

**APPENDIX D**

**General Permit DCR01**

**MS14 Compliance Statement**

General Permit No.: DCR01  
Effective Date: July 1, 2004  
Expiration Date: June 30, 2009

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 regulations adopted pursuant to that, operators of construction activities (those sites or common plans of development or sale that will result in the disturbance of one or more acres of total land area) with stormwater discharges from these 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 and Virginia Soil and Water Conservation Board regulations and policies or permit issuing authority policies and ordinances which 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 permittee is authorized to discharge stormwater from construction activities.
2. This permit also authorizes stormwater discharges from off-site support activities (e.g., concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, borrow areas) provided that:
  - a. The support activity is directly related to a 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 controls and pollution prevention measures for the discharges from the support activity areas are identified in the stormwater pollution prevention plan required for the construction activity under Section II D of this permit.

3. There shall be no discharge of floating solids or visible foam in other than trace amounts.

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. Postconstruction 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 which 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 in accordance with Part Section III X.

4. TMDL limitation. Discharges to waters for which a "total maximum daily load" (TMDL) allocation for sediment or a parameter that addresses sediment (such as total suspended solids, turbidity, or siltation) has been established by the State Water Control Board and approved by EPA are not eligible for coverage under this permit unless the stormwater pollution prevention plan (SWPPP) developed by the operator incorporates measures and controls that are consistent with the assumptions and requirements of such TMDL. To be eligible for coverage under this general permit, the SWPPP must incorporate any conditions applicable to discharges from the construction site that are necessary for consistency with the assumptions and requirements of the TMDL. If a specific wasteload allocation has been established that would apply to discharges from the construction site, the operator must incorporate that allocation into the SWPPP and implement necessary steps to meet that allocation.

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 waterline flushings;
- f. Water used for hydrostatic testing of new pipeline construction;
- g. Routine external building wash down which does not use detergents;
- h. 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;
- i. Uncontaminated air conditioning or compressor condensate;
- j. Uncontaminated ground water or spring water;
- k. Foundation or footing drains where flows are not contaminated with process materials such as solvents;
- l. Uncontaminated excavation dewatering, and
- m. 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) or 40 CFR Part 302 (2002) occurs during a 24-hour period:

1. The permittee 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 permittee shall also notify the owner of the MS4 and the Department of Conservation and Recreation; and
3. The stormwater pollution prevention plan required under Section II D of this permit must be reviewed to identify measures to prevent the reoccurrence of such releases and to respond to such releases, and the plan must be modified where appropriate.

**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.**

1. The operator of the construction activity may only submit a notice of termination after one or more of the following conditions have been met:
  - a. Final stabilization has been achieved on all portions of the site for which the operator is responsible;
  - b. Another operator has assumed control over all areas of the site that have not been finally stabilized;
  - c. Coverage under an alternative VPDES or VSMP permit has been obtained; or
  - d. For residential construction only, temporary stabilization has been completed and the residence has been transferred to the homeowner.
2. The notice of termination must be submitted within 30 days of one of the conditions in Section I G 1 being met. Authorization to discharge terminates seven days after the notice of termination is submitted.
3. The notice of termination shall be signed in accordance with Section III K of this permit.

**H. Water quality protection.** The permittee must select, install, implement and maintain best management practices (BMPs) at the construction site that minimize pollutants in the discharge as necessary to meet applicable water quality standards. If there is evidence indicating that the stormwater discharges authorized by this permit are causing, have the reasonable potential to cause, or are contributing to an excursion above an applicable water quality standard, or are causing downstream pollution (as defined in this part), the permit issuing authority may take appropriate enforcement action, may require the

permittee to include and implement appropriate controls in the SWPPP to correct the problem, and/or may require the permittee to obtain an individual permit in accordance with 4VAC50-60-410 B 3.

## SECTION II STORMWATER POLLUTION PREVENTION PLAN

A stormwater pollution prevention plan (SWPPP) shall be developed and implemented for the construction activity covered by this permit. SWPPPs shall be prepared in accordance with good engineering practices. The SWPPP shall identify potential sources of pollution which may reasonably be expected to affect the quality of stormwater discharges from the construction site. In addition, the SWPPP shall describe and ensure the implementation of practices which will be used to reduce pollutants in stormwater discharges from the construction site, and to assure compliance with the terms and conditions of this permit.

