General Permit No.: VAR10

Effective Date: July 1, 2009

Expiration Date: June 30, 2014

GENERAL PERMIT FOR DISCHARGES OF STORMWATER FROM CONSTRUCTION ACTIVITIES

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

In compliance with the provisions of the Clean Water Act, as amended, and pursuant to the Virginia Stormwater Management Act and attendant regulations, operators of construction activities covered by this permit with stormwater discharges are authorized to discharge to state waters, including discharges to a regulated MS4 system, within the boundaries of the Commonwealth of Virginia, except those specifically named in State Water Control Board and Virginia Soil and Water Conservation Board regulations that prohibit such discharges.

The authorized discharge shall be in accordance with this cover page, Section I—Discharge Authorization and Special Conditions, Section II—Stormwater Pollution Prevention Plan, and Section III—Conditions Applicable To All VSMP Permits as set forth herein.

SECTION I
DISCHARGE AUTHORIZATION AND SPECIAL CONDITIONS

A. Coverage under this permit.

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

2. This permit may also authorize stormwater discharges from support activities (e.g., concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, borrow areas) located on-site or off-site provided that:

a. The support activity is directly related to the construction site that is required to have VSMP permit coverage for discharges of stormwater associated with construction activity;

b. The support activity is not a commercial operation serving multiple unrelated construction projects by different operators, and does not operate beyond the completion of the construction activity at the last construction project it supports; and

c. Appropriate control measures are identified in a stormwater pollution prevention plan and implemented to address the discharges from the support activity areas.

3. There shall be no discharge of floating solids or visible foam that contravenes established standards or interferes directly or indirectly with designated uses of surface waters.

B. Limitation on coverage.

1. Post-construction discharges. This permit does not authorize stormwater discharges that originate from the site after construction activities have been completed and the site, including any temporary support activity site, 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 permit does not authorize discharges that are mixed with sources of nonstormwater, other than those discharges that are identified in Section I D 2 (Exceptions to prohibition of nonstormwater discharges) and are in compliance with Section II D 5 (Nonstormwater discharge management).

3. Discharges covered by another permit. This permit does not authorize stormwater discharges associated with construction activity that have been covered under an individual permit or required to obtain coverage under an alternative general permit.

4. TMDL limitation. Discharges to waters for which a wasteload allocation (WLA) for a pollutant has been established in a "total maximum daily load" (TMDL) approved by the State Water Control Board that would apply to stormwater discharges from a construction activity are not eligible for coverage under this permit unless the stormwater pollution prevention plan (SWPPP) developed by the operator is consistent with the requirements related to TMDLs contained in Section II D 6.

5. Impaired waters limitation. Discharges to waters that have been identified as impaired in the 2008 § 305(b)/303(d) Water Quality Assessment Integrated Report are not eligible for coverage under this permit unless the operator implements strategies and control measures consistent with Sections I H and II D 7.

C. Commingled discharges. Any discharge authorized by a different VSMP or VPDES permit may be commingled with discharges authorized by this permit.

D. Prohibition of nonstormwater discharges.

1. Except as provided in Sections I A 2, I C and I D 2, all discharges covered by this permit shall be composed entirely of stormwater associated with construction activity.

2. The following nonstormwater discharges from active construction sites are authorized by this permit provided the nonstormwater component of the discharge is in compliance with Section II D 5 (Nonstormwater discharges):

a. Discharges from fire fighting activities;

b. Fire hydrant flushings;

c. Waters used to wash vehicles where detergents are not used;

d. Water used to control dust;

e. Potable water sources, including uncontaminated waterline flushings;

f. Routine external building wash down which does not use detergents;

g. Pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used;

h. Uncontaminated air conditioning or compressor condensate;

i. Uncontaminated ground water or spring water;

j. Foundation or footing drains where flows are not contaminated with process materials such as solvents;

k. Uncontaminated excavation dewatering, and

l. Landscape irrigation.

E. Releases of hazardous substances or oil in excess of reportable quantities. The discharge of hazardous substances or oil in the stormwater discharges from the construction site shall be prevented or minimized in accordance with the stormwater pollution prevention plan for the site. This permit does not relieve the permittee of the reporting requirements of 40 CFR Part 110 (2002), 40 CFR Part 117 (2002) and 40 CFR Part 302 (2002) or § 62.1-44.34:19 of the Code of Virginia.

