STATE OF WEST VIRGINIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF WATER AND WASTE MANAGEMENT
601 57th STREET SE
CHARLESTON, WV 25304-2345
GENERAL WATER POLLUTION CONTROL PERMIT

Permit No. WV0116815

Issue Date: January 30, 2019
Effective Date: March 1, 2019
Expiration Date: March 1, 2024

Subject: Stormwater Associated with Oil and Gas related Construction Activities

To Whom It May Concern:

This is to certify that any discharge of stormwater runoff from oil and gas field construction activities or operations such as exploration, production, processing or treatment operations or transmission facilities, disturbing one acre or greater of land area and agreeing to be regulated under the terms and conditions of this General Water Pollution Control Permit (General Permit), except for:

1. Activities that result in the disturbance of less than one acre of total land area, which are not part of a larger common plan of development.

2. Stormwater discharges associated with land disturbing activities that may reasonably be expected to be causing or contributing to a violation of a water quality standard as determined by the Director.

3. Activities occurring within the limit of disturbance authorized by an active permit or certification issued by the Department of Environmental Protection's Office of Oil and Gas.

4. Activities covered under the Division of Water and Waste Management (DWWM) WV NPDES Stormwater Construction General Permit.

is hereby eligible for coverage under this General Water Pollution Control Permit to allow stormwater discharges into the surface waters of the State. Authorization to discharge under

this permit occurs upon the Director's approval of the registration application and is subject to the following terms and conditions:

> The information submitted on and with the registration application form will hereby be made terms and conditions of the General Permit with like effect as if all such information were set forth herein, and other pertinent terms and conditions set forth in Sections A, B, C, D, E, F, G, H, I, J and Appendix A.

Site Registration Applications approved from March 1, 2018 through the effective date of this reissued General Permit must file the Notice of Termination for completed projects where all disturbed lands have been permanently stabilized, or, a signed certification of agreement to abide by the terms and conditions of this reissued General Permit within 90 days of the effective date. Additional application fees do not apply to the certification; however, annual fees still apply. Where any incomplete projects have disturbed lands that have not been permanently stabilized, status maps are required with the certification. The map may be in PDF format and is not required to conform to the specifications of G.5.e.1.C. The status map shall show disturbed areas and the Limits of Disturbance (LOD), which is the area approved under the registration for land disturbance. Projects that have not disturbed any lands are not required to provide the status map. Additionally, the certification shall contain an updated timeline for major activities as required by G.5.e.1.A.

Existing registrations under the Notice of Intent approved from March 1, 2018 through the effective date shall submit the Notice of Termination if all disturbed lands are permanently stabilized. If construction is not complete and all disturbed lands are not permanently stabilized, such projects may retain permit coverage through the expiration date of this General Permit by submittal of the certification described above within 90 days of the effective date of this reissued General Permit.

All projects, other than those described above and approved under the 2013 permit's Site Registration Application or Notice of Intent with an approval date older than March 1, 2018 must submit the Notice of Termination if all disturbed areas are permanently stabilized. All other projects with disturbed lands that have not been permanently stabilized shall submit an application for continuing coverage within 90 days of the effective date of this General Permit.

SECTION A. TERMS OF PERMIT

> Discharges covered under this General Permit shall not cause or contribute to a violation
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> of the Legislative rules governing water quality or groundwater protection, namely *Requirements Governing Water Quality Standards* (47 C.S.R. 2) and *Requirements Governing Groundwater Standards* (47 C.S.R. 12), in accordance with W. Va. Code §§ 22-11-8 and 22-12-4. For purposes of this General Permit, the *West Virginia Water Pollution Control Act,* W. Va. Code § 22-11-1, et seq., shall be referred to as the WPCA and the *West Virginia Groundwater Protection Act,* W. Va. Code § 22-12-1, et seq., shall be referred to as the GWPA. Discharges that are not in compliance with these standards are not authorized.

SECTION B. COMPLIANCE REQUIREMENTS

Compliance with this General Permit, the approved Stormwater Pollution Prevention Plan (SWPPP), and the Groundwater Protection Plan (GPP) is required at the start of the construction project.

SECTION C. MANAGEMENT CONDITIONS

C.1. Duty to Comply

The permittee must comply with all terms and conditions of this General Permit. Permit noncompliance constitutes a violation of the WPCA and/or the GWPA and is grounds for enforcement action; permit modification; suspension or revocation; or denial of a permit renewal application. *See,* W. Va. Code §§ 22-11-12, 22-11-22, 22-11-24, and 22-12-10.

C.2. Continuation of General Permit

If this General Permit is not reissued or replaced prior to the expiration date, it will be administratively continued in accordance with 47 C.S.R. 10 and remain in force and effect. If a permittee were authorized to discharge under this General Permit prior to the expiration date, any discharges authorized under this permit will automatically remain covered by this General Permit until the earliest of these actions:

C.2.a. Authorization for coverage under a reissued General Permit or a replacement of this General Permit following submittal of a timely and complete application requesting authorization to discharge under a new General Permit; or a

C.2.b. Submittal of notification that the activity has ceased; or issuance or denial of an individual permit for the activities discharge; or

C.2.c. A formal permit decision by the DWWM not to reissue this General Permit, at which time the DWWM will identify a reasonable time period for covered dischargers to seek coverage under an alternative General Permit or an individual permit. Coverage under this General Permit will then cease.

C.3. 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.

C.4. Permit Actions

This permit may be modified, revoked and reissued, suspended, or revoked for cause. The filing of a request by the permittee for permit modification, revocation and reissuance, or revocation, or a notification of a planned change or anticipated noncompliance, does not stay any permit condition.

C.5. Property Rights

This permit does not convey any property rights of any sort, or any exclusive privilege.

C.6. Signatory Requirements

All applications, reports or information submitted to the Director shall be signed and certified by an authorized representative as required by 47 C.S.R. 10 § 4.6. If an authorization becomes inaccurate because a different individual or position has responsibility for the overall operation of the project, a new authorization must be submitted to the Director prior to, or together with any reports, information, or applications to be signed by an authorized representative.

C.7. Transferability

This permit is not transferable to any person, except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary.

C.8. Duty to Provide Information

The permittee shall furnish to the Director, within a reasonably specified time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, suspending, or revoking this permit, or to determine compliance with this permit. This information may include water quality information as specified by the Director. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.

C.9. Other Information

The applicant shall furnish to the Director, upon request and within a reasonably specified time, any additional, practicable, site-specific information that is determined necessary to protect water quality or has the potential to protect water quality.

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 Director, it shall immediately submit such facts or information.

C.10. Inspections and Entry

The permittee shall allow the Director upon the presentation of credentials and such other documents as may be required by law:

C.10.a. To enter upon the permittee's premises at all reasonable times in which a discharge or activity is located, or where records must be kept under the conditions of this permit;

C.10.b. To have access to and copy at reasonable times any records that must be kept under the conditions of this permit;

C.10.c. To inspect at reasonable times any activities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit;

C.10.d. To sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the WPCA.

C.11. Permit Modification

This permit may be modified, suspended, or revoked in whole or in part during its term in accordance with the provisions of W. Va. Code § 22-11-12 and 47 C.S.R. 10.9.

Any permittee wishing to modify coverage shall submit an application according to this schedule, prior to the planned implementation date: Large Construction Projects: minor modifications – 20 days, minor modifications that cause public notice – 50 days, major modifications - 60 days, major modifications that cause public notice – 100 days. For Minor Construction Projects: minor modification – 10 days, minor modifications that cause public notice – 50 days, major modifications – 20 days, major modifications that cause public notice – 50 days prior to the anticipated date construction is to begin. *Provided,* that upon approval of a request for modification by the Director, the permittee may immediately commence the proposed action.

C.11.a. If conducting earth-disturbing activities in response to a public emergency (*e.g., natural disaster, widespread disruption in essential public services),* and the related work requires immediate authorization to avoid imminent endangerment to human health, public safety, the environment, or to reestablish essential public services, discharges are authorized on the condition that a complete and accurate application and/or SWPPP are submitted within 30 calendar days after commencing earth-disturbing activities. Documentation of the public emergency must be provided in the SWPPP.

C.12. Water Quality

Subject to 47 WV C.S.R. 10.3.4.a and 47 C.S.R. 2.4, the discharges covered by this permit are to be of such quality so as not to cause a violation of applicable water quality standards. The permittee must protect water quality and the existing uses and designations of receiving waters by implementing erosion and sediment control BMPs. Enhanced BMPs must be used for projects discharging to any waters other than Tier 1 for sediment, or where standard BMPs are found to be inadequate to protect water quality based on inspections by a Qualified Person, or representatives of the Director of DWWM.

Receiving waters for the exclusive purpose required by the paragraph above and in accordance with 47 C.S.R. 2.4 shall be protected from degradation as explained below:

Tier 1 Protection- Maintains and protects existing uses of a water body and the water quality conditions necessary to support such uses. A waterbody that is listed as impaired on the state's 303(d) list is considered a Tier 1 water as it pertains to the specific pollutant listed.

Tier 2 Protection- Maintains and protects "high quality" waters - water bodies where the level of water quality exceeds levels necessary to support recreation and wildlife and the propagation and maintenance of fish and other aquatic life. Tier 2 is the default assignment for a waterbody not listed as impaired on the state's 303(d) list.

Tier 3 Protection- Maintains and protects water quality in outstanding national resource waters.

Protection of Trout Streams - Waters which sustain year-round trout populations. Excluded are those waters which receive annual stockings of trout, but which do not support year-round trout populations. Waters which meet the definition of 47 C. S.R. 2-2.19 (Requirements Governing Water Quality Standards).

Impaired Streams — Sediment-related impaired waters are those that do not meet applicable water quality standards and are listed on the state's 303(d) list.

Sediment-Related Pollutant of Concern Total Maximum Daily Loads (TMDL) - A TMDL establishes the maximum amount of a pollutant allowed in a waterbody and serves as the starting point or planning tool for restoring water quality.

C.12.a. Enhanced BMPs include all the following:

- Inspection of all erosion and sediment controls within disturbed areas at least once every 4 calendar days and within 24 hours after any precipitation event greater that 0.25 inches per 24 hours period;
- Repairs or maintenance to BMPs shall be performed within 24 hours, however, permittees must implement alternate BMPs during storm events while awaiting repair of the primary enhanced BMP;
- Temporary seeding and mulching within 4 days when areas will not be re-disturbed for more than 14 days;
- Permanent seeding and mulching within 4 days of reaching final grade;
- Permanent stabilization within 4 days after construction has been complete;
- Additional filtration BMPs.

Additional filtration BMPs should be selected from the DWWM's BMP Manual, however, filtration BMPs from other manuals may be approved if equally protective of water quality.

Within six months of notification from the Director of a new sediment-related TMDL approval applicable to construction activities, permittees must incorporate and implement enhanced BMPs for discharges to the receiving waters subject to the TMDL.

C.12.b. New Sources or Discharges of Constituents of Concern Not Authorized

This permit does not authorize new sources or new discharges of constituents of concern to impaired waters unless consistent with the approved total maximum daily load (TMDL) and applicable state law.

C.12.c. Requirement for BMPs to Protect Water Quality

BMPs are required for controlling sediment and erosion on construction projects.

C.12.d. Enhanced BMP requirement

Enhanced BMPs shall be used on projects discharging to all waters of the state except for those classified as Tier 1 streams (other than 303(d) listed). However, for discharges to TDML waters, the permittee shall comply with waste load allocations by following the conditions specified in the applicable TMDL.

The Director reserves the right to require Enhanced BMPs for any project.

C.12.e. Standard BMP requirement

Standard BMPs are required for construction related discharges to all receiving waters not classified as Tier 2, Tier 3, or TMDL waters.

C.13. Liabilities

C.13.a. Any person who violates a permit condition is subject to a civil penalty not to exceed $25,000 per day of such violation as provided in W. Va. Code § 22-11-22. Any person who willfully or negligently violates permit conditions is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than one year, or both, as provided in W. Va. Code § 22-11-24.

C.13.b. Any person who intentionally misrepresents any material fact in an application, record, report, plan or other document filed or required to be maintained under W. Va. Code § 22-11 or any rules promulgated by the Director thereunder is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than $1,000 nor more than $10,000 or by imprisonment in jail not exceeding six months or by both fine and imprisonment, in accordance with W. Va. Code § 22-11-24.

C.13.c. Nothing in sections C.13.a. or C.13.b. shall be construed to limit or prohibit any other authority the Director may have under the WPCA or the GWPA.

SECTION D. OPERATION AND MAINTENANCE

D.1. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all activities and BMPs which are installed or used by the permittee to achieve compliance with the terms and conditions of the permit.

D.2. 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.

D.3. Bypass

D.3.a. Definitions

D.3.a.1. "Bypass" means the intentional diversion of waste streams from any portion of a BMP; and

D.3.a.2. "Severe property damage" means substantial physical damage to property, damage to the BMPs which causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

D.3.b. Bypass not exceeding limitations. 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 assure efficient operation. These bypasses are not subject to the provisions of D.3.c. and D.3.d. of this permit.

D.3.c. Notification of bypass

D.3.c.1. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible, at least 10 days before the date of the bypass.

D.3.c.2. If the permittee does not know in advance of the need for bypass, notice shall be submitted as required in F.2.a. of this permit.

D.3.d. Prohibition of bypass

D.3.d.1. Bypass is permitted only under the following conditions, and the Director may take enforcement action against a permittee for bypass, unless;

D.3.d.1.A. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

D.3.d.l.B. There were no feasible alternatives to the bypass, such as the use of auxiliary BMPs, retention of untreated sediment, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup 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. This condition is not satisfied if the sediment and erosion control structures were not installed in the proper sequence; and

D.3.d.1.C. The permittee submitted notices as required under D.3.c. of this permit.

D.3.d.2. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed in D.3.d.1. of this permit.

D.4. Upset

D.4.a. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with the terms and conditions of the permit and the SWPPP because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed or inadequate BMPs, lack of preventive maintenance, or careless or improper operation.

D.4.b. Effect of an upset. An upset constitutes an affirmative defense to an action brought for temporary noncompliance with the terms and conditions of the permit and the SWPPP if the requirements of D.4.c. are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

D.4.c. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

D.4.c.1. An upset occurred, and that the permittee can identify the cause(s) of the upset.

D.4.c.2. The permitted activity was at the time being properly operated.

D.4.c.3. The permittee submitted notice of the upset as required in F.2.a. of this permit.

D.4.c.4. The permittee complied with any remedial measures required under C.3. of this permit.

D.4.d. Burden of proof

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

D.5. Removed Substances

From time to time incidents occur on construction sites that cause materials to be removed. Soils or stormwater affected by fuel spills or other substances may require special handling and disposal. Such shall be disposed of only in a manner and at a site subject to the approval by the Director.

Sediment removed from a trapping device or from a stream, lake or river after deposition by stormwater runoff from a construction related activity shall be removed in a manner consistent with local and state guidelines and placed behind sediment trapping BMPs in a manner that prevents further impact to receiving waters.

SECTION E. DEFINITIONS

“Access Road” means surface right-of-way for purposes of travel by land vehicles and/or equipment used in Construction activities. A road consists of the entire area

within the right-of-way, including the roadbed, shoulders, parking and side areas, approaches, ditches, and other related structures. The term includes access roads constructed, used, reconstructed, improved, or maintained for use in all construction operations.

“Application” is the form to be submitted to register a construction project that discharges stormwater to Water of the State.

“Appropriate” a BMP that is suitable for a particular condition, situation or location.

"Best management practices" (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, other management practices and various structural practices such as but not limited to silt fence, sediment traps, seeding and mulching, and rip-rap used to prevent or reduce erosion and sediment runoff and the pollution of surface waters of the State. BMPs also include treatment requirements, operating procedures and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

"Buffer zone" means the region near the border of a protected area; a transition zone between areas managed for different objectives.

"Clearing" means the stage of development in which vegetation is cleared from land. Clearing includes cutting and removing vegetation with chain saws, brush axes, brush hogs and other mechanical means where there is little or no soil disturbance.

"Common plan of development" is a contiguous construction project where multiple separate and distinct construction activities may be taking place at different times on different schedules but under one plan. The "plan" is broadly defined as any announcement or piece of documentation or physical demarcation indicating construction activities may occur on a specific plot.

“Contaminated soil” means soil with the presence of toxic chemicals in high enough concentrations to adversely affect water quality or to pose a risk to human health and/or the ecosystem.

"Control" is a BMP such as erosion control or sediment control that will reduce sedimentation on a construction project.

"Construction Activity" means land disturbance operations such as grubbing, grading, filling, and excavating during site development for commercial or industrial purposes. This includes, but is not limited to, access roads, borrow and spoil areas and equipment lay down or staging areas where such land disturbance activity will take place.

“Critical Potential Slope Failure” means an area exhibiting one or more of the following common indications of imminent slope failure:

- Tension cracks or erosion in soil parallel to contours or at the top of slope.
- Bulges or cracks appearing on the ground near a slope.
- Dropped down or sunken road beds may indicate substantial ground movement preceding a larger landslide.

- Bulging at the base of a slope.
- Leaning trees, posts, utility poles or curved tree trunks.
- Water pooling, saturated ground or springs appearing near the base of a slope.

“Detailed site plan” is a design plan drawing of sufficient scale to depict proposed construction activity, surface drainage patterns, erosion and sediment control BMPs, limits of disturbance boundary, north arrow with drawing, oriented north, and containing surface contours on minimum 5-foot contours.

"Director" means the Director of the Division of Water and Waste Management, Department of Environmental Protection, or his or her designated representative.

"Disturbed area" is the total area of land disturbing activity that will take place during all phases of a construction project, including, but not limited to, waste and borrow sites, utility installation, road building, mass grading, and site development.

"Diversion" means a berm or excavated channel, or combination berm and channel constructed across sloping land on a predetermined grade. This includes but is not limited to protecting work areas from upslope runoff and reducing the size of the drainage going to sediment trapping structures (clean water diversion), transporting runoff across a project to minimize erosion and diverting sediment-laden water to an appropriate sediment-trapping structure. Diversions shall have the capacity to safely convey the peak discharge from a 10-year, 24-hour precipitation event.

“Electronic Submission System (ESS)” refers to the online interactive application registration submittal, review and approval system authorized by the Director.

“Enhanced BMPs” means activity schedules or sediment and erosion controls that are more protective of the environment than those routinely employed to qualify for coverage under this permit.

"Erosion" means the displacement of solids (soil, mud, rock, and other particles) by the agents of wind, water, and ice in response to gravity.

"Establishment" means an industrial establishment, mill, factory, tannery, paper and pulp mill, mine, colliery, breaker or mineral processing operation, quarry, refinery, well and each and every industry or plant or works in the operation or process of which industrial wastes, sewage or other wastes are produced.

"Estimate" means to be based on a technical evaluation of the sources contributing to the discharge.

"Excavating" means to engage in digging, hollowing out, or removing, accomplished usually with heavy machinery.

"Final stabilization" means disturbed areas shall be covered by permanent protection. Final stabilization includes pavement, buildings, stable waterways (riprap, concrete, grass or pipe), a healthy, vigorous stand of ~~peren~~nial ~~grass~~ th~~at un~~iformly covers at least 70 percent of the ground, stable outlet channels with velocity dissipation that directs site runoff to a natural watercourse, and any other approved structure or material.

"Grading" means changing surface contours by removing soil and stone from one place and building it up in another, disturbing the surface of the land, including land clearing and grubbing, excavations, creating embankments, land development, road upgrade, cut and/or fill operations, and the moving, depositing, stockpiling or storing of soil, rock, or earth materials.

"Groundwater" means the water occurring in the zone of saturation beneath the seasonal high -water table or any perched water zones.

"Groundwater Protection Plan" (GPP) means groundwater protection practices developed and implemented in accordance with WV Legislative Rules, 47 C.S.R. 58 (Groundwater Protection Rule), submitted as part of the Application.

"Grubbing" means physically removing vegetative stumps and roots from the ground and disturbing the earth, usually by heavy machinery.

"Inlet protection" means a sediment filter or an impounding area around or upstream of a storm sewer, drop inlet, or curb inlet which allows sediment to settle out prior to stormwater entering the inlet.

"Karst" means a type of topography formed over limestone, dolomite, or gypsum resulting in dissolving or solution of the underlying calcareous rock.

"Landowner requested trails" refers to a trail the landowner deems desirable as a post-construction accessway to portions of the released site, hereinafter called ATV (All-Terrain Vehicle) Trails.

"Large construction activity" means an activity which disturbs 3 or more acres of land.

"Limits of Disturbance (LOD)" is a polygon shown on a map or site drawing depicting the boundary of the construction site to be disturbed.

"Linear Project" – includes the construction of roads, bridges, conduits, substructures, pipelines, sewer lines, towers, poles, cables, wires, connectors, switching, regulating and transforming equipment and associated ancillary facilities in a long, narrow area.

"Minor construction activity" means an activity which disturbs one acre or more, but less than three acres.

"Notice of Termination" (N.O.T.) is the form to be submitted by the permittee to terminate coverage under the General Permit, after final stabilization has been completed. See Final Stabilization.

"Permanent detention/retention facility" means: Detention- The process of reducing offsite stormwater discharge rates by temporarily holding the water in a storage basin and then releasing it slowly over a period of time. The objective of a detention facility is to regulate the runoff from a given rainfall event and to control discharge rates to reduce the impact on downstream stormwater systems. Retention- The prevention of stormwater runoff from being discharged into receiving waters by

storing it in a storage area. Water is retained and stored until it is lost through percolation, removed by evapotranspiration by plants, or through evaporation from the free water surface. Retention systems are designed to not have any offsite discharges.

"Point source" is any discernible, confined and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, and container from which pollutants are or may be discharged to surface waters of the state.

"Pollutant" means industrial waste, sewage or other wastes.

"Post-development" means the anticipated final conditions of the project, including rooftops, parking lots, streets, drainage systems, vegetation, and any other structure planned.

"Pre-development" means the condition of the land, the amount and health of the ground cover and vegetation prior to development.

“Qualified Person” means a person who is knowledgeable in the principles and practices of sediment and erosion controls, pollution prevention, and post construction stormwater management controls and possesses the education and abilities to assess conditions at the proposed site that could impact stormwater quality and to assess the effectiveness of proposed stormwater controls to meet the requirements of this permit.

"Sediment" means any particulate matter that can be transported by fluid flow and which eventually is deposited as a layer of solid particles on the bed or bottom of a body of water or other liquid.

"Sedimentation" means the deposition by settling of a suspended material.

"Sediment basin" means a temporary structure consisting of an earthen embankment, or embankment and excavated area, located in a suitable area to capture sediment-laden runoff from a construction site. A sediment basin reduces the energy of the water through extended detention (48 to 72 hours) to settle out the majority of the suspended solids and sediment and prevent sedimentation in waterways, culverts, streams and rivers. Sediment basins have both wet and dry storage space to enhance the trapping efficiency and are appropriate in drainage areas of five acres and greater.

"Sediment trap" means a temporary ponding area formed by constructing an embankment or excavation and embankment that will trap the flow of sediment-laden runoff. Sediment traps have a properly stabilized outlet/weir or riser and pipe to detain sediment-laden runoff from small disturbed areas of five acres or less. Outlets must be designed to extend the detention time to allow the majority of the sediment to settle out.

"Sinkhole" means a depression in the land surface formed by solution or collapse that directs surface runoff into subsurface or to an underground drainage flow.

“Steep Slopes” as determined by this office, slopes 3:1 or greater are considered steep.

"Stormwater" means stormwater runoff, snowmelt runoff, and surface runoff and drainage.

"Stormwater Pollution Prevention Plan" (SWPPP) means the erosion and sediment control plan and the post development plan submitted as part of the Large Construction Activity Application form.

“Water Quality Standards” are the foundation of the water quality-based control program as found in 47 C.S.R. 2.

“2-year, 24-hour precipitation event” means the maximum 24-hour precipitation event with a probable recurrence interval of once in 2 years.

"10-year, 24-hour precipitation event" means the maximum 24-hour precipitation event with a probable recurrence interval of once in 10 years.

"25-year, 24-hour precipitation" means the maximum 24-hour precipitation event with a probable recurrence interval of once in 25 years.

SECTION F. REPORTING

F.1. Reporting Spill and Accidental Discharges.

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 established pursuant to the *Special Rules* of the DWWM regarding reporting spills and accidental discharges as set forth at 47 C.S.R. 11 § 2.

F.2. Immediate Reporting

The permittee shall report any noncompliance which may endanger health or the environment immediately after becoming aware of the circumstances by using the Department's designated spill alert telephone number (800) 642-3074). A written submission shall be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and time, and if, the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

F.2.a. The registrant shall report to the spill alert telephone number any indication of critical potential slope failure.

SECTION G. OTHER REQUIREMENTS

G.1. Requiring an Individual Permit

The Director may require any person otherwise eligible for this permit to apply for and obtain an individual permit in the event that the proposed project will involve

land disturbance across a very significant area or other unique impacts that the Director determines require the imposition of special conditions beyond those contained in this General Permit. Any interested person may petition the Director to take action under this paragraph. The Director may require any owner or operator authorized by this permit to apply for an Individual Permit only if the owner or operator has been notified in writing that such a permit application is required.

G.2. Prohibition of Non-Stormwater Discharges

All discharges authorized by this General Permit shall be composed entirely of stormwater. Discharges of material other than stormwater are not authorized by this permit. This permit does not authorize the conveyance, diversion, channeling, directing or otherwise allowing the discharge of stormwater into a sinkhole without an Underground Injection Control Permit.

This permit prohibits:

- Sediment laden stormwater that has not gone through an appropriate best management control;
- Wastewater from washout of concrete, bituminous asphalt, unless managed by an appropriate control;
- Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials;
- Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and soaps or solvents used in vehicle and equipment washing.
- Toxic or hazardous substances from a spill or other release.

G.3. Releases in Excess of Reportable Quantities.

This permit does not relieve the permittee of the reporting requirements of 40 C.F.R. Part 117, *Determination of Reportable Quantities for Hazardous Substances,* or 40 C.F.R. Part 302, *Designation, Reportable Quantities, and Notification.* The discharge of hazardous substances in the stormwater discharge(s) from a project is not authorized by this General Permit, and in no case shall the discharge(s) contain a hazardous substance equal to or in excess of reporting quantities.

G.4. Application Requirements

G.4.a.1. Large Construction Projects

Projects disturbing 3 or more acres of land shall submit an application containing:

- Application Form, to include template for the sign
- Stormwater Pollution Prevention Plan

- Groundwater Protection Plan
- Detailed Site Plan (Maps) showing LOD and Receiving Waters; and
- Design Details for:
    - Sediment basins, road, cut and fill cross sections, and other engineered structural design calculations; and
- Applications for Large Construction Projects shall be submitted 60 days before the anticipated date construction is to begin.
- Applications for Large Construction Projects requiring Public Notice shall be submitted 100 days before the anticipated date construction is to begin.

G.4.a.2. Minor Construction Projects

Projects disturbing 1 to less than 3 acres of land shall submit an application containing the following:

- Application form, to include template for the sign
- Stormwater Pollution Prevention Plan
- Groundwater Protection Plan
- Detailed Site Plan (Map) showing LOD and Receiving Waters;
- General Design Details;
- Applications for Minor Construction Projects shall be submitted 20 days before the anticipated date construction is to begin.
- Applications for Minor Construction Projects requiring Public Notice shall be submitted 50 days before the anticipated date construction is to begin.

G.5. SWPPP/GPP

A SWPPP and a GPP shall be developed and submitted for approval for each project covered by this permit to serve as separate stand-alone documents.

SWPPPs shall be prepared in accordance with good engineering practices by a qualified person. The plan SWPPP shall identify potential sources of pollution that may reasonably be expected to affect the quality of stormwater discharges associated with construction activity. In addition, the SWPPP shall describe and ensure the implementation of practices that are to be used to reduce the pollutants in stormwater discharges associated with construction activity and to assure compliance with the terms and conditions of this permit.

GPPs shall be prepared in accordance with the requirements of the *Groundwater Protection Rule,* 47 C.S.R. 58 § 4.11. The GPP shall identify all operations that may reasonably be expected to contaminate the groundwater resources with an indication of the potential for soil and groundwater contamination from those operations. In addition, the GPP shall provide a thorough and detailed description of procedures designed to protect groundwater from the identified potential contamination sources. Guidance in the completion of a GPP is available from the DWWM.

G.5.a. The SWPPP and the GPP shall be signed in accordance with Section C.6. and retained onsite.

G.5.b. Complete applications shall be submitted as described in G.5.3. and G.5.4. Prospective permittees should submit applications for review prior to accepting construction bids on the project. As the plans are evaluated, the Director may notify the applicant during the 60-day review period that the plan does not meet one or more of the minimum requirements of this permit. After such notification from the Director, the applicant shall make changes to the plan in accordance with the time frames established in G.5.b.1. below and shall submit to the Director a written certification that the requested changes have been made.

G.5.b.1. Except as provided in G.5.b.2., the applicant shall have 30 days after such notification to make the changes necessary.

G.5.b.2. The applicant shall have 24 hours after such notification to make changes relating to sediment and erosion controls to prevent loss of sediment from an active construction site, unless additional time is provided by the Director.

G.5.b.3. Minor Construction Projects subject to public notice are those that will discharge to Tier 3 Waters and shall submit a complete application 50 days prior to initiating construction.

G.5.b.4. Large construction Projects that will discharge to Tier 3 waters or that will disturb 100 or more acres, or that the grading phase of construction will last for more than one year, shall submit the complete application at least 100 days prior to construction to allow for the public notice procedure.

G.5.b.5. Within 72 hours of filing an application form with DWWM, the applicant shall display a sign for the duration of the construction project near the entrance of the project or, for linear projects, at a location near an active part of the project that is accessible by the public, which contains the following information using the template found in the instructions: 1) the applicant's name and emergency telephone number; 2)Project Reference ID; 3) Call DWWM at (800) 654-5227 or email DEP.Comments@wv.gov for info on this stormwater project.

G.5.b.5.a. The sign shall be a minimum of two feet by two feet and be at least three feet above ground level, clearly visible and legible from a public roadway or right-of-way.

G.5.b.5.b. If it is not feasible to display a sign at or near the project, the applicant may post a notice within 72 hours of filing the application containing the foregoing information at a local public building, including, but not limited to, a town hall or public library.

G.5.b.5.c. The application shall provide the initial location where the sign or notice is to be posted.

G.5.c. The permittee shall modify, using forms provided by DWWM, the SWPPP whenever there is a change in design, construction, scope of operation, or maintenance, which has the potential to adversely impact the surface waters of the State, or if the SWPPP proves to be ineffective in achieving the general objectives of controlling pollutants in stormwater discharges associated with construction activities. Should conditions warrant, the Director may request changes to the SWPPP during a field inspection. The Director may review changes or modifications to the SWPPP in the same manner as above.

The permittee shall amend the GPP whenever there is a change in design, construction, operation, or maintenance which could reasonably be expected to have an impact on the potential contamination of groundwater.

G.5.d. In addition to the requirements of G.5.e, the SWPPP shall also include, at a minimum, the following items:

G.5.d.1. General management controls

G.5.d.1.A. Preventive maintenance

A preventive maintenance program shall involve inspection and maintenance of sediment and erosion control BMPs to identify and address conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters. Inspection requirements are spelled out in Appendix A of this General Permit.

G.5.d.1.B. Good housekeeping

Good housekeeping requires the maintenance of a clean and orderly project.

G.5.d.1.C. Spill prevention and response procedures

Areas where potential spills may occur, and their accompanying drainage points, shall be identified clearly in the SWPPP/GPP. Where appropriate, specify material handling procedures and storage requirements in the SWPPP/GPP. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a cleanup shall be available to personnel, including spill kits.

G.5.d.2. Consistency with other plans

SWPPPs may reflect requirements for Spill Prevention Control and Countermeasure (SPCC) plans or any BMPs or GPPs implemented in accordance with the

Groundwater Protection Rule, 47 C.S.R. 58 and may incorporate appropriate parts of such plans into the SWPPP, however, this may not be done by reference. The SWPPP should contain all information in a stand-alone plan.

G.5.e. Requirements for construction activities

Construction activity disturbing one or more acres that discharge stormwater are not only subject to the requirements of Section G.45.d. of this permit but are also subject to the following requirements. The SWPPP shall include, at a minimum, the following items.

G.5.e.1. Site description

Each plan shall, at a minimum, provide a description of the following:

G.5.e.1.A. A description of the nature of the construction activity, including a proposed timetable for major activities;

G.5.e.1.B. Except for linear projects, provide estimates of the following: total area of the site, the part of the site that is expected to undergo excavation or grading, the total amount of excavation by cut and fill, cross sections that accurately depict the surface configuration at any project area proposing a fill;

Trenching activities associated with linear projects that will restore the grade to the approximate original contour are not required to provide cut and fill estimates or cross sections of areas that are not to receive any fill that is not created by trenching.

Show measures to be taken to reduce the potential for subgrade saturation and ensure stability of fill areas. The cross-section shall be developed from sufficient slope measurements to adequately represent the existing land configuration of the proposed project area. Identify fill slope lines, original ground line, proposed keyway cut or rock toe key, drainage provisions and/or alternates. Proposed road construction or upgrades, grading plans, and a narrative of the pollution prevention techniques proposed during and after construction shall be provided in the application;

G.5.e.1.B.1. Offsite waste and borrow areas one acre or greater must be included in applications and approved before material may be removed from or accepted at the site. Such areas must be included in the application when associated with linear projects, or any other construction projects. Offsite waste or borrow sites less than one acre in size that are not contiguous to the construction site must provide sediment and erosion controls and may be included with the application, however, there is no requirement to do so unless otherwise required by the Director;

G.5.e.1.B.2. When contaminated soils are encountered, a soil handling plan shall be provided. Contaminated soil is not suitable material for borrow or fill unless approved by the Director;

G.5.e.1.C. Site maps with a north arrow oriented to the north, indicating, with