TENTATIVE AGENDA
STATE WATER CONTROL BOARD MEETING

FRIDAY, FEBRUARY 23, 2024

IN PERSON ONLY – GALLERY, COMMUNITY COLLEGE WORKFORCE ALLIANCE,
1651 EAST PARHAM ROAD, RICHMOND, VA 23228

Meeting will be Live-Streamed. Go to: www.deq.virginia.gov
Any Updates To Details/Final Arrangements To Be Announced On Virginia Regulatory Town Hall

Convene – 10:00 A.M

Agenda Item	Presenter	Tab
Minutes (November 30, 2023)	Porterfield	A
Final Regulations *General VPDES Permit for Discharges of Stormwater from Construction Activities (9VAC25-880)*	Rochet	B
Other Business Report to the Board Regarding Controversial Permits- Prince Edward County Virginia Water Protection (VWP) No. 21-1912, Sandy River Reservoir	Morris	
Future Meeting date- to be determined Public Forum (time not to exceed 45 minutes)	Porterfield	

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 Melissa S. Porterfield at (804) 698-4238.

PUBLIC COMMENTS AT STATE WATER 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 made by the Department of Environmental Quality (Department). These procedures establish the times for the public to provide appropriate comment to the Board for regulatory action and the Department for case decisions for 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 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 (e.g., issuance and amendment of permits and enforcement orders), the Board adopts public participation procedures in the individual regulations which establish the permit programs. (Note: as of July 1, 2022, the Department takes final action on all case decisions.) 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, usually 45 days.

In light of these established procedures, the Board accepts public comment on regulatory actions 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. Also, public comment will be accepted for certain final exempt actions where there has been no public comment period. Persons are allowed up to 3 minutes to address the Board on the emergency regulation and final exempt actions under consideration.

POOLING MINUTES ON REGULATORY ACTIONS: 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 ON A REGULATORY ACTION will not be accepted at the meeting. The Board expects comments and information on a regulatory action 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 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. 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 or pending regulatory actions. 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. Note, there is no pooling of minutes during the public forum.

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: Melissa S. Porterfield, Policy Analyst, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, Virginia 23218, phone (804) 698-4238, e-mail: Melissa.porterfield@deq.virginia.gov

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Additional Meeting Information:

- Attendees may not erect any signage inside or outside the meeting room or building.

- 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.
- 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 complex, its employees and guests.
- Attendees wishing to record the proceedings are welcome to do so; however, you may not interfere with the business of the meeting, nor impede the view or participation of other meeting attendees and staff.
- No smoking is allowed unless in a designated outside space. This includes tobacco & e-cigarettes.
- No alcohol, fireworks, pyrotechnics, weapons, or any substances/items controlled by law are allowed.
- No firearms are allowed in the State's contracted spaces except for firearms carried by law-enforcement officers or authorized security personnel.
- All violators may be subject to removal from the meeting facility.
- Anyone removed from the facility may not reenter.
- Anyone who fails to comply with removal may be charged with trespass.

TAB B

Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

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Travis A. Voyles
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director
(804) 698-4020

MEMORANDUM

TO: State Water Control Board Members
FROM: Rebeccah Rochet, Deputy Director, Division of Water Permitting
DATE: January 8, 2024
SUBJECT: General VPDES Permit for Discharges of Stormwater from Construction Activities (9VAC25-880) – Final Amendments & Reissuance

At the February 23, 2024 meeting of the State Water Control Board (Board), the Board will consider the approval of the final amendments to the General VPDES Permit for Discharges of Stormwater from Construction Activities (9VAC25-880, the CGP). The current CGP will expire on June 30, 2024, and the regulation establishing this general permit is being amended to reissue it for another five-year term.

This regulatory action is proposed to amend and reissue the existing general permit regulation which authorizes the discharge of stormwater from construction activities equal to or greater than one acre of land disturbance or less than one acre of land disturbance within a larger common plan of development or sale that results in one acre or more of land disturbance. This regulatory action is needed for existing and new construction activities to be covered under this general permit regulation. The revisions to the general permit made through this regulatory action focused on changing citations and references to be consistent with the new Virginia Erosion and Stormwater Management Regulation (9VAC25-875, effective July 1, 2024); improving the clarity and readability of language in the permit; updating provisions to be consistent with other recently reissued VPDES permits; and amending and adding language and new provisions to be consistent with the reissued 2022 EPA Construction General Permit. Additional amendments to the CGP are also being proposed in response to comments received on the proposed regulation.

The staff is bringing these proposed regulation amendments before the Board for their approval as final regulations. The proposed regulation amendments take into consideration the comments made in response to this regulatory action and comments received from the U.S. Environmental Protection Agency.

Comments on the proposed amendments were received during a Public Hearing on the Proposed 2024 General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges of Stormwater from Construction Activities (Construction General Permit) held on September 7, 2023, and a Public Comment period which was opened on August 14, 2023 and originally closed on October 13, 2023, but was extended until December 6, 2023. A summary of the public comments received and the department's responses to those comments are included in the attached Town Hall background document.

Regulatory amendments showing proposed changes to the current regulation, the Agency Town Hall background document, and the Fact Sheet are attached. Changes to the existing regulation include:

- 9VAC25-880-1. Definitions:
    - "Construction dewatering" is a new definition added to provided clarity for a new dewatering discharge section in the CGP.
    - "Construction site"- Added "water area" to be consistent with EPA's 2022 reissued Construction General Permit.
    - "Construction support activity"- Added a new definition to be consistent with EPA's 2022 permit. The definition provides clarity for a previously undefined term that is used throughout the CGP.
    - Revised definition of "final stabilization" to provide clarity on the required minimum percentage of vegetative cover and allowable bare area size to be classified as uniform for the purposes of final stabilization for consistency with EPA's 2022 CGP. Also, removed the word "final" in front of stabilization in subdivisions 2.a, 2.b, and 3 to remove redundancy.
    - "Measurable storm event"- Added language for snow melt to be consistent with EPA's 2022 general permit.
    - "Qualified personnel"- Added a new definition to address EPA's new stormwater team requirements. The definition is taken from 9VAC25-870 and revised for the CGP.

- 9VAC25-880-10: Purpose.
    - Revisions improve the clarity and readability.

- 9VAC25-880-15: Applicability of incorporated by references based on the dates that they became effective.
    - Updated reference to the version of the Code of Federal Regulation incorporated by reference.

- 9VAC25-880-30: Authorization to discharge.
    - *Subsection A.2*- Added requirement to pay all outstanding permit maintenance fees.
    - *Subsection C.4*- Changed when new support activities must be reported in a modified registration statement.
    - *Subsection D*- Revised language relating to calculating total land area of the construction site and estimated area to be disturbed in a registration statement.

- *Subsection F*- Made the language of this section consistent with other VPDES permits.
- *Subsection H*- Changed the timeline for submitting a complete registration statement from 60 days to 90 days prior to expiration of the permit and added requirement to pay all outstanding permit maintenance fees.

- 9VAC25-880-50: Registration statement.
  - *Subsection A.2.a.(1)*- Changed the timeline for submitting a complete registration statement from 60 days to 90 days prior to expiration of the permit.
  - *Subsection B.2*- Added the requirement to include a State Corporation Commission entity identification number to be consistent with other VPDES permits.
  - *Subsection B.4*- Changed the format of a site map that is submitted.
  - *Subsection B.17*- Relocated provisions of this subsection to a more relevant subsection.

- 9VAC25-880-60: Termination of general permit coverage.
  - *Subsection A*- Clarified the termination and reference to the registration statement requirement for a small construction activity of a single-family detached residential structure.
  - *Subsection B.2*- Changed the timeline for the termination of authorization to discharge from 60 days to 90 days after receipt of notice of termination.

- 9VAC25-880-70:
  - Added a statement to clarify that stormwater discharge associated with a small construction activity of a single-family detached residential structure, within or outside a common plan of development or sale, is authorized to discharge under the general permit and shall comply with the requirements contained in the general permit and be subject to all requirements of 9VAC25-875.
  - Updated the effective date of the general permit.

- 9VAC25-880-70: Part I.
  - *Subsection A.2*- Changed when new support activities must be reported in a modified registration statement.
  - *Subsection E*- Changed to be consistent with other VPDES permits.
  - *Subsection F.3*- Changed the timeline for the termination of authorization to discharge from 60 days to 90 days after receipt of notice of termination.

- 9VAC25-880-70: Part II Stormwater Pollution Prevention Plan.
  - *Subsection A.1*- Added a statement to clarify that stormwater discharge associated with a small construction activity of a single-family detached residential structure, within or outside a common plan of development or sale, a Stormwater Pollution Prevention Plan must be developed and implemented prior to the initiation of the construction activity, including any construction support activity.
  - *Subsection A.4*- Updated the effective date of the general permit.

- *Subsection B.1.e*- Clarified requirements and incorporate new defined terms. Language was added from EPA's general permit that requires documentation of the locations where stormwater treatment chemicals are used and stored.
- *Subsection B.2.c*- Added language to clarify when certain requirements should be considered infeasible.
- *Subsection B.4.e*- Added requirements to prohibit disposal of concrete wash water through infiltration or on the ground.
- *Subsection B.8*- Added subsection to incorporate EPA's new requirements for controlling construction dewatering discharges.
- *Subsection D*- Added language to clarify coverage letter posting requirements.
- *Subsection F.3*- Added subsection to incorporate new EPA requirements about stormwater controls that must be repeatedly repaired.
- *Subsection G.2.b.(2)*- Added language from EPA's general permit concerning when an inspection must happen after a measurable storm event.
- *Subsections G.3 and 4*- Added language stating that all stormwater discharge locations and all construction dewatering discharge locations must be inspected.
- *Subsection H*- Added subsection to detail corrective actions that must be taken under the new construction dewatering requirements.

- 9VAC25-880-70. Part III Conditions Applicable to All VPDES Permits.
  - *Subsection I*- Changed to ensure language is consistent with other VPDES permits.
  - *Subsection J*- New language was added to provide clarification in instances where the permittee has requested a planned changed and is awaiting a response from the review authority.
  - *Subsection K*- Revised to add notices of termination to the types of documents requiring signatures.
  - *Subsection M*- Changed the timeline for submitting a complete registration statement from 60 days to 90 days prior to expiration of the permit.

The Office of the Attorney General will be sent the final regulation for certification of statutory authority.

Attachments: General Permit Regulation, Agency Background Document (Town Hall), and Fact Sheet, ORM economic review form

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

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

9VAC25-880-1. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise. For the purposes of this chapter, words and terms ~~used in this chapter shall have the meanings~~ that are defined in the Virginia Erosion and 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~~ the Virginia Erosion and Stormwater Management Regulation (9VAC25-875), shall have those meanings 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:~~

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

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

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

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

"Department" means the Department of Environmental Quality.

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

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

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

3. For construction ~~projects~~ activities on land used for agricultural purposes, [final ~~permanent~~] stabilization may be accomplished by returning the disturbed ~~land~~ area to its preconstruction agricultural use. ~~Areas disturbed~~ Disturbed areas that were not previously used for agricultural activities, such as buffer strips immediately adjacent to surface waters, and areas that are not being returned to their preconstruction agricultural use shall meet the ~~final~~ [~~permanent~~] 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~~ construction 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 ~~2016~~ 2022 § 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 listed in subdivision 1, 2, or 3 of this definition 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 or snow melt from a snow event producing 3.25 inches or more of snow within a 24-hour period.

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

"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~~ activity, which includes large construction activity, small construction activity, or construction support activity, through a point source to surface waters or through a municipal or nonmunicipal separate storm sewer system to surface waters. Stormwater discharges associated with regulated industrial activity that originate from a construction ~~activities~~ site 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~~ in this chapter, that regulation shall be as it exists and has been published in the July 1, ~~2018~~ 2022, update.

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

This general permit is effective on July 1, ~~2019~~ 2024. The general permit will expire on June 30, ~~2024~~ 2029. 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 in accordance with 9VAC25-880-50, unless not required, and receives acceptance of the registration by the ~~board~~ department;

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

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 Stormwater Management Program (VESMP) authority or 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~~ 9VAC25-875-20 and 9VAC25-875-210, respectively, or [~~prepares the~~ an] erosion and sediment control plan in accordance with ~~annual~~ standards and specifications approved by the department; and

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

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

B. The ~~board~~ department 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~~ 9VAC25-875-980 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 construction 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~~ site that is required to have general permit coverage for stormwater 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~~ sites;

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

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

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~~ Stormwater discharges from an off-site construction support ~~activities~~ activity may be authorized under another state or VPDES permit. Where stormwater discharges from an off-site construction support ~~activities~~ activity are not authorized under this general permit, the land area of the off-site construction support activity ~~need~~ shall not be included in determining the total land ~~disturbance acreage of the construction activity seeking general permit coverage~~ area of [~~development~~ the construction site] and estimated area to be disturbed reported in the registration statement.

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 emergency firefighting activities;

2. Fire hydrant flushings managed to avoid an instream impact;

3. Water used to wash vehicles or equipment ~~where~~, provided no soaps, solvents, or detergents ~~have not been~~ are used and the wash water ~~has been~~ is filtered, settled, or similarly treated prior to discharge;

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

5. Potable water ~~source~~, including uncontaminated waterline flushings, managed in a manner to avoid an instream impact;

6. Routine external building wash down ~~where~~, provided no soaps, solvents, or detergents ~~have not been~~ are used, external building surfaces do not contain hazardous substances, and the wash water ~~has been~~ is filtered, settled, or similarly treated prior to discharge;

7. Pavement wash water ~~where~~, provided spills or leaks of toxic or hazardous materials have not occurred ~~(or where~~, unless all spilled or leaked material ~~has been~~ is removed prior to washing~~)~~; ~~where~~ soaps, solvents, or detergents ~~have not been~~ are not used; and ~~where~~ the wash water ~~has been~~ is 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~~, provided flows are not contaminated with process materials such as solvents or contaminated groundwater;

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

12. Landscape ~~irrigations~~ irrigation.

G. ~~Approval for coverage~~ 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. Permit coverage shall expire at the end of its term. However, expiring permit coverages are automatically continued if ~~the owner~~ an operator has submitted a complete registration statement at least ~~60~~ 90 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~~ department and has paid all past due general permit maintenance fees. The permittee is authorized to continue to discharge until such time as the ~~board~~ department 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~~ an operator that was covered under the expiring or expired general permit has violated the conditions of that permit, the ~~board~~ department may choose to do any or all of the following:

a. Initiate enforcement action based upon 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 operator would then be required to cease discharges authorized by the continued general permit coverage or be subject to enforcement action for operating without a ~~state~~ permit;

c. Issue an individual permit with appropriate conditions; or

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

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

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

9VAC25-880-50. 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~~ VESMP 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~~ VESMP authority no later than 30 days after ~~commencing~~ the commencement of 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 a small construction activity involving 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. 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 not required to submit the department portion of the permit fee.

2. Existing construction activities.

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

(1) Submit a complete and accurate registration statement to the ~~VSMP~~ VESMP authority at least ~~60~~ 90 days prior to the expiration date of the existing permit or a later submittal date established by the ~~board~~ department; 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 a small construction activity involving 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, 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. 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 not required to submit the department portion of the permit fee.

3. ~~For stormwater discharges from construction activities where the operator changes, the~~ Transfer of ownership. The new operator shall submit a complete and accurate registration statement or transfer of ownership agreement form and any other documents ~~deemed necessary~~ required by the ~~VSMP~~ VESMP authority to the ~~VSMP~~ VESMP 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 construction site specifications or ~~commencing work on-site~~ the commencement of land disturbance.

4. Late ~~notifications~~ submissions. Operators are not prohibited from submitting registration statements after ~~commencing~~ the commencement of 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~~ VESMP authority, department, ~~board,~~ and 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~~ VESMP authority, department, ~~board,~~ and 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 complete and accurate registration statement to the ~~VSMP~~ VESMP 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 ~~17~~ 18 of this subsection shall be signed by the appropriate person associated with this operator as described in Part III K of 9VAC25-880-70.

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

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

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

~~4.~~ 5. If off-site construction support activities will be used, the name and physical location address, when available, of all off-site construction support activities, including city or county; latitude and longitude in decimal degrees (six digits - ten-thousandths place); and whether or not the off-site construction support activity will be covered under this general permit or a separate VPDES permit;

~~5.~~ 6. If excavated material (i.e., fill) will be transported off the construction site for disposal, the name and physical location address, when available, of all off-site excavated material disposal areas, including city or county; latitude and longitude in decimal degrees (six digits - ten-thousandths place); and the contents of the excavated material;

~~6.~~ 7. Status of the construction activity: federal, state, public, or private;

~~7.~~ 8. Nature of the construction activity (e.g., commercial, industrial, residential, agricultural, oil and gas~~, etc.~~);

~~8.~~ 9. If stormwater management or erosion and sediment control 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~~ a complete and accurate standard and specification entity form shall be submitted with the registration statement;

~~9. If the construction activity was previously authorized to discharge under the general permit effective July 1, 2014, the~~ 10. The date of erosion and sediment control plan approval for the estimated area to be disturbed ~~by the construction activity~~ during this permit term for construction activities that were authorized to discharge under the expiring or expired 2019 general permit;

~~10. If the construction activity was previously authorized to discharge under the general permit effective July 1, 2014, whether~~ 11. If land disturbance has commenced for construction activities that were authorized to discharge under the expiring or expired 2019 general permit;

~~11.~~ 12. Name of the receiving waters and sixth order Hydrologic Unit Code (HUC);

~~12. If the discharge is through a municipal separate storm sewer system (MS4), the~~ 13. The name of the ~~MS4~~ municipal separate storm sewer system (MS4) operator if the construction activity discharges to an MS4;

~~13.~~ 14. Estimated ~~project~~ construction activity start date and completion date;

~~14.~~ 15. Total ~~land~~ area of ~~development~~ the construction site and estimated area to be disturbed by the construction activity during ~~this~~ the 2024 general permit term (to the nearest one-hundredth of an acre);

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

~~16.~~ 17. If nutrient credits ~~are to be~~ will be used to ~~demonstrate compliance~~ comply with the water quality ~~technical~~ design criteria ~~as allowed in 9VAC25-870-65 F~~ requirements (9VAC25-875-590), a letter of availability from an appropriate nutrient bank that nonpoint source nutrient credits are available; ~~17. A stormwater pollution prevention plan (SWPPP) shall be prepared in accordance with the requirements of the General VPDES Permit for Stormwater Discharges from Construction Activities prior to submitting the registration statement. By signing the registration statement, the operator certifies that the SWPPP has been prepared;~~ and

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

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

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, unless a registration statement was not required to be submitted in accordance with 9VAC25-880-50 A 1 c or A 2 b for [a stormwater discharge associated with a small construction activity of a] single-family detached residential [~~structures~~ structure, within or outside a common plan of development or sale] , to the ~~VSMP~~ VESMP authority after one or more of the following conditions have been met:

1. Necessary permanent control measures included in the SWPPP for the construction site are in place and functioning effectively and final stabilization has been achieved on all portions of the construction 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;

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

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

4. For individual lots in residential construction only, 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 shall be submitted no later than 30 days after one of the conditions in subsection A of this section is met.

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

~~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 section unless otherwise notified by the VSMP authority or the department.~~

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 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 of the permanent control measure, including city or county, and latitude and longitude in decimal degrees;

c. The receiving water to which the permanent control measures discharge; and

d. The number of total and impervious acres treated by the permanent control measures (to the nearest 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 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-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.~~ pounds per acre per year).

8. A construction record drawing in a format as specified by the ~~VSMP~~ VESMP authority for ~~permanent~~ long-term stormwater management facilities in accordance with ~~9VAC25-870-55 D~~ 9VAC25-875-535 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, evidence that the signed Stormwater Management Maintenance Agreement has been recorded in an instrument within the local land records;

10. For individual lots in residential construction 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

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."

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

E. Termination by the ~~board~~ department. The ~~board~~ department 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 Virginia Erosion and 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 the ~~VSMP~~ Virginia Erosion and Stormwater Management Regulation, ~~9VAC25-870~~ 9VAC25-875.

9VAC25-880-70. General permit.

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

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

General Permit No.: VAR10

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

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

GENERAL VPDES PERMIT FOR DISCHARGES OF STORMWATER FROM CONSTRUCTION ACTIVITIES

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

In compliance with the provisions of the Clean Water Act, as amended, and pursuant to the Virginia Erosion and 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 in this general permit.

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

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 construction 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~~ site that is required to have general permit coverage for discharges ~~of stormwater from construction activities~~;

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

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 or reported in a modified registration statement once the need for the support activity is known;

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 construction site after construction activities have been completed and the construction site, including any construction 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~~ are covered under an individual permit or required to obtain coverage under an alternative general permit.

