR – As long as the locality has received a signed maintenance agreement that they can live with... does that get us anywhere on this issue?
      1. Jerry Stonefield – As long as it is not recorded it is an issue.
      2. Jerry Stonefield – Coming in with a maintenance agreement with the RS may cause hold up.
 

This is a huge additional step in the process.
      3. John Burke – This would be good for a lot of localities that weren’t really getting maintenance agreements in 2009. Tying to RS.
5. JBR – She will strike the proposed language and propose new language by the next meeting.
6. Keith White – There may be some other language further down in the regulation to look at.

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. Registrations statements for existing facilities covered under subdivision A 2 a will be accepted after the expiration date of this permit, but authorization to discharge will not be retroactive.

1. Jerry Stonefield – Q - Would this include people who have 2014 coverage and fail to resubmit RS for continued coverage?

2. JBR – Yes.
3. Norm Goulet – Seems like it would be a case-by-case determination and you are retaining your ability to make this decision.
  - a. JBR – It is letting people know that you cannot just have a permit and expect to be covered under admin continuance if you do not submit a RS for reissuance.

B. Registration statement. The operator shall submit a registration statement to the VSMP authority that 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 15 of this subsection shall be signed by the appropriate person associated with this operator.

2. Name and physical location address, when available, of the construction activity and all off-site support activities to be covered under this general permit, including city or county, and latitude and longitude in decimal degrees (4 digits);

1. JBR – Does anyone have any proposed language for the map submittal requirement?
  - a. “A map delineating land area of the development and areas to be disturbed by the construction activity.”
  - b. Jerry Stonefield – Q – Do we want to indicate any type of scale?
  - c. Keith White – Q – Can it say, “in a format determined by the department” and then it be defined on the RS instructions?
  - d. John Burke – We must think carefully about what we are going to ask for. It might not be what is actually on the ground.
  - e. Jerry Stonefield – Wants to avoid people slapping something together.
    - i. JBR – We can clarify on the RS.
  - f. JBR – Could it be as simple as a zoomed in google image showing LOD.
  - g. Norm Goulet – Could it be, “as determined by the VSMP authority”
    - i. JBR – Point out that localities are receiving these on behalf of DEQ.
  - h. Jerry Stonefield – Localities need specifics.
    - i. Norm Goulet – It will be determined in the RS.
2. Jimmy Edmonds – Q – How many significant digits for the lat/long are required?
  - a. JBR – Not an issue of significant digits, but precision in coordinates.
  - b. Chris Swanson – Should state to the right of the decimal.
  - c. Holly Sepety – The database specifies 4 decimal places.

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

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

5. If stormwater management plans for the construction activity has 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 (attach copy of the annual standard and specification entity certification form);

6. 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 (attach copy of the approval letter);