Where a release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR Part 110 (2002), 40 CFR Part 117 (2002), 40 CFR Part 302 (2002), or § 62.1-44.34.19 of the Code of Virginia occurs during a 24-hour period:

1. The operator is required to notify the Department of Environmental Quality and the permit-issuing authority in accordance with the requirements of Section III G as soon as he has knowledge of the discharge;

2. Where a release enters a municipal separate storm sewer system (MS4), the operator shall also notify the operator of the MS4; and

3. The stormwater pollution prevention plan required under Section II D of this permit must be reviewed by the operator to identify measures to prevent the reoccurrence of such releases and to respond to such releases, and the plan must be modified where appropriate within seven calendar days of knowledge of a release.

F. Spills. This permit does not authorize the discharge of hazardous substances or oil resulting from an on-site spill.

G. Termination of permit coverage. Coverage under this permit may be terminated in accordance with 4VAC50-60-1160.

H. Water quality protection.

1. The operator must select, install, implement and maintain control measures 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 standards.

2. If it is determined by the permit-issuing authority in consultation with the State Water Control Board at any time that the operator's stormwater discharges have reasonable potential to cause or contribute to an excursion above any applicable water quality standard, the permit-issuing authority shall require the operator to:

a. Modify control measures in accordance with Section 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. Cease discharges of pollutants from construction activity and submit an individual permit application according to 4VAC50-60-410 B 3.

All written responses required under this part must include a signed certification consistent with Section III K.

SECTION II
STORMWATER POLLUTION PREVENTION PLAN

A. Stormwater Pollution Prevention Plan Framework.

1. A stormwater pollution prevention plan (SWPPP) shall be developed prior to submission of a registration statement and implemented for the construction activity covered by this permit. SWPPPs shall be prepared in accordance with good engineering practices.

2. The SWPPP shall:

a. Identify potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges from the construction site;

b. Describe control measures that will be used to minimize pollutants in stormwater discharges from the construction site; and

c. Comply with the terms and conditions of this permit.

3. The SWPPP requirements of this general permit may be fulfilled by incorporating by reference other state or local plans such as (i) an erosion and sediment control (ESC) plan, (ii) an agreement in lieu of a plan as defined in 4VAC50-30-10, (iii) a stormwater management plan, (iv) a spill prevention control and countermeasure (SPCC) plan developed for the site under § 311 of the federal Clean Water Act or (v) best management practices (BMP) programs otherwise required for the facility provided that the incorporated plan meets or exceeds the SWPPP requirements of Section II D. If an erosion and sediment control plan for the land-disturbing activity is being incorporated by reference, the referenced plan must be approved by the locality in which the construction activity is to occur or by another appropriate plan approving authority authorized under the Virginia Erosion and Sediment Control Regulations (4VAC50-30) prior to the commencement of land disturbance.

4. All plans incorporated by reference into the SWPPP become enforceable under this permit. If a plan incorporated by reference does not contain all of the required elements of the SWPPP of Section II D, the operator must develop the missing elements and include them in the required SWPPP.

5. Once a definable area has been finally stabilized, the operator may mark this on the SWPPP and no further SWPPP or inspection requirements apply to that portion of the site (e.g., earth-disturbing activities around one of three buildings in

a complex are done and the area is finally stabilized; one mile of a roadway or pipeline project is done and finally stabilized, etc.).

6. The SWPPP shall identify all properties that are no longer under the control of the operator and the dates on which the operator no longer had control over each property.

7. The operator must implement the SWPPP as written and updated in accordance with Section II C from commencement of construction activity until final stabilization is complete.

B. Signature, SWPPP review and making SWPPPs available.

1. The SWPPP shall be signed in accordance with Section III K.

2. The SWPPP shall be retained, along with a copy of this permit, registration statement, and acknowledgement letter from the permit-issuing authority, at the construction site or other location easily accessible during normal business hours from the date of commencement of construction activity to the date of final stabilization. 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 the use of all operators and those identified as having responsibilities under the SWPPP whenever they are on the construction site. The SWPPP must be made available, in its entirety, to the department, the permit-issuing authority, and the operator of a municipal separate storm sewer system receiving discharges from the site for review at the time of an on-site inspection. 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 at the construction site.