4. Impaired waters and 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 ~~2016~~ 2022 § 305(b)/303(d) Water Quality Assessment Integrated Report for Benthic Macroinvertebrates Bioassessments 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), including all surface waters within the Chesapeake Bay Watershed, are

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

b. Polychlorinated biphenyl (PCB) impaired waters. Discharges of stormwater from construction activities that include the demolition of any structure with at least 10,000 square feet of floor space built or renovated before January 1, 1980, to surface waters identified as impaired in the ~~2016~~ 2022 § 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 effective on July 1, [~~2014~~ 2019] , to exceptional waters identified in 9VAC25-260-30 A 3 c are not eligible for coverage under this general permit unless the operator develops, implements, and maintains a SWPPP in accordance with Part II B 7 of this permit and implements an inspection frequency consistent with Part II G 2 a.

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~~ or 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 emergency firefighting activities;

2. Fire hydrant flushings, managed to avoid an instream impact;

3. Waters used to wash vehicles or equipment ~~where~~, provided no soaps, solvents, or detergents ~~have not been~~ are used and the wash water ~~has been~~ is filtered, settled, or similarly treated prior to discharge;

4. Water used to control dust that ~~has been~~ is 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~~ provided no soaps, solvents or detergents ~~have not been~~ are used, external building surfaces do not contain hazardous substances, and the wash water ~~has been~~ is filtered, settled, or similarly treated prior to discharge;

7. Pavement wash waters ~~where~~, provided spills or leaks of toxic or hazardous materials have not occurred ~~(or where~~, unless all spilled or leaked material has been removed prior to washing~~)~~; ~~where~~ soaps, solvents, or detergents ~~have not been~~ are not used; and where the wash water ~~has been~~ is 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~~, provided flows are not contaminated with process materials such as solvents or contaminated groundwater;

11. Uncontaminated excavation dewatering, including dewatering of trenches and excavations that ~~have been~~ are 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, 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~~ Virginia Erosion and Stormwater Management (VESMP) authority after one or more of the following conditions have been met:

a. Necessary permanent control measures included in the SWPPP for the construction site are in place and functioning effectively and final stabilization has been achieved on all portions of the construction 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;

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

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

d. For individual lots in residential construction only, 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 shall be submitted no later than 30 days after one of the ~~above~~ conditions in subdivision 1 of this subsection is met.

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

~~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.~~

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

G. Water quality protection.

1. The operator shall select, install, implement, and maintain control measures as identified in the SWPPP at the construction site that minimize pollutants in the discharge as necessary to ensure that the operator's discharge does not cause or contribute to an excursion above any applicable water quality 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~~ VESMP authority, may take appropriate enforcement action and require the operator to:

a. Modify or implement additional control measures in accordance with Part II 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~~ 9VAC25-875-980 B 3.

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

Part II
STORMWATER POLLUTION PREVENTION PLAN

A. Stormwater pollution ~~prevent~~ prevention 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 construction support activity, covered by this general permit. [For a small construction activity of a single-family detached residential structure, within or outside a common plan of development or sale, a SWPPP shall be developed and implemented prior to the initiation of the construction activity, including any construction support activity covered by this general permit.

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

[~~2.~~3.] 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 construction site under § 311 of the federal Clean Water Act or best

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

[~~3.~~4.] Any operator that was authorized to discharge under the general permit effective July 1, [~~2014~~ 2019] , and that intends to continue coverage under this general permit~~,~~ shall update its stormwater pollution prevention plan to comply with the requirements of this general permit no later than 60 days after the date of coverage under this general permit.

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~~ this general ~~VPDES~~ permit ~~for discharges of stormwater from construction activities~~;

b. Upon receipt, a copy of the notice of coverage under ~~the~~ this 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 map of the construction site ~~plan~~ identifying:

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

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

(3) Locations of major structural and nonstructural control measures, including sediment basins and traps, perimeter dikes and diversions, 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 construction support activities, including (i) areas where equipment and vehicle washing, wheel wash water, and other wash water is to occur; (ii) storage areas for chemicals such as acids, fuels, fertilizers, and other lawn care chemicals; (iii) concrete wash out areas; (iv) vehicle fueling and maintenance areas; (v) sanitary waste facilities, including those temporarily placed on the construction site; ~~and~~ (vi) construction waste storage; and (vii) areas where polymers, flocculants, or other stormwater treatment chemicals will be used or stored; and

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

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

a. An erosion and sediment control plan designed and approved in accordance with the Virginia Erosion and ~~Sediment Control~~ Stormwater Management Regulations ~~(9VAC25-840)~~ (9VAC25-875), an "agreement in lieu of a plan" as defined in ~~9VAC25-840-10 from the VESCP authority~~ 9VAC25-875-20, or an erosion and sediment control plan prepared in accordance with ~~annual~~ department-approved standards and specifications ~~approved by the department~~.

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

c. An approved erosion and sediment control plan, "agreement in lieu of a plan," or erosion and sediment control plan prepared in accordance with department-approved ~~annual~~ standards and specifications~~,~~ shall be implemented to:

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

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

(3) Minimize the amount of soil exposed during the construction activity;

(4) Minimize the disturbance of steep slopes;

(5) Minimize sediment discharges from the construction 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 construction site;

(6) Provide and maintain natural buffers around surface waters, direct stormwater to vegetated areas to increase sediment removal, and maximize stormwater infiltration, unless ~~infeasible~~ infiltration would be inadvisable due to the underlying geology (e.g., karst topography) and groundwater contamination concerns or infeasible due to site conditions;

(7) Minimize soil compaction ~~and, unless infeasible, preserve topsoil~~. Minimizing soil compaction is not required where the intended function of a specific area of the construction site dictates that it be compacted;

(8) Unless infeasible, preserve topsoil. Preserving topsoil is not required where the intended function of a specific area of the construction site dictates that the topsoil be disturbed or removed;

(9) Ensure the initiation of stabilization activities~~, as defined in 9VAC25-880-1,~~ of disturbed areas occurs immediately whenever any clearing, grading, excavating, or other land-disturbing activities have permanently ceased on any portion of construction the site, or temporarily ceased on any portion of the construction site and will not resume for a period exceeding 14 days; and

~~(9)~~ (10) 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 [for the construction activity authorized by this general permit] .

a. Except for those projects identified in Part II B 3 b, a stormwater management plan approved ~~by the VSMP authority as authorized under~~ in accordance with the Virginia Erosion and Stormwater Management ~~Program (VSMP)~~ Regulation ~~(9VAC25-870),~~ (9VAC25-875) or an "agreement in lieu of a ~~stormwater management~~ plan" as defined

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

b. For any operator meeting the conditions of ~~9VAC25-870-47~~ 9VAC25-875-480 B of the ~~VSMP regulation~~ Virginia Erosion and Stormwater Management 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~~ VESMP authority, state, and federal requirements, and any necessary permits must be obtained.

4. Pollution prevention plan [for the construction activity authorized by this general permit] . 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~~ storm drain inlets ~~or conveyance~~, and constructed or natural

site drainage features 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, disposed of through infiltration, or otherwise disposed of on the ground;

(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, waste concrete, and sanitary wastes;

(8) Address any other discharge from the potential pollutant-generating activities not addressed ~~above~~ in this subdivision 4; 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 nutrient and sediment impaired waters. For discharges to surface waters (i) identified as impaired in the ~~2016~~ 2022 § 305(b)/303(d) Water Quality Assessment Integrated Report for Benthic Macroinvertebrates Bioassessments or (ii) with an applicable TMDL wasteload allocation established and approved prior to the term of this general permit for sediment ~~for~~ or a sediment-related parameter (i.e., total suspended solids or turbidity) or nutrients (i.e., nitrogen or phosphorus), including all surface waters within the Chesapeake Bay Watershed, the operator shall:

a. Identify the impaired waters, approved TMDLs, and pollutants of concern in the SWPPP; and

b. Provide ~~clear direction~~ documentation 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 construction 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. 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~~ 2022 § 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 PCB, the operator shall:

a. Identify the impaired waters, approved TMDLs, and pollutant of concern in the SWPPP;

b. Implement the approved erosion and sediment control plan in accordance with Part II B 2;

c. Dispose of waste materials in compliance with applicable state, federal, and local requirements; and

d. Implement a modified inspection schedule 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~~ documentation 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 construction 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.

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

a. Turbidity benchmark option 1:

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

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

(3) Provide documentation in the SWPPP that:

(a) Sample frequency. At least one grab sample shall be collected from each construction dewatering discharge when the first discharge at that location occurs,

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

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

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

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

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

(f) Corrective action. If (i) any turbidity measurement of the construction dewatering discharge exceeds the upstream grab sample of the receiving stream by more than [~~10~~ 50] NTUs/FTUs or (ii) visual monitoring indicates a change in the characterization of effluent discharge, corrective action shall be taken in accordance with Part II H 2 of this general permit; and

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

b. Turbidity benchmark option 2:

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

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

(3) Provide documentation in the SWPPP that:

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

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

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

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

(NTUs) or formazin turbidity unit (FTUs), and conduct a turbidity meter calibration verification prior to each day's use, consistent with manufacturer recommendations;

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

(f) Corrective action. If (i) any turbidity measurement of the construction dewatering discharge exceeds [~~50~~ 150] NTUs/FTUs or (ii) visual monitoring indicates a change in the characterization of effluent discharge, corrective action shall be taken in accordance with Part II H 2 of this general permit; and

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

c. Turbidity benchmark option 3:

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

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

(3) Provide documentation in the SWPPP that:

(a) Sample frequency. At least one grab sample shall be collected from each construction dewatering discharge when the first discharge at that location occurs, daily thereafter until the dewatering discharge stops, and after any installation of new controls or routine maintenance activity of existing controls. Grab samples shall be tested to conform a turbidity measurement of equal to or less than 50 NTUs/FTUs, based on a weekly average, from the construction dewatering discharge;

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

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

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

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

(f) Corrective action. If (i) the weekly average of the turbidity measurements of the construction dewatering discharge exceeds 50 NTUs/FTUs or (ii) visual monitoring indicates a change in the characterization of effluent discharge, corrective action shall be taken in accordance with Part II H 2 of this general permit. The weekly average is the sum of all turbidity samples taken during a monitoring week (starting on Monday and ending on Sunday) divided by the number of samples measures during that week; and

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

d. Request for alternative benchmark threshold:

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

(a) the current turbidity water quality standard that applies to the receiving water; and

(b) information on the natural or background turbidity level to determine the specific standard for the receiving water, including available data that can be used to establish the natural turbidity levels of the receiving water.

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

]

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

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

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

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 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~~ VESMP authority, or department is necessary for the control measure, revisions to the SWPPP shall be completed no later than ~~seven calendar~~ five business days following approval. Implementation of these additional or modified control measures shall be accomplished as described in Part II H.

3. The SWPPP shall clearly identify the 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~~ five business 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 construction 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 were modified;

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 G.

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

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

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~~ VESMP 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 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 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~~ the operator's 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.

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 shall be properly maintained in effective operating condition in accordance with good engineering practices and, where applicable, manufacturer specifications.

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

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

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

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

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

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 ensuring that the qualified personnel conduct the inspection. Qualified personnel may be a person on the operator's staff or a third party hired to conduct such inspections.

2. Inspection schedule.

a. 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 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 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 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.

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

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

c. Where areas have been temporarily stabilized or ~~land-disturbing~~ construction activities will be suspended due to continuous frozen ground conditions and stormwater discharges are unlikely, the inspection frequency described in Part II G 2 a and 2 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.

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 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 at a minimum:

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

~~(2)~~ b. 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)~~ c. Record any l~~and-disturbing~~ construction activities that have occurred outside of the approved erosion and sediment control plan;

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

e. Inspect all construction dewatering discharge locations at the construction site, if applicable. If a construction dewatering discharge is occurring during the inspection, observe and document the visual quality and the characteristics of the discharge, including color; odor; floating, settled, or suspended solids; foam; oil sheen; and other indicators of pollutants;

f. 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)~~ (1) All perimeter erosion and sediment controls, such as silt fence;

~~(b)~~ (2) Soil stockpiles, when applicable, and borrow areas for stabilization or sediment trapping measures;

~~(c)~~ (3) Completed earthen structures, such as dams, dikes, ditches, and diversions for stabilization and effective impoundment or flow control;

~~(d)~~ (4) Cut and fill slopes;

~~(e)~~ (5) Sediment basins and traps, sediment barriers, and other measures installed to control sediment discharge from stormwater;

~~(f)~~ (6) Temporary or permanent channels, flumes, or other slope drain structures installed to convey concentrated runoff down cut and fill slopes;

~~(g)~~ (7) 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)~~ (8) Construction vehicle access routes that intersect or access paved or public roads for minimizing sediment tracking;

~~(5)~~ g. Inspect areas that have reached final grade or that will remain dormant for more than 14 days to ensure:

~~(a)~~ (1) Initiation of stabilization activities have occurred immediately, as defined in 9VAC25-880-1; and

~~(b)~~ (2) Stabilization activities have been completed within seven days of reaching grade or stopping work;

~~(6)~~ h. 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:

~~(a)~~ (1) Concentrated flows of stormwater in conveyances such as rills, rivulets, or channels that have not been filtered, settled, or similarly treated prior to discharge, or evidence thereof;

~~(b)~~ (2) Sediment laden or turbid flows of stormwater that have not been filtered or settled to remove sediments prior to discharge;

~~(c)~~ (3) Sediment deposition in areas that drain to unprotected stormwater inlets or catch basins that discharge to surface waters. Inlets and catch basins with failing sediment controls due to improper installation, lack of maintenance, or inadequate design are considered unprotected;

~~(d)~~ (4) Sediment deposition on any property (including public and private streets) outside of the construction activity covered by this general permit;

~~(e)~~ (5) Required stabilization has not been initiated or completed or is not effective on portions of the construction site;

~~(f)~~ (6) 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)~~ (7) 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)~~ (8) Land disturbance or sediment deposition outside of the approved area to be disturbed;

~~(7)~~ i. Inspect pollutant generating activities identified in the pollution prevention plan for the proper implementation, maintenance, and effectiveness of the procedures and practices;

~~(8)~~ j. Identify and report any pollutant generating activities not identified in the pollution prevention plan; and

~~(9)~~ k. 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, when applicable, the date and rainfall or snowfall amount of the last measurable storm event;

b. Summarized findings of the inspection;

c. The locations, visual quality, and characteristics of all stormwater discharges, when occurring;

d. The locations, visual quality, and characteristics of all construction dewatering discharges, if applicable;

e. The locations of prohibited discharges;

~~d.~~ f. The locations of control measures that require routine maintenance;

~~e.~~ g. The locations of control measures that failed to operate as designed or proved inadequate or inappropriate for a particular location;

~~f.~~ h. The locations where any evidence identified under Part II G 3 ~~a (6)~~ h exists;

~~g~~. i. The locations where any additional control measure is needed;

~~h.~~ j. 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.~~ k. Documentation of any corrective actions required from a previous inspection that have not been implemented;

l. Any incidents of noncompliance. If none, the report shall contain a certification that the construction activity is in compliance with the SWPPP and this general permit;

m. The required certification in accordance with Part III K 4 of this general permit; and

~~j.~~ n. The date and signature of the qualified personnel and the operator or its duly authorized representative in accordance with Part III K 2 of this general permit.

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 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.~~

H. Corrective actions.

1. [~~The~~ Except as required in Part II H 2, the] operator shall implement the corrective actions identified as a result of an inspection as soon as practicable but no later than ~~seven~~ five business days after discovery or a longer period as approved by the ~~VSMP~~ VESMP authority. If approval of a corrective action by a regulatory authority (e.g., ~~VSMP~~ VESMP 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. When [~~using turbidity benchmark option 1,~~ any turbidity measurement of the construction dewatering discharge exceeds the selected benchmark option or visual monitoring indicates a change in the characteristics of effluent discharge, as outlined in Part II B 8 ,] the operator shall [~~implement corrective actions when any construction dewatering discharge turbidity measurement exceeds the upstream grab sample of the receiving stream by 50 NTUs/FTUs or where visual monitoring indicates a change in the characteristics of effluent discharge. The operator shall~~] :

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

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

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

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

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

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

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

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

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

[~~4.~~3.] The operator may be required to remove accumulated sediment deposits located outside of the construction ~~activity~~ site covered by this general permit as soon as practicable in order to minimize environmental impacts.

[~~5.~~4.] The operator shall notify the ~~VSMP~~ VESMP 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 shall comply with the requirements of ~~subsections~~ Part III 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 individuals who performed the sampling or measurements;

c. The dates and times analyses were performed;

d. The 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~~ department.

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~~ that 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~~ that the ~~board~~ department may request to determine whether cause exists for terminating this general permit coverage or to determine compliance with this general permit. The ~~board,~~ department, EPA, or ~~VSMP~~ VESMP 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~~ the operator's 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 Erosion and Stormwater Management Act. The operator shall also furnish to the ~~board,~~ department, EPA, or ~~VSMP~~ VESMP 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~~ that discharges or causes or allows a discharge that may reasonably be expected to enter surface waters~~,~~ shall notify the ~~Department of Environmental Quality~~ department and the VESMP authority 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~~ VESMP authority within five calendar 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~~ VESMP 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 in this general permit, should occur from a ~~facility~~ construction site 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~~ VESMP 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~~ VESMP authority within five calendar days of discovery of the discharge in accordance with Part III I 2. Unusual and extraordinary discharges include 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~~ that may adversely affect ~~surface~~ state waters or may endanger public health.

1. ~~An oral~~ A report to the department and the ~~VSMP~~ VESMP 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~~ subsection:

   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:~~ 4. The immediate (within 24 hours) reports required in Part III G, H, and I ~~shall~~ may be made to the department and the ~~VSMP~~ VESMP authority. Reports may be made by telephone, or email, or online at [~~https://www.deq.virginia.gov/get-involved/pollution-response~~ https://www.deq.virginia.gov/our-programs/pollution-response] . 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.~~ 5. 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~~ VESMP 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~~ VESMP 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~~ 9VAC25-875-990; or

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~~ VESMP authority of any planned changes in the permitted facility or activity~~, which~~ that may result in noncompliance with ~~state~~ permit requirements.

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

K. Signatory requirements.

1. Registration statement and notice of termination. All registration statements and notices of termination 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 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 shall be provided to the department and ~~VSMP~~ VESMP 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~~ VESMP authority as the administering entity for the ~~board~~ 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 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 with this general permit constitutes a violation of the Virginia Erosion and 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 Erosion and 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 of permit coverage; 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 ~~60~~ 90 days before the expiration date of the existing general permit, unless permission for a later date has been granted by the ~~board~~ department. The ~~board~~ department 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~~ neither conveys any property rights in either real or personal property or any exclusive privileges~~,~~ nor ~~does it authorize~~ authorizes 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~~" (~~ under Part

III U~~)~~ and ~~"~~upset~~"~~ ~~(~~ under 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~~ 9VAC25-875-850, 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 U 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~~ 9VAC25-875-850, 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~~ 3 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.~~ 3. 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 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.~~ 4. 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~~ VESMP 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 shall be kept under the conditions of this general permit;

2. Have access to and copy, at reasonable times, any records that 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 Erosion and 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~~ Permit actions. ~~State permit~~ 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~~ permit coverage.

1. ~~State permits~~ 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 Erosion and 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 construction 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.