1. Jerry Stonefield – It is not always the ESC plan that gets you grandfathering status.

2. JBR – We are aware of this but at least it gets you the ESC plan approval date.
3. Jerry Stonefield – It is a catch 22. Saying that you have to have plan approval before permit coverage. Then you need permit coverage to get plan approval.
4. JBR – 2014 permit says that you need to have a SWPPP within 60 days and you are certifying that those plans have been approved.
5. Jerry Stonefield – You are going to get a rush of people trying to get coverage.
6. JBR – They will not be able to get coverage under the 2014 permit by submitting a RS June 30<sup>th</sup>. DEQ will not be issuing retroactive coverage.
7. Mona Gabriel– IF the project does not have plan approval under 2014 then that solves it. If they have coverage with plan approval, we know that they really have a plan.
  - a. Jerry Stonefield – What you are essentially saying is that you are moving the cutoff date to an earlier date. If you are saying 60 days prior, that is an earlier date.
  - b. JBR – To obtain continuous permit coverage from the 2014 to the 2019 permit, you need proof of 2014 coverage, and ESC/SWM plans approved, and 2019 coverage. To continue coverage under 2019 they need to tell us their plans have been approved.
  - c. Jerry Stonefield – You are rewriting the regulation.
  - d. Kristin Carter – Existing regulations do not say how long DEQ has to process RSs.
  - e. JBR – Technically speaking if DEQ does not issue coverage between July 1, 2014 and June 30<sup>th</sup>, 2019 they don't have 2014 permit coverage.
  - f. Peggy Sanner – Thinks it is important to have this language in there.
  - g. JBR – If DEQ is the VSMP authority then they can provide some proof that they have an ESC plan and then permitting goes ahead to process the permit.
  - h. Jerry Stonefield – His issue is this and the 60 days prior. He understands that you want the 60 days for advanced submission but having both of these in there is problematic.
  - i. Kristin Carter – Q – Does this only affect grandfathered projects or does it affect other projects?
  - j. Nick Allen - We keep referencing attached copy of approval letter. Q – Do plan approval letters actually exist or just stamped drawings?
    - i. Jerry Stonefield – They don't issue a letter. They stamp the plan.
    - ii. Jimmy Edmonds – They issue letters.
8. Jerry Stonefield – Q – What about the site area issue?
  - a. Toni Small – Fees went up.
  - b. Jerry Stonefield – The regulations say you only have permit coverage for what you put on the RS. You are permitting for the land disturbance.
  - c. Jimmy Edmonds – Thought it was the project area because you can increase the LOD.
  - d. Chris Swanson – They permit the total land dev and then the land disturbance. Then the ESC plan is the land disturbance.
  - e. JBR – Need to discuss internally.
  - f. Jimmy Edmonds – They got many permits that said they were disturbing the entire site area.
  - g. Jerry Stonefield – They have been taking it as the disturbed area is the only area they have coverage over. Q – How do they track IIC if they increase the disturbed area within the project area? You do not know which specific areas of the project are IIC.
  - h. John Burke – Your disturbed area cannot be larger than your project area.
    - i. Jerry Stonefield – But this can occur when there are utilities outside of developments.
    - ii. Keith White – A map would solve part of this.
  - i. Jerry Stonefield – Q – Since we are clarifying the permit language do we need to clarify those terms?
  - j. JBR – If we use the term multiple times then we can define it.

- k. Jimmy Edmonds – It would be nice to have some guidance on the increase of project area.

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

1. JBR – Q – Any thoughts on asking for the information?
  - a. Jerry Stonefield – Q – Why not just ask for the information up front?
  - b. JBR – The only concern is that the regulated community may not understand the nuances of grandfathering and time limits. It is usually the VSMP's job it is to determine IIC.
  - c. JBR – If they commence land disturbance for what they're requesting permit coverage for. It confirms this.
  - d. There appears to be no concerns.

8. Name of the receiving water(s) and sixth (6<sup>th</sup>) order Hydrologic Unit Code (HUC);

1. JBR – DEQ will put together instructions for how to determine the name of receiving waters.

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

10. Estimated project start date and completion date;

11. Total land area of development and estimated area to be disturbed by the construction activity (to the nearest one-hundredth of an acre);

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

13. 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;

);

1. JBR – We talked about some of the changes in the federal CGP. One of those items is construction activities involving demolition. Buildings over 10,000 sf. PCBs in these buildings. That is why this section was added into the RS.
  - a. Andrew Clark – There are some differences between what's in EPA's CGP and their regulations.
    - i. JBR – She will double-check that.
  - b. Andrew Clark – might be some differences between the CFR and the CGP.
2. JBR – This triggers some TMDL requirements later on in the permit.
  - a. Kristin Carter – If your project is in a drainage area that is subject to a PCB TMDL. If not then you may not have to do anything.
3. JBR – DEQ typically relays any TMDL requirements applicable to operators through the coverage letter.