3. The operator shall make SWPPPs and all updates available upon request to the department; the permit-issuing authority; EPA; a state or local agency approving erosion and sediment control plans, grading plans, or stormwater management plans; local government officials; or the operator of a municipal separate storm sewer system receiving discharges from the site.

4. A sign or other notice must be posted conspicuously near the main entrance of the construction site. The sign or other notice must contain the following information:

a. A copy of the permit coverage letter than includes the registration number for the construction activity; and

b. The internet address at which a copy of the SWPPP may be found or the location of a hard copy of the SWPPP and name and telephone number of a contact person for scheduling viewing times.

For linear projects, the sign or other notice must be posted at a publicly accessible location near an active part of the construction project (e.g., where a pipeline project crosses a public road).

5. For discharges that commence on or after July 1, 2009 that have not previously held coverage under a VSMP or VPDES permit, the operator shall make the SWPPP available to the public for review. A copy of the SWPPP for each site shall be made available on the internet or in hard copy. The website address or contact person for access to the SWPPP shall be posted on the sign required by

subdivision B 4 of this section. If not provided electronically, access to the SWPPP may be arranged upon request at a time and at a publicly accessible location convenient to the operator or his designee but shall be no less than once per month and shall be during normal business hours. If a reproduced copy of the SWPPP is provided to the requestor, the requestor shall be responsible for the costs of reproduction. Information excluded from disclosure under applicable law shall not be required to be released Information not required to be contained within the SWPPP by this permit is not required to be released.]

C. Maintaining an updated SWPPP.

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

2. The SWPPP must 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 stormwater discharges from the construction site. Revisions to the SWPPP shall include additional or modified control measures designed to correct problems identified. If approval by a plan-approving authority is necessary for the control measure, revisions to the SWPPP shall be completed within seven calendar days of approval. Implementation of these additional or modified control measures must be accomplished as described in Section II D 3 b.

3. Revisions to the SWPPP must be dated and signed in accordance with Section III K 2, but are not required to be certified in accordance with Section III K 4.

4. The SWPPP must clearly identify the contractor(s) or subcontractor(s) that will implement and maintain each measure identified in the SWPPP. The SWPPP shall be revised to identify any new contractor that will implement a measure.

D. Stormwater pollution prevention plan contents. The SWPPP shall include the registration statement, this permit, and the following items:

1. Site and activity description. Each SWPPP shall provide the following information:

a. 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.);

b. The intended sequence and timing of activities that disturb soils at the site (e.g., grubbing, excavation, grading, utilities and infrastructure installation);

c. A record of the dates when major grading activities occur, when construction activities temporarily or permanently cease on a portion of the site, and when stabilization measures are initiated;

d. Estimates of the total area expected to be disturbed by excavation, grading, or other construction activities including off-site borrow and fill areas;

e. A description of any other potential pollutant sources, such as vehicle fueling, storage of fertilizers or chemicals, sanitary waste facilities, etc.;

f. Identification of the nearest receiving waters at or near the construction site that will receive discharges from disturbed areas of the project;

g. The location and description of any discharge associated with industrial activity other than construction at the site. This includes stormwater discharges from dedicated asphalt plants and dedicated concrete plants that are covered by this permit;

h. A legible general location map (e.g., USGS quadrangle map, a portion of a city or county map, or other map) with sufficient detail to identify the location of the construction activity and surface waters within one mile of the construction activity; and

i. A legible site map identifying:

(1) Directions of stormwater flow and approximate slopes anticipated after major grading activities;

(2) Areas of soil disturbance and areas of the site which will not be disturbed;

(3) Locations of major structural and nonstructural control measures identified in the SWPPP, including those that will be permanent after construction activities have been completed;

(4) Locations where stabilization practices are expected to occur;

(5) Locations of surface waters;

(6) Locations where concentrated stormwater discharges;

(7) Locations of off-site material, waste, borrow or equipment storage areas covered by the SWPPP;

(8) Locations of other potential pollutant sources, such as vehicle fueling, storage of chemicals, concrete wash-out areas, sanitary waste facilities, including those temporarily placed on the construction site, etc.; and

(9) Areas where final stabilization has been accomplished.

2. Controls to minimize pollutants. The SWPPP shall include a description of all control measures that will be implemented as part of the construction activity to minimize pollutants in stormwater discharges. For each major activity identified in the project description, the SWPPP shall clearly describe appropriate control measures, the general sequencing during the construction process in which the control measures will be implemented, and which operator is responsible for the control measure's implementation.

a. Erosion and sediment controls.