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Exempt Action: Final Regulation
Agency Background Document

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

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

Brief Summary

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

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

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

Mandate and Impetus

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

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

Acronyms and Definitions

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

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

Statement of Final Agency Action

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

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

Legal Basis

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

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

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

Purpose

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

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

Substance

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

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

Issues

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

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

Requirements More Restrictive than Federal

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

There are no requirements that exceed applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

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

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

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

Public Comment

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

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

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

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

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

8	Patrick J. Fanning, CBF	**Additional Provisions – Sites with a History of Major Storm Events:** DEQ should add language to the final CGP from EPA's 2022 CGP regarding sites with a history of major storm events. EPA's 2022 CGP provides that if a site "is exposed to or has previously experienced major storm, such as hurricanes, storm surge, extreme/heavy precipitation, and flood events," that the site's stormwater controls should include "consideration of and contingencies for whether implementing structural improvements, enhanced/resilient stormwater controls, and other mitigation measures may help minimize impacts from stormwater discharges from such major storm events."	Please see the response to Comment 7.
9	Patrick J. Fanning, CBF	**Additional Provisions – "wildlife-Friendly":** DEQ should include a provision promoting the use of "wildlife-friendly" erosion control products in stabilization measures. EPA recommends the use of natural fiber, loose weave, and non-welded movable jointed netting products in vegetative stabilization projects to minimize the opportunities for bird species and reptiles to get caught.	Please see the response to Comment 7.
10	David Sligh, Wild Virginia (w/Betsy Nicholas, Potomac Riverkeeper Network and Robin Broder, Waterkeepers Chesapeake)	**Oppose approval of GP in its present form:** Wild Virginia, Waterkeepers Chesapeake, and Potomac Riverkeeper Network oppose approval of the permit in its present form because available evidence does not show that its conditions will ensure compliance with Virginia's water quality standards (WQS)… We now ask that the State Water Control Board (Board) deny approval of the amended regulation and require that DEQ prepare a new draft permit that satisfies the requirements of the Clean Water Act (CWA) and the State Water Control Law… The State Water Control Board must insist that this general permit, which authorizes thousands of discharges each year and affects every community in the state, be based on facts and not vague "expectations." We urge you to reject this draft and we will look forward to working with DEQ and the Board to produce a permit that truly protects Virginians	The general permit is consistent with the requirements for protection of water quality contained in EPA's 2022 construction general permit effective February 17, 2022. EPA established effluent limitation guidelines (ELGs) and new source performance standards (NSPS) to control the discharge of pollutants from construction activities (see 40 CFR Part 450, referred to as the "Construction and Development Rule" or "C&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. The general permit requires construction activity operators to develop an erosion and sediment control plan consistent with the requirements of the Virginia Erosion and Stormwater Management Regulation. The permit also incorporates the narrative technology-based effluent limitations contained in 40 CFR Part 450. In addition, the general permit requires operators to select, install, implement, and maintain control measures at the construction site that minimize (i.e., reduce or eliminate) pollutants in the discharge as necessary to ensure that the operator's discharge does not cause or contribute to an excursion above any applicable water quality standard. Also, 9VAC25-875-1030.I of the Virginia Erosion and Stormwater Management Regulation allows for the use of best management practices to control or abate the discharge of pollutants from stormwater discharges and when numeric effluent limitations are infeasible. The general permit establishes the requirements necessary to protect water quality standards. No changes are being made to

			the regulation in response to this comment.
11	David Sligh, Wild Virginia (w/Betsy Nicholas, Potomac Riverkeeper Network and Robin Broder, Waterkeepers Chesapeake)	**No reasonable potential analysis conducted:** DEQ has not conducted the required reasonable potential analysis to determine whether activities covered under the permit are likely to result in WQS violations but has relied on assumptions that are unsupported by evidence or analysis.	Please see the response to Comment 10.
12	David Sligh, Wild Virginia (w/Betsy Nicholas, Potomac Riverkeeper Network and Robin Broder, Waterkeepers Chesapeake)	**Discharge of pollutants:** The scientific literature demonstrates that the levels of pollutants discharged from construction sites, even when technology-based limitations in the permit are met, will be harmful to some waterbodies and violate WQS.	Please see the response to Comment 10.
13	David Sligh, Wild Virginia (w/Betsy Nicholas, Potomac Riverkeeper Network and Robin Broder, Waterkeepers Chesapeake)	**Sampling requirements:** The permit does not require necessary sampling of discharges or in-stream conditions around the discharges, aside from those applied to dewatering operations	Please see the response to Comment 10.
14	David Sligh, Wild Virginia (w/Betsy Nicholas, Potomac Riverkeeper Network and Robin Broder, Waterkeepers Chesapeake)	**Compliance with WQS:** DEQ has not enforced the condition in the current permit which makes compliance with WQS a requirement of the permit; that condition should be revised to allow for citizen suit enforcement	The Virginia Erosion and Sediment Control Law and the Stormwater Management Act, and associated regulations, establish the requirements for compliance and enforcement of the programs. These requirements are being carried forward in the Virginia Erosion and Stormwater Management Act and Virginia Erosion and Stormwater Management Regulation, 9VAC25-875, both of which become effective July 1, 2024.
15	David Sligh, Wild Virginia (w/Betsy Nicholas, Potomac Riverkeeper Network and	**Pollution from construction sites:** We believe it is necessary to acknowledge that the requirements in place to control erosion and sediment discharges from construction sites have not been adequate to this point to prevent	Thank you for your comment, however, it is outside of the scope of this regulatory action. The Virginia Erosion and Sediment Control Law and the Stormwater Management Act,

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

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

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

20	Thirty (30) Individuals - Organizations (Barabara Walsh – Rockbridge Conservation) + Robert G. Burnley; Tom Blackburn (Audubon Society of Virginia); Richard Averitt (Rockfish Valley Investments, LLC); Ann Rogers (Blue Ridge Environmental Defense League); Cynthia Munley (Preserve Salem/Mothers Out Front Roanoke); Dan Crawford (Roanoke Group, Sierra Club); Jeeva Abbate (Yogaville Environmental Solutions); Donna Pitt (Preserve Giles County); Jeff Kelble (Ashby Gap Adventures); Brent Hunsinger (Friends of the Rappahannock); Chad Oba (Friends of Buckingham); B. Law (Preserve Franklin); Mary Eiserman (Friends of Nelson); Russell Chisholm (Protect Our Water, Heritage, Rights); Elizabeth M. Dudley (Cowpasture River Preservation	**Support and Incorporate By-Reference Comments Submitted on October 13, 2023, by David Sligh, Wild Virginia (w/Betsy Nicholas, Potomac Riverkeeper Network and Robin Broder, Waterkeepers Chesapeake):** Oppose approval of the permit in its present form because available evidence does not show that its conditions will ensure compliance with Virginia's water quality standards (WQS). While we support some aspects of the proposed regulation and general permit, as explained below, we object to its issuance as drafted, based on the following primary concerns. • DEQ has not conducted the required reasonable potential analysis to determine whether activities covered under the permit are likely to result in WQS violations but has relied on assumptions that are unsupported by evidence or analysis. • The scientific literature demonstrates that the levels of pollutants discharged from construction sites, even when technology-based limitations in the permit are met, will be harmful to some waterbodies and violate WQS. • The permit does not require necessary sampling of discharges or in-stream conditions around the discharges, aside from those applied to dewatering operations. • DEQ has not enforced the condition in the current permit which makes compliance with WQS a requirement of the permit; that condition should be revised to allow for citizen suit enforcement.	Please see the response to Comment 10.

	Association); Anne Little (Tree Fredericksburg); Julie Bolthouse (Piedmont Environmental Council); Lori Keenan & Ted Lewis (Goose Creek Association); Sandy Ma (Center for Progressive Reform); Richard Lambert (Highlanders for Responsible Development); Christopher Leyen (Virginia League of Conservation Voters); Philip Latasa (Friends of Accotink Creek); Lynda Majors (Preserve Montgomery County, VA); Roberta Bondurant (Preserve Bent Mountain); Sharon Fisher (The Clinch Coalition); Lee Anne Williams (Green New Deal Virginia);Victoria Higgins (Chesapeake Climate Action Network); and Lisa Wittenborn (Rivanna Conservation Alliance)		

21	David Sligh – Wild Virginia	**Opposition to Draft Permit:** We renew our opposition to the draft permit. We urge DEQ to perform the necessary analyses and prepare a revised draft permit designed to uphold water quality standards (WQS) and to open a new public comment period on that draft. If DEQ proposes issuance of the current draft permit to the State Water Control Board (Board) we urge the Board to deny issuance of the permit.	Please see the response to Comment 10.
22	David Sligh – Wild Virginia	**Harmful Temperature Impacts Not Addressed:** Neither the draft permit nor supporting information referenced by DEQ addresses likely harmful temperature impacts on streams and the scientific literature indicates that such impacts are likely to occur, due to permitted activities, and result in WQS violations. It is very important that the WQS addressing temperature be strictly enforced, especially for those cold-water resources that are so highly valued and so sensitive to pollution impacts. DEQ's failure to address the issue in any way is inexcusable. Elevated stream temperatures can have a variety of detrimental effects on aquatic systems and species. Changes to the character of land surfaces and vegetation that occur during construction projects can raise runoff water temperatures substantially. Elevated temperature of stormwater runoff is of special concern in sites under development. Both fully developed and developing sites may have a significantly greater proportion of impervious surfaces than before construction began. In both cases vegetation will have been removed and surfaces will be heated. And in both cases these changes may deliver the stormwater to the stream more quickly and with greater intensity. All of these characteristics must be considered in assessing possible temperature impacts on runoff discharges and receiving streams. In addition to alterations of land use caused during development, engineering Best Management Practices (BMPs) put in place to combat runoff pollutants in both types of situations have been found to increase runoff temperatures. Studies have shown that detention basins are not only unsuccessful at mitigating thermal	Please see the response to Comment 10.

		pollution, but can even further increase runoff temperatures. Another factor that is generally present in both developing and already developed areas producing stormwater discharges is an increase in turbidity over background levels. This is pertinent to concerns about temperature because substances that produce turbidity also can absorb heat and raise the temperature in the water managed in BMPs and then released to the streams. The effects of discharges from these construction sites also cannot be examined in isolation from other factors that will determine waterbody conditions. Temperature increases due to climate change are placing additional stressors on these sensitive ecosystems, making it even more important to regulate thermal pollution from human stormwater runoff. It is imperative that thermal pollution from stormwater runoff is monitored and addressed, especially in the cases where the receiving waters contain sensitive salmonid species. Without measures in place to protect cold water ecosystems from thermal pollution, the health of Virginia's aquatic environments is threatened. Strategies to reduce thermal pollution from stormwater runoff have been identified and should be implemented. Acute attention should be paid to the thermal state, size, and impairment levels of the receiving body as part of the permitting process. The negative effects of temperature will be more detrimental in small, intermittent streams and cold-water streams. There is a need for more careful implementation of individual permitting in sensitive or impaired waters due to the threat of temperature pollution to the sensitive stream ecosystem.	

23	Alice Frei Rivanna Conservation Alliance (RCA)	**Reject the Renewal Request:** I ask you to reject the renewal request for permit General VPDES Permit for Discharges of Stormwater from Construction Activities (9VAC25-880). Proper studies have not been done to meet the burden of proof that this permit protects Virginia waterways. Data shows that our waterways are becoming more and more polluted. This permit is not legal since data has not been analyzed and the permits assumption that "all is well" is not valid. Fine sediment runoff is one of the main causes of stream impairment. Sediment (including fertilizers and litter) can enter the water through agricultural use, urban runoff and construction sites. Fine sediment washes downstream covering water, rocks, and stream bottoms. This fine sediment clogs the breathing apparatuses of organisms in the stream and effectively "kills" stream life. In 2015, there were 23 Rivanna Watershed Streams considered by DEQ to be impaired. In 2022, there were 36 Rivanna Watershed streams considered by DEQ to be impaired. This is an increase of impairment of almost 40%. Where is this sediment coming from? Predominately agriculture and construction sites. Poor farming practices are definitely a source of sediment. However, in Virginia, farmland use has markedly decreased over the past 20 years, while construction has markedly increased. Since other sources of sediment have not changed or have decreased, one must consider the source is, to some degree, construction site runoff. The situation now is failure based on data. Please reject this permit.	Please see the response to Comment 10.
24	Andrew Clark, Home Builders Association of Virginia (HBAV)	**Commend the Department:** We commend the Department for actively engaging a broad group of stakeholders in the process and for the time staff has dedicated to incorporating several amendments, improvements, and clarifications sought by the stakeholders over the course of the TAC's four meetings.	Comment noted.

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

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

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

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

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

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

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

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

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

		to the current requirement of sixty (60) days prior to the permit's expiration. Rather than include a timeframe, we request that the following sections of the draft CGP be modified to read: i) **9VAC25-880-30.H.1:** *"Permit coverage shall expire at the end of its term. However, expiring permit coverages are automatically continued if an operator has submitted a complete registration statement ~~at least 90 days~~ prior to the expiration date of the permit, or a later submittal date established by the department and has paid all past due general permit maintenance fees…"* ii) **9VAC25-880-50.2.a.(1):** *"Submit a complete and accurate registration statement to the VESMP authority ~~at least 90 days~~ prior to the expiration date of the existing permit or a later submittal date established by the department;"* iii) **Part III.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 days~~ before the expiration date of the existing general permit, unless permission for a later date has been granted by the department. The department shall not grant permission for registration statements to be submitted later than the expiration date of the existing general permit."*	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 are being made to the regulation in response to this comment.
51	Jared A. Webb – Appalachian Power (APCO)	**9VAC25-880-60:** We are concerned about the change in text relative to a Notice of Termination. Specifically, the change in text of "submittal" to "receipt" and the change from 60 days to 90 days. We look forward to DEQ creating an online system for submittal and tracking, but at this time when VDEQ is the VSMP Authority we rely on USPS to deliver a submittal package and are only documenting tracking/signatures of DEQ receipt from that delivery. Otherwise, we may not be notified that the full package was received or reviewed to determine completeness. APCO would recommend DEQ look into a better policy or procedure for submittal of required documents online or tracking of completeness review, if only for linear project owners. We also would like to hear more from DEQ about why 60 days	While the department understands the concerns regarding timely notification from the agency on termination packages, there are many instances where an operator indicates they submitted a package, but it was never received by the department as it was sent to an incorrect address or another regulatory agency. The notice of termination paperwork cannot be reviewed until it is received. In addition, the notice of termination paperwork often includes the review and recordation of easements, as well as the review of as-builts, which can include up to and exceed 100 stormwater facilities. The

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

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

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

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

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

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

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

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

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

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

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

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

		the Preamble to its Proposed and Final 2022 Reissuance of the CGP that adopting water quality standard requirements like the turbidity benchmark is discretionary, not mandatory. We request these numeric-based requirements be replaced with non-numeric management practices and qualitative evaluation methods such as those provided in Section 2.4 of the 2022 EPA CGP.	
88	Kristin Carter, University of Virginia	**If numeric-based requirements must be included in the 2024 Virginia CGP:** Please consider the following revisions or considerations in their implementation: • Recommend DEQ provide training sessions for contractors and authority/S&S inspectors on how to sample, document and enforce the provisions of the turbidity monitoring requirements. • Exempt sites with an "agreement in lieu of a plan" and small construction activity from the turbidity monitoring requirements. • The proposed CGP specifies that grab samples of construction dewatering water be compared to the turbidity benchmark levels. Recommend following EPA's approach in their 2022 CGP of corrective actions being driven by the weekly average value or a single grab sample of 355 NTUs or higher. • Sample location – A silt bag is frequently used to control construction dewatering discharges. The water seeps out of the bag in a diffuse manner making collection of a grab sample challenging. Has DEQ successfully collected such samples without contaminating the sample container with soil from the underlying ground surface? • Sample location – Both turbidity benchmark options indicate that samples of the construction dewatering water should be collected prior to discharge to a stormwater conveyance system or surface water. Is sampling not required if the water is directed to an on-site sediment trap or basin, or would sampling be required at the trap or basin outlet only if it is discharging during construction dewatering activities? • Visual monitoring – Does someone need to watch the dewatering activity	The general permit establishes the requirements, as well as provides consistency with the requirements contained in EPA's 2022 construction general permit, for protection of water quality. The benchmark limits for Options 1 and 2 have been revised for consistency with other permits. In addition, a third option consistent with EPA's 2022 weekly turbidity benchmark has been added to provide additional flexibility. Finally, the ability for the permit to request an alternative benchmark threshold has also been added to the permit language. For clarity, the benchmark threshold for turbidity is not an effluent limit. As such, an exceedance of the benchmark threshold does not itself constitute a permit violation. Rather, the benchmark threshold acts as a warning sign to the operator that changes may be needed in the dewatering controls to improve pollutant removal and protect water quality. In addition, if dewatering activities do not reach surface water (e.g., are allowed to infiltrate through a vegetated area) then no turbidity monitoring is required due to there not being a discharge. The options have been broken out in detail in Part II.B.8 to prevent confusion and provide

		constantly or is this a periodic check for changes in the effluent discharge? • There are several identical requirements that apply to both turbidity benchmark options. I recommend pulling out the common requirements and state them first (and only once), rather than repeating them. For example, Part II.B.8.a.(1) and (2) are the same as Part II.B.8.b.(1) and (2). • Turbidity benchmark option 2 - Recommend omitting the last sentence with the corrective action criteria from the sample frequency description (Part II.B.8.b(3)(a)), since it is already and more appropriately stated in the corrective action description (Part II.B.8.b(3)(f)).	clarity on what is required for each option. Parts II.H.2-3 were revised to remove redundancy in the required corrective actions.
89	Virginia Municipal Stormwater Association (VAMSA)	**SWPPP Requirements:** VAMSA continues to be concerned about new stormwater pollution prevention plan (SWPPP) requirements for construction dewatering discharges to sediment impaired or exceptional waters. We are concerned that the Proposed CGP includes an unattainable turbidity standard and that exceedances of the standard may not have anything to do with construction site discharges. As DEQ knows, instream turbidity levels fluctuate greatly for many reasons unrelated to stormwater discharges, including, for example, resuspension from rainstorms, aquatic species moving sediments around, and runoff from snowmelt. Local governments will be called upon to train our inspectors to recognize issues with sampling and dewatering. Once trained, the inspectors will be asked to determine whether a construction site has appropriately monitored for turbidity and taken necessary corrective action. This will not only happen more frequently, because the turbidity benchmarks are so low, but it will result in more in-field conversations with the regulated community about the cause for the exceedance. Frankly, enforcement in the field seems very difficult if not infeasible. We oppose establishing a program that will create an almost impossible task on the front end and back end.	The general permit establishes the requirements, as well as provides consistency with the requirements contained in EPA's 2022 construction general permit, for protection of water quality. The benchmark limits for Options 1 and 2 have been revised for consistency with other permits. In addition, a third option consistent with EPA's 2022 weekly turbidity benchmark has been added to provide additional flexibility. Finally, the ability for an operator to request an alternative benchmark threshold has also been added to the permit language. Please note the operator is required to monitor construction dewatering and document corrective actions. The overall compliance and enforcement actions by the VESMP authority do not change with the new permit language. The VESMP should already be reviewing the SWPPP for the necessary inspection and correction action reports.

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

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

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

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

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

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

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

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

		water quality protection objectives, but strongly urge the Department to reconsider its decision to include the new requirements for construction dewatering discharges to sediment impaired or exceptional waters (9VAC25-880-70, Part II B 8). For the reasons cited below, the Home Builders Association of Virginia respectfully requests the requirement be removed from the proposed permit, in its entirety, prior to being considered by the State Water Control Board: i) **Lack of consensus among stakeholders** (While the TAC devoted a substantial amount of time to discussing the turbidity standard, the significant impact of such a regulation on a broad array of public and private entities warrants a more rigorous review prior to moving forward.); ii) **Stringency of proposed benchmarking requirement** (The Home Builders Association of Virginia concurs with the assessment of the Virginia Municipal Stormwater Association and other stakeholders that, given the low thresholds of both proposed benchmarking options, public and private construction projects would face constant disruptions to construction activity due to exceedances stemming from conditions unrelated to the construction activity or outside the permittee's control. Residential land development projects are particularly sensitive to regulatory delays of this nature and frequency due to the impact such delays can have on final lot prices and ultimately, the cost to the homeowner.)**;** iii) **Adoption of numeric thresholds in the CGP is unnecessary** (The Department has not provided the regulated community with a rational for creating a turbidity benchmark of 50 NTUs in the proposed Construction General Permit, particularly given that the Commonwealth's exiting surface water quality standards (9VAC25-260) only contain a narrative standard for turbidity.); iv.) **No requirement to adopt numeric turbidity benchmarks** (The Home Builders Association of Virginia believes that the Commonwealth has greater flexibility to establish requirements more appropriate to our	has been added to provide additional flexibility. Finally, the ability for the permit to request an alternative benchmark threshold has also been added to the permit language. For clarity, the benchmark threshold for turbidity is not an effluent limit. As such, an exceedance of the benchmark threshold does not itself constitute a permit violation. Rather, the benchmark threshold acts as a warning sign to the operator that changes may be needed in the dewatering controls to improve pollutant removal and protect water quality. In addition, if dewatering activities do not reach surface water (e.g., are allowed to infiltrate through a vegetated area) then no turbidity monitoring is required due to there not being a discharge. The language requires the operator to test a minimum of one time or two times if a benchmark is exceeded. An ongoing exceedance of a benchmark would not constitute a permit violation, provided the operator verified their controls were in place, ensured controls were being maintained, and documented corrective actions. Failure to verify controls or perform routine maintenance would constitute a permit violation. The general permit establishes the requirements, as well as provides consistency with the requirements contained in EPA's 2022 construction general permit, for protection of water quality.

		state, and therefore, is not required to adopt or replicate the EPA's numeric turbidity benchmark provision.).	
105	Andrew Clark - HBAV	**Alternatives to SWPPP Requirement for Turbidity Benchmark Monitoring:** At the request of staff, we have also included two more pragmatic, alternative approaches to address turbidity in dewatering discharges. We believe these alternatives would be a vast improvement over the current proposal and less burdensome to the housing industry, and ultimately homebuyers and renters. However, the inclusion of these alternatives in our formal comments should not be viewed as the industry's endorsement or support: i) Several members of the TAC suggested that the Department evaluate the adoption of best management practices (BMPs) non-numeric requirements that address potential turbidity during dewatering discharges, rather than using adopting stringent numeric construction dewatering requirements; ii) Maryland, which shares many of Virginia's water quality goals and is also located in the Chesapeake Bay watershed, has recently implemented its 2023 Construction General Permit which includes a turbidity benchmark monitoring requirement with a turbidity threshold of a daily maximum of 150 NTUs ("The benchmark threshold for turbidity for this permit is a daily maximum of 150 NTUs (referred to elsewhere in this permit as the "standard 150 NTU benchmark").	Please see the response to Comment 104.
106	Kristin Carter, University of Virginia	**9VAC25-880-70 Part II B 10, Part II C 5, Part II G 4 m:** - The proposed permit has added certification requirements in addition to authorized signatures to all SWPPP amendments, modification and updates and routine inspection reports. The certification requirement seems excessive given the number of things that must be updated in the SWPPP. In inspecting SWPPPs, frequently the authorized representative signs their name besides the updated information (e.g., identification of contractors, dates of major grading activities). Adding a certification statement beside every minor update isn't feasible and will make maintaining the SWPPP challenging.	This requirement was added as there are several instances where changes are made to the SWPPP or inspections have resulted in compliance issues which were identified or completed by a third-party consultant. As it is the operator's responsibility to comply with the permit, they are ultimately responsible for all SWPPP changes and overall compliance. No changes are being made to the regulation in response to this comment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Details of Changes Made Since the Previous Stage