14. Where applicable, a draft stormwater management maintenance agreement;

1. Keith white – Reference back to -870-112 for maintenance agreement requirements.

15. Where applicable, an affidavit of sale documenting that nonpoint source nutrient credits in accordance with 9VAC 25-870-69 A 3 have been obtained to demonstrate compliance with the water quality as allowed in 9VAC 25-870-65 F;

1. Jimmy Edmonds – Q – Have they been doing this wrong? They have been requiring sale before they start work.
2. JBR – DEQ requires letter a availability with plan submittal and affidavit of sale prior to issuing permit coverage..
3. Jerry Stonefield – This language moves it up in the process.
4. Kristin Carter – The regulations talk about the nutrient bank actually being in place not actually purchasing it all.
5. Jerry Stonefield / Jimmy Edmonds – Localities do this differently.
6. Jerry Stonefield – They require availability at plan submission. At the beginning of this being an option, they were not sure that there were going to be any available banks.
7. Jimmy Edmonds – Their engineers don't purchase the credits until just before approval knowing that they're going to get comments on their submissions.
8. Chris Swanson – Q – Why is only one option of the offsite compliance options being singled out here? The reduction is being achieved prior to commencement of LDA. Q – Why are we only looking at nutrient credits.
  - a. Keith White – Q – Why not get this info at the end of the project at NOT.
    - i. Jerry Stonefield – The difference is that the plan is showing the actual BMPs.
    - ii. Keith White – The plan would say that they are using credits. The NOT should / does say nutrient credits, if used.
  - b. Keith White – The regulations say that the letter of available needs to be made available at plan submission.
  - c. John Burke – Also important for commencement of phase developments.
9. Peggy Sanner – Q – Could we say compliance with the water quality design criteria instead.
  - a. JBR – Q – How about technical criteria?

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

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.**

1. Subject of AS&S holders terminating their own permits –
  - a. Mike Vellines – They would not be “terminating” it. They would be confirming everything and then DEQ would be terminating.
    - i. JBR – DEQ might not have the authority to allow this.
  - b. Mike Vellines – Could be the same thing as what they do for RS processing. They have the authority to confirm plan approval.
  - c. JBR – The NOT inspection would have to remain for DEQ.

- d. Mike Vellines – UVA, VT and other state AS&S holders have met and all want to be able to terminate their projects themselves.
  - i. JBR – Q – Do you mean projects that the university is the operator of or the contractor is the operator?
    - 1. Mike Vellines – both
- e. Kristin Carter – It is more helping to facilitate the process of closeout. They own the buildings and they maintain it. They get all the documentation. They can help facilitate the closeout.
  - i. Mike Vellines – It’s easier for them to transition from a construction BMP to a permanent BMP.
- f. Chris Swanson – This goes back to the 60 days upon submitting the NOT. If DEQ does not come back in 60 days they consider it to be terminated. Even if DEQ resources cannot provide for the NOT inspection.
  - i. Mike Vellines – Perhaps DEQ can take advantage of AS&S holder inspections.
- g. CONSENSUS – AS&S holders may be able to take responsibility for some NOT documentation items. Need to determine what items DEQ is comfortable with accepting.

A. Requirements. The operator of the construction activity shall submit a complete and accurate notice of termination 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 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 notice of termination;
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 residential construction only, final stabilization as defined in 9VAC 25-880-1 has been completed and the residence has been transferred to the homeowner.

1. JBR – Q – How do we get at those projects? Do not want to hold up the sale of a home from a builder to a homeowner. We are hearing that this is occurring at the temporary stabilization phase.
  - a. Would like to hear some input from builders.
2. Andrew Clark – The change from temporary to final stabilization could be an issue in southern Virginia. More homebuilders use sod up north. Definitely caused some heartburn.
3. Kristin Carter – Q – What about informing the homeowner of the need for final stabilization?
4. John Burke – From a locality it would be nice to have something that the homeowner signed.
  - a. Keith White – Has a totally opposite opinion. He does not want to be in between the developer and the homeowner. How would they handle a 100 housing lot development? He has concern with inserting ourselves into this transaction.
    - i. Perhaps a general statement on the NOT stating that they have notified all the homeowners. We could do that with a statement that does not require the homeowner’s signature.
5. JBR – Other thoughts?
  - a. John Burke – When the operator submits the NOT he has indicated that he has informed the homeowner.
  - b. Andrew Clark – Requiring that this statement be signed prior to terminating coverage could be an issue. Q – Is it really going to be effective is getting people to stabilize?