(1) An erosion and sediment control plan or an agreement in lieu of a plan shall be approved by the appropriate plan-approving authority for the land-disturbing activity in accordance with the Virginia Erosion and Sediment Control Law (§ 10.1-560 et seq.) and regulations (4VAC50-30). Where applicable, a plan shall be developed in accordance with board-approved annual general erosion and sediment control specifications.

(2) All control measures required by the plan shall be designed, installed, and maintained in accordance with good engineering practices and the minimum

standards of the Virginia Erosion and Sediment Control Law (§ 10.1-560 et seq. of the Code of Virginia) and regulations (4VAC50-30).

b. Management practices.

(1) Plans should ensure that existing vegetation is preserved where possible and that disturbed portions of the site are stabilized.

(2) All control measures must be properly selected, installed, and maintained in accordance with good engineering practices and, where applicable, manufacturer specifications. If periodic inspections or other information indicates a control has been used inappropriately or incorrectly, the operator must replace or modify the control for site situations as soon as practicable and update the SWPPP in accordance with Section II C.

(3) If sediment escapes the construction site, off-site accumulations of sediment must be removed as soon as practicable to minimize off-site impacts. If approval by a plan-approving authority is necessary, control measures shall be implemented to minimize pollutants in stormwater discharges until such approvals can be obtained.

(4) Construction debris and construction chemicals exposed to stormwater shall be prevented from becoming a pollutant source in stormwater discharges.

(5) Litter exposed to stormwater shall be prevented from becoming a pollutant source in stormwater discharges and the construction site shall be policed daily to control litter.

c. Stormwater management.

(1) The operator shall ensure compliance with the requirements of 4VAC50-60-1180 through 4VAC50-60-1190 of the Virginia Stormwater Management Regulations, including but not limited to water quality and quantity requirements. 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 local, state, and federal requirements, and any necessary permits must be obtained.

(2) Control measures contained in Part II of the Virginia Stormwater Management Regulations, 4VAC50-60-1184, or on the Virginia BMP Clearinghouse may be utilized. Innovative or alternate control measures may be allowed by the department provided such measures effectively address water quality and quantity in accordance with the requirements of 4VAC50-60-1180 through 4VAC50-60-1190 and are not restricted by the locality.

(3) Where applicable, the SWPPP shall contain additional information related to participation in a regional stormwater management plan, including:

a. Type of regional facility or facilities to which the site contributes;

b. Geographic location of any regional facility to which the site contributes (county or city and Hydrologic Unit Code);

c. Geographic location of the site (county or city and Hydrologic Unit Code). Latitude and longitude may additionally be included if available; and

d. Number of acres treated by a regional facility.

(4) Where applicable, the SWPPP shall contain additional information related to nutrient offsets to be acquired in accordance with § 10.1-603.8:1 of the Code of Virginia, including:

a. Name of the broker from which offsets will be acquired;

b. Geographic location (county or city and Hydrologic Unit Code) of the broker's offset generating facility;

c. Number of nutrient offsets to be acquired (lbs. per acre per year); and

d. Nutrient reductions to be achieved on site (lbs. per acre per year).

(5) Outflows from a stormwater management facility or stormwater conveyance system shall be discharged to an adequate channel as defined in the Virginia Erosion and Sediment Control Regulations (4VAC50-30). In addition, all control measures shall be employed in a manner that minimizes impacts on the physical, chemical and biological integrity of rivers, streams, and other state waters, is protective of water quality standards, and is consistent with Section II D 6 and D 7 and other applicable provisions of this permit.

d. Other controls.

(1) The SWPPP shall describe measures to prevent the discharge of solid materials, including building materials, garbage, and debris to state waters, except as authorized by a Clean Water Act § 404 permit.

(2) The SWPPP shall describe control measures used to comply with applicable state or local waste disposal, sanitary sewer or septic system regulations.

(3) The SWPPP shall include a description of construction and waste materials expected to be stored on-site with updates as appropriate. The SWPPP shall also include a description of controls including storage practices, to minimize exposure of the materials to stormwater, and for spill prevention and response.