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

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

"Final Stabilization"		activities at the construction site have been completed and a permanent vegetative cover has been established on denuded areas not otherwise permanently stabilized. Permanent vegetation shall not be considered established until a ground cover is achieved that is uniform (e.g., evenly distributed), mature enough to survive, and will inhibit erosion. 2. For individual lots in residential construction, final stabilization can occur by either: a. The homebuilder completing permanent 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 providing written notification to the homeowner of the need for, and benefits of, permanent stabilization as	at the construction site have been completed and a permanent vegetative cover has been established on denuded areas not otherwise permanently stabilized. Permanent vegetation shall not be considered established until a ground cover is achieved that is uniform (e.g., evenly distributed) to provide 75 percent or more vegetative cover with no significant bare areas, 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 ~~permanent~~ 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 providing written notification to the homeowner of the need for, and	percentage of vegetative cover and allowable bare area size to be classified as uniform for the purposes of final stabilization. The language is based on the definition for final stabilization in EPA's 2022 CGP, as well as stakeholder input in the final stabilization specification with the Virginia Stormwater Management Handbook. This change was made in response to EPA comments. Also, removed the word "final" in front of stabilization in subdivisions 2.a, 2.b, and 3 to remove redundancy. No significant impact is expected due to this revision.

		specified in subdivision 1 of this definition. The homebuilder shall maintain a copy of the written notification and a signed statement certifying that the information was provided to the homeowner in accordance with the stormwater pollution prevention plan recordkeeping requirements as specified in Part II G 6 of 9VAC25-880-70. 3. For construction activities on land used for agricultural purposes, permanent stabilization may be accomplished by returning the disturbed land area to its preconstruction agricultural use. Disturbed areas that were not previously used for agricultural activities, such as buffer strips immediately adjacent to surface waters, and areas that are not being returned to their preconstruction agricultural use shall meet the permanent stabilization criteria specified in subdivision 1 or 2 of this definition.	benefits of, ~~permanent~~ stabilization as specified in subdivision 1 of this definition. The homebuilder shall maintain a copy of the written notification and a signed statement certifying that the information was provided to the homeowner in accordance with the stormwater pollution prevention plan recordkeeping requirements as specified in Part II G 6 of 9VAC25-880-70. 3. For construction activities on land used for agricultural purposes, ~~final~~final ~~permanent~~ stabilization may be accomplished by returning the disturbed land area to its preconstruction agricultural use. Disturbed areas that were not previously used for agricultural activities, such as buffer strips immediately adjacent to surface waters, and areas that are not being returned to their preconstruction agricultural use shall meet the ~~permanent~~ stabilization criteria specified in	

			subdivision 1 or 2 of this definition.	
9VAC25- 880-1. Definitions “Qualified Personnel”		"Qualified personnel" means a person knowledgeable in the principles and practices of erosion and sediment and stormwater management controls who possesses the skills to assess conditions at the construction site for the operator that could impact stormwater quality and quantity and to assess the effectiveness of any sediment and erosion control measures or stormwater management facilities selected to control the quality and quantity of stormwater discharges from the construction activity. On or after July 1, 2025, "qualified personnel" shall hold an unexpired certificate of competence for Project Inspector for Erosion and Sediment Control and an unexpired certificate of competence for Project Inspector for Stormwater Management, both issued by the department, a Construction General Permit	"Qualified personnel" means a person knowledgeable in the principles and practices of erosion and sediment and stormwater management controls who possesses the skills to assess conditions at the construction site for the operator that could impact stormwater quality and quantity and to assess the effectiveness of any sediment and erosion control measures or stormwater management facilities selected to control the quality and quantity of stormwater discharges from the construction activity. On or after July 1, 2025, "qualified personnel" shall hold an unexpired certificate of competence for Project Inspector for Erosion and Sediment Control and an unexpired certificate of competence for Project Inspector for Stormwater Management, both issued by the department, a Construction General Permit	Added clarification that the Construction General Permit Qualified Personnel Certification must be issued by the department or the Virginia Department of Transportation. This change was made in response from comments received during the public comment period. No significant impact is expected due to this revision.

		Qualified Personnel Certificate, or an equivalent certification provided by EPA (currently titled Construction Inspection Training Course).	Qualified Personnel Certificate issued by the department or the Virginia Department of Transportation, or an equivalent certification provided by EPA (currently titled Construction Inspection Training Course).	
9VAC25-880-30. Authorization to discharge. A.4.a		a. An erosion and sediment control plan from the appropriate Virginia Erosion and Stormwater Management Program (VESMP) authority or Virginia Erosion and Sediment Control Program (VESCP) authority, unless the operator receives from the VESCP authority an "agreement in lieu of a plan" as defined in 9VAC25-875-20 and 9VAC25-875-210, respectively, or prepares the erosion and sediment control plan in accordance with standards and specifications approved by the department; and	a. An erosion and sediment control plan from the appropriate Virginia Erosion and Stormwater Management Program (VESMP) authority or Virginia Erosion and Sediment Control Program (VESCP) authority, unless the operator receives from the VESCP authority an "agreement in lieu of a plan" as defined in 9VAC25-875-20 and 9VAC25-875-210, respectively, or ~~prepares the~~an erosion and sediment control plan in accordance with standards and specifications approved by the department; and	Revised to provide clarity and improve readability. This change was made in response to EPA comments. No significant impact is expected due to this revision.
9VAC25-880-30. Authorization to discharge. A.4.b		b. Except as specified in 9VAC25-880-70 Part II B 3 b, a stormwater management plan from the appropriate	b. Except as specified in 9VAC25-880-70 Part II B 3 b, a stormwater management plan from the appropriate	Revised to provide clarity and improve readability. This change was made in response to EPA comments.

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

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

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

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

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

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

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

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

			from each construction dewatering discharge when the first discharge at that location occurs, daily thereafter until the dewatering discharge stops, and after any installation of new controls or routine maintenance activity of existing controls. Grab samples shall be tested to confirm a turbidity measurement of equal to or less than 50 NTUs/FTUs, based on a weekly average, from the construction dewatering discharge; (b) Sample timing. Grab samples of the construction dewatering discharge shall be collected during the first 15 minutes of the construction dewatering discharge and daily thereafter until the dewatering discharge stops; (c) Sample location. Grab samples shall be collected after the construction dewatering water has been filtered, settled, or similarly treated and prior to its discharge into a stormwater conveyance	

			system or surface water; (d) Test methods. Grab samples taken as required by this subdivision 8 shall be measured using a turbidity meter that reports results in nephelometric turbidity units (NTUs) or formazin turbidity unit (FTUs), and conduct a turbidity meter calibration verification prior to each day's use, consistent with manufacturer recommendations; (e) Visual monitoring. All dewatering discharges shall be visually monitored for changes in the characterization of effluent discharge; (f) Corrective action. If (i) the weekly average of the turbidity measurements of the construction dewatering discharge exceeds 50 NTUs/FTUs or (ii) visual monitoring indicates a change in the characterization of effluent discharge, corrective action shall be taken in accordance with Part II H 2 of this general permit The weekly average is the sum of all turbidity samples taken during a monitoring week	

			(starting on Monday and ending on Sunday) divided by the number of samples measures during that week; and (g) Recordkeeping. Turbidity monitoring information (i.e., location, date, sample collection time, and turbidity measurement) and any necessary corrective actions taken shall be recorded in the SWPPP.	
	* 9VAC25-880-70. General permit. Part II.B.8.d		d. Request for alternative benchmark threshold: (1) At any time prior to or during coverage under this permit, a request may be submitted to the department to approve a benchmark that is higher than turbidity benchmark options 1, 2, and 3 if information is available demonstrating the higher number is the same as the receiving water's water quality standard for turbidity. To request approval of an alternate benchmark, the operator must submit the following to the department:	Added language which allows the operator to request an alternative benchmark threshold from the Department. The additional language provides an additional option and flexibility to the operator and is consistent with EPA's 2022 CGP. Although this language is new, it does not add new requirements to the general permit. Instead, it provides an additional option and flexibility to the operator for achieving compliance with the original proposed turbidity benchmark. This change was made in response to comments received during the public comment period. No significant impact is expected due to this revision.

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

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

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

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

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

Details of All Changes Proposed in this Regulatory Action

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

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

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
			permit. This new definition incorporates language from EPA's dewatering definition along with proposed language from the TAC. No significant impact is expected due to this revision.
9VAC25-880-1 Definitions.		"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.	"Construction site" definition was revised to include water area, which conforms with the EPA's definition construction site. Language was added to clarify that "construction site" includes construction support activities located on-site or offsite. No significant impact is expected due to this revision.
9VAC25-880-1 Definitions.		Definitions	"Construction support activity" is a new definition was that added based on the definition from EPA's 2022 Construction General Permit (CGP). This term was previously used in Virginia's CGP but was not defined. No significant impact is expected due to this revision.
9VAC24-880-1 Definitions.		"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	Added "to provide 75 percent or more vegetative cover with no significant bare areas" to the definition of final stabilization to provide clarification on the required minimum percentage of vegetative cover and allowable bare area size to be classified as unform for the purposes of final stabilization. The language is based on the definition for final stabilization in EPA's 2022 CGP, as well as stakeholder input in the final stabilization specification with the Virginia Stormwater Management Handbook. Also, removed the word "final" in front of stabilization in subdivisions 2.a, 2.b, and 3 to remove redundancy. No significant impact is expected due to this revision.

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		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 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 shall meet the final stabilization criteria specified in subdivision 1 or 2 of this definition.	
9VAC24-880-1 Definitions.		"Measurable storm event" means a rainfall event producing 0.25 inches of rain or greater over 24 hours.	Added “or snow melt from a snow event producing 3.25 inches or more of snow within a 24-hour period” to comply with the addition of snow melt in EPA’s 2022 CGP. No significant impact is expected due to this revision.

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

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

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

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		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.	the terminology used throughout the remainder of the general permit. No significant impact is expected due to this revision.
9VAC25-880-30. Authorization to discharge. F		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, 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;	This section was revised to be consistent with the authorized nonstormwater discharge sections in other recently issued general permits. These changes were made to ensure consistency across permits. No significant impact is expected due to this revision.

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		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.	
9VAC25-880-30. Authorization to discharge. H.1		1. Permit coverage shall expire at the end of its term. However, expiring permit coverages are automatically continued if the owner has submitted a complete registration statement at least 60 days prior to the expiration date of the permit, or a later submittal date established by the board, which cannot extend beyond the expiration date of the permit. The permittee is authorized to continue to discharge until such time as the board either:	Changed the timeline for submitting a completed registration statement from 60 days to 90 days prior to the expiration date of the permit. This change is meant to grant more time in reviewing registration statements for continuation of general permit coverage. Added a requirement that all past due general maintenance fees must be paid prior to continuation of a general permit. This is intended to ensure that these fees are paid. No significant impact is expected due to this revision.
9VAC25-880-40		Delegation of authorities to state and local programs.	Minor changes were made throughout this section to ensure consistent use of terms, improve readability, and correct grammatical errors. These minor changes did not alter the requirements of this section. No significant impact is expected due to this revision.
9VAC25-880-50		Registration statement.	Minor changes were made throughout this section to ensure consistent use of terms, improve readability, and correct grammatical errors. These minor changes did not alter the requirements of this section. No significant impact is expected due to this revision.

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

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
statement. B.3	statement. B.4	activities for which the operator is seeking permit coverage, the limits of land disturbance, construction entrances, on-site support activities, and all water bodies receiving stormwater discharges from the site;	still ensuring the contents are readable. Also, reformatted to improve readability and clarity. No significant impact is expected due to this revision.
9VAC25-880-50. Registration statement. B.4	9VAC25-880-50. Registration statement. B.5	4. If off-site support activities will be used, the name and physical location address, when available, of all off-site support activities, including city or county; latitude and longitude in decimal degrees (six digits - ten-thousandths place); and whether or not the off-site support activity will be covered under this general permit or a separate VPDES permit;	Subsection reformatted to improve readability and clarity, as well as revised terminology to be consistent with the remainder of the permit. No significant impact is expected due to this revision.
9VAC25-880-50. Registration statement. B.5	9VAC25-880-50. Registration statement. B.6	5. If excavated material (i.e., fill) will be transported off site for disposal, the name and physical location address, when available, of all off-site excavated material disposal areas, including city or county; latitude and longitude in decimal degrees (six digits – ten-thousandths place); and the contents of the excavated material;	Added “the construction” before site for disposal to provide clarity. Also, reformatted to improve readability and clarity. No significant impact is expected due to this revision.
9VAC25-880-50. Registration statement. B.6	9VAC25-880-50. Registration statement. B.7	6. Status of the construction activity: federal, state, public, or private;	Subsection reformatted to improve readability and clarity. No significant impact is expected due to this revision.
9VAC25-880-50. Registration statement. B.7	9VAC25-880-50. Registration statement. B.8	7.0Nature of the construction activity (e.g., commercial, industrial, residential, agricultural, oil and gas, etc.);	Subsection reformatted to improve readability and clarity. No significant impact is expected due to this revision.
9VAC25-880-50. Registration statement. B.8	9VAC25-880-50. Registration statement. B.9	8. If stormwater management plans for the construction activity have been approved by an entity with department approved annual standards and	Added “or erosion and sediment control plans” to account for the consolidation of 9VAC25- 840 and 9VAC25-870. Also, reformatted to improve readability and clarity.

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

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

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

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

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		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.	
9VAC25-880-70. General permit. Part I.B.5		5. Exceptional waters limitation. Discharges of stormwater from construction activities not previously covered under the general permit effective on July 1, 2014, to exceptional waters identified in 9VAC25-260-30 A 3 c are not eligible for coverage under this general permit unless the operator develops, implements, and maintains a SWPPP in accordance with Part II B 7 of this permit and implements an inspection frequency consistent with Part II G 2 a.	Corrected the effective date of the permit. No significant impact is expected due to this revision.
9VAC25-880-70. General permit. Part I.E		E. Authorized nonstormwater discharges. The following nonstormwater discharges from construction activities are authorized by this general permit when	This section was revised to be consistent with the authorized nonstormwater discharge sections in other recently issued general permits. These changes were made to ensure consistency across permits.

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		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,	No significant impact is expected due to this revision.

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

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

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

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

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

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
General Permit. Part II.B.4			be for the construction activity authorized under the permit. No significant impact is expected due to this revision.
9VAC25-880-70. General permit. Part II.B.4. e.(4) – (5)		(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;	Revisions were made to incorporate changes in terms from EPA's 2022 CGP. New language was added to clarify that concrete wash water cannot be disposed of through infiltration or otherwise disposed of on the ground. This new language is in response to issues raised through NOIRA public comments and during the TAC. No significant impact is expected due to this revision.
	* 9VAC25-880-70. General permit. Part II.B.8	General Permit. Part II	This is a new subsection that is being added to Virginia's 2024 CGP. This section is in response to new EPA requirements for controlling construction dewatering discharges. The department followed EPA's concept of creating a turbidity benchmark that is not an effluent limitation. The previous proposed language included two benchmark options. Both of these turbidity benchmark thresholds

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

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

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

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
			TAC, this language was altered from the EPA requirement to state that documentation of the visual quality and other characteristics of discharges are only required when an inspection indicates that pollutants are being discharged. No significant impact is expected due to this revision.
9VAC25-880-70. General permit. Part.II.G.4		4. Inspection report. Each inspection report shall include the following items: a. The date and time of the inspection and, when applicable, the date and rainfall amount of the last measurable storm event; b. Summarized findings of the inspection; c. The locations of prohibited discharges; d. The locations of control measures that require maintenance; e. The locations of control measures that failed to operate as designed or proved inadequate or inappropriate for a particular location; f. The locations where any evidence identified under Part II G 3 a (6) exists; g. The locations where any additional control measure is needed; 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.	Revisions made to account for new defined terms. No significant impact is expected due to this revision.

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

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

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

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

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

Regulatory Flexibility Analysis

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

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

Family Impact

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

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

DRAFT FACT SHEET

REISSUANCE OF THE GENERAL VPDES PERMIT FOR DISCHARGES OF STORMWATER FROM CONSTRUCTION ACTIVITIES

The Virginia State Water Control Board has under consideration the reissuance of the general Virginia Pollutant Discharge Elimination System (VPDES) permit for point source discharges of stormwater from construction activities to surface waters.

Permit Number: **VAR10**

Name of Permittee: **Any operator in the Commonwealth of Virginia agreeing to be regulated under the terms of this general permit.**

Facility Location: **Commonwealth of Virginia**

Receiving Waters: **Surface waters within the boundaries of the Commonwealth of Virginia except waters specifically named in Board regulations which prohibit such discharges.**

On the basis of preliminary review and application of lawful standards and regulations, the State Water Control Board (Board) proposes to reissue the general permit subject to certain conditions and has prepared a draft permit. The category of discharges to be included involves stormwater discharges from construction activities with the same or similar types of operations and discharging the same or similar types of wastes. The Board has determined that this category of discharges is appropriately controlled under a general permit. The draft general permit requires that all covered construction activities meet standardized permit conditions including the development and implementation of a stormwater pollution prevention plan (SWPPP). This general permit will maintain the water quality standards adopted by the Board. This general permit will replace the general permit VAR10 which expires on June 30, 2024. Operators covered under the expiring general permit who wish to continue to discharge under a general permit must register for coverage under the new permit.

Public involvement in permit reissuance
A public hearing was held at the following location on September 7, 2023: Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen Virginia 23060. The notice of the public comment period/public hearing was published in the Richmond Times Dispatch and the Virginia Register. The public comment period opened on August 14, 2023, and closed on December 6, 2023. During the public comment period, DEQ staff reviewed comments received, drafted responses, and revised the final permit regulation as appropriate. The State Water Control Board adopted the general permit regulation on INSERT DATE. The regulation is effective for all covered facilities on July 1, 2024. Every authorization to discharge under this general permit will expire June 30, 2029.

DEQ Staff Contact
All pertinent information is on file and may be inspected, and arrangements made for copying by contacting Rebeccah Rochet at:

Virginia Department of Environmental Quality
P.O. Box 1105
Richmond, Virginia 23218
Tel: (804) 801-2950
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Administrative

The general permit will have a fixed term of five (5) years effective, upon Board approval, July 1, 2024. Every authorization to discharge under this general permit will expire at the same time and all authorizations to discharge will be renewed on the same date. Discharges will be covered under the general permit upon approval of the Registration Statement and delivery of a copy of the general permit to the applicant. However, in accordance with § 62.1-44.15:28 9 e of the Code of Virginia, the submission of a registration statement for the construction of single-family detached residential structures associated with small construction activity within or outside a common plan

of development or sale is not required. A registration statement is required for a large construction activity associated with the construction of a single family detached residential structure within or outside a common plan of development or sale; however, the Department's portion of the permit fee continues to be waived.

The submission of a registration statement is required for the overall construction of a residential common plan of development or sale. As single-family detached residential properties are transferred to new owners/operators within a common plan of development or sale, the new owners/operators are authorized to discharge under the general permit provided that they comply with the terms and conditions of the general permit including the development and implementation of a stormwater pollution prevention plan for each new single-family detached residential structure.

This general permit does not apply to any new or increased discharge that will result in significant effects to the receiving waters. That determination is made in accordance with the State Water Control Board's Antidegradation Policy contained in the Virginia Water Quality Standards, 9VAC25-260-30. Anti-backsliding will also be considered prior to granting coverage under this general permit to construction activities currently discharging stormwater under another applicable or VPDES permit. If a discharge appears to qualify for this general permit, the operator must submit a general permit Registration Statement to apply for general permit coverage. The Department will either send a copy of the general permit to those applicants that qualify or send a copy of the Virginia Erosion and Stormwater Management Program (VESMP) individual permit application to those that do not qualify.

Considerations

U.S. EPA Construction General Permit (CGP)

The U.S. EPA CGP became effective on February 17, 2022. In this CGP, the EPA added new requirements for dewatering discharge. The EPA CGP uses a weekly average benchmark of 50 nephelometric turbidity units (NTUs). Prior to finalizing the revised draft permit, DEQ performed extensive research on dewatering discharge requirements in existing approved and/or adopted construction general permits across the U.S. As a result of this research, DEQ proposed three options for monitoring construction dewatering discharge, in order to provide flexibility, but still remain equally as protective of water quality as the EPA CGP. In addition, DEQ has included the language allowing the permittee to request an alternative benchmark threshold that is also included in the EPA CGP. This change is reflected in permit language found in the flowing sections of the permit; 9VAC25-880-1, Part II.B.8, Part II.G.3.(e), Part II.G.4.d, and Part II.H.2.