6. JBR – Q – From a bonding perspective, do we release the bond at permit termination? Could the locality hold the bond until such a time as each individual lot is stabilized?
  - a. Keith White – Nope
  - b. Jimmy Edmonds – The people who buy multiple lots are still under the land disturbance permit of the original operator.
7. John Burke – When you have a single family home development and you have a regional BMP treating the entire development you have to have the site stabilized before you begin draining to it. This could be for individual lots where the developer does not handle quality.
8. JBR / Jimmy Edmonds – DEQ does not require NOTs for SFH. DEQ does not process RS and NOTs for these. Loudoun does not either.
9. JBR – The bigger issue is developments that sell off dozens of homes.
  - a. Jerry Stonefield – But they are still common plans of development. What is the problem we are trying to solve with this?
    - i. JBR – We are trying to avoid a developer selling off lots and not being accountable for ensuring final stabilization. Trying to balance not getting into the middle of a home sale while ensuring that the site is properly stabilized. Want to also avoid homeowners changing quality and quantity results (i.e. regrading yards).
10. John Burke – Wants the permit to be clear so localities are not stuck in the middle of this. They have a separate LD permit that they do not always close out when the CGP ends.
  - a. JBR – As it stands now it is tied to final stabilization as a condition that's not necessarily final.
  - b. Jerry Stonefield – Q – Theoretically, should it be that the new owner obtain coverage? It is still an active site... Q – Should the homebuilder get the permit?
  - c. John Burke – Q – Are we allowing to let it go without being final stabilized?
    - i. JBR – John can you look at the language and see what you think would make it more clear.
11. Kristin Carter – people might actually read the NOT that they sign if there was a certification like this on it.
12. JBR – We will make sure that the NOT form is clear about what is expected.

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

1. The notice of termination shall be submitted no later than 30 days after one of the conditions in 9 VAC 25-880-60 A is met.
2. Termination of authorizations to discharge for the conditions set forth in 9 VAC 25-880-60 A 1 shall become effective upon notification from the department that the provisions of 9 VAC 25-880-60 A 1 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 9 VAC 25-880-60 A 2 through 4 unless otherwise notified by the VSMP authority or the department.

1. Chris Swanson – Q – Is DEQ really going to ensure the “shall” that has been changed?
  - a. JBR – Q – What is the issue specifically?
    - i. Chris Swanson – Through their AS&S they only do monthly submittals of NOTs.
    - ii. JBR – “shall” Is the appropriate regulatory term when it is a requirement.
2. Kristin Carter – Q – Maybe it should be longer than 30 days.
  - a. Mike Vellines – Should probably be 90 days. They go through many revisions of construction record drawings.

- b. Chris Swanson – He is still hung up on the “should” and the “shall”. It gives DEQ more enforcement capability if they do not submit it. If they do not take action, the permit is still open.
- c. Jimmy Edmonds – They have issues with people stopping construction and not terminating.
- d. Mike Vellines – Q – Do we really even need a time frame?
- 3. Jerry Stonefield – Q – How many localities are actually sending out a notice that their permit maintenance fees are due April 1<sup>st</sup>?
  - a. At least Loudoun and DEQ...
  - b. Jerry Stonefield – Fairfax County bills maintenance fees up front based on how long they expect projects to last. Therefore, they do not send out that letters the next year that is a reminder that their permit is still open.
    - i. Jimmy Edmonds – Q – Is that legal?
      - 1. JBR – DEQ used to actually do that. DEQ then divided the fee into 5 years.
- 4. JBR – Okay so there is the question on the table about whether “shall” is necessary. Is “should” okay? We will consider changing it from 30 to 90 days. We will consider whether we need a timeframe at all.
  - a. Toni Small – NOT language mixes between shall, should and must... overall, it is inconsistent.
  - b. Peggy Sanner – To have a “should” in a permit is a weird thing...
- 5. Nick Allen – Q - So are we leaving final versus temporary stabilization?
  - a. JBR – We are keeping final because for residential sites temporary stabilization is an option.
- 6. JBR – Part of the challenge here is dealing with the 60 days. That is why she has written in “accurate and complete”.

**C. Notice of termination. The 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 address, when available, of the construction activity covered under this general permit, including city or county, and latitude and longitude in decimal degrees (4 digits).