(4) The SWPPP shall include a description of pollutant sources from off-site areas (including stormwater discharges from dedicated asphalt plants and dedicated concrete plants), and a description of control measures that will be implemented at those sites to minimize pollutant discharges.

e. Applicable state or local programs. The control measures implemented at the site shall be consistent with all applicable federal, state, or local requirements for erosion and sediment control and stormwater management. The SWPPP shall be updated as necessary to reflect any revisions to applicable federal, state or local requirements that affect the control measures implemented at the site.

3. Maintenance of controls.

a. All control measures must be properly maintained in effective operating condition in accordance with good engineering practices and, where applicable, manufacturer specifications. If site inspections required by Section II D 4 identify control measures that are not operating effectively, maintenance shall be performed as soon as practicable to maintain the continued effectiveness of stormwater controls.

b. If site inspections required by Section II D 4 identify existing control measures that need to be modified or if additional control measures are necessary for any reason, implementation shall be completed before the next anticipated storm event. If implementation before the next anticipated storm event is impracticable, the situation shall be documented in the SWPPP and alternative control measures shall be implemented as soon as practicable.

4. Inspections. The name and phone number of qualified personnel conducting inspections shall be included in the SWPPP.

a. Inspections shall be conducted (i) at least every seven calendar days; or (ii) at least once every 14 calendar days and within 48 hours following any runoff producing storm event. Where areas have been temporarily stabilized or runoff is unlikely due to winter conditions (e.g., the site is covered with snow or ice, or frozen ground exists) such inspections shall be conducted at least once every month.

b. Inspections must include all areas of the site disturbed by construction activity, off-site areas covered by the permit, and areas used for storage of materials that are exposed to precipitation, but does not need to include areas identified pursuant to Section II A 5. Inspectors must look for evidence of, or the potential for, pollutants entering a stormwater conveyance system. Control measures identified in the SWPPP shall be inspected for proper installation, maintenance, and operation. Discharge locations, where accessible, shall be inspected to ascertain whether control measures are effective in minimizing impacts to receiving waters. Where discharge locations are inaccessible, nearby downstream locations shall be inspected to the extent that such inspections are practicable. Locations where vehicles enter or exit the site shall be inspected for evidence of off-site sediment tracking.

c. Utility line installation, pipeline construction, and other examples of long, narrow, linear construction activities may limit the access of inspection personnel to the areas described in Section II D 4 b. Inspection of these areas could require that vehicles compromise temporarily or even permanently stabilized areas, cause additional disturbance of soils, and increase the potential for erosion. In these circumstances, controls must be inspected on the same frequencies as other construction projects, but representative inspections may be performed. For representative inspections, personnel must inspect controls along the construction site for 0.25 miles above and below each access point where a roadway, undisturbed right-of-way, or other similar feature intersects the construction site and allows access to the areas described above. The conditions of the controls along each inspected 0.25-mile segment

may be considered as representative of the condition of controls along that reach extending from the end of the 0.25-mile segment to either the end of the next 0.25-mile segment, or to the end of the project, whichever occurs first. Inspection locations must be listed in the report required by Section II D 4 d.

d. A report summarizing the scope of the inspection, names and qualifications of personnel making the inspection, the dates of the inspection, major observations relating to the implementation of the SWPPP, and actions taken in accordance with Section II D 4 d of the permit shall be made and retained as part of the SWPPP in accordance with Section III B of this permit. Major observations should include:

(1) The location(s) of discharges of sediment or other pollutants from the site;

(2) Location(s) of control measures that need to be maintained;

(3) Location(s) of control measures that failed to operate as designed or proved inadequate for a particular location;

(4) Location(s) where additional control measures are needed that did not exist at the time of inspection;

(5) Corrective action required including any changes to the SWPPP that are necessary and implementation dates;

(6) An estimate of the amount of rainfall at the construction site (in inches) from the runoff producing storm event requiring the inspection, or if inspecting on a seven-day schedule, the amount of rainfall (in inches) since the previous inspection; and

(7) Weather information and a description of any discharges occurring at the time of inspection.

A record of each inspection and of any actions taken in accordance with Section II must be retained by the operator as part of the SWPPP for at least three years from the date that permit coverage expires or is terminated. The inspection reports shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the SWPPP and this permit. The report shall be signed in accordance with Section III K of this permit.

5. Nonstormwater discharge management. The SWPPP shall identify all allowable sources of nonstormwater discharges listed in Section I D 2 of this permit that are combined with stormwater discharges from the construction activity at the site, except for flows from fire fighting activities. The SWPPP shall identify and require the implementation of appropriate control measures for the nonstormwater components of the discharge.

