



*Commonwealth of Virginia*

***VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY***

NORTHERN REGIONAL OFFICE

13901 Crown Court, Woodbridge, Virginia 22193

(703)583-3800

[www.deq.virginia.gov](http://www.deq.virginia.gov)

Travis A. Voyles  
Secretary of Natural and Historic Resources

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

Richard Doucette  
Regional Director

January 26, 2024

**VIA ELECTRONIC MAIL**

Mr. Victor Vilece  
Environmental Project Manager  
Chaney Materials, LLC  
2410 Evergreen Road, Suite 201  
Gambrells, MD 11054  
vvilece@chaneyenterprises.com

SUBJECT: Coverage under the General VPDES Permit for Concrete Products Facilities (9VAC25-193)  
Leesburg RMC Plant-Loudoun County  
Registration No. VAG110388

Dear Mr. Vilece:

We have reviewed your Registration Statement received on November 2, 2023, and have determined that activities of the concrete products facility identified in the Registration Statement are hereby covered under the referenced general VPDES permit. Your coverage under this general permit becomes effective on January 1, 2024, or the date of this letter, whichever is later. The enclosed copy of the general permit contains the effluent limitations, monitoring requirements, stormwater requirements and other conditions of coverage.

A Discharge Monitoring Report (DMR) for your process wastewater and stormwater associated with an industrial activity are available electronically through the myDEQ Portal <https://www.deq.virginia.gov/get-involved/mydeq-portal>. Each DMR specifies the applicable effluent limitations, monitoring requirements and monitoring frequency (i.e., quarterly or yearly) contained in the permit for the type of discharge (process (which may be commingled with stormwater) or stormwater. For quarterly monitoring, the DMR[s] should be submitted by the tenth of January, April, July and October. For yearly stormwater monitoring, the DMR[s] should be submitted by the tenth of January.

Part I B 8 of the general permit requires that you develop and maintain an Operation and maintenance (O&M) manual for the permitted facility. This part of the permit requires that you develop (or review and update) an O&M manual within 180 days of permit coverage and at least annually after

that. If there is an existing manual, that manual shall continue to be implemented until the manual is reviewed and updated. Please see part I B 8 of your permit for O&M manual minimum requirements.

This general permit constitutes coverage of your stormwater discharges as required by the stormwater regulations for your industry. Part II of the general permit pertains to these stormwater discharges. This part of permit requires that you review and modify, as appropriate, the existing Stormwater Pollution Prevention Plan within 60 days of the department granting coverage (which is March 1, 2024 or 60 days from the date of this letter, whichever is later). The existing plan shall continue to be implemented until a new plan, if required, is updated and implemented.

As provided by Rule 2A:2 of the Supreme Court of Virginia, you have thirty days from the date of service (the date you actually received this decision or the date it was mailed to you, whichever occurred first) within which to appeal this decision by filing a notice of appeal in accordance with the Rules of the Supreme Court of Virginia with the Director of the Virginia Department of Environmental Quality. In the event that this decision is served on you by mail, three days are added to that period.

The general permit will expire on December 31, 2028. The conditions of the permit require that you submit a new registration statement at least 60 days prior to that date if you wish continued coverage under the general permit unless permission is granted to submit a new registration statement on a later date.

If you have any questions, please contact Samantha Sifre at 571-866-6047 or email [Samantha.Sifre@deq.virginia.gov](mailto:Samantha.Sifre@deq.virginia.gov).

Respectfully,

Sarah K. Sivers  
Water Permits and Planning Manager  
Northern Regional Office

Attachment: Permit VAG110388



*COMMONWEALTH of VIRGINIA*  
*DEPARTMENT OF ENVIRONMENTAL QUALITY*

General Permit No: VAG110388  
Effective Date: January 1, 2024  
Expiration Date: December 31, 2028

GENERAL PERMIT FOR CONCRETE PRODUCTS FACILITIES  
AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA POLLUTANT DISCHARGE  
ELIMINATION SYSTEM AND THE VIRGINIA STATE WATER CONTROL LAW

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

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

Part I  
 Effluent Limitations, Monitoring Requirements, Special Conditions.

A. Effluent limitations and monitoring requirements.

1. Process wastewater.

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge process wastewater that may contain input from vehicle wash water, or vehicle or equipment degreasing activities, and may be commingled with stormwater associated with industrial activity, or both. Samples taken in compliance with the monitoring requirements specified in the table in Part I A 1 shall be taken at outfalls: **Not Applicable**

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

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS			MONITORING REQUIREMENTS	
	Average	Maximum	Minimum	Frequency <sup>(3)</sup>	Sample Type
Flow (MGD)	NL	NL	NA	1/3 Months	Estimate
Total Suspended Solids (mg/l)	30	60	NA	1/3 Months	Grab
pH (standard units)	NA	9.0 <sup>(1)</sup>	6.0 <sup>(1)</sup>	1/3 Months	Grab
Total Petroleum Hydrocarbons <sup>(2)</sup> (mg/l)	NA	15	NA	1/3 Months	Grab

NL = No limitation, monitoring required

NA = Not applicable

<sup>(1)</sup>Where the Water Quality Standards (9VAC25-260) establish alternate standards for pH in the waters receiving the discharge, those standards shall be the maximum and minimum effluent limitations.

<sup>(2)</sup>Total Petroleum Hydrocarbons (TPH) limitation and monitoring are only required where a discharge contains process wastewater generated from the vehicle or equipment degreasing activities. TPH shall be analyzed using EPA SW-846 Method 8015 B (1996), 8015C (2000), 8015C (2007), 8015 D (2003) for diesel range organics or EPA 40 CFR Part 136.