1. Ensure consistency with registration language here.

**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 technical criteria. For each permanent control measure that was installed, the following information shall be included:**

1. Change to design criteria.

**a. The type of permanent control measure installed and the date that it became functional as a permanent control measure;**

**b. The location of the permanent control measure, including city or county, and latitude and longitude in decimal degrees;**

**c. The receiving water of the permanent control measures; and**

**d. The number of total and impervious acres treated by the permanent control measure (to the nearest one-tenth 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 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 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).

1. JBR – This might be the appropriate place to put affidavit of sale for nutrient credit information. Pull from the RS requirement.

8. A construction record drawing in a format as specified by the VSMP authority for permanent stormwater management facilities in accordance with 9VAC 25-870-55 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;

9. Where applicable, documentation that the signed Stormwater Management Maintenance Agreement has been recorded;

1. Andrew Clark – Q – Did we already resolve the issue of localities requiring maintenance agreements?
  - a. Keith White – It has to come in with plan approval. And has to be submitted prior to NOT or earlier.

10. For residential construction only, a statement notifying the homeowner of the requirements for permanent stabilization signed by both the construction general permit operator and the homeowner; and

1. .
2. Andrew Clark – Update to final stabilization for consistency.
3. Peggy Sanner – Q – Is it the consensus that there be a special certification that the operator has informed the homeowner? She recommends this.
4. JBR – Q – What is the consensus?
  - a. Peggy Sanner – We want to emphasize the importance of stabilization.
  - b. JBR – We are not requiring the signature of the homeowner. We need to work out what it is we are going to require that certification to be. Whether that be general checkoff or additional certification and two signatures.
    - i. Kristin Carter – Maybe a one-page certification statement that can be directly given to the homeowner. Specifically for residential projects.
    - ii. Peggy Sanner – Wants to make sure it is something more than just a checkbox.
    - iii. Andrew Clark – Would like to see what both proposals would look like.
    - iv. Toni Small – Q – How would you get all the signatures for all the lots? Are you asking the operator to collect these notifications each time he sells a house?
      1. JBR – We are asking the operator to certify that have informed all the homeowners of final stabilization.
5. Keith White – Q – Is this for single-family homes or residential projects?
  - a. Brian Newman-Lindsey – Residential and family with no land use versus land use.

- b. Jerry Stonefield – We should use the language of individual lots in residential construction final stabilization can occur by either...
- c. JBR – We are proposing new language.
- d. John Burke – This should be incorporated under A.4. as well to ensure consistency.

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

- 1. Mike Vellines – This certification will have to be updated for AS&S entities if they are allowed to do their own NOTs.

D. 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, 2019

Expiration Date: June 30, 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**

A.

4. Impaired waters and TMDL limitation. Discharges of stormwater from construction activities to surface waters identified as impaired in the 2016 § 305(b)/303(d) Water Quality Assessment Integrated Report or for which a TMDL wasteload allocation has been established and approved prior to the term of this general permit for (i) sediment or a sediment-related parameter (i.e., total suspended solids or turbidity), (ii) nutrients (i.e., nitrogen or phosphorus), or (iii) polychlorinated biphenyls (PCBs) and the construction activity includes demolition of any structure with at least 10,000 square feet of floor space built or renovated before January 1, 1980 are not eligible for coverage under this general permit unless the operator develops, implements, and maintains a SWPPP 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:

- 1. Keith White – Update this PCB language to be consistent with the federal language. If you do not have PCBs then you do not have to do anything. EPA’s CGP requires specific action if you are discharging to PCB impaired waters and are demoing site built prior to 1980.

2. Keith White – Q – Does DEQ even identify PCB sources?
3. Norm Goulet – See p.19-20 of the federal permit.
4. JBR – She will go back and update this. If DEQ is not identifying the sources then she does not anticipate anyone having a SWPPP to address PCBs.
5. Chris Swanson – For projects in impaired waters only, you can document that you don't have PCBs.