Commonwealth of Virginia Chapter 356 of the 2022 Acts of Assembly (Senate Bill 657)

SB 657 was passed during the 2022 Session of the General Assembly. This bill limits the authority of the State Water Control Board under Chapters 3.1 (State Water Control Law) and 24 (Surface Water Management Areas) of Title 62.1 of the Code of Virginia to the issuance of regulations and transfers the Board's existing authority to issue permits and orders to DEQ. The Governor signed this bill into law on April 11, 2022 (SB657 – Chapter 356 of the 2022 Acts of Assembly) and these changes became effective July 1, 2022. The State Water Control Board adopted regulatory amendments to 9VAC25-890 on August 25, 2022, and affirmed changes to be incorporated into 9VAC25-890 resulting from Chapter 356 of the 2022 Acts of Assembly (Senate Bill 657). Revisions to the regulations include those necessary to address changes to the authority of the State Water Control Board to issue and enforce permits. Changes to the regulations included changing designations from "board" to "department" where appropriate; adding definitions of "Board" and "Department"; and the repeal of the delegation of authority provisions.

Commonwealth of Virginia Chapters 68 and 758 of the 2016 Acts of Assembly ("Consolidation Bill")

House Bill 2390 and Senate Bill 1168 were passed during the 2016 Session of the General Assembly. These bills combined requirements in the Erosion and Sediment Control Law and Stormwater Management Act into the Virginia Erosion and Stormwater Management Act (VESMA). One of the enactment clauses directed the State Water Control Board adopt regulations to implement the requirements of the VESMA. The Virginia Erosion and Stormwater Management Regulation was adopted by the State Water Control Board at its June 22, 2023 meeting. It becomes effective on July 1, 2024. Revisions were made throughout the general permit to update citations and references to the Erosion and Sediment Control Regulations (9VAC25-840), Erosion and Sediment Control and Stormwater Management Certification Regulations (9VAC25-850), and Virginia Stormwater Management Program Regulation (9VAC25-870) to reflect the consolidation of these three chapters into the Virginia Erosion and Stormwater Management Regulation (9VAC25-875).

Commonwealth of Virginia Chapters 48 (House Bill 1848) and 49 (Senate Bill 1376) of the 2023 Acts of Assembly

House Bill 1848 and Senate Bill 1168 were passed during the 2023 Session of the General Assembly. These bills added a definition for "small construction activity" to the Stormwater Management Act (and VESMA, effective July 1, 2024) and revised the provisions about submitting registration statements for the general permit. The changes bring the Virginia Stormwater Management Program Regulation (and Virginia Erosion and Stormwater Management Regulation) into conformity with federal law. Specifically, the bills included provisions for DEQ to establish a procedure by with a registration statement shall not be required for coverage under the CGP for small construction activity involving a single-family detached residential structure. This change is reflected in permit language found in the flowing sections of the permit; 9VAC25-880-10, 9VAC25-880-50. A.1.c and A.2.b, 9VAC25-880-60.A, 9VAC25-880-70 General permit, and Part II.A.1.

Summary of Changes from the 2019 Construction General Permit (CGP)

This general permit replaces the 2019 CGP which was issued for a five-year term on July 1, 2019. Revisions were made throughout to update citations and references to the Erosion and Sediment Control Regulations (9VAC25-840), Erosion and Sediment Control and Stormwater Management Certification Regulations (9VAC25-850), and Virginia Stormwater Management Program Regulation (9VAC25-870) to reflect the consolidation of these three chapters into the Virginia Erosion and Stormwater Management Regulation (9VAC25-875). In addition, DEQ finalized several minor changes throughout the general permit to ensure consistent use of terminology and improve readability. These changes did not modify the underlying requirement from the 2019 CGP and are only intended to make the original objective easier to understand. The following is a list of substantial changes included in the general permit as compared to the 2019 CGP:

Section 1 – Definitions

- Revised the introductory paragraph to improve readability and incorporate the correct title and citation of the Virginia Erosion and Stormwater Management Program (VESMP) Regulation.
- Minor changes were made to terms throughout this section to ensure consistent use of terminology, improve readability, and correct grammatical errors. These minor changes did not alter, narrow, or expand the meaning of terms.
- Revised definition of "*impaired waters*" to reflect 2022 § 305(b)/303(d) Water Quality Assessment Integrated Report.
- Added definition of *"construction dewatering,"* based on the definition included in EPA's 2022 CGP and input from the Technical Advisory Committee, to mean the act of draining or pumping stormwater or ground water from building foundations, vaults, and trenches, or other similar points of accumulation, including from sediment basins or similar impoundments for maintenance or decommissioning purposes. Construction dewatering does not include temporary pump arounds associated with instream construction activities.
- Revised definition of "*construction site*" to include water area, which conforms with the EPA's definition. In addition, added clarity regarding construction support activities located on-site or off-site.
- Added definition of "*construction support activity*," based on the definition included in EPA's 2022 CGP, to mean a construction-related activity that specifically supports construction and involves land disturbance or pollutant-generating activities of its own and can include activities associated with concrete or asphalt batch plants, equipment staging yards, materials storage areas, excavated material disposal areas, and borrow areas. This term was previously used but was not defined in the general permit.
- Revised definition of "*final stabilization*" to provide clarity on the required minimum percentage of vegetative cover and allowable bare area size to be classified as uniform for the purposes of final stabilization for consistency with EPA's 2022 CGP. Also, removed the word "final" in front of stabilization in subdivisions 2.a, 2.b, and 3 to remove redundancy.
- Revised definition of "*measurable storm event*" to include snow melt for consistency with EPA's 2022 CGP.
- Added definition of "*qualified personnel*" to address new stormwater team requirements in EPA's 2022 CGP. Qualified personnel is defined as a person knowledgeable in the principles and practices of erosion and sediment and stormwater management controls who possesses the skills to assess conditions at the construction site for the operator that could impact stormwater quality and quantity and to assess the effectiveness of any sediment and erosion control measures or stormwater management facilities selected to control the quality and quantity of stormwater discharges from the construction activity. On or after July 1, 2025, "*qualified personnel*" shall hold an unexpired certificate of competence for Project Inspector for Erosion and Sediment Control and an unexpired certificate of competence for Project Inspector for

Stormwater Management, both issued by the department, a Construction General Permit Qualified Personnel Certificate issued by the department or the Virginia Department of Transportation, or an equivalent certification provided by EPA (currently titled Construction Inspection Training Course). This definition is based on language in the Virginia Stormwater Management Program Regulation with additional certification options.

Section 10 – Purpose

- Revised language to improve the clarity and readability of this section. These changes did not alter the requirements of this section.

Section 15 – Applicability of incorporated references based on the dates that they became effective

- Updated the applicable date of Code of Federal Regulation (CFR) references used in the general permit; now July 1, 2022 updates.

Section 20 – Effective date of general permit

- Updated the effective date and expiration date of the general permit.

Section 30 – Authorization to discharge

- Minor changes were made to terms throughout this section to ensure consistent use of terminology, improve readability, and correct grammatical errors. These minor changes did not alter the requirements of this section.
- Added language to clarify that permit fees includes all outstanding permit maintenance fees. This revision was made to ensure general maintenance fees are paid for the continuation of general permit coverage.
- Added language to allow for reporting of new support activities in a modified registration statement once the need for the additional support activity is known.
- Added language to clarify that off-site construction support activities not authorized under the CGP shall not be included in calculating the total land area of the construction site and estimated area to be disturbed in the registration statement.
- Updated the list of nonstormwater authorized discharges for consistency with other recently issued VPDES permits.
- Revised the timeline for submitting a completed registration statement from 60 days to 90 days prior to the expiration date of the permit. This change is meant to grant more time in reviewing registration statements for continuation of general permit coverage.
- Added a requirement that all past due general maintenance fees must be paid prior to continuation of a CGP. This revision was made to ensure general maintenance fees are paid for the continuation of general permit coverage.

Section 40 – Delegation of authorities to state and local programs

- Minor changes were made to terms throughout this section to ensure consistent use of terminology, improve readability, and correct grammatical errors. These minor changes did not alter the requirements of this section.

Section 50 – General permit application (registration statement)

- Minor changes were made to terms throughout this section to ensure consistent use of terminology, improve readability, and correct grammatical errors. These minor changes did not alter the requirements of this section.
- Updated the registration statement submission deadline for existing construction activities seeking continued coverage under this general permit; now 90 days prior to expiration. This change is meant to grant more time in reviewing registration statements for continuation of general permit coverage.
- Updated the title of Subsection A 3 to "*Transfer of ownership*" for clarify and readability.
- Added the requirement to include a State Corporation Commission entity identification number to ensure consistency with other recently issued VPDES permits.
- Revised the requirement for submitting an 8.5-inch by 11-inch format site map to a legible site map to grant flexibility for submitting site maps while still ensuring the contents are readable.
- Included "*erosion and sediment control plans*" for construction activities approved by an entity with approved standards and specifications for consistency with the consolidation of 9VAC25-840 and 9VAC25-870.

- Reformatted Subsections B10, B11, and B13 to improve readability and clarify.
- Moved the requirement for a stormwater pollution prevention plan (SWPPP) from the registration statement specific requirements as the language is more reflective of preparing a SWPPP rather than the contents of a registration statement. This change was made to provide clarity and reduce redundancy.

Section 60 – Termination of general permit coverage

- Minor changes were made to terms throughout this section to ensure consistent use of terminology, improve readability, and correct grammatical errors. These minor changes did not alter the requirements of this section.
- Clarified the termination and reference to the registration statement requirement for a small construction activity of a single-family detached residential structure. The revision was due to 2023 legislative changes.
- Updated the timeline for which the termination of authorization shall become effective; now 90 days after receipt of a complete and accurate notice of termination. This revision was made to comply with § 62.1-44.15:26.1 of the Code of Virginia. In addition, added language to clarify that the timeline for the termination of the permit coverage does not apply if the operator is notified of an issue by the VESMP authority or the department.

Section 70 – General permit

- Minor changes were made to terms throughout this section to ensure consistent use of terminology, improve readability, and correct grammatical errors. These minor changes did not alter the requirements of this section.
- Added a statement to clarify that stormwater discharge associated with a small construction activity of a single-family detached residential structure, within or outside a common plan of development or sale, is authorized to discharge under the general permit and shall comply with the requirements contained in the general permit and be subject to all requirements of 9VAC25-875. This revision a result of 2023 legislative changes for conformity with federal law.
- Updated the effective date to July 1, 2024 and the expiration date to June 30, 2029. Updated the regulation language for clarity and consistency with other general VPDES permits adopted by the Board.

Part I – Discharge Authorization and Special Conditions

- Coverage under this Permit: Added language to allow for reporting new support activities in a modified registration statement once the need for the additional support activity is known. This change was needed to clarify how to obtain coverage for a construction support activity if the activity is identified a general permit coverage is issued.
- Limitations on Coverage: Updated the Water Quality Assessment Integrated Report date from 2016 to 2022.
- Authorized nonstormwater discharges: Updated the list of nonstormwater authorized discharges for consistency with other recently issued VPDES permits.
- Termination of general permit coverage: Revised the timeline for the termination of authorization to discharge from 60 days to 90 days after receipt of a notice of termination. This change was made to comply with § 62.1-44.15:26.1 of the Code of Virginia. In addition, added language to clarify the timeline for the termination of permit coverage does not apply if the operated is notified of an issue by the VESMP authority or the department. Finally, language was added to improve clarity about which sections of the permit must be followed when submitted a notice of termination.

Part II – Stormwater Pollution Prevention Plan

- Minor changes were made to terms throughout this section to ensure consistent use of terminology, improve readability, and correct grammatical errors. These minor changes did not alter the requirements of this section.
- Added a statement to clarify that stormwater discharge associated with a small construction activity of a single-family detached residential structure, within or outside a common plan of development or sale, a Stormwater Pollution Prevention Plan must be developed and implemented prior to the initiation of the construction activity, including any construction support activity. This revision a result of 2023 legislative changes for conformity with federal law, as well as in response to comments received from EPA.
- Updated the effective date of the general permit.
- Contents, General: Revised existing language to improve readability and add additional detail and clarify as to what must be included in the construction site map. Added new language that requires listing the

locations of areas where polymers, flocculants, or other stormwater treatment chemicals are used or stored. This language is from previous EPA permits; however, it is new to Virginia's CGP.

- Contents, Erosion and Sediment Control Plan: Revisions were made to improve readability, provide clarify, and incorporate new defined terms. In addition, new language was added to provide additional clarity on when directing stormwater to vegetated areas, minimizing soil compaction, and preserving topsoil would be considered infeasible. The new language in these subsections comes from EPA's CGP.
- Contents, Stormwater Management Plan: Revisions were made to improve readability and provide clarity.
- Contents, Pollution Prevention Plan: Revisions were made to improve readability and provide clarity. Also, revised to incorporate changes in terms from EPA's 2022 CGP. Added new language to clarify that concrete wash water cannot be disposed of through infiltration or otherwise disposed of on the ground. This new language is in response to issues raised through NOIRA public comments and during the Technical Advisory Committee meetings.
- Established SWPPP requirements for turbidity benchmark monitoring requirements for construction dewatering discharges to sensitive waters in response to new EPA requirements for controlling construction dewatering discharges. The department followed EPA's concept of creating a turbidity benchmark that is not an effluent limitation.
- Revised "*delegation of authority*" to "*duly authorized representative*" for consistency with other sections of the permit, as well as clarifies whose information needs to be included in the SWPPP. In addition, added language directing permittees to the provisions in the permit detailing signature and certification requirements.
- Added language clarifying that the SWPPP must contain a signature and certification and directing permittees to the provisions in the permit detailing signature and certification requirements. This was done to add clarity around requirements and to make the permit easier to navigate.
- SWPPP amendments, modification, and updates: Added language directing permittees to the provisions in the permit detailing signature and certification requirements. This revision was done to provide clarity.
- Public notification: Revised and added new language to clarify requirements for where a notice of coverage letter must be posted.
- SWPPP implementation: With regards to implementing corrective actions or routine maintenance, "*seven days*" replaced with "*five business days*" to create consistency throughout the permit. In addition, revised to add the need for routine maintenance as a trigger for this subsection. This is a new subsection incorporating new EPA requirements for what an operator must do if they must repeatedly repair the same stormwater control at the same location.
- SWPPP Inspections: Added language to clarify that the qualified personnel conducting inspections may be a person on the operator's staff or a third party hired to conduct inspections. Added new language from EPA's 2022 CGP that adds more detail around when an inspection much take place in the event of a measurable storm event. Revised to fix numbering issues that existed in past permits and to account for new defined terms. Added subsections to incorporate language from EPA's permit stating that all stormwater discharge locations and all construction dewatering discharge locations must be inspected, and documented when an inspection indicates that pollutants are being discharged. In addition, new language was added to require reporting of incidents of noncompliance or a certification that the construction activity is in compliance with the SWPPP, as well as language directing permittees to the provisions in the permit detailing signature and certification requirements.
- Corrective Actions: Revised the number of days to implement corrective actions from "*seven days*" to "*five business days*" to create consistency throughout the permit. Added requirement to detail corrective actions that must be taken if required by the new construction dewatering turbidity benchmark.

Part III – Conditions Applicable to All VPDES Permits

- Minor changes were made to terms throughout this section to ensure consistent use of terminology, improve readability, and correct grammatical errors. These minor changes did not alter the requirements of this section.
- Reports of unusual or extraordinary discharges: Revised the number of days to report in writing to the department and the VESMP authority from "*five days*" to "*five calendar days*" to create a clear distinction from the use of "*five business days*" in other parts of the permit.
- Reports of noncompliance: Updated to ensure consistency with other recently reissued general VPDES permits in Virginia. The changes from this section come from the recently reissued General Permit for Vehicle Wash Facilities and Laundry Facilities (9VAC25-194-70). The revisions include changing "*surface*

waters" to "*state waters*," minor linguistic and number revisions, and changes to the subsection dealing with making reports to the department or VESMP authority.

- Notice of planned changes: Updated to provide clarification in instances where the permittee has requested a planned changed and is awaiting a response from the review authority. This new language is in response to issues raised through NOIRA public comments and during the Technical Advisory Committee meetings.
- Signatory requirements: Revised to add notices of termination to the types of documents requiring signatures. This revision was done to provide clarify.
- Duty to reapply: Revised the timeline for submitting a completed registration statement from 60 days to 90 days prior to the expiration date of the permit for consistency with the requirements outlined in previous sections of the CGP. This change is meant to grant more time in reviewing registration statements for continuation of general permit coverage.

Activities Covered under this General Permit

This general permit covers point source discharges of stormwater from construction activities to surface waters of the Commonwealth, including discharges through municipal or non-municipal separate storm sewer systems. The term "*construction activity*" is defined in 9VAC25-875-20 as "…*any clearing, grading or excavation associated with large construction activity or associated with small construction activity*." The terms "*large construction activity*" and "*small construction activity*" are likewise defined in that section as follows:

"*Large construction activity*" means construction activity including clearing, grading and excavation, except operations that result in the disturbance of less than five acres of total land area. Large construction activity also includes the disturbance of less than five acres of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more. Large construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

"*Small construction activity*" means:

1. Construction activities including clearing, grading, and excavating that results in land disturbance of equal to or greater than one acre, and less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility. The department may waive the otherwise applicable requirements in a general permit for a stormwater discharge from construction activities that disturb less than five acres where stormwater controls are not needed based on a "total maximum daily load" (TMDL) that addresses the pollutant(s) of concern or, for nonimpaired waters that do not require TMDLs, an equivalent analysis that determines allocations for small construction sites for the pollutants of concern or that determines that such allocations are not needed to protect water quality based on consideration of existing in-stream concentrations, expected growth in pollutant contributions from all sources, and a margin of safety. For the purpose of this subdivision, the pollutants of concern include sediment or a parameter that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity. The operator must certify to the department that the construction activity will take place, and stormwater discharges will occur, within the drainage area addressed by the TMDL or equivalent analysis. As of the start dates in Table 1 of 9VAC25-31-1020, all certifications submitted in support of the waiver shall be submitted electronically by the owner or operator to the department in compliance with this subdivision and 40 CFR Part 3 (including, in all cases, 40 CFR Part 3 Subpart D), 9VAC25-875-940, and Part XI (9VAC25-31-950 et seq.) of the Virginia Pollutant Discharge Elimination (VPDES) Permit Regulation. Part XI of 9VAC25-31 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part XI of 9VAC25-31, permittees may be required to report electronically if specified by a particular permit.

2. Any other construction activity designated by the either the department or the EPA regional administrator, based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to surface waters.

Coverage under this general permit applies to the "*Estimated Area To Be Disturbed"* as reported by the operator on the registration statement. For projects that are planned in sections over an extended period of time exceeding

the 5-year term of this permit, coverage is only required for those sections of the project where land disturbance will be occurring prior to June 30, 2029. If during the term of this permit the operator determines additional land disturbance is necessary as part of the project, a permit registration modification is required to be submitted.

This general permit also covers point source discharges of stormwater from construction 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 stormwater discharges;
(2) the support activity is not a commercial operation, nor does it serve multiple unrelated construction sites;
(3) the support activity does not operate beyond the completion of the last construction activity it supports;
(4) the support activity is reported in the registration statement at the time of general permit coverage or reported in a modified registration statement once the need for the support activity is known;
(5) appropriate control measures are identified in a stormwater pollution prevention plan and implemented to address the discharges from the support activity; and
(6) all applicable, state, federal, and local approvals are obtained for the support activity.

Operators applying for coverage under this general permit are not required to include on-site or off-site support activities for which they do not have operational control. Any on-site or off-site support activity not included with an operators' general permit coverage may be required to obtain separate VDPES permit coverage. On-site or off-site support activities that require land disturbance are required to obtain construction general permit coverage regardless of the extent of the land disturbing activity (i.e., even if less than one acre).

This general permit covers stormwater discharges from a wide variety of construction activities. The conditions which affect the presence of pollutants in stormwater at construction sites vary significantly. Therefore, the general permit contains SWPPP requirements that apply to all construction activities and does not specify erosion and sediment controls or stormwater management controls that are appropriate or can be implemented by all operators. The volume and quality of stormwater discharges associated with construction activity will depend on a number of factors, including the land-disturbing activities occurring at the site and the nature of precipitation. Pollutants in stormwater discharges from construction activities may be reduced using the following methods: eliminating pollution sources, implementing Best Management Practices (BMPs) to prevent pollution, and using traditional erosion and sediment controls.

The draft general permit follows the basic framework of the U.S. EPA final 2022 Construction General Permit (CGP) published in the Federal Register (FR) on January 24, 2022 (87 FR 3522). Readers are also referred to EPA's final 2022 CGP Fact Sheet (available on EPA's website at https://www.epa.gov/system/files/documents/2022-01/2022-cgp-final-fact-sheet.pdf for additional details.