<sup>(3)</sup>1/3 months means one sample collected per calendar quarter with reports due to the DEQ regional office no later than the 10th day of April, July, October, and January.

2. Stormwater associated with industrial activity from concrete products facilities.

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge stormwater associated with industrial activity that does not combine with other process wastewaters prior to discharge. Samples taken in compliance with the monitoring requirements specified in the table in part I A 2 shall be taken at outfalls: **001**

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

EFFLUENT CHARACTERISTICS	BENCHMARK MONITORING		MONITORING REQUIREMENTS <sup>(3), (5)</sup>	
	Maximum	Minimum	Frequency <sup>(4)</sup>	Sample Type
Flow (MG)	NL	NA	1/Year	Estimate <sup>(1)</sup>
Total Suspended Solids (mg/l)	100 <sup>(2)</sup>	NA	1/Year	Grab <sup>(2)</sup>
pH (standard units)	9.0 <sup>(2)</sup>	6.0 <sup>(2)</sup>	1/Year	Grab <sup>(2)</sup>

NL = No limitation, monitoring required

NA = Not applicable

<sup>(1)</sup>Estimate of the total volume of the discharge during the storm event.

<sup>(2)</sup> If the benchmark monitoring for total suspended solids (TSS) exceeds 100 mg/l maximum or the pH falls outside of the range of 6.0-9.0 standard units, the permittee shall evaluate the overall effectiveness of the stormwater pollution prevention plan (SWPPP) in controlling the discharge of pollutants to receiving waters or if corrective actions are needed (Part II A 4). Benchmark concentration values are not effluent limitations. Exceedance of a benchmark concentration does not constitute a violation of this permit and does not indicate that violation of a water quality standard has occurred; however, it does signal that modifications to the SWPPP are necessary, unless justification is provided in the routine facility inspection.

<sup>(3)</sup>Specific storm event data shall be reported with the Discharge Monitoring Report (DMR) in accordance with Part II A.

<sup>(4)</sup>1/year means one sample taken per calendar year with the annual DMR due to the DEQ regional office no later than the 10th day of January of each year.

<sup>(5)</sup>Quarterly visual monitoring shall be performed and recorded in accordance with Part II A 1.

## B. Special conditions.

1. There shall be no discharge of floating solids or visible foam in other than trace amounts. There shall be no solids deposition or oil sheen from petroleum products in surface water as a result of the industrial activity in the vicinity of the outfall.
2. Except as expressly authorized by this permit, no product, materials, industrial wastes, or other wastes resulting from the purchase, sale, mining, extraction, transport, preparation, or storage of raw or intermediate materials, final product, byproduct, or wastes shall be handled, disposed of, or stored so as to permit a discharge of such product, materials, industrial wastes, or other wastes to surface waters.
3. Vehicles and equipment utilized during the industrial activity on a site must be operated and maintained in such a manner as to minimize the potential or actual point source pollution of surface waters. Fuels, lubricants, coolants, and hydraulic fluids, or any other petroleum products, shall not be disposed of by discharging on the ground or into surface waters. Spent fluids shall be disposed of in a manner so as not to enter the surface or ground waters of the state and in accordance with the applicable state and federal disposal regulations. Any spilled fluids shall be cleaned up and disposed of in a manner so as not to allow their entry into the surface or ground waters of the state.
4. All washdown and washout of trucks, mixers, transport buckets, forms, or other equipment shall be conducted within designated washdown and washout areas. All washdown and washout water shall be collected for recycle or collected and treated to meet the limits in Part I A prior to discharge to the receiving stream.
5. Any waste concrete and any dredged solids from the settling basins shall be managed within a designated area, and any wastewaters, including stormwater generated from these activities, shall be collected for recycle or treated prior to discharge.
6. Wastewater should be reused or recycled whenever feasible.
7. No sewage discharges to surface waters are permitted under this general permit.
8. Operation and maintenance (O&M) manual.
  - a. Within 180 days after the date of coverage under this general permit, the permittee shall develop or review and update, as appropriate, an O&M manual for the permitted facility. The O&M manual shall include procedures and practices for the mitigation of pollutant discharges for the protection of state waters from the facility's operations and to ensure compliance with the requirements of the permit. The manual shall address, at a minimum:
    - (1) O&M practices for the process wastewater treatment units, if applicable, and chemical and material storage areas;
    - (2) Methods for estimating process wastewater flows, if applicable;
    - (3) Management and disposal procedures of process wastewater solids, if applicable;
    - (4) Temporary and long-term facility closure plans that shall include (i) treatment, removal, and final disposition of residual wastewater, if applicable, contaminated stormwater held at the facility, and solids; (ii) fate of structures; (iii) a removal plan for all exposed industrial materials; and (iv) description of the stabilization of land in which they were stored or placed;
    - (5) Testing requirements and procedures;
    - (6) Recordkeeping and reporting requirements; and
    - (7) Duties and roles of responsible officials.
  - b. The permittee shall operate the treatment works in accordance with the O&M manual. The O&M manual shall be reviewed and updated at least annually and shall be signed and certified

in accordance with Part III K of this permit. The O&M manual shall be made available for review by department personnel upon request.

c. For facilities that do not operate process wastewater treatment units, O&M requirements included in Part I B 8 a (4) through 8 a (7) shall be included in either the O&M manual or the stormwater pollution prevention plan.