6. Total maximum daily loads. A total maximum daily load (TMDL) approved by the State Water Control Board may include a wasteload allocation to the regulated construction activity that identifies the pollutant for which stormwater control measures are necessary for the surface waters to meet water quality standards. The pollutant identified in a wasteload allocation as of the effective date of this permit must be specified in the SWPPP. The SWPPP shall include strategies and control measures to ensure consistency with the assumptions and requirements of

the TMDL WLA that apply to the operator's discharge. In a situation where a TMDL has specified a general wasteload allocation applicable to construction stormwater discharges, but no specific requirements for construction sites have been identified in the TMDL, the operator shall consult with the state or federal TMDL authority to confirm that meeting permit requirements will be consistent with the approved TMDL. If the TMDL specifically precludes such discharges, the operator is not eligible for coverage under the general permit.

7. Impaired waters. In accordance with Section I H, control measures shall be protective of water quality standards for impaired waters identified as having impairments for pollutants that may be discharged from the construction activity in the 2008 § 305(b)/303(d) Water Quality Assessment Integrated Report .

SECTION III
CONDITIONS APPLICABLE TO ALL VSMP PERMITS

NOTE: Discharge monitoring is not required for this permit. If the operator chooses to monitor stormwater discharges or control measures, the operator must comply with the requirements of subsections A, B, and C, as appropriate.

A. Monitoring.

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

2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 (2001) or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this permit.

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

B. Records.

1. Monitoring records and reports shall include:

a. The date, exact place, and time of sampling or measurements;

b. The individual(s) who performed the sampling or measurements;

c. The date(s) and time(s) analyses were performed;

d. The individual(s) 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 permit, and records of all data used to complete the registration statement for this permit, for a period of at least three years from the date of the sample, measurement, report or request for coverage. This period of retention shall be extended automatically during the course of any unresolved litigation regarding

the regulated activity or regarding control standards applicable to the operator, or as requested by the board.

C. Reporting monitoring results.

1. The operator shall update the SWPPP to include the results of the monitoring as may be performed in accordance with this permit, unless another reporting schedule is specified elsewhere in this 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 permit more frequently than required by this permit using test procedures approved under 40 CFR Part 136 (2001) or using other test procedures approved by the U.S. Environmental Protection Agency or using procedures specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or reporting form specified by the department.

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

D. Duty to provide information. The operator shall furnish, within a reasonable time, any information which the board, department, or other permit-issuing authority may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The board, department, or other permit-issuing authority may require the operator to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of the CWA and the Virginia Stormwater Management Act. The operator shall also furnish to the board, department, or other permit-issuing authority, upon request, copies of records required to be kept by this permit.

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

F. Unauthorized stormwater discharges. Pursuant to § 10.1-603.2:2 A of the Code of Virginia, except in compliance with a permit issued by the permit-issuing authority, 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 (2002), 40 CFR Part 117 (2002), or 40 CFR Part 302 (2002) that occurs during a 24-hour period into or upon state waters or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters, shall notify the Department of Environmental Quality of the discharge immediately upon discovery of the discharge, but in no case later than within 24 hours after said discovery. A written report of the unauthorized discharge shall

be submitted to the department, the Department of Environmental Quality, and the permit-issuing authority within five days of discovery of the discharge. The written report shall contain:

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

2. The cause of the discharge;

3. The date on which the discharge occurred;

4. The length of time that the discharge continued;

5. The volume of the discharge;

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

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

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

Discharges reportable to the department, the Department of Environmental Quality, and the permit-issuing authority under the immediate reporting requirements of other regulations are exempted from this requirement.

H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge including a "bypass" or "upset", as defined herein, should occur from a facility and the discharge enters or could be expected to enter state waters, the operator shall promptly notify, in no case later than within 24 hours, the department, the Department of Environmental Quality, and the permit-issuing 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, the Department of Environmental Quality, and the permit-issuing authority within five days of discovery of the discharge in accordance with Section III I 2. Unusual and extraordinary discharges include but are not limited to any discharge resulting from:

1. Unusual spillage of materials resulting directly or indirectly from processing operations;

2. Breakdown of processing or accessory equipment;

3. Failure or taking out of service of some or all of the facilities; and

4. Flooding or other acts of nature.

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

1. An oral report to the department, the Department of Environmental Quality, and the permit-issuing authority shall be provided within 24 hours from the time the operator becomes aware of the circumstances. The following shall be included as information that shall be reported within 24 hours under this subdivision:

   a. Any unanticipated bypass; and

   b. Any upset that causes a discharge to state 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 permit-issuing authority may waive the written report on a case-by-case basis for reports of noncompliance under Section III I if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.