The SWPPP requirements of this general permit may be fulfilled by incorporating by reference other state, tribal or local plans such as an erosion and sediment control (ESC) plan, 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 Section II D. If an erosion and sediment control plan for the construction 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 Erosion and Sediment Control Regulations (4 VAC 50-30) prior to the commencement of construction. 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 permittee must develop the missing elements and include them in the required SWPPP.

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.).

The operator must implement the SWPPP as written from commencement of construction activity until final stabilization is complete.

### A. Deadlines for SWPPP preparation and compliance.

1. The SWPPP shall be prepared prior to submittal of the registration statement and provide for compliance with the terms and schedule of the plan beginning with the initiation of construction activities.

2. 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.

B. Signature, plan review and making plans 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 at the construction site from the date of commencement of construction activity to the date of final stabilization. Permittees with day-to-day operation control over SWPPP implementation shall have a copy of the plan available at a central location on-site for the use of all operators and those identified as having responsibilities under the plan whenever they are on the construction site. The SWPPP must be made available, in its entirety, to the department and the permitting issuing authority for review at the time of an on-site inspection.

3. The permittee shall make SWPPPs available upon request to the department; the permit issuing authority; a state or local agency approving erosion and sediment 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.

C. Maintaining an updated SWPPP.

1. The permittee 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 surface waters and that has not been previously addressed in the SWPPP.

2. The SWPPP must be amended if during inspections or investigations by site staff, or by local, state or federal officials, it is determined that the discharges are causing water quality exceedances, or the SWPPP is ineffective in eliminating or significantly minimizing pollutants in stormwater discharges from the construction site.

3. Based on the results of an inspection, the SWPPP must be modified as necessary to include additional or modified BMPs designed to correct problems identified. Revisions to the SWPPP must be completed within seven calendar days following the inspection. Implementation of these additional or modified BMPs must be accomplished as described in Section II D 3 b.

4. The SWPPP must clearly identify for each measure identified in the plan, the contractor(s) or subcontractor(s) that will implement the measure. The SWPPP shall be amended to identify any new contractor that will implement a measure of the plan.

D. Stormwater pollution prevention plan contents.

The SWPPP shall include the following items:

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

- a. A 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. Estimates of the total area expected to be disturbed by excavation, grading, or other construction activities including off-site borrow and fill areas;
- d. A description of any other potential pollution sources, such as vehicle fueling, storage of fertilizers or chemicals, sanitary waste facilities, etc.
- e. Identification of the nearest receiving waters at or near the construction site that will receive discharges from disturbed areas of the project;
- f. The location and description on 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.
- g. A site map indicating:
  - (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 controls identified in the SWPPP, including those that will be permanent controls that will remain after construction activities have been completed;
  - (4) Locations where stabilization practices are expected to occur;
  - (5) Surface water bodies (including wetlands);
  - (6) Locations where stormwater discharges to a surface water;
  - (7) Locations of off-site material, waste, borrow or equipment storage areas covered by the plan;
  - (8) Locations of other potential pollution sources , such as vehicle fueling, storage of chemicals, sanitary waste facilities, etc.; and
  - (9) Areas where final stabilization has been accomplished and no further construction-phase permit requirements apply.



2. Controls to reduce pollutants. The SWPPP shall include a description of all pollution control measures that will be implemented as part of the construction activity to control 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 measures will be implemented, and which operator is responsible for the control measure's implementation.

a. Erosion and sediment controls.

(1) Stabilization practices. The SWPPP shall include a description of interim and permanent stabilization practices for the site. Site plans should ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized. Stabilization practices may include, but are not limited to: temporary seeding, permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees, preservation of mature vegetation, riprap, gabions, facines, biologs and other appropriate measures. Use of impervious surfaces for stabilization should be avoided.

(a) 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 shall be maintained and included in the SWPPP.

(b) Except as provided in Section II D 2 a (1) (c), (d) and (e), stabilization measures shall be initiated as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than seven days after the construction activity in that portion of the site has temporarily or permanently ceased.