9. If the concrete products facility discharges through a municipal separate storm sewer system to surface waters, the permittee shall notify the owner of the municipal separate storm sewer system of the existence of the discharge and include that notification with the registration statement. The notification shall include the following information: the name of the facility, a contact person and contact information (telephone and email), the location of the discharge, the nature of the discharge, and the facility's VPDES general permit number.

10. The permittee shall ensure that all process wastewater basins and lagoons maintain a minimum freeboard of one foot at all times except during a 72-hour transition period after a rainfall event that results in a discharge from the site. During the 72-hour transition period, no discharge from the basins and lagoons shall occur unless it is in accordance with this permit. Within 72 hours after a rainfall event that results in a discharge from the site, the freeboard in all basins and lagoons shall be returned to the minimum freeboard of one foot. Where basins are operated in a series mode of operation, the one-foot freeboard requirement for the upper basins may be waived provided the final basin will maintain the freeboard requirements of this special condition. A description of how the permittee will manage the facility to adhere to one foot of freeboard shall be included in the O&M manual required in Part I B 8 a (1). Should the one-foot freeboard not be restored by the end of the 72-hour transition period, the permittee shall take measures to correct the problem before the next rain event. In addition, the permittee shall immediately begin to monitor and document the freeboard on a daily basis until the freeboard is returned to the minimum of one foot.

11. Process wastewater, commingled process wastewater, and stormwater or stormwater treatment units designed to operate as "no discharge" shall have no discharge of wastewater or pollutants except in storm events greater than a 25-year, 24-hour storm event. In the event of such a discharge, the permittee shall report an unusual or extraordinary discharge per Part III H of this permit. No sampling or DMR is required for these discharges as they are considered to be discharging in emergency discharge conditions. All other conditions in Part I B, Part II, and Part III apply. Any other discharge from this type of system is prohibited and shall be reported as an unauthorized discharge per Part III G of this permit. The operation of these systems shall not contravene the Water Quality Standards (9VAC25-260) or any provision of the State Water Control Law.

12. The permittee shall notify the department as soon as the permittee knows or has reason to believe:

a. That any activity has occurred or will occur that would result in the discharge, on a routine or frequent basis, of any toxic pollutant that is not limited in this permit if that discharge will exceed the highest of the following notification levels:

(1) One hundred micrograms per liter (100 µg/l) of the toxic pollutant;

(2) Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;

(3) Five times the maximum concentration value reported for that pollutant in the permit application; or

(4) The level established by the department in accordance with 9VAC25-31-220 F.

b. That any activity has occurred or will occur that would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant that is not limited in this permit if that discharge will exceed the highest of the following notification levels:

- (1) Five hundred micrograms per liter (500 µg/l) of the toxic pollutant;
- (2) One milligram per liter (1 mg/l) for antimony;
- (3) Ten times the maximum concentration value reported for that pollutant in the permit application; or
- (4) The level established by the department in accordance with 9VAC25-31-220 F.

13. All settling basins used for treatment and control of process wastewater or process wastewater commingled with stormwater that were constructed on or after February 2, 1998, shall be lined with concrete or any other impermeable materials. Regardless of date of construction, all settling basins used for treatment and control of process wastewater or process wastewater commingled with stormwater that are expanded or dewatered for major structural repairs shall be lined with concrete or any other impermeable materials.

14. Dust suppression shall be carried out as a best management practice but not as a wastewater disposal method. Water used for dust suppression may be discharged provided that it has been filtered, settled, or similarly treated. Settled wastewater may be used on site for the purpose of dust suppression or for spraying stockpiles. Dust suppression shall not occur during a storm event that results in an actual discharge from the site.

15. Compliance reporting under Part I A.

a. The quantification levels (QL) shall be less than or equal to the following concentrations:

Effluent Characteristic	Quantification Level
TSS	1.0 mg/l
TPH	5.0 mg/l

The QL is defined as the lowest concentration used to calibrate a measurement system in accordance with the procedures published for the test method.

b. Reporting.

(1) Monthly average. Compliance with the monthly average limitations or reporting requirements for the parameters listed in Part I A shall be determined as follows: All concentration data below the QL listed in subdivision 15 a of this subsection shall be treated as zero. All concentration data equal to or above the QL listed shall be treated as it is reported. An arithmetic average shall be calculated using all reported data, including the defined zeros, for the month. This arithmetic average shall be reported on the DMR as calculated. If all data are below the QL then the average shall be reported as "<QL." If reporting for quantity is required on the DMR and the calculated concentration is less than QL then report "<QL" for the quantity, otherwise use the calculated concentration.

(2) Daily maximum. Compliance with the daily maximum limitations or reporting requirements for the parameters listed in Part I A shall be determined as follows: All concentration data below the QL listed in subdivision 15 a of this subsection shall be treated as zero. All concentration data equal to or above the QL shall be treated as reported. An arithmetic average of the values shall be calculated using all reported data, including the defined zeros, collected for each day during the reporting month. The maximum value of these daily averages thus determined shall be reported on the DMR as the daily maximum. If all data are below the QL then the average shall be reported as "<QL." If reporting for quantity is required on the DMR and the calculated concentration is less than QL then report "<QL" for the quantity, otherwise use the calculated concentration.



(3) Any single datum required shall be reported as "<QL" if it is less than the QL listed in subdivision 15 a of this subsection. Otherwise the numerical value shall be reported. The QL must be less than or equal to the QL in subdivision 15 a of this subsection.

(4) The permittee shall report at least two significant digits for a given parameter. Regardless of the rounding convention used (i.e., five always rounding up or to the nearest even number) by the permittee, the permittee shall use the convention consistently and shall ensure that consulting laboratories employed by the permittee use the same convention.

16. Discharges to waters with an approved total maximum daily load (TMDL). Owners of facilities that are a source of the specified pollutant of concern to waters where a TMDL has been approved prior to the term of this permit shall implement measures and controls that are consistent with the assumptions and requirements of the TMDL. The department will provide written notification to the owner that a facility is subject to the TMDL requirements. If the TMDL establishes a numeric wasteload allocation that applies to discharges from the facility, the owner shall perform monitoring for the pollutant of concern in accordance with the monitoring frequencies in Part I A and implement measures necessary to meet that allocation. At permit reissuance, the permittee shall submit a demonstration with the registration statement to show the wasteload allocation is being met.

17. Adding or deleting outfalls. The permittee may add new or delete existing outfalls at the facility as necessary and appropriate. The permittee shall update the O&M manual and stormwater pollution prevention plan (SWPPP) and notify the department of all outfall changes within 60 days of the change. The permittee shall submit an updated registration statement including an updated SWPPP site map.

18. Notice of termination.

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

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

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

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

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

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

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

(2) Facility name and location;

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

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

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

(b) A statement indicating that operations have ceased at the facility, a closure plan has been implemented according to the O&M manual, and there are no longer discharges from the facility;

(c) A statement indicating that all discharges have been covered by an individual VPDES permit; or

(d) A statement indicating that termination of coverage is being requested for another reason (state the reason).

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

d. The notice of termination shall be signed in accordance with Part III K.

e. The notice of termination shall be submitted to the DEQ regional office serving the area where the concrete products facility discharge is located.

19. Temporary closure at inactive and unstaffed sites waiver.

a. A waiver of the effluent monitoring, benchmark monitoring, visual monitoring, and routine facility inspections may be granted by the department at a facility that is both inactive and unstaffed and there are no industrial materials or activities exposed to stormwater. The waiver request shall be submitted to the department for approval and shall include the information in the temporary closure plan specified in Part I B 8 a (4); the facility's VPDES general permit registration number; a contact person, telephone number, and email address (if available); the reason for the request; the date the facility became or will become inactive and unstaffed; and the date the closure plan will be completed. The waiver shall be signed and certified in accordance with Part III K. If this waiver is granted, the permittee must retain a copy of the request and the department's written approval of the waiver in the SWPPP. The permittee is required to conduct an annual routine facility inspection in accordance with Part II D 2 e. A stormwater discharge is not required at the time of this annual routine facility inspection.

b. To reactivate the site the permittee must notify the department within 30 days of reopening the facility and commencing any point source discharges of either treated process wastewater or stormwater runoff associated with industrial activities. Upon reactivation all effluent monitoring, benchmark monitoring, visual monitoring, and routine facility inspections shall resume immediately. This notification must be submitted to the department, signed in accordance with Part III K, and retained on site at the facility covered by this permit in accordance with Part III B.

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

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

21. Approval for coverage under this general permit does not relieve any owner of the responsibility to comply with any other applicable federal, state, or local statute, ordinance, or regulation.

Part II  
Stormwater Management.

A. Monitoring requirements.

1. Quarterly visual monitoring. The permittee shall perform and document visual monitoring of stormwater discharges associated with industrial activity from each outfall, except discharges waived in Part II A 1 d. The visual monitoring must be made during normal working hours, at least once in each of the following three-month periods: January through March, April through June, July through September, and October through December.

a. Samples shall be collected in accordance with Part II A 3. No analytical tests are required to be performed on the samples.

b. Samples will be in a clean, colorless glass or plastic container and examined in a well-lit area.

c. The examination shall observe color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of stormwater pollution.

d. If no storm event resulted in discharge from the facility during a monitoring quarter, the permittee is excused from visual monitoring for that quarter provided that documentation is included with the monitoring records.

e. When adverse weather conditions prevent the collection of samples, a substitute sample may be taken during a storm event that results in a discharge from the site in the next monitoring period. Adverse weather conditions are those that are dangerous or create inaccessibility for personnel and may include such things as local flooding, high winds, electrical storms, or situations that otherwise make sampling impracticable, such as drought or extended frozen conditions. Narrative documentation of conditions necessitating the use of the waiver shall be kept with the stormwater pollution prevention plan (SWPPP).

f. Visual monitoring documentation shall be maintained on site with the SWPPP and shall include:

(1) Outfall location;

(2) Monitoring date and time;

(3) Monitoring personnel;

(4) Nature of the discharge (i.e., runoff or snow melt);

(5) Visual quality of the stormwater discharge, including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of stormwater pollution; and

(6) Probable sources of any observed stormwater contamination.

2. Benchmark monitoring. If the benchmark monitoring for total suspended solids exceeds 100 mg/l maximum or the pH falls outside of the range of 6.0 to 9.0 standard units, the permittee shall evaluate the overall effectiveness of the SWPPP in controlling the discharge of pollutants to receiving waters or if corrective actions (Part II A 4) are needed. Benchmark concentration values are not effluent limitations. Exceedance of a benchmark concentration does not constitute a violation of this permit and does not indicate that violation of a water quality standard has occurred; however, it does signal that modifications to the SWPPP are necessary, unless justification is provided in a routine facility inspection.

3. Monitoring instructions.

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

b. When and how to sample. A minimum of one grab sample shall be taken resulting from a storm event that results in an actual discharge from the site, providing the interval from the

preceding storm event discharge is at least 72 hours. The 72-hour storm interval is waived if the permittee is able to document with the DMR that less than a 72-hour interval is representative for local storm events during the sampling period. The grab sample shall be taken during the first 30 minutes of the discharge. If it is not practicable to take the sample during the first 30 minutes, the sample may be taken during the first three hours of discharge provided that the permittee explains with the SWPPP why a grab sample during the first 30 minutes was impractical.

c. Recording of results. For each discharge measurement or sample taken pursuant to the storm event monitoring requirements of this permit, the permittee shall record and report with the DMR the following information:

(1) Date of the storm events sampled;

(2) Rainfall measurements or estimates (in inches) of the storm event that generated the sampled discharge; and

(3) Interval between the storm event sampled and the end of the previous storm event that resulted in a discharge from the site.

4. Corrective actions. The permittee shall review the SWPPP and modify it as necessary to address any deficiencies noted in Part II A 4 a and 4 b. Revisions to the SWPPP shall be completed within 60 days following the discovery of the deficiency. When control measures need to be modified or added, implementation shall be completed before the next anticipated storm event if possible, but no later than 60 days after the deficiency is discovered, or as otherwise provided or approved by the department. In cases where construction is necessary to implement control measures, the permittee shall include a schedule in the SWPPP that provides for the completion of the control measures as expeditiously as practicable, but no later than three years after the deficiency is discovered. Where a construction compliance schedule is included in the SWPPP, the SWPPP shall include appropriate nonstructural and temporary controls to be implemented in the affected portion of the facility prior to completion of the permanent control measure. The amount of time taken to modify a control measure or implement additional control measures shall be documented in the SWPPP. The permittee shall take corrective action whenever:

a. Benchmark monitoring; routine facility inspections; inspections by local, state, or federal officials; or any other process, observation, or event result in a determination that modifications to the stormwater control measures are necessary to meet the permit requirements; or

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

Any corrective actions taken shall be documented and retained with the SWPPP.

B. Representative outfalls - substantially identical outfalls. If a facility has two or more exclusively stormwater outfalls that discharge substantially identical effluents, based on similarities of the industrial activities, significant materials, size of drainage areas, and stormwater management practices occurring within the drainage areas of the outfalls, frequency of discharges, and stormwater management practices occurring within the drainage areas of the outfalls, the permittee may monitor the stormwater of just one of the outfalls and report that the observations also apply to the substantially identical outfall. Substantially identical outfall monitoring can apply to quarterly visual and benchmark monitoring. The permittee must include the following information in the SWPPP:

1. The locations of the outfalls;

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

3. Estimates of the size of the drainage area (in square feet) for each of the outfalls; and

4. An estimate of the runoff coefficient of the drainage areas (low: under 40%; medium: 40% to 65%; high: above 65%).

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

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

1. The permittee is required to notify the department in accordance with the requirements of Part III G as soon as the permittee 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
3. The SWPPP required by this permit shall 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.

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

The SWPPP requirements of this general permit may be fulfilled, in part, by incorporating by reference other plans or documents, such as an erosion and sediment control plan, a spill prevention control and countermeasure (SPCC) plan developed for the facility under § 311 of the Clean Water Act, or BMP programs otherwise required for the facility provided that the incorporated plan meets or exceeds the SWPPP requirements of Part II D 2. All plans incorporated by reference into the SWPPP become enforceable under this permit. If a plan incorporated by reference does not contain all the requirements of Part II D 2, the permittee shall develop the missing SWPPP elements and include them in the required plan.

1. Deadlines for SWPPP preparation and compliance.
  - a. Owners of existing facilities that are continuing coverage under this general permit shall update and implement any revisions to the SWPPP within 60 days of the department granting coverage under this permit.
  - b. Owners of new facilities, facilities previously covered by an expiring individual permit, and existing facilities not currently covered by a VPDES permit that elect to be covered under this general permit shall prepare the SWPPP 60 days prior to commencing operations and implement the SWPPP prior to a stormwater discharge.
  - c. Where the owner of an existing facility that is covered by this permit changes, the new owner of the facility shall update and implement any revisions to the SWPPP within 60 days of the ownership change.
  - d. Upon a showing of good cause, the director may establish a later date in writing for the preparation and compliance with the SWPPP.
2. Contents of SWPPP. The SWPPP shall include, at a minimum, the following items:
  - a. Pollution prevention team. Each SWPPP shall identify the staff individuals by name or title that comprise the facility's stormwater pollution prevention team. The pollution prevention team is responsible for assisting the facility or plant manager in developing, implementing, maintaining, revising, and ensuring compliance with the facility's SWPPP. Specific responsibilities of each staff individual on the team shall be identified and listed.
  - b. Site description. The site description shall include the following:

- (1) A description of the industrial activities at the facility.
- (2) A site map identifying the following:
  - (a) Boundaries of the property and the size of the property in acres;
  - (b) Location and extent of significant structures and impervious surfaces;
  - (c) Locations of all stormwater conveyances, including ditches, pipes, swales, and inlets, and the directions of stormwater flow using arrows to indicate which direction stormwater will flow;
  - (d) Locations of stormwater control measures, including BMPs;
  - (e) Locations of all surface water bodies, including wetlands;
  - (f) Locations of identified potential pollutant sources identified in Part II D 2 c;
  - (g) Locations where significant spills or leaks identified under Part II D 2 c (3) have occurred;
  - (h) Locations of stormwater outfalls, monitoring locations, an approximate outline of the area draining to each outfall, the drainage area of each outfall in acres, the longitude and latitude of each outfall, the location of any municipal separate storm system (MS4) conveyance receiving discharge from the facility, and each outfall identified with a unique numerical identification code. For example: Outfall number 001, Outfall Number 002;
  - (i) Location and description of all nonstormwater discharges;
  - (j) Location of any storage piles containing salt;
  - (k) Location and source of suspected run-on to the site from an adjacent property if the run-on is suspected of containing significant quantities of pollutants; and
  - (l) Locations of fueling stations, vehicle or equipment degreasing activities, maintenance areas, loading or unloading areas, vehicle washdown areas, vehicle washout areas, bag house or other dust control device, recycle ponds, sedimentation ponds, or clarifiers or other devices used for the treatment of process wastewater (and the areas that drain to the treatment device).
- c. Summary of potential pollutant sources. The SWPPP shall identify each separate area at the facility where industrial materials or activities are exposed to stormwater. Industrial materials or activities include material handling equipment or activities, industrial machinery, raw materials, industrial production and processes, intermediate products, byproducts, final products, and waste products. Material handling activities include the storage, loading and unloading, transportation, disposal, or conveyance of any raw material, intermediate product, final product, or waste product. The description shall include:
  - (1) Activities in area. A list of the industrial activities exposed to stormwater.
  - (2) Pollutants. A list of the pollutants, pollutant constituents, or industrial chemicals for each industrial activity that could potentially be exposed to stormwater. The pollutant list shall include all significant materials handled, treated, stored, or disposed that have been exposed to stormwater in the three years prior to the date this SWPPP was prepared or amended. This list shall include any hazardous substances or oil at the facility.
  - (3) Spills and leaks. The SWPPP shall clearly identify areas where potential spills and leaks that can contribute pollutants to stormwater discharges can occur and their corresponding outfalls. The SWPPP shall include a list of significant spills and leaks of toxic or hazardous pollutants that actually occurred at exposed areas or that drained to a stormwater conveyance during the three-year period prior to the date this SWPPP was prepared or amended. The list shall be updated within 60 days of the incident if significant spills or leaks occur in exposed areas of the facility during the term of the permit.
  - (4) Sampling data. The SWPPP shall include stormwater discharge sampling data collected during the previous three years.
- d. Stormwater controls.

(1) Control measures shall be implemented for all areas identified in Part II D 2 c to prevent or control pollutants in stormwater discharges from the facility. If applicable, regulated stormwater discharges from the facility include stormwater run-on that commingles with stormwater discharges associated with industrial activity at the facility. The SWPPP shall describe the type, location, and implementation of control measures for each area where industrial materials or activities are exposed to stormwater. Selection of control measures shall take into consideration:

- (a) That preventing stormwater from coming into contact with polluting materials is generally more effective and less costly than trying to remove pollutants from stormwater;
- (b) Control measures generally must be used in combination with each other for most effective water quality protection;
- (c) Assessing the type and quantity of pollutants, including their potential to impact receiving water quality, is critical to designing effective control measures;
- (d) That minimizing impervious areas at the facility can reduce runoff and improve groundwater recharge and stream base flows in local streams; however, care must be taken to avoid groundwater contamination;
- (e) Flow attenuation by use of open vegetated swales and natural depressions can reduce instream impacts of erosive flows;
- (f) Conservation or restoration of riparian buffers will help protect streams from stormwater runoff and improve water quality; and
- (g) Treatment interceptors (e.g., swirl separators and sand filters) may be appropriate in some instances to minimize the discharge of pollutants.

(2) Good housekeeping measures. The permittee shall keep clean all exposed areas of the facility that are potential sources of pollutants in stormwater. The permittee shall perform the following good housekeeping measures to minimize pollutant discharges:

- (a) Include a schedule for regular pickup and disposal of waste materials, along with routine inspections for leaks and conditions of drums, tanks, and containers;
- (b) Sweep or vacuum as feasible;
- (c) Store materials in containers constructed of appropriate materials;
- (d) Manage all waste containers to prevent a discharge of pollutants;
- (e) Minimize the potential for waste, garbage, and floatable debris to be discharged by keeping areas exposed to stormwater free of such materials or by intercepting such materials prior to discharge; and
- (f) Prevent or minimize the discharge of spilled cement, aggregate, including sand and gravel, kiln dust, fly ash, settled dust, or other significant material in stormwater from paved portions of the site that are exposed to stormwater. Sweep or vacuum paved surfaces of the site that are exposed to stormwater at regular intervals or use other equivalent measures to minimize the potential discharge of these materials in stormwater. Indicate in the SWPPP the frequency of sweeping, vacuuming, or other equivalent measures (e.g., wash down the area and collect or treat and properly dispose of the washdown water). Determine the frequency based on the amount of industrial activity occurring in the area and the frequency of precipitation, but sweeping, vacuuming, or other equivalent measures shall be performed at least once a week in areas where cement, aggregate, kiln dust, fly ash, or settled dust are being handled or processed. Prevent the exposure of fine granular solids, including cement, fly ash, and kiln dust, to stormwater, where practicable, by storing these materials in enclosed silos, hoppers, or buildings or under other covering. The generation of dust and off-site vehicle tracking of raw, final, or waste materials, or sediments shall be minimized.

(3) Preventive maintenance. A preventive maintenance program shall involve regular inspection, testing, maintenance, and repairing of all industrial equipment and systems to avoid breakdowns or failures that could result in leaks, spills, and other releases. This program is in addition to the specific BMP maintenance required under Part II E.

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

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

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

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

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

(5) Eliminating and minimizing exposure. To the extent practicable, manufacturing, processing, and material storage areas, including loading and unloading, storage, disposal, cleaning, maintenance, and fueling operations, shall be located inside or protected by a storm-resistant covering to prevent exposure to rain, snow, snowmelt, and runoff. Unless infeasible, facilities shall implement the following:

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

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

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

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

(e) Utilize appropriate spill or overflow protections equipment;

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

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

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



response, good housekeeping, material management practices, BMP operation, and maintenance. The SWPPP shall include a summary of any training performed.

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

(8) Management of runoff. The SWPPP shall describe the stormwater run-off management practices (i.e., permanent structural control measures) for the facility. These types of control measures shall be used to divert, infiltrate, reuse, or otherwise reduce pollutants in stormwater discharges from the site. Structural control measures may require a separate permit under § 404 of the Clean Water Act and the Virginia Water Protection Permit Program Regulation (9VAC25-210) before installation begins.

e. Routine facility inspections. Personnel who possess the knowledge and skills to assess conditions and activities that could impact stormwater quality at the facility and who can also evaluate the effectiveness of control measures shall regularly inspect all areas of the facility where industrial materials or activities are exposed to stormwater. At least one member of the stormwater pollution prevention team shall participate.

(1) Inspections include areas where industrial materials or activities are exposed to stormwater, including material handling areas, aboveground storage tanks, hoppers or silos, dust collection or containment systems, and truck washdown or equipment cleaning areas, discharge points, and control measures.

(2) Inspections shall be conducted at least quarterly during normal facility operating hours. At least once each calendar year, the routine facility inspection should be conducted during a period when a stormwater discharge is occurring.

(3) The inspections shall include at a minimum:

(a) Inspection date;

(b) Names of the inspectors; and

(c) Observations of any discharges; the physical condition of and around all outfalls (e.g., concrete product in the stream or turbidity); leaks or spills from industrial equipment, drums, tanks or other containers; off-site tracking of industrial materials or sediment; any additional best management practices that need to be repaired, maintained, or added; and any incidents of noncompliance.

(4) A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained with the SWPPP. Any deficiencies in the implementation of the SWPPP that are found shall be corrected as soon as practicable, but not later than within 60 days of the inspection, unless permission for a later date is granted in writing by the director. The results of the inspections shall be documented in the SWPPP, along with the dates and descriptions of any corrective actions that were taken in response to any deficiencies or opportunities for improvement that were identified.

(5) The requirement for routine facility inspections is waived for facilities that have maintained an active Virginia Environmental Excellence Program E3 or E4 status.

#### E. Maintenance.

1. The SWPPP shall include a description of procedures and a regular schedule for preventive maintenance of all control measures and shall include a description of the back-up practices that are in place should a runoff event occur while a control measure is off-line. The effectiveness of

nonstructural BMPs shall also be maintained by appropriate means (e.g., spill response supplies available and personnel trained).

2. All control measures identified in the SWPPP shall be maintained in effective operating condition and shall be observed at least annually when a stormwater discharge is occurring to ensure that they are functioning correctly. Where discharge locations are inaccessible, nearby downstream locations shall be observed. The observations shall be documented in the SWPPP.

3. If routine facility inspections required by Part II D 2 d identify control measures that are not operating effectively, repairs or maintenance shall be performed before the next anticipated storm event. If maintenance prior to the next anticipated storm event is not possible, maintenance shall be scheduled and accomplished as soon as practicable. In the interim, back-up measures shall be employed and documented in the SWPPP until repairs or maintenance is complete. Documentation shall be kept with the SWPPP of maintenance and repairs of BMPs, including the dates of regular maintenance, dates of discovery of areas in need of repair or replacement, and for repairs, dates that the BMPs returned to full function, and the justification for any extended maintenance or repair schedules.

#### F. Nonstormwater discharges.

1. Discharges of certain sources of nonstormwater listed in Part II F 3 are allowable discharges under this permit. All other nonstormwater discharges are not authorized and shall be either eliminated or covered under a separate VPDES permit.

2. Annual outfall evaluation for unauthorized discharges. The SWPPP shall include documentation that all stormwater outfalls associated with industrial activity have been evaluated annually for the presence of unauthorized discharges. The documentation shall include:

- a. The date of the evaluation;
- b. A description of the evaluation criteria used;
- c. A list of the outfalls or on-site drainage points that were directly observed during the evaluation;
- d. A description of the results of the evaluation for the presence of unauthorized discharges; and
- e. The actions taken to eliminate identified unauthorized discharges.

3. The following nonstormwater discharges are authorized by this permit:

- a. Discharges from emergency firefighting activities;
- b. Fire hydrant flushing, managed in a manner to avoid an instream impact;
- c. Potable water, including water line flushing, managed in a manner to avoid an instream impact;
- d. Uncontaminated condensate from air conditioners, coolers, and other compressors and from the outside storage of refrigerated gases or liquids;
- e. Irrigation drainage;
- f. Landscape watering; provided all pesticides, herbicides, and fertilizers have been applied in accordance with the approved labeling;
- g. Pavement wash waters where no detergents or hazardous cleaning products are used and no spills or leaks of toxic or hazardous materials have occurred, unless all spilled material has been removed. Pavement wash waters shall be managed in a manner to avoid an instream impact;
- h. Routine external building washdown that does not use detergents or hazardous cleaning products;
- i. Uncontaminated groundwater or spring water;
- j. Foundation or footing drains where flows are not contaminated with process materials; and

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

G. Signature and SWPPP review.

1. Signature and location. The SWPPP, including any revisions to the SWPPP to document any corrective actions taken as required by Part II A 4, shall be signed in accordance with Part III K, dated, and retained on site at the facility covered by this permit. All other changes to the SWPPP, and other permit compliance documentation, must be signed and dated by the person preparing the change or documentation. For inactive or unstaffed facilities, the plan may be kept at the nearest office of the permittee.

2. Availability. The permittee shall retain a copy of the current SWPPP required by this permit at the facility, and it shall be immediately available to the department, EPA, or the operator of an MS4 receiving discharges from the site at the time of an on-site inspection or upon request.

3. Required modifications. The permittee shall modify the SWPPP whenever necessary to address all corrective actions required by Part II A 4. Changes to the SWPPP shall be made in accordance with the corrective action deadlines in Part II A 4 and shall be signed and dated in accordance with Part III K. The director may notify the permittee at any time the SWPPP, control measures, or other components of the facility's stormwater program do not meet one or more of the requirements of this permit. The notification shall identify specific provisions of the permit that are not being met and may include required modifications to the stormwater program, additional monitoring requirements, and special reporting requirements. The permittee shall make any required changes to the SWPPP within 60 days of receipt of such notification, unless permission for a later date is granted in writing by the director, and shall submit a written certification to the director that the requested changes have been made.

H. Maintaining an updated SWPPP.

1. The permittee shall review and amend the SWPPP as appropriate whenever:

- a. There is construction or a change in design, operation, or maintenance at the facility that has an effect on the discharge, or the potential for the discharge, of pollutants from the facility;
- b. Routine inspections or visual monitoring determine that there are deficiencies in the control measures, including BMPs;
- c. Inspections by local, state, or federal officials determine that modifications to the SWPPP are necessary;
- d. There is a significant spill, leak, or other release at the facility;
- e. There is an unauthorized discharge from the facility; or
- f. The department notifies the permittee that a TMDL has been developed and applies to the permitted facility, consistent with Part I B 16.

2. SWPPP modifications shall be made within 60 calendar days after the discovery, observation, or event requiring an SWPPP modification. Implementation of new or modified control measures shall be initiated before the next storm event if possible but no later than 60 days after discovery or as otherwise provided or approved by the director. The amount of time taken to modify a control measure or implement additional control measures shall be documented in the SWPPP.

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

Part III  
Conditions Applicable to All VPDES Permits.

A. Monitoring.

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

B. Records.

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

C. Reporting monitoring results.

1. The permittee shall submit the results of the monitoring required by this permit not later than the 10th day of the month after monitoring takes place, unless another reporting schedule is specified elsewhere in this permit. Monitoring results shall be submitted to the department's regional office.
2. Monitoring results shall be reported on a DMR or on forms provided, approved, or specified by the department. Following notification from the department of the start date for the required electronic submission of monitoring reports, as provided for in 9VAC25-31-1020, such forms and reports submitted after that date shall be electronically submitted to the department in compliance with 9VAC25-31-1020 and this section. There shall be at least a three-month notice provided between the notification from the department and the date after which such forms and reports must be submitted electronically.
3. If the permittee monitors any pollutant specifically addressed by this permit more frequently than required by this permit using test procedures approved under 40 CFR Part 136 or using other test procedures approved by the U.S. Environmental Protection Agency or using procedures

specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or reporting form specified by the department.

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

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

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

F. Unauthorized discharges. Except in compliance with this permit, or another permit issued by the department, 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, to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, for recreation, or for other uses.

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

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

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

H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge including a bypass or upset should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify (see Part III I 3), in no case later than 24 hours, the department after the discovery of the discharge. This notification shall provide all available details of the

incident, including any adverse effects on aquatic life and the known number of fish killed. The permittee shall reduce the report to writing and shall submit it to the department within five days of discovery of the discharge in accordance with Part III I 1 b. Unusual and extraordinary discharges include any discharge resulting from:

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

#### I. Reports of noncompliance.

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

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

- (1) Any unanticipated bypass; and
- (2) Any upset that causes a discharge to surface waters.

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

- (1) A description of the noncompliance and its cause;
- (2) The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
- (3) Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

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

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

3. The immediate (within 24 hours) reports required in Part III G, H, and I shall be made to the department's regional office. Reports may be made by telephone, FAX, or online at <https://portal.deq.virginia.gov/v2/prep/createReport> (online reporting preferred). For reports outside normal working hours, the online portal shall be used. For emergencies, call the Virginia Department of Emergency Management's Emergency Operations Center (24-hours) at 1-800-468-8892.

4. Where the permittee becomes aware that it failed to submit any relevant facts in a permit registration statement or submitted incorrect information in a permit registration statement 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 department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

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

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

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

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

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

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

K. Signatory requirements.

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

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

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

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

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

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company.

A duly authorized representative may thus be either a named individual or any individual occupying a named position; and

c. The written authorization is submitted to the department.

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

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

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

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

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, 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 apply for and obtain coverage under a new permit. All permittees with currently effective permit coverage shall submit a new application at least 60 days before the expiration date of the existing permit, unless permission for a later date has been granted by the department. The department shall not grant permission for applications 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 bypass in Part III U and upset in Part III V, nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

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

Q. Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance



also includes effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems that are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

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

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

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

#### U. Bypass.

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

#### 2. Notice.

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

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

#### 3. Prohibition of bypass.

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

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

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

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

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

#### V. Upset.

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

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

a. An upset occurred and that the permittee can identify the causes of the upset;

- b. The permitted facility was at the time being properly operated;
- c. The permittee submitted notice of the upset as required in Part III I; and
- d. The permittee complied with any remedial measures required under Part III S.

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

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

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

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

X. Permit actions. Permit coverage may be terminated for cause. The filing of a request by the permittee for a permit termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

Y. Transfer of permit coverage.

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