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. We need to ensure that it is clear who is eligible to do these inspections: Qualified personnel
  - a. Keith White – Thinks that the federal language says that the inspectors might not have to be qualified personnel.
  - b. Kristin Carter – There's also a requirement to say who the qualified personnel is and how they are qualified.
    - i. Nick – Even if you have to say how they're qualified the standards are easy to meet.
    - ii. JBR – The “qualified personnel” definition is the 870 regulations so it cannot be updated right now.
  - c. JBR – We will ensure that this is consistent with the federal language.
  - d. Jill Sunderland – Federal says that the inspector must be qualified.

(1) Inspections shall be conducted by qualified personnel at a frequency of (i) at least once every four business days; and

1. JBR – Has heard that not many people are opting for the second rainfall option.
  - a. Mike Vellines – Actually a lot of their guys do the 5 days and every rain event.
  - b. Norm Goulet – Federal says once every 7 calendar days and rain events.
    - i. JBR – It is the different between calendar days versus business days.
    - ii. Andrew Clark – The every four day inspections are challenging because you might have to do inspections twice a week.
  - c. JBR – There was a lot of conversation about the CGP inspection frequencies at the last update.
  - d. Norm Goulet / Keith White – The federal update makes it so you have to track rain regardless.
  - e. Chris Swanson – They made it 5 business days for a reason
2. JBR – Q – Are there concerns with leaving both options?
  - a. Nick Allen – Has issue with the federal every 7 calendar days and within 24 hrs of a rain event. Q – You are only meeting the requirement on average?
  - b. Mike Vellines – its not harmful to keep it in.
  - c. JBR – Q – Do we think its protective enough?
    - i. Nick Allen – Realistically once every 4 days is fine. However, if it rains on a Monday and then you go inspect on a Tuesday technically you are not meeting the 24 hr requirement.
    - ii. JBR – Do we want to look at the data that Mike Rolband presented? [data that looks are the two frequencies over the course of a year]

- iii. Jerry Stonefield – If the federal has not updated then let's just not change it.
- d. Jerry Stonefield – If we are going to make any change at all then we should just copy and paste the federal language.
  - i. Jimmy Edmonds – I agree
  - ii. JBR – Let's vote
    - 1. Leave alone – Yes
    - 2. John Burke – Just let the VSMP authority know which frequency you're using on site.
    - 3. JBR – This is required to be indicated in SWPPP documents.

(2) 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 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; and

- 1. Jerry Stonefield – Since we are still in the TMDL section... Q – Is this consistent with the federal?
- 2. Kristin Sadtler – Recalls that this was a question of whether this should be in the TMDL section.
- 3. Kristin Carter – Q - Can we put all the inspections together?
  - a. JBR – I think the reason this was put here is that it is telling you about your coverage options.
  - b. Norm Goulet – It is very disjointed right now.

(2) Representative inspections used by utility line installation, pipeline construction, or other similar linear construction activities as allowed by Part II F 2 c shall include the inspection of 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.

- 1. Peggy Sanner – Seems to imply that there is something else besides what's here.
  - a. Mike Vellines – There is the ESC inspection.
- 2. Jerry Stonefield – Q – Are all these TMDL requirements something that should be identified on the RS?
  - a. JBR – DEQ makes the determination of whether a project is in a TMDL or impaired waters. Operators may not have the resources to determine this.
  - b. Jimmy Edmonds – Loudoun relies on DEQ to check them on this.
  - c. JBR – It is on the coverage letter.
- 3. Jerry Stonefield – Q – How can they incorporate the TMDL requirements in the SWPPP if they do not know?
  - a. JBR – The coverage letter points the operator to the section in the CGP that lays out the inspection requirements.
- 4. John Burke – Q – How does DEQ even determine this? Draw mile radii around the site?
  - a. JBR – The desire is that the SWPPP includes specific requirements as it pertains to TMDL requirements. Usually they are waiting for DEQ to be able to complete those requirements. The more important part is that the operator is aware of their increased inspection requirements.
  - b. Toni Small – Then there is the question of whether it applies only to the outfalls that drain to TMDLs or impaired waters.
  - c. John Burke – Would just be good to have guidance on this. Q – Is it the tributary? A 500 ft buffer?
    - i. JBR – need to clarify whether it is the direct discharge or the downstream discharge. Will do so in fact sheet on this.