(c) Where the initiation of stabilization measures by the seventh day after construction activity temporary or permanently ceased is precluded by snow cover or frozen ground conditions, stabilization measures shall be initiated as soon as practicable.

(d) Where construction activity on a portion of the site is temporarily ceased, and earth disturbing activities will be resumed within 30 days, temporary stabilization measures do not have to be initiated on that portion of the site.

(e) In drought-stricken areas where initiating perennial vegetative stabilization measures is not possible within seven days after construction activity has temporarily or permanently ceased, final vegetative stabilization measures shall be initiated as soon as practicable.

(2) Structural practices. The SWPPP shall include a description of structural practices to divert flows from exposed soils, retain/detain flows or otherwise limit runoff and the discharge of pollutants from exposed areas of the site. Such practices may include, but are not limited to: silt fences, earth dikes, drainage swales, sediment traps, check dams, subsurface drains, pipe slope drains, level spreaders, storm drain inlet protection, rock outlet protection, reinforced soil retaining systems, gabions, and temporary or permanent

sediment basins. Structural practices should be located on upland soils to the degree attainable. The department and the permit issuing authority encourages the use of a combination of erosion and sediment control measures in order to achieve maximum pollutant removal.

(a) Sediment basins: For common drainage locations that serve an area with three or more acres disturbed at one time, a temporary (or permanent) sediment basin providing 3,618 cubic feet of storage per acre drained, or equivalent control measures, shall be provided where attainable until final stabilization of the site. The 3,618 cubic feet of storage area per acre drained does not apply to flows from off-site areas and flows from on-site areas that are either undisturbed or have undergone final stabilization where such flows are diverted around both the disturbed area and the sediment basin. In determining whether installing a sediment basin is attainable, the permittee may consider factors such as site soils, slope, available area on site, etc. In any event, the permittee must consider public safety, especially as it relates to children, as a design factor for the sediment basin and alternative sediment controls shall be used where site limitations would preclude a safe design.

(b) For drainage locations which serve three or more acres at one time and where a temporary sediment basin or equivalent controls is not attainable, smaller sediment basins and/or sediment traps should be used. At a minimum, silt fences, vegetative buffer strips, or equivalent sediment controls are required for all down slope boundaries, and for those side slope boundaries deemed appropriate as dictated by individual site conditions.

(c) For drainage locations serving less than three acres, smaller sediment basins or sediment traps or both should be used. At a minimum, silt fences, vegetative buffer strips or equivalent sediment controls are required for all downslope boundaries, and for those side slope boundaries deemed appropriate as dictated by individual site conditions, of the construction area unless a sediment basin providing storage for 3,618 cubic feet of storage per acre drained is provided.

#### b. Management practices.

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

(2) If sediment escapes the construction site, off-site accumulations of sediment must be removed at a frequency sufficient to minimize off-site impacts.

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

#### c. Stormwater management.

(1) The SWPPP shall include a description of, and all necessary calculations supporting, all post-construction stormwater management measures that will be installed during 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 attainable. Such measures must be designed and installed in accordance with applicable local and/or state requirements.

(2) Such measures may include, but are not limited to: stormwater detention structures (including dry ponds); stormwater retention structures; flow attenuation by use of open vegetated swales and natural depressions; infiltration of runoff on-site; stormwater wetlands; sand filters; bioretention systems; water quality structures; and sequential systems (which combine several practices). The SWPPP shall include an explanation of the technical basis used to select the practices to control pollution and flows that exceed predevelopment levels.

(3) Outflows from a stormwater management facility or stormwater conveyance system shall be discharged to an adequate channel. In addition, the natural, physical, chemical, and biological characteristics and functions of the receiving waters must be maintained and protected (e.g., no significant changes in the hydrological regime of the receiving water).

d. Other controls.

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

(2) Where construction vehicle access routes intersect paved public roads, provisions shall be made to minimize the transport of sediment by vehicular tracking onto the paved surface. Where sediment is transported onto a public road surface, the road shall be cleaned thoroughly at the end of each day. Sediment shall be removed from the roads by shoveling or sweeping and transported to a sediment control disposal area. Street washing shall be allowed only after sediment is removed in this manner.

(3) The SWPPP shall ensure and demonstrate compliance with applicable state or local waste disposal, sanitary sewer or septic system regulations.

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

(5) The SWPPP shall include a description of pollutant sources from areas other than construction (including stormwater discharges from dedicated asphalt plants and

dedicated concrete plants), and a description of controls and measures that will be implemented at those sites to minimize pollutant discharges.

e. Applicable state or local programs.

The SWPPP shall be consistent with all applicable state or local requirements for erosion and sediment control and stormwater management including updates to the SWPPP as necessary to reflect any revisions to applicable state or local requirements for erosion and sediment control and stormwater management.

3. Maintenance of controls.

a. The SWPPP must include a description and schedule of procedures to maintain in good and effective operating conditions vegetation, erosion and sediment control measures and other protective measures during construction identified in the site plan. If site inspections required by Section II D 4 identify BMPs that are not operating effectively, maintenance shall be performed before the next anticipated storm event, or as soon as practicable to maintain the continued effectiveness of stormwater controls.

b. If existing BMPs need to be modified or if additional BMPs 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 BMPs shall be implemented as soon as practicable.

4. Inspections. Inspections by qualified personnel must be conducted of all areas of the site disturbed by construction activity, and areas used for storage of materials that are exposed to stormwater. "Qualified personnel" means a licensed professional engineer, responsible land disturber (RLD), or other knowledgeable person who (i) holds a certificate of competence from the board in the area of project inspection; or (ii) is enrolled in the board's training program for project inspection or combined administrator and successfully completes such program within one year of enrollment.

a. Inspections shall be conducted at least once every 14 calendar days and within 48 hours of the end of any runoff producing storm event. Where areas have been finally or 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. Inspectors must look for evidence of, or the potential for, pollutants entering the stormwater conveyance system. Erosion and sediment control measures identified in the SWPPP shall be observed to ensure proper operation. Discharge locations where accessible shall be inspected to ascertain whether erosion and sediment control measures are effective in preventing significant 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 e.

d. Based on the results of the inspection, the site and activity description identified in the plan in accordance with Section II D 1 of this permit and pollution prevention measures identified in the SWPPP in accordance with Section II D 2 of this permit shall be revised as appropriate within seven calendar days following the inspection.

e. 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 BMPs that need to be maintained;
- (3) Location(s) of BMPs that failed to operate as designed or proved inadequate for a particular location;
- (4) Location(s) where additional BMPs are needed that did not exist at the time of inspection; and
- (5) Corrective action required including any changes to the SWPPP that are necessary and implementation dates.

The 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 stormwater pollution prevention plan 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 ensure the implementation of appropriate pollution prevention measures for the nonstormwater components of the discharge.

### SECTION III CONDITIONS APPLICABLE TO ALL VSMP PERMITS

NOTE: Monitoring is not required for this permit. If you choose to monitor your stormwater discharges or BMPs, you 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 or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this permit.
3. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.

#### B. Records.

1. Records of monitoring information 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 permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of

all data used to complete the registration statement for this permit, for a period of at least three years from the date of the sample, measurement, report or request for coverage. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the board.

C. Reporting monitoring results.

1. The permittee shall submit the results of the monitoring required by this permit not later than the 10th day of the month after monitoring takes place, unless another reporting schedule is specified elsewhere in this permit. Monitoring results shall be submitted to the permit issuing authority.
2. Monitoring results shall be reported on a discharge monitoring report (DMR) or on forms provided, approved or specified by the department.
3. If the permittee monitors any pollutant specifically addressed by this permit more frequently than required by this permit using test procedures approved under 40 CFR Part 136 or using other test procedures approved by the U.S. Environmental Protection Agency or using procedures specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or reporting form specified by the department.
4. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.

D. Duty to provide information. The permittee shall furnish to the permit issuing authority, within a reasonable time, any information which the 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 permit issuing authority may require the permittee to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of the Virginia Stormwater Management Act . The permittee shall also furnish to the 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 discharges. Except in compliance with this permit or another permit issued by the permit issuing authority or the Department of Environmental Quality, it shall be unlawful for any person to:

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

G. Reports of unauthorized discharges. Any permittee who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters in violation of Section III F, or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Section III F, shall notify the department, the Department of Environmental Quality, and the permit issuing authority of the discharge immediately upon discovery of the discharge, but in no case later than 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the department, 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 should occur from a facility and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify, in no case later than 24 hours, the department, 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 permittee 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 Part 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 some or all of the facilities; and
4. Flooding or other acts of nature.

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

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

- a. Any unanticipated bypass; and
- b. Any upset which 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 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 permittee shall report all instances of noncompliance not reported under Section III I 1 or 2 in writing at the time the next monitoring reports are submitted. The reports shall contain the information listed in Section III I 2.

NOTE: The immediate (within 24 hours) reports required in Section III G, H and I may be made to the department's Urban Program's Section of the Division of Soil and Water Conservation. 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 permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the department, it shall promptly submit such facts or information.

J. Notice of planned changes.

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

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

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

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

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

2. The permittee 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 section, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy-making or decision-making functions for the corporation; or (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations;

the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit 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 section, a principal executive officer of a public agency includes: (i) the chief executive officer of the agency or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

2. Reports, etc. All reports required by permits and other information requested by the board shall be signed by a person described in 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 company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and

c. The written authorization is submitted to the department.

3. Changes to authorization. If an authorization under Section III K 2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

L. Duty to comply. The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the 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 permittee 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 permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall submit a new registration statement at least 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 permittee from any responsibilities, liabilities, or penalties established pursuant to any other state law or regulation or under authority preserved by § 510 of the Clean Water Act. Except as provided in permit conditions on "bypassing" (Section III U), and "upset" (Section III V) nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

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

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

installed by the permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

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

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

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

U. Bypass.

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

2. Notice.

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

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

3. Prohibition of bypass.

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

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

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

(3) The permittee submitted notices as required under 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 constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of Section III V 2 are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.

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

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

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

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

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

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

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

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

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

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

4. Sample or monitor at reasonable times, for the purposes of ensuring permit compliance or as otherwise authorized by the Clean Water Act and 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 permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

Y. Transfer of permits.

1. Permits are not transferable to any person except after notice to the permit issuing authority. Except as provided in Section III Y 2, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued, or a minor modification made, to identify the new permittee 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 permittee if:

a. The current permittee 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 permittees 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 permittee and the proposed new permittee 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.

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.





**MS 14 – All applicable federal, state, and local regulations pertaining to working in or crossing live watercourses shall be met**

Water quality protection is a key component in the design, construction, maintenance and operation of the Virginia Department of Transportation (VDOT) projects. By law, VDOT is responsible for maintaining the physical, chemical and biological integrity of the Commonwealth's water resources in the proximity of all road projects. For these reasons, each project must be evaluated for the need of a water quality permit. This permit determination (PD) takes into account the scope of work and environmental resources that may be affected, and identifies which permit best suits the project.

VDOT secures permits from four different regulatory agencies: the U. S. Army Corps of Engineers (COE), the Virginia Marine Resources Commission (VMRC), the Tennessee Valley Authority (TVA), and the Virginia Department of Environmental Quality (DEQ). These permits authorize VDOT to commence construction or maintenance activities in, on, or over a water body or wetland. These permits are subject to modification, revocation or suspension by the permitting agency, at any time.

Once permits are acquired, special provisions and sketches are included in the project contract documents. The Special Provisions include the project description and any project-specific conditions required by the agencies. These permit conditions can be general or specific to a project. They can relate to notification of project commencement or termination, erosion and sediment control, Stormwater management, time of year restrictions for species, water quality monitoring, or limits for specific water quality parameters.

Environmental compliance is an integral component of VDOT's construction and maintenance program. Components of environmental compliance are woven into the permit conditions and are legally binding requirements between VDOT and the permitting agencies. All of the regulatory agencies have the right to inspect projects for permit compliance. These inspections may occur during construction as well as post-construction.

**IN CONCLUSION, THE DEPARTMENT DOES NOT AUTHORIZE NOR SUPPORT WORKING IN JURISDICTIONAL AREAS WITHOUT THE APPROPRIATE WATER QUALITY PERMITS OR COMPLYING WITH THE CONDITIONS OF WATER QUALITY PERMIT AUTHORIZATIONS.**