Limitations on Coverage

Because of the broad scope of this general permit, most construction activities currently regulated under the VESMP are eligible to be covered under the general permit. There are, however, several types of stormwater discharges not covered under this general permit. If an operator has been required to obtain an individual VSMP permit for their stormwater discharges pursuant to 9VAC25-875-980 B (VESMP Regulation), they are not authorized for coverage under this general permit. Discharges to surface waters where a discharge is specifically prohibited by another regulation of the State Water Control Board are not authorized by this general permit. Discharges from VPDES permitted industrial activities are also not eligible for coverage under this general permit.

Other discharges of stormwater that are not authorized under the general permit are:

(1) discharges that originate from the construction site after construction activities have been completed and the construction site, including any construction support activity covered under the general permit registration, has undergone final stabilization;
(2) discharges that are mixed with sources of nonstormwater, other than those discharges that are identified in Part I E (Authorized nonstormwater discharges) of the general permit;
(3) discharges of stormwater from construction activities that are covered under an individual permit or required to obtain coverage under an alternative general permit;
(4) discharges that cause, or may reasonably be expected to cause, or contribute to a violation of the Virginia Water Quality Standards (9VAC25-260);

(5) discharges that violate or would violate the antidegradation policy in the Virginia Water Quality Standards (9VAC25-260-30); and
(6) discharges that are not consistent with the assumptions and requirements of an applicable Total Maximum Daily Load (TMDL) approved prior to the term of this general permit.

In addition, there shall be no discharge of floating solids or visible foam in other than trace amounts.

Impaired Waters and TMDL Limitation
Stormwater discharges from construction activities to surface waters identified as impaired in the 2022 § 305(b)/303(d) Water Quality Assessment Integrated Report for Benthic Macroinvertebrates Bioassessments or for which a TMDL wasteload allocation has been established and approved prior to the term of this general permit, including all surface waters within the Chesapeake Bay Watershed, for the following: (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) are not eligible for coverage under this general permit unless the operator develops, implements, and maintains a SWPPP in accordance with Parts II B 5 and II B 6 of the general 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, for impairments for (i) sediment or a sediment related parameter (i.e., total suspended solids or turbidity), or (ii) nutrients (i.e., nitrogen or phosphorus), the operator must perform the following:

(i) identify the impaired water(s), approved TMDL(s), and pollutant(s) of concern, when applicable, in the SWPPP;
(ii) apply permanent or temporary soil stabilization to denuded areas within seven days after final grade is reached on any portion of the site;
(iii) apply nutrients in accordance with manufacturer's recommendations or an approved nutrient management plan and not during rainfall events; and
(iv) implement a more frequent SWPPP inspection schedule.

For PCB impairments, the operator must perform the following:

(i) identify the impaired water(s), approved TMDL(s), and pollutant(s) of concern, when applicable, in the SWPPP;
(ii) apply permanent or temporary soil stabilization to denuded areas within seven days after final grade is reached on any portion of the site;
(iii) implement proper waste disposal in accordance with local, state, and federal requirements; and
(iv) implement a more frequent SWPPP inspection schedule consistent with Part II G 2 a of the general permit.

Exceptional Waters Limitation
Discharges of stormwater from construction activities to exceptional waters identified in 9VAC25-260-60 A 3 c (Virginia Water Quality Standards) are not eligible for coverage under this general permit unless the operator (i) identifies the exceptional water(s) in the SWPPP, (ii) applies permanent or temporary soil stabilization to denuded areas within seven days after final grade is reached on any portion of the site, (iii) applies nutrients in accordance with manufacturer's recommendations or an approved nutrient management plan and not during rainfall events, and (iv) implements a more frequent SWPPP inspection schedule consistent with Part II G 2 a of the general permit.

Permit Special Conditions

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

Authorized Nonstormwater Discharges
The following nonstormwater discharges from construction activities are also covered by this general permit:

(1) discharges from emergency firefighting activities;
(2) fire hydrant flushings, managed to avoid an instream impact;
(3) water used to wash vehicles or equipment provided no soaps, solvents, or detergents are used and the wash water is filtered, settled, or similarly treated prior to discharge;

(4) water used to control dust that is filtered, settled, or similarly treated prior to discharge;
(5) potable water, including uncontaminated waterline flushings, managed in a manner to avoid an instream impact;
(6) routine external building wash down provided no soaps, solvents, or detergents are been used and the wash water is filtered, settled, or similarly treated prior to discharge;
(7) pavement wash water provided spills or leaks of toxic or hazardous materials have not occurred, unless all spilled or leaked material has been removed prior to washing; soaps, solvents, or detergents are not used; and where the wash water is 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 provided flows are not contaminated with process materials such as solvents or contaminated groundwater;
(11) uncontaminated, excavation dewatering, including dewatering of trenches and excavations that are filtered, settled, or similarly treated prior to discharge; and
(12) landscape irrigations.

Potable water sources may contain chlorine or other chemicals commonly added to disinfect and prepare the water for public use. These chemicals may be toxic to fish and other aquatic life. When discharges of potable water at construction site is necessary, operators should consider the use of dichlorination measures or direct discharges to vegetated areas prior to discharging to surface waters.

Prohibition of Nonstormwater Discharges

All discharges covered by this general permit shall be composed entirely of stormwater associated with construction activities except as noted above. All other nonstormwater discharges including the following, which have been adapted from 40 Code of Federal Regulations (CFR) Part 450, are prohibited:

(1) wastewater from the 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.

All nonstormwater discharges not covered under this general permit shall either be eliminated or covered under a separate VDPES permit.

Termination of General Permit Coverage

Operators of construction activities are required to submit a notice of termination after one or more of the following conditions have been met:

(1) necessary permanent control measures identified in the SWPPP for the construction site are in place and functioning effectively and final stabilization as defined in 9VAC25-880-1 has been achieved on all portions of the construction 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;
(2) another operator has assumed control over all areas of the construction site that have not been finally stabilized and obtained coverage for the ongoing discharge;
(3) coverage under an alternate VPDES permit has been obtained; or
(4) for individual lots in residential construction only, 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 statement into the SWPPP, and the residence has been transferred to the homeowner.

The notice of termination should be submitted no later than 30 days after once of the above conditions being met and must be signed in accordance with Part III K of the general permit and include the required certification in accordance with Part III K 4 of the general permit. Notice of termination is not required for a small construction activity of a single-family detached residential structure that is not required to submit a registration statement.

For construction activities on land used for agricultural purposes (e.g., pipelines across crop or range land or staging areas for highway construction) construction activity operators may accomplish final stabilization by returning the disturbed land to its preconstruction agricultural use.

Water Quality Protection

Construction activity operators must select, install, implement, and maintain control measures as identified in the SWPPP at the construction site that minimize pollutants in the discharge as necessary to ensure that the operator's discharge does not cause or contribute to an excursion above any applicable water quality standard. If the department determines that the operator's discharges are causing, have reasonable potential to cause, or are contributing to an excursion above any applicable water quality standard, the department, in consultation with the VESMP authority, may take appropriate enforcement action and require the operator to:

(1) modify or implement additional control measures in accordance with Part IIC of the general permit to adequately address the identified water quality concerns;
(2) 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
(3) cease discharges of pollutants from the construction activity and submit an individual permit application according to 9VAC25-875-980 B 3.

Stormwater Pollution Prevention Plan (SWPPP)

EPA established effluent limitation guidelines (ELGs) and new source performance standards (NSPS) to control the discharge of pollutants from construction activities; see 40 CFR Part 450. These requirements, known as the "*Construction and Development Rule*" or "*C&D Rule*", were published in the Federal Register on December 1, 2009 (74 FR 62996) and became effective on February 1, 2010. On November 5, 2010, EPA finalized a stay (75 FR 68215), effective January 4, 2011, for 40 CFR Parts 450.22 (a) and (b). 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, and changed several of the non-numeric provisions of the original rule.

Effluent limitation guidelines for the Best Practicable Technology Currently Available (BPT), Best Available Technology Economically Achievable (BAT), and Best Conventional Pollutant Control Technology (BCT), which are codified at 40 CFR Parts 450.21 through 450.23, respectively, apply to all existing sources (i.e., construction activities which commenced land disturbance prior to February 1, 2010). The New Source Performance Standards codified in 40 CFR Part 450.24 apply to all new sources (i.e., construction activities which commenced land disturbance on or after February 1, 2010). This general permit establishes BPT/BCT/BAT/NSPS requirements in terms of requirements to develop and implement stormwater pollution prevention plans and thus, is consistent with the requirements of the Clean Water Act (CWA).

This general permit requires operators to develop and implement a site-specific stormwater pollution prevention plan. In doing so, this adequately addresses the variable stormwater management/pollution prevention opportunities available at a construction site. Stormwater pollution prevention plans are required to achieve BPT/BCT/BAT/NSPS requirements, and pollution prevention measures are the most practicable and cost-effective approach to minimizing pollutants in stormwater discharges. They also provide for flexibility in developing tailored plans and strategies. This general permit identifies specific components that the SWPPP must include; all the components of the plan are essential for minimizing pollutants in stormwater discharges. A specific list of erosion and sediment controls or stormwater management controls are not established in this general permit because the variability in covered construction activities precludes the identification of universal standards or practices that are appropriate or can be implemented by all operators.

Stormwater Pollution Prevention Plan Requirements

The SWPPP is intended to identify potential sources of pollutants which may reasonably be expected to affect the quality of stormwater discharges from the construction activity and describe control measures which will be used to minimize pollutant discharges and comply with the terms and conditions of the general permit. All SWPPPs shall be prepared in accordance with good engineering practices. SWPPP requirements of this general permit may be fulfilled by incorporating by reference other plans such as a spill prevention control and countermeasure plan developed for the construction site under § 311 of the federal Clean Water Act or BMP programs otherwise required for the facility provided that the incorporated plan meets or exceeds the SWPPP requirements of this general permit. All plans incorporated by reference into the SWPPP are enforceable under this general permit. If a plan incorporated by reference does not contain all of the required elements of the SWPPP, the operator must develop the missing elements and include them in the SWPPP.

1. Deadlines for SWPPP Preparation

To be covered under the general permit, the stormwater pollution prevention plan must be developed prior to the submission of a registration statement to the department. This SWPPP preparation requirement does not apply to the submission of a registration statement to a local VESMP authority; operators of private construction activities are required to submit registration statements for initial permit coverage or reissuance of permit coverage, as well as transfer and modification of coverage, to local VESMP authorities for review and acceptance on the department's behalf. It is the department's expectation that all components of the SWPPP, including any necessary approved plans, will be prepared by the operator prior to any local VESMP authority forwarding the complete registration statement to the department for issuance of general permit coverage.

For a small construction activity of a single-family detached residential structure, within or outside a common plan of development or sale, a SWPPP shall be developed and implemented prior to the initiation of the construction activity. A registration statement is now required for a large construction activity of a single-family detached residential structure, including those that were previously automatically covered prior to July 1, 2024. To be covered under the general permit, the large construction activity of a single-family detached residential structure, the SWPPP must be developed prior to the submission of a registration statement to the department. As previously mentioned, This SWPPP preparation requirement does not apply to the submission of a registration statement to a local VESMP authority; operators of private construction activities are required to submit registration statements for initial permit coverage or reissuance of permit coverage, as well as transfer and modification of coverage, to local VESMP authorities for review and acceptance on the department's behalf. It is the department's expectation that all components of the SWPPP, including any necessary approved plans, will be prepared by the operator prior to any local VESMP authority forwarding the complete registration statement to the department for issuance of general permit coverage.

For ongoing construction activities involving a change of operator, the new operator must accept and maintain the existing SWPPP or prepare and implement a new SWPPP prior to taking over operations at the construction activity.

2. Stormwater Pollution Prevention Plan Contents

Stormwater pollution prevention plans must include the following:

(1) general information;
(2) erosion and sediment controls;
(3) stormwater management controls;
(4) pollution prevention practices for any applicable nonstormwater discharge(s); and
(5) measures to address stormwater discharges to impaired waters, surface waters with a TMDL approved prior to the term of this general permit, and exceptional waters.

a. General Information

Stormwater pollution prevention plans are based on an understanding of the pollution potential of the construction activity. The SWPPP identifies potential sources of pollution that may reasonably be expected to affect the quality of stormwater discharges. In addition, SWPPPs provide a description of the site and the construction activities. This information is intended to provide a better understanding of construction site runoff and major pollutant sources. The general information section of the SWPPP must include a copy of the signed Registration Statement; a copy of the Notice of Coverage letter upon receipt; a copy of the Construction General Permit upon receipt; a narrative description of the nature of the construction activity, including the function of the project (e.g., low density residential, shopping mall, highway); and a legible map of the construction site identifying the following:

(1) existing and proposed drainage patters on the construction site and approximate slopes before and after major grading activities;
(2) limits of clearing and grading (i.e., land disturbance) including steep slopes and natural buffers around surface waters that will remain undisturbed;
(3) locations of major structural and nonstructural control measures, including sediment basins and traps, perimeter dikes and diversions, 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 construction support activities; and
(7) when applicable, the location of the on-site rain gauge, or methodology established in consultation with the VESMP authority, used to identify measurable storm events for inspection purposes.

b. Erosion and Sediment Control Plan

Stormwater pollution preventions plans must include an approved erosion and sediment control plan, an "*agreement in lieu of a plan*" as defined in 9VAC25-875-20, or an erosion and sediment control plan prepared in accordance with department-approved standards and specifications for the *Estimated Area to be Disturbed* as reported on the registration statement. An erosion and sediment control plan or an "*agreement in lieu of a plan*" ensures the proper design and implementation of erosion and sediment controls to minimize pollutants in stormwater discharges from the construction activity. In addition, all erosion and sediment control plans must include a statement describing the maintenance responsibilities required for all controls employed, which serves to aid operators in maintenance activities. Unless there is evidence to the contrary, a properly implemented approved erosion and sediment control plan, an "*agreement in lieu of a plan*," or an erosion and sediment control plan prepared in accordance with department-approved standards and specifications, adequately:

(1) controls the volume and velocity of stormwater runoff within the construction site to minimize erosion;
(2) controls stormwater discharges, including peak flow rates and total stormwater volume, to minimize erosion at outfalls and to minimize downstream channel and stream bank erosion;
(3) minimizes the amount of soil exposed during the construction activity;
(4) minimizes the disturbance of steep slopes;
(5) minimizes sediment discharges from the construction site in a manner that (i) addresses 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 expected to be present on the construction site;
(6) provides and maintains natural buffers around surface waters, directs stormwater to vegetated areas to increase sediment removal and maximize stormwater infiltration, unless infiltration would be inadvisable due to the underlying geology (e.g., karst topography) and groundwater contamination concerns, or infeasible due to site conditions;
(7) minimizes soil compaction (not required where the intended function of a specific area of the construction site dictates that it is to be compacted);
(8) unless infeasible, preserve topsoil (not required where the intended function of a specific area of the construction site dictates that the topsoil be disturbed or removed);
(9) ensures the initiation of stabilization activities of disturbed areas occurs immediately whenever any clearing, grading, or excavating, or other land-disturbing activities have permanent ceased on any portion of the construction site, or temporarily ceased on any portion of the construction site and will not resume for a period exceeding 14 days; and
(10) utilizes outlet structures that withdraw stormwater from the surface (i.e., above the permanent pool or wet storage water surface elevation), unless infeasible, when discharging from sediment basins or sediment traps.

In order to obtain permit coverage under the 2024 general permit, all operators must have obtained approval of an erosion and sediment control plan for the *Estimated Area to be Disturbed* as reported on the registration statement.

c. Stormwater Management Plan

Stormwater management plans ensure the implementation and maintenance of post-development stormwater management controls to minimize pollutants in stormwater discharges from the site after final stabilization and general permit termination has occurred. Stormwater management controls that mitigate changes to pre-development runoff characteristics assist in protecting and maintaining the physical and biological characteristics of receiving streams and wetlands. Therefore, stormwater pollution prevention plans must include an approved stormwater management plan in accordance with the Virginia Erosion and Stormwater Management Regulation (9VAC25-875) for new construction activities, an "*agreement in lieu of a plan*" as defined in 9VAC25-875-20, or a stormwater management plan prepared in accordance with department-approved standards and specifications.

For any operator that obtained an initial permit or commenced land disturbance prior to July 1, 2014, meeting the conditions of 9VAC25-875-480 B of the VESMP 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, VESMP authority, state, and federal requirements, and any necessary permits must be obtained.

d. Pollution Prevention Plan

Pollution prevention plans identify and address pollutant-generating activities from both on-site and off--site activities, including construction support activities, which may be reasonably expected to affect the quality of discharges. The plan must identify and ensure the implementation of applicable pollution prevention practices for each component of the discharge. The pollution prevention plan shall include:

(1) the identification of pollutant-generating activities and the pollutants that are expected to be exposed to stormwater;
(2) the location where the pollutant-generating activities will occur (or if identified on the site plan, reference the site plan);
(3) the identification of all nonstormwater discharges that are or will be commingled with stormwater discharges from the construction activity, including any support activity;
(4) the identification of the person responsible for implementing the pollution prevention practice(s) for each pollutant-generating activity (if other than the person listed as the qualified personnel);
(5) a description of the pollution prevention procedures and practices that will be implemented to:
    (i) prevent and respond to leaks, spills, and other releases,
    (ii) prevent the discharge of spilled and leaked fuels and chemicals from vehicle fueling and maintenance activities,
    (iii) 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,
    (iv) minimize the discharge of pollutants from vehicle and equipment washing, wheel wash water and other types of washing,
    (v) direct concrete wash water into a leak-proof container or leak-proof settling basin designed so that no overflows can occur due to the inadequate sizing or precipitation,
    (vi) minimize the discharge of pollutants from storage, handling, and disposal of construction products, materials, and wastes,
    (vii) prevent the discharge of fuels, oils, and other petroleum products, hazardous or toxic wastes, waste concrete, and sanitary wastes;
    (viii) addresses any other discharge from the potential pollutant-generating activities no addressed above;
    (ix) minimizes the exposure of water 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; and
(6) a description of the procedures for providing pollution prevention awareness of all applicable wastes to personnel in order to comply with the conditions of this general permit.

e. Measures to address stormwater discharges to impaired waters, surface waters with a TMDL approved prior to the term of this general permit, and exceptional waters

Operators must develop, implement, and maintain a SWPPP that minimizes the pollutants of concern (i.e., sediment or a sediment-related parameter or nutrients) when discharging to surface waters identified as impaired on the 2022 305(b)/303(d) Water Quality Assessment Integrated Report for Benthic Macroinvertebrates Bioassessments or with an applicable TMDL wasteload allocation established and approved prior to the term of this general permit, including all surface waters within the Chesapeake Bay Watershed. Operators must also:

(1) identify the impaired water(s), approved TMDL(s), and pollutant(s) of concern, in the SWPPP and
(2) provide documentation in the SWPPP that:
    (i) permanent or temporary soil stabilization shall be applied to denuded areas within 7 days after final grade is reached on any portion of the construction site,
    (ii) 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
    (iii) perform site inspections at a frequency of at least once every 4 business days or, at least once every 5 business days and no later than 24 hours following a measurable storm event. In addition, operators shall inspect all outfalls discharging to impaired waters when employing representative inspections for utility line installations, pipeline construction, or other similar linear construction activities.

When construction activities discharge to surface waters identified as PCB impaired on the 2022 305(b)/303(d) Water Quality Assessment Integrated Report or with an applicable TMDL wasteload allocation established approved prior to the term of this general permit and the activities include the demolition of a building 10,000 square feet or greater of floor space built or renovated prior to January 1, 1980, operators must develop, implement, and

maintain a SWPPP that minimizes the exposure of building materials containing PCBs to precipitation and stormwater. Operators must also perform the following:

(i) identify the impaired water(s), approved TMDL(s), and pollutant(s) of concern; in the SWPPP;
(ii) implement the approved erosion and sediment control plan;
(iii) ensure disposal of waste materials in compliance with applicable state, federal, and local requirements; and
(iv) perform site inspections at a frequency of at least once every four business days or, at least once every five business days and no later than 24 hours following a measurable storm event.

It is anticipated that the implementation and maintenance of traditional erosion and sediment controls in accordance with an approved Erosion and Sediment Control Plan, an "*agreement in lieu of a plan*", or an Erosion and Sediment Control Plan prepared in accordance with department-approved standards and specifications will minimize (i.e., reduce or eliminate) the discharge of (i) sediment or a sediment related parameter or (ii) nutrients from construction activities. The implementation and maintenance of traditional erosion and sediment controls is also expected to minimize the discharge of pollutants typically bound to sediment particles such as heavy metals or polychlorinated biphenyl (PCB). Also, more frequent inspection requirements will enhance an operator's ability to find and correct problems before a discharge of pollutants to impaired waters occurs. In addition, reducing the amount of time that exposed soil is left in an un-stabilized state is important for limiting the sediment or nutrient load to waters already degraded for pollutants associated with construction activities. The faster stabilization requirement for construction activities discharging to sediment or nutrient impaired waters is anticipated to minimize the erosion losses and downstream sedimentation issues that are associated with large, exposed areas. In the absence of information demonstrating otherwise, it is anticipated that compliance with the conditions of this general permit will result in stormwater discharges being controlled as necessary such that an operator's stormwater discharges will not cause or contribute to a water quality impairment and are consistent with the assumptions and requirements of all applicable TMDLs approved prior to the term of this general permit.

The Chesapeake Bay TMDL established and approved by EPA in December 2010 was developed to address water quality impairments associated with excess sediment and nutrient loadings. Since discharges of stormwater from construction activities are an identified source of sediment and nutrients, all construction activities occurring within the Bay watershed must implement the provisions of Part II B 5 of the general permit as discussed above.

For stormwater discharges to exceptional waters identified in the Virginia Water Quality Standards, operators must:

(1) identify the exceptional water(s) in the SWPPP and
(2) provide documentation in the SWWP that:
    (i) permanent or temporary soil stabilization shall be applied to denuded areas within 7 days after final grade is reached on any portion of the site;
    (ii) nutrients shall be applied in accordance with manufacturer's recommendations or an approved nutrient management plan and not during rainfall events, and
    (iii) perform site inspections at a frequency of at least once every four days or, at least once every seven days and no later than 24 hours following a measurable storm event.

In addition, operators must inspect all outfalls discharging to exceptional waters when employing representative inspections for utility line installations, pipeline construction, or other similar linear construction activities. These general permit requirements serve to implement the Commonwealth's antidegradation policy for exceptional (i.e., Tier 3) waters.

f. Construction dewatering discharges to sediment impaired waters or exceptional waters

Dewatering discharges from construction site dewatering activities may contain pollutants that exceed applicate water quality standards and contribute to downstream erosion, if not managed by appropriate controls. The turbidity levels in construction dewatering effluent can vary greatly depending upon many site-specific conditions, such as soil condition, type and extent of construction activity, implementation of controls, and location of the activity in relation to receiving waters.

As previously mentioned, the U.S. EPA CGP, effective on February 17, 2022, included new requirements for dewatering discharge. DEQ has proposed three options for monitoring construction dewatering discharge, in order to provide flexibility, but still remain equally as protective of water quality as the EPA CGP. The benchmark threshold for turbidity is not an effluent limit. As such, an exceedance of the benchmark threshold does not itself constitute a permit violation. Rather, the benchmark threshold acts as a warning sign to the operator that changes may be needed in the dewatering controls to improve pollutant removal and protect water quality. The permit language

requires the operator to test a minimum of one time or two times if a benchmark is exceeded. An ongoing exceedance of a benchmark would not constitute a permit violation, provided the operator verified their controls were in place, ensured controls were being maintained, and documented corrective actions. Failure to verify controls or perform routine maintenance would constitute a permit violation. In addition, if dewatering activities do not reach surface water (e.g., are allowed to infiltrate through a vegetated area) then no turbidity monitoring is required due to there not being a discharge.

Dewatering discharges of uncontaminated stormwater or groundwater from footers or foundations of a single-family detached residential structure is exempt from the requirements of this section, provided that such discharges are not directly discharged to surface waters.

For construction dewatering discharges to surface waters (i) identified as impaired in the 2022 § 305(b)/303(d) Water Quality Assessment Integrated Report for Benthic Macroinvertebrates Bioassessments; (ii) with an applicable TMDL wasteload allocation established and approved prior to the term of this general permit for sediment or a sediment-related parameter (i.e., total suspended solids or turbidity) including all surface waters within the Chesapeake Bay Water; or (iii) identified in 9VAC25-260-30 A 3 c as an exceptional water, the operator shall undertake one of the following methods for controlling and documenting construction dewatering discharges:

A. Turbidity benchmark – Option 1
   (1) identify the location of all construction dewatering discharges in the SWPPP;
   (2) select, install, implement, and maintain control measures at each dewatering location that minimize pollutants, including suspended solids, in construction dewatering discharges prior to discharging into a stormwater conveyance system or surface water; and
   (3) provide documentation in the SWPPP that:
      (i) one upstream grab sample collected from the receiving stream and at least one grab sample shall be collected from each construction dewatering discharge when the first discharge at that location occurs, daily thereafter, and after any installation of new controls or routine maintenance activity of existing control;
      (ii) upstream grab samples of the receiving stream shall be collected within 15 minutes of the corresponding construction dewatering discharge sample and grab samples of the construction dewatering discharge shall be collected during the first 15 minutes of the construction dewatering discharge and daily thereafter;
      (iii) grab samples shall be collected after the construction dewatering water has been filtered, settled, or similarly treated and prior to its discharge into a stormwater conveyance system or surface water;
      (iv) grab samples taken as required by this section shall be measured using a turbidity meter that reports results in nephelometric turbidity units (NTUs) or foramzine turbidity unit (FTUs), and conduct a turbidity meter calibration verification prior to each day's use, consistent with manufacturer recommendations;
      (v) all dewatering discharges shall be visually monitored for changes in the characterization of effluent discharge;
      (vi) if any turbidity measurement of the construction dewatering discharge exceeds the upstream grab sample of the receiving stream by more than 50 NTUs/FTUs, or if visual monitoring indicates a change in the characterization of effluent discharge, corrective action shall be taken in accordance with Part II H 2 of the general permit; and
      (vii) turbidity monitoring information (i.e., location, date, sample collection time, and turbidity measurement) and any necessary corrective actions taken shall be recorded in the SWPPP; or

B. Turbidity benchmark – Option 2
   (1) identify the location of all construction dewatering discharges in the SWPPP;
   (2) select, install, implement, and maintain control measures at each dewatering location that minimize pollutants, including suspended solids, in construction dewatering discharges prior to discharging into a stormwater conveyance system or surface water; and
   (3) provide documentation in the SWPPP that:
      (i) at least one grab sample shall be collected from each construction dewatering discharge when the first discharge at that location occurs, daily thereafter, and after any installation of new controls or routine maintenance activity of existing controls, and tested to confirm a turbidity measurement of equal to or less than 150 NTUs/FTUs from the construction dewatering discharge;
      (ii) grab samples of the construction dewatering discharge shall be collected during the first 15 minutes of the construction dewatering discharge and daily thereafter;
      (iii) grab samples shall be collected after the construction dewatering water has been filtered, settled, or similarly treated and prior to its discharge into a stormwater conveyance system or surface water;

(iv) grab samples taken as required by this section shall be measured using a turbidity meter that reports results in nephelometric turbidity units (NTUs) or foramzine turbidity unit (FTUs), and conduct a turbidity meter calibration verification prior to each day's use, consistent with manufacturer recommendations;
(v) all dewatering discharges shall be visually monitored for changes in the characterization of effluent discharge;
(vi) if any turbidity measurement of the construction dewatering discharge exceeds 150 NTUs/FTUs, or if visual monitoring indicates a change in the characterization of effluent discharge, corrective action shall be taken in accordance with Part II H 2 of the general permit; and
(vii) turbidity monitoring information (i.e., location, date, sample collection time, and turbidity measurement) and any necessary corrective actions taken shall be recorded in the SWPPP.

C. Turbidity benchmark – Option 3
(1) identify the location of all construction dewatering discharges in the SWPPP;
(2) select, install, implement, and maintain control measures at each dewatering location that minimize pollutants, including suspended solids, in construction dewatering discharges prior to discharging into a stormwater conveyance system or surface water; and
(3) provide documentation in the SWPPP that:
(i) at least one grab sample shall be collected from each construction dewatering discharge when the first discharge at that location occurs, daily thereafter, and after any installation of new controls or routine maintenance activity of existing controls, and tested to confirm a weekly average turbidity measurement of equal to or less than 50 NTUs/FTUs from the construction dewatering discharge;
(ii) grab samples of the construction dewatering discharge shall be collected during the first 15 minutes of the construction dewatering discharge and daily thereafter;
(iii) grab samples shall be collected after the construction dewatering water has been filtered, settled, or similarly treated and prior to its discharge into a stormwater conveyance system or surface water;
(iv) grab samples taken as required by this section shall be measured using a turbidity meter that reports results in nephelometric turbidity units (NTUs) or foramzine turbidity unit (FTUs), and conduct a turbidity meter calibration verification prior to each day's use, consistent with manufacturer recommendations;
(v) all dewatering discharges shall be visually monitored for changes in the characterization of effluent discharge;
(vi) if the weekly average turbidity measurement of the construction dewatering discharge exceeds 50 NTUs/FTUs, or if visual monitoring indicates a change in the characterization of effluent discharge, corrective action shall be taken in accordance with Part II H 2 of the general permit; and
(vii) turbidity monitoring information (i.e., location, date, sample collection time, and turbidity measurement) and any necessary corrective actions taken shall be recorded in the SWPPP.

For Option 3, the weekly average is the sum of all turbidity samples taken during a monitoring week divided by the number of samples measures during that week. A monitoring week starts on Monday and ends on Sunday. If dewatering does not occur on one or more days, those days are not included in the calculation of the weekly average. At the beginning of each monitoring week, a new average for that week of turbidity monitoring results is required to be calculated. If the operator elects to perform more than one turbidity sample per day from the dewatering discharge, these additional results must be included in the calculation of the weekly average. In addition, a weekly average turbidity value must be calculated for each discharge point and comparted to the turbidity benchmark.

Below are two examples of how to calculate the weekly average:

Day Dewatering Occurs	Monitoring result (NTU or FTU)
Tuesday	45
Wednesday	63
Thursday	40
Weekly Average	49 ((45+63+40) ÷ 3)

Day Dewatering Occurs	Monitoring result (NTU or FTU)
Monday	52
Monday	45
Tuesday	48
Wednesday	34

Friday	60
Friday	72
Weekly Average	52 ((52+45+48+34+60+72) ÷ 6)

If in week 2, your turbidity samples resulted in values of 45 NTU on Monday, 30 NTU on Tuesday, 25 NTU on Wednesday, and 15 NTU on Thursday, you would calculate a new average for that week, which would yield an average turbidity value of 28.75 NTU ((45+30+25+15) ÷ 4 = 29 NTU).

At any time prior to or during coverage under the permit, the operator may request approval from the department for an alternative benchmark threshold for their construction site. To request approval, the operator shall submit the following to the department:

(1) The current turbidity water quality standard that applied to the receiving stream and the supporting documentation of this standard, and
(2) Applicable information on the natural or background turbidity level to determine the specific standard for the receiving water, including available data that can be used to establish the natural turbidity levels of your receiving water. This information may include literature studies or local government data and must be representative of the natural turbidity levels of the receiving water.

3. SWPPP Amendments, Modification, and Updates

The operator shall amend the stormwater pollution prevention plan whenever there is a change in design, construction, operation or maintenance that has a significant effect on the discharge of pollutants to surface waters. The SWPPP must also 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. Qualified personnel must be a person knowledgeable in the principles and practices of erosion and sediment and stormwater management controls who possesses the skills to assess conditions at the construction site for the operator that could impact stormwater quality and quantity and to assess the effectiveness of any sediment and erosion control measures or stormwater management facilities selected to control the quality and quantity of stormwater discharges from the construction activity. On or after July 1, 2025, qualified personnel shall hold an unexpired certificate of competence for Project Inspector for Erosion and Sediment Control and an unexpired certificate of competence for Project Inspector for Stormwater Management, both issued by the department, a Construction General Permit Qualified Personnel Certificate issued by the department or the Virginia Department of Transportation, or an equivalent certification provided by EPA (currently titled Construction Inspection Training Course).

Amendments to the SWPPP shall include additional or modified control measures designed and implemented to correct problems identified. In addition, the SWPPP shall be amended to identify any new contractor that will implement and maintain a control measure of the stormwater pollution prevention plan. The SWPPP shall be updated as soon as possible but no later than five business days following any modifications to its implementation, unless approval by a Virginia Erosion and Sediment Control Program (VESCP) authority, VESMP authority, or the department is necessary for the implementation of an additional or modified control measure. If VESCP authority, VESMP authority, or department approval is necessary, the SWPPP shall be updated no later than five business days following approval.

Unless otherwise required above, the operator shall update the SWPPP to include the following:

(1) a record of dates when major grading activities occur, construction activities temporarily or permanently cause on a portion of the construction site, and stabilization measures are initiated;
(2) documentation of replaced or modified controls where periodic inspections or other information have indicated that the controls have been used inappropriately or incorrectly and were modified;
(3) areas that have reached final stabilization and where no further SWPPP or inspection requirements apply;
(4) 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;
(5) the date of any prohibited discharge, the discharge volume released, and actions taken to minimize the impact of the release of the release;
(6) measures taken to prevent the reoccurrence of an prohibited discharge; and
(7) measures taken to address any inspection deficiencies.

All amendments, modifications, or updates to the SWPPP shall be signed in accordance with Part III K 2 of the general permit and shall include the required certification in accordance with Part III K 4 of the general permit.

4. Public Notification
Upon commencement of construction activities, the operator shall post a copy of the Notice of Coverage letter at a publicly accessible location near the main entrance of the construction site. For linear projects, the operator shall post a copy of the Notice of Coverage letter at a publicly accessible location near an active portion of the construction site (e.g., where a pipeline project crosses a public road). The copy of the Notice of Coverage letter shall be visible such that it can be readily viewed from a public right-of-way. In addition, the operator must maintain the posted information until termination of general permit coverage.

5. SWPPP Availability
The operator with day-to-day operational control over stormwater pollution prevention plan implementation is required to have a copy of the SWPPP available at a central location on-site for use by those identified as having responsibilities under the SWPPP. In addition, the general permit requires the operator to make the SWPPP and all updates available upon request to the department, the VESMP authority, the EPA, the VESCP authority, local government officials, or the operator of a municipal stormwater sewer system (MS4) receiving discharges from the construction activity. If an on-site location is unavailable to store the SWPPP when no personnel are present, notice of the SWPPP's location must be posted near the main entrance of the construction site.

The general permit also requires the operator to make the SWPPP available for public review in an electronic format or in hard copy. Information for public access to the SWPPP is required to be posted and maintained in accordance with the SWPPP public notification requirements, above. If the operator does not provide the SWPPP electronically, then public access to the SWPPP may be arranged upon request at a time (during normal business hours) and at a publicly accessible location convenient to the operator or his designee. Please note that information not required to be contained within the SWPPP by this general permit is not required to be released by the operator.

6. SWPPP Implementation
The operator is required to implement the stormwater pollution prevention plan and subsequent amendments, modifications, and updates from the commencement of land disturbance until termination of general permit coverage.

All control measures must be properly maintained in effective operating condition in accordance with good engineering practices and, where applicable, manufacturer specifications. If required site inspections identify control measures that are not operating effectively or needs routine maintenance, corrective actions or routine maintenance shall be performed as soon as practicable, but no later than five business days after discovery or a longer period as established by the VESMP authority, to maintain the continued effectiveness of the control measures. If the operator must make the same repairs more than two times to the same control at the same location, even if the fix can be completed by the close of the next business day, the operator shall either (1) complete work to fix any subsequent repeat occurrences of this same problem under the corrective action procedures outlined in Part II H of the general permit, including keeping any records of the condition and how it was corrected, or (2) document in the inspection report under Part II G of the general permit why the specific reoccurrence of this same problems should still be addressed as a routine maintenance fix.

If required site inspections identify existing control measures that need to be modified or if additional or alternative control measures are 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 alternative control measures shall be implemented as soon as practicable, but no later than five business days after discovery or a longer period as established by the VESMP authority.

7. SWPPP Inspections
Diligent site inspections are necessary to ensure adequate implementation of on-site erosion and sediment controls, particularly in the later stages of construction when the volume of runoff is greatest and the storage capacity of sediment basins or sediment traps have been reduced.

Inspection procedures in the stormwater pollution prevention plan must provide that specified areas on the construction site are inspected by qualified personnel identified by the operator a minimum of once every 10 business days and no later than 24 hours following a measurable storm event, or a minimum of once every five

business days. Qualified personnel may be a person on the operator's staff, or a third party hired to conduct such inspections. Construction activities that discharge to impaired waters, surface waters with a TMDL approved prior to the term of this general permit, and exceptional waters shall be inspected a minimum of once every five business days and no later than 24 hours following a measurable storm event, or a minimum of once every four business days. 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.

For this general permit a "*measurable storm event*" is defined as a rainfall event producing 0.25 inches of rain or greater over 24 hours or snow melt from a snow event producing 3.25 inches or more of snow within a 24-hour period. EPA believes that storm events with rainfall totals between 0.25 and 0.5 inches or snow melt from a snow event producing 3.25 inches or more of snow have the potential to produce discharges of stormwater that could lead to discharges of pollutants to surface waters, particularly if stormwater controls are not functioning effectively. Furthermore, EPA also believes that storm events in this size range may compromise stormwater controls on the construction site. Readers are referred to EPA's final 2022 CGP Fact Sheet for additional details.

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);
(4) and the inspection locations are identified in the required inspection report.

Areas of the construction site that must be observed during inspections include, but are not limited to: disturbed areas, areas used for the storage of construction materials that are exposed to precipitation, structural control measures, and locations where vehicles enter or exit the construction site. Disturbed areas and areas used for the storage of construction materials that are exposed to precipitation must be inspected for evidence of, or the potential for, pollutants entering stormwater discharges from the construction site. Erosion and sediment controls and pollution prevention measures identified in the SWPPP must be observed to ensure that they are operating correctly and effectively and do not require maintenance; observations can be made during wet or dry weather conditions. Locations where vehicles enter or exit the construction site must be inspected for evidence of off-site sediment tracking.

SWPPP inspection reports must include the following information:

(1) the date and time of the inspection and when applicable, the date and rainfall or snowfall amount of the last measurable storm event;
(2) summarized findings of the inspection;
(3) the locations, visual quality, and characteristics of all stormwater discharges, when occurring;
(4) the locations, visual quality, and characteristics of all construction dewatering discharges, if applicable;
(5) the locations of prohibited discharges;
(6) the locations of control measures that require routine maintenance;
(7) the locations of control measures that failed to operate as designed or proved inadequate or inappropriate for a particular location;
(8) the locations where an erosion and sediment control plan or an agreement in lieu of a plan has not been properly implemented;
(9) the locations where any additional control measures are needed;
(10) 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;
(11) documentation of any corrective action required from a previous inspection that have not been implemented;
(12) any incidents of noncompliance;
(13) the required certification in accordance with the general permit; and

(14) the date and signature of the qualified personnel and operator or the operator's duly authorized representative.

When the 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 the general permit. Inspection report must be signed in accordance with Part III K of the general permit and must be retained for at least three years after the date of general permit expiration or termination of general permit coverage.

Based on the results of a site inspection, corrective action(s) must be taken as soon as practicable. The inspection and SWPPP review process must provide for the timely modification of the stormwater pollution prevention plan no later than five business days following the inspection, or a longer period as approved by the VESMP authority, unless regulatory authority approval of a corrective action is necessary.

If adverse weather causes the safety of the inspection personnel to be in jeopardy, the SWPPP 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 must be included in the SWPPP with the dates of occurrence.

8. Corrective Actions

The general permit requires the operator to implement any corrective action identified as a result of an inspection as soon as practicable but no later than five business days after discovery or a longer period as approved by the VESMP authority. If approval of a corrective action by a regulatory authority (e.g., VESMP authority, VESCP authority, the department) is necessary, the operator is further required to implement additional control measures to minimize pollutants in stormwater discharges until such approvals can be obtained. 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 general permit requires that the operator 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.

For construction dewatering discharges, when any construction dewatering discharge turbidity measurement exceeds the turbidity benchmark or where visual monitoring indicates a change in the characterization of effluent discharge, the operator shall:

(1) immediately cease the construction dewatering discharge at the location that exceeds upstream grab sample or where visual monitoring indicates a change in the characterization of effluent discharge;
(2) determine whether the construction dewatering controls are operating effectively, need routine maintenance, or if an additional or alternate control measure is necessary; and
(3) make any necessary adjustments, additions, repairs, or replacements to the construction dewatering controls.

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

Numeric Effluent Limitations and Monitoring Requirements

As previously noted, on November 5, 2010, EPA finalized a stay (75 FR 68215), effective January 4, 2011, for 40 CFR Parts 450.22 (a) and (b). EPA published amendments to the C&D Rule (79 CFR 12661) on March 6, 2014, and May 4, 2014 (80 CFR 25235) with an effective date of May 5, 2014, that lifted the indefinite stay and withdrew the numeric effluent limitation. Therefore, the numeric effluent limitations for turbidity have not been incorporated into the general permit for stormwater discharges from construction activities. Requirements in this general permit include the development of a stormwater pollution prevention plan. Discharge sampling information does not provide a direct link to compliance with this permit condition as it does with numeric effluent limitations. Where permits require the implementation of stormwater pollution prevention measures and do not establish numeric effluent limitations, conducting inspections to identify sources of pollution and to evaluate whether the pollution prevention measures required by the permit are being effectively implemented and are in compliance with the terms of the permit will provide a better indication than discharge sampling of whether a construction activity is complying with the general permit. This will also reduce discharge sampling burdens on the operator. Also, due to the changing nature of the activity at a construction site, monitoring stormwater from this type of site would have limited usefulness. The operator is also required to maintain records summarizing the results of an inspection as well as

certify that the construction activity is in compliance with the general permit. The requirement for adequate documentation of an inspection is particularly important given the lack of requirements to collect discharge monitoring data under the general permit and the importance placed on using site inspections to ensure the effective implementation of stormwater pollution prevention plans.

The areas of the construction site that must be observed during operator or qualified personnel inspections include, but are not limited to the following: disturbed areas, areas used for the storage of construction materials that are exposed to precipitation, structural control measures, and locations where vehicles enter or exit the construction site. At a minimum, these inspections shall be conducted at least once every 10 business days and no later than 24 hours following a measurable storm event. Records of these inspections are to be retained as part of the stormwater pollution prevention plan. In establishing the minimum monitoring and reporting requirements for stormwater discharges from construction activities, the Board determined that frequent and thorough inspections would allow for the identification of areas contributing to a stormwater discharge and the evaluation of whether measures to minimize pollutant loadings identified in the stormwater pollution prevention plan are adequate and properly implemented in accordance with the terms of the general permit or whether additional control measures are needed.

Because construction activities can be complex, transient operations, frequent inspections are necessary to ensure that new pollutant sources are identified, control measures are implemented for new activities at the site, and existing control measures are kept operational. Control measures to minimize pollutants in stormwater discharges must be properly maintained in order to be effective. Often, these types of controls may become altered by construction activities or by storm events such that their ability to remove pollutants is limited. Frequent inspections for construction activities are appropriate and necessary for successful program implementation.

Chesapeake Bay Total Maximum Daily Load

This general permit includes the construction and development point source category effluent limitation guidelines and new source performance standards established in 40 CFR Part 450. Readers are referred to 74 FR 62996, 75 FR 68215, 79 FR 12661, and 80 FR 25235 for additional details. In addition, this general permit requires construction activity operators to develop a SWPPP which includes an approved stormwater management plan or a stormwater management plan prepared in accordance with department-approved standards and specifications for new construction activities. As of July 1, 2014, these stormwater management plans must comply with the Commonwealth’s new stormwater management technical criteria, including newly revamped water quantity and water quality requirements. These new technical criteria have been developed in order to offset future growth in Virginia resulting from the development of agricultural and forest lands into residential and commercial uses.

Office of Regulatory Management

Economic Review Form

Agency name	State Water Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9 VAC 25-880
VAC Chapter title(s)	General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges of Stormwater from Construction Activities
Action title	CH880 – 2024 Amendment and Reissuance of the VPDES Stormwater Construction General Permit Regulation
Date this document prepared	01/08/2024
Regulatory Stage (including Issuance of Guidance Documents)	Final

Background

This regulatory action is proposed to amend and reissue the existing general permit regulation which expires on June 30, 2024. This general permit regulation authorizes the discharge of stormwater from construction activities equal to or greater than one acre of land disturbance or less than one acre of land disturbance within a larger common plan of development or sale. This regulatory action is needed for existing and new construction activities to be covered under this general permit regulation. The revisions to the permit made through this regulatory action focused on changing citations and references to be consistent with new the Virginia Erosion and Stormwater Management Regulation (9VAC25-875); improving the clarity and readability of language in the permit; updating provisions to be consistent with other recently reissued VDPES permits; and amending and adding language and new provisions to be consistent with the reissued 2022 EPA Construction General Permit. Additional amendments to the CGP are also being proposed in response to comments received on the proposed regulation.

VPDES general permits expire every five years and must be re-issued in order for permit coverage to be available to new permittees and existing covered permittees. If the general permit is not re-issued, the regulated community will need to obtain an individual permit to conduct the regulated activity. For this reason, the costs associated with obtaining an individual permit are compared with the costs associated with general permit coverage. General permits provide the regulated community with a streamlined, less burdensome approach to obtain coverage for conducting a specific regulated activity.

Cost Benefit Analysis

Complete Tables 1a and 1b for all regulatory actions. You do not need to complete Table 1c if the regulatory action is required by state statute or federal statute or regulation and leaves no discretion in its implementation.

Table 1a should provide analysis for the regulatory approach you are taking. Table 1b should provide analysis for the approach of leaving the current regulations intact (i.e., no further change is implemented). Table 1c should provide analysis for at least one alternative approach. You should not limit yourself to one alternative, however, and can add additional charts as needed.

Report both direct and indirect costs and benefits that can be monetized in Boxes 1 and 2. Report direct and indirect costs and benefits that cannot be monetized in Box 4. See the ORM Regulatory Economic Analysis Manual for additional guidance.

Table 1a: Costs and Benefits of the Proposed Changes (Primary Option)

(1) Direct & Indirect Costs & Benefits (Monetized)	Regulating stormwater discharges to state waters that are related to construction activity through the reissuance of a general permit regulation is an alternative streamlined approach that is used to regulate entities that conduct similar activities. A benefit of this general permit is its lower cost to permittees relative to the cost of obtaining an individual permit. The permit fee for owners to obtain coverage under this general permit ranges from $290 to $9,600 (average $4,432) based on total acreage of land disturbance. In this document, the average permit fee is used to estimate permit fee costs to the regulated community. If this general permit were not available, these owners would be required to obtain an individual VPDES permit. The permit fee for an individual permit for Discharges of Stormwater from Construction Activities is $15,000. There are currently 6,416 construction sites covered under this general permit. If this general permit option was not available these facilities would be required to pay the $15,000 individual permit fee instead of the average $4,432 permit fee. The general permit represents a total savings of approximately $67.8M for the permit sector in permit fee costs ($10,568 x 6,416 sites). These costs do not account for the applicant cost to prepare the application, annual maintenance fees, advertisement costs, and the longer lead time to obtain an individual permit. Approximately 22% of the current permits were issued by the DEQ with the remainder issued by local VSMP authorities. The costs do not include the increased burden on DEQ staff resources that would result if individual permits were the only permit option available as all individual permits are issued by DEQ.

	Change #1: Qualified personnel. EPA's 2022 CGP updates the requirements for operators to assemble a stormwater team that is responsible for carrying out activities that are necessary to comply with the permit. These new requirements include greater detail about training requirements for stormwater team members. The department addressed these requirements in the proposed 2024 CGP by adding "qualified personnel" as a defined term and carried that term throughout the general permit regulation to identify these personnel as those responsible for activities necessary to comply with the permit. In addition, the definition specifies the certificates of competence and trainings that must be used to be considered a "qualified personnel." The definition was expanded based on comments receiving during the public comment period to include a Qualified Personnel Certificate issued by either the department or the Virginia Department of Transportation to provide additional flexibility and options to the regulated community. Direct Costs: There are no direct costs associated with this change because the department has provided at least one option for obtaining the appropriate certifications that is free. Other options provided range from $0 to $605. Indirect Costs: The indirect costs associated with this change are the time involved for operators to ensure that there are employees with the necessary certifications. Direct Benefits: The direct benefits associated with this change are improved clarity about who is responsible for stormwater activities at a construction site and clear information for operators about the types of training and certification that those individuals must have. Indirect Benefits: The indirect benefit associated with this change is improved operation of stormwater controls at the construction site that result from having appropriately trained personnel overseeing these controls. **Change #2: Construction dewatering discharge.** EPA's 2022 CGP includes a new section for turbidity benchmark monitoring for construction dewatering discharges to sensitive waters. EPA further explains that this benchmark is not intended to be an effluent limitation but is meant to function as an indicator that dewatering controls may not be working to protect water quality. The department addresses this new requirement in the proposed 2024 CGP by adding a new section requiring turbidity benchmark monitoring

	for construction dewatering discharges into sediment impaired or exceptional waters. Like EPA's permit, this benchmark is not intended to be an effluent limitation but is meant to function as an indicator that dewatering controls may not be working to protect water quality. One additional benchmark threshold and the ability for the operator to request an alternative benchmark threshold were added to the regulation based on comments received during the public comment period to provide more options and flexibility to the regulated community. Direct costs: The direct costs associated with this change are the cost of purchasing a turbidity meter for operators that do not currently have one, and the cost of any maintenance, repairs, or additional controls that may be necessary if the turbidity benchmark is exceeded. Indirect costs: The indirect costs associated with this change are the time it takes to perform the turbidity test, take any necessary corrective act, and to train personnel on the use of a turbidity meter. Direct benefits: The primary direct benefit of this change is greater effectiveness of dewatering discharge controls due to increased monitoring. Indirect benefits: The indirect benefit of this change is improved water quality that may result from ensuring that dewatering discharge controls are installed and functioning properly. **Change #3: Documentation requirements.** Additional documentation requirements were included in the proposed 2024 CGP for documenting areas where stormwater treatment chemicals are used or stored, locations of construction dewatering discharge, locations where stormwater controls have repeatedly failed, etc. Direct costs: There are no direct costs from these changes because the new language only requires documenting existing parts of the construction site. Indirect costs: The primary indirect cost of these changes is the additional time it will take for personnel to document these areas. Direct benefits: The direct benefit of these changes is increased knowledge of the locations and types of activities at a construction site that may result in pollutant discharges. Indirect benefits: The indirect benefit of these changes is increased effectiveness of controls due to greater knowledge of where controls are

	needed on the site and situations where they repeatedly fail. Improving the effectiveness of controls may have the benefit of improving water quality. **Change #4: Inspection requirements.** The proposed 2024 CGP includes new requirements for inspecting all stormwater discharge locations, construction dewatering discharge locations, and additional items to be included in the inspection report. Direct costs: There are no direct costs from these changes because the new language only requires inspecting and reporting on existing parts of the construction site. These requirements do not require the purchase of any new equipment or undertake any additional control measures. Indirect costs: The primary indirect cost of these changes is the additional time it will take for personnel to inspect and report on all discharge locations. Direct benefits: The direct benefit of these changes is improved monitoring or all stormwater discharges and construction dewatering discharges associated with the construction site. These changes also ensures that the inspection report provides documentation on locations that indicate the discharge of pollutants. Indirect benefits: The indirect benefit of these changes is increased effectiveness of controls due to greater monitoring of where controls are needed on the site and situations where they repeatedly fail. Improving the effectiveness of controls may have the benefit of improving water quality.

(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) Cost of Turbidity Meter: $970 - $1,870 (b) Cost of Qualified Personnel Certificate: $0 - $605	(c) Unable to monetize direct and indirect benefits.
(3) Net Monetized Benefit	NA	

(4) Other Costs & Benefits (Non-Monetized)	In general, re-issuance of the general permit may indirectly benefit economic development since the general permit provides a streamlined approach to obtaining a permit to conduct a specified activity. Industries interested in operating in Virginia may be able to obtain general permit

	coverage, in lieu of obtaining an individual permit. These indirect benefits are unable to be monetized by DEQ.
(5) Information Sources	9VAC25-20 Fees for Permits and Certificates Turbidity meter cost is from EPA's Incremental Cost Impact Analysis for the 2022 Construction General Permit

Table 1b: Costs and Benefits under the Status Quo (No change to the regulation)

(1) Direct & Indirect Costs & Benefits (Monetized)	Direct Costs: The direct costs of maintaining the status quo are that the regulation would fail to incorporate important defined terms, maintain requirements that are unnecessary or less flexible, and keep language that is less readable and less clear about requirements. This would create a regulation that is less user friendly and lacks important details and flexibility, potentially resulting in increased costs for operators. Indirect Costs: The indirect costs of maintaining the status quo are that it would exclude new provisions that may provide greater water quality protection. Direct Benefits: The primary direct benefit of maintaining the status quo is that it would not require operators to purchase specialized equipment needed to perform tests not required under the existing permit. Indirect Benefits: The primary indirect benefits of maintaining the status quo are that it would save operators the time and personnel costs associated with new certifications and new inspection and reporting requirements.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) No monetized direct or indirect costs associated with the status quo.	(b) Unable to monetize direct and indirect benefits.
(3) Net Monetized Benefit	N/A	
(4) Other Costs & Benefits (Non-Monetized)	N/A	
(5) Information Sources	N/A	

Table 1c: Costs and Benefits under Alternative Approach(es)

(1) Direct & Indirect Costs & Benefits (Monetized)	Allowing the general permit regulation to lapse and issuing individual permits would increase costs to the sector by approximately $67.8M. During the development of the proposed 2024 CGP, alternative approaches were considered for addressing the EPA's new turbidity benchmark monitoring requirements. The two primary alternatives that were considered are as follows: **Alternative approach #1: Secondary controls for construction dewatering.** During the TAC meetings, an alternative approach to turbidity benchmarking was considered that would not require turbidity testing or create a benchmark. Instead, this approach would operate as a technology-based standard requiring automatic installation of secondary controls for all construction dewatering locations. Under this approach, an operator would be considered compliant if they installed and properly maintained secondary controls. Ultimately, the department decided not to proceed with this approach. The department felt that this approach does not address the EPA's desire for regular monitoring and the use of a benchmark as an indicator that dewatering controls are working to protect water quality. Direct Costs: The primary direct cost of this approach is the cost of installing and maintaining secondary controls at every dewatering location. Indirect Costs: The indirect costs of this approach are the time it would take to install secondary controls and the lack of data on the efficacy of the controls that have been installed. Direct Benefits: The direct benefit of this approach is the protection created by a secondary level of controls that would be installed at every dewatering location. Indirect Benefits: The indirect benefit of this approach is that it is for operators to understand and does not require additional training. **Approach #2: Total Suspended Solids (TSS) Benchmark.** Another approach that was considered for addressing EPA's turbidity benchmark monitoring requirements was to create a TSS benchmark. This benchmark would function like the turbidity benchmark but, rather than requiring an infield test, grab samples would be sent to a lab for testing. This approach was considered for two reasons: (1) TSS is a

	metric that is used in other VPDES permits, so there is familiarity with it; and (2) the department believed that TSS could function as an acceptable stand-in for turbidity that would still address the EPA's desire for regular monitoring and the use of a benchmark as an indicator that dewatering controls are working to protect water quality. Ultimately, the department decided not to use this approach because the TAC voiced concerns about the delayed results and logistical difficulties of getting samples to a lab for testing. Direct costs: The primary direct costs of this approach would be the transportation and lab fee costs of getting a sample tested and any costs associated with potential corrective actions that had to be taken. Indirect costs: The indirect cost of this approach is the time and personnel to take the sample and get them to a lab for testing. Direct benefits: The primary direct benefit of this approach is greater effectiveness of dewatering discharge controls due to increased monitoring. Indirect benefits: The indirect benefit of this approach is improved water quality that may result from ensuring that dewatering discharge controls are functioning properly.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	Approach #1: Unable to monetize direct and indirect costs. Approach #2: Cost of lab testing- less than $50.00	(b) Unable to monetize direct and indirect benefits.
(3) Net Monetized Benefit	N/A	
(4) Other Costs & Benefits (Non-Monetized)	N/A	
(5) Information Sources	9VAC25-20 Fees for Permits and Certificates Cost estimate for Approach #2 is based on relative cost of a TSS test using EPA-NERL method 160.2. This information comes form that National Environmental Methods Index (NEMI): https://www.nemi.gov/methods/method_summary/5213/	

Impact on Local Partners

Use this chart to describe impacts on local partners. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 2: Impact on Local Partners

(1) Direct & Indirect Costs & Benefits (Monetized)	Direct Costs: There are no direct costs to local partners because this action does not change the existing responsibilities of local governments under the permit. Indirect Costs: The indirect cost associated with the proposed changes is any impact to local economic development that may result if compliance costs cause a slowdown in construction. Direct Benefits: The direct benefit to local partners from the proposed changes is improved access to information necessary for carrying out inspections. Indirect Benefits: The indirect benefit associated with the proposed changes is the improved local water quality that may result from improved pollutant discharge controls.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) No monetized direct or indirect costs associated with these regulatory changes.	(b) Unable to monetize direct and indirect benefits.
(3) Other Costs & Benefits (Non-Monetized)	N/A	
(4) Assistance	None.	
(5) Information Sources	N/A	

Impacts on Families

Use this chart to describe impacts on families. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 3: Impact on Families

(1) Direct & Indirect Costs & Benefits (Monetized)	Direct and Indirect Costs: There are no direct or indirect costs that impact families associated with the proposed changes. Direct Benefits: There are no direct benefits that impact families associated with the proposed changes. Indirect Benefits: The indirect benefits for families associated with the proposed changes is the improved local water quality that may result from improved pollutant discharge controls.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) No monetized direct or indirect costs associated with the regulatory changes.	(b) Unable to monetize direct and indirect benefits.
(3) Other Costs & Benefits (Non-Monetized)	N/A	
(4) Information Sources	N/A	

Impacts on Small Businesses

Use this chart to describe impacts on small businesses. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 4: Impact on Small Businesses

(1) Direct & Indirect Costs & Benefits (Monetized)	Small businesses would have the same impact as described in 1a above. General permits provide the regulated community with a streamlined, less burdensome approach to obtain coverage for conducting a specific regulated activity. Without this general permit regulation, an individual permit would be required to conduct the regulated activity at a cost of approximately $10,568 more for each small business covered under the general permit. DEQ does not have access to information necessary to determine how many of the facilities covered under this general permit qualify as small business as defined under the Administrative Process Act, but it is safe to assume that there are some.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) Cost of Turbidity Meter: $970 - $1,870	(b) Unable to monetize direct and indirect benefits.

(3) Other Costs & Benefits (Non-Monetized)	N/A
(4) Alternatives	N/A
(5) Information Sources	Turbidity meter cost is from EPA's Incremental Cost Impact Analysis for the 2022 Construction General Permit. 9VAC25-20 Fees for Permits and Certificates

Changes to Number of Regulatory Requirements

Table 5: Regulatory Reduction

For each individual action, please fill out the appropriate chart to reflect any change in regulatory requirements, costs, regulatory stringency, or the overall length of any guidance documents.

Change in Regulatory Requirements

VAC Section(s) Involved*	Authority of Change	Initial Count	Additions	Subtractions	Total Net Change in Requirements
9VAC25-880-1	**(M/A):**	**0**	0	0	0
	(D/A):	**0**	0	0	0
	(M/R):	**0**	0	0	0
	(D/R):	**0**	0	0	0
9VAC25-880-10	**(M/A):**	**0**	0	0	0
	(D/A):	**0**	0	0	0
	(M/R):	**0**	0	0	0
	(D/R):	**0**	0	0	0
9VAC25-880-15	**(M/A):**	**0**	0	0	0
	(D/A):	**0**	0	0	0
	(M/R):	**1**	0	0	0
	(D/R):	**0**	0	0	0
9VAC25-880-20	**(M/A):**	**1**	0	0	0
	(D/A):	**0**	0	0	0
	(M/R):	**0**	0	0	0
	(D/R):	**0**	0	0	0
9VAC25-880-30	**(M/A):**	**4**	0	0	0
	(D/A):	**0**	0	0	0
	(M/R):	**4**	0	0	0

	(D/R):	**1**	0	0	0
9VAC25-880-40	**(M/A):**	**0**	0	0	0
	(D/A):	**0**	0	0	0
	(M/R):	**1**	0	0	0
	(D/R):	**0**	0	0	0
9VAC25-880-50	**(M/A):**	**0**	0	0	0
	(D/A):	**0**	0	0	0
	(M/R):	**3**	1	0	+1
	(D/R):	**0**	0	0	0
9VAC25-880-60	**(M/A):**	**1**	0	0	0
	(D/A):	**0**	0	0	0
	(M/R):	**4**	0	0	0
	(D/R):	**0**	0	0	0
9VAC25-880-70	**(M/A):**	**2**	0	0	0
	(D/A):	**0**	0	0	0
	(M/R):	**61**	18	1	+17
	(D/R):	**0**	0	0	0
				Grand Total of Changes in Requirements:	**(M/A): 0**
					(D/A): 0
					(M/R): +18
					(D/R): 0

Key:
Please use the following coding if change is mandatory or discretionary and whether it affects externally regulated parties or only the agency itself:
(M/A): Mandatory requirements mandated by federal and/or state statute affecting the agency itself
(D/A): Discretionary requirements affecting agency itself
(M/R): Mandatory requirements mandated by federal and/or state statute affecting external parties, including other agencies
(D/R): Discretionary requirements affecting external parties, including other agencies

All of the requirements being added to the regulation are required for consistency with the Environmental Protection Agency's 2022 Construction General Permit.

Cost Reductions or Increases (if applicable)

VAC Section(s) Involved	Description of Regulatory Requirement	Initial Cost	New Cost	Overall Cost Savings/Increases
	Cost of individual permit vs general permit regulation	Individual permit cost if general permit is not reissued- $15,000 (Does not include the time and costs for the applicant to prepare the individual permit application.)	Average general permit cost $4,432 (General permit fees range from $290 to $9,600 based on total acreage of land disturbance)	The general permit represents a savings of $10,568 per construction site or a total of $67.8M based on the 6,416 construction sites currently covered by the general permit.

Other Decreases or Increases in Regulatory Stringency (if applicable)

VAC Section(s) Involved	Description of Regulatory Change	Overview of How It Reduces or Increases Regulatory Burden
n/a	n/a	The regulatory burden of reissuing the general permit is much reduced compared to requiring an individual permit.

Length of Guidance Documents (only applicable if guidance document is being revised)

Title of Guidance Document	Original Length	New Length	Net Change in Length
NA			