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

NOTE: The reports required in Section III G, H and I shall be made to the department's Stormwater Program Section of the Division of Soil and Water Conservation, appropriate Department of Environmental Quality's Regional Office Pollution Response Program, and the permit-issuing authority. Reports may be made by telephone or by fax. For reports outside normal working hours, leaving a recorded message shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Management maintains a 24-hour telephone service at 1-800-468-8892.

4. Where the operator becomes aware of a failure to submit any relevant facts, or submittal of incorrect information in any report, including a registration statement, to the department or the permit-issuing authority, the operator shall promptly submit such facts or correct information.

J. Notice of planned changes.

1. The operator shall give notice to the permit-issuing 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 4VAC50-60-420;

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

2. The operator shall give advance notice to the permit-issuing authority of any planned changes in the permitted facility or activity, which may result in noncompliance with permit requirements.

K. Signatory requirements.

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

a. For a corporation: by a responsible corporate officer. For the purpose of this part, 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 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 part, a principal executive officer of a public agency includes: (i) the chief executive officer of the agency or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

2. Reports, etc. All reports required by permits, including SWPPPs, and other information requested by the board, the department, or the permit-issuing authority shall be signed by a person described in Section 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 Section III K 1;

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

c. The signed and dated written authorization is included in the SWPPP. A copy must be provided to the permit-issuing authority, if requested.

3. Changes to authorization. If an authorization under Section 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 Section III K 2 shall be submitted to the permit-issuing authority prior to or together with any reports or information to be signed by an authorized representative.

4. Certification. Any person signing a document under Section 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 permit. Any permit noncompliance constitutes a violation of the Virginia Stormwater Management Act and the Clean Water Act, except that noncompliance with certain provisions of this permit may constitute a violation of the Virginia Stormwater Management Act but not the Clean Water Act. Permit noncompliance is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a 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 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 permit after the expiration date of this permit, the operator shall submit a new registration statement at least 90 days before the expiration date of the existing permit, unless permission for a later date has been granted by the board. The board shall not grant permission for registration statements to be submitted later than the expiration date of the existing permit.

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

O. State law. Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the 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 permit conditions on "bypassing" (Section III U) and "upset" (Section III V), nothing in this permit shall be construed to relieve the operator from civil and criminal penalties for noncompliance.

P. Oil and hazardous substance liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the 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 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 permit.

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

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

T. Need to halt or reduce activity not a defense. It shall not be a defense for 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 permit.

U. Bypass.

1. "Bypass", as defined in 4VAC50-60-10, means the intentional diversion of waste streams from any portion of a treatment facility. The operator may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provisions of Section III U 2 and 3 herein.

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 Section III I herein.

3. Prohibition of bypass.

a. Except as provided in Section III U 1, bypass is prohibited, and the permit-issuing authority 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 Section III U 2.

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

V. Upset.

1. An upset, as defined in 4VAC50-60-10, means an exceptional incident in which there is unintentional and temporary noncompliance with technology based 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 permit effluent limitations if the requirements of Section III V 2 herein are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.

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

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

a. An upset occurred and that the operator can identify the cause(s) 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 Section III I herein; and

d. The operator complied with any remedial measures required under Section III S herein.

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

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

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

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

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

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

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

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

Y. Transfer of permits.

1. Permits are not transferable to any person except after notice to the permit-issuing authority. Except as provided in Section III Y 2, a permit may be transferred by the operator to a new operator only if the permit has been modified or revoked and reissued, or a minor modification made, to identify the new operator and incorporate such other requirements as may be necessary under the Virginia Stormwater Management Act and the Clean Water Act.

2. As an alternative to transfers under Section III Y 1, this permit may be automatically transferred to a new operator if:

a. The current operator notifies the permit-issuing authority 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 permit responsibility, coverage, and liability between them; and

c. The permit-issuing authority does not notify the existing operator and the proposed new operator of its intent to modify or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Section III Y 2 b.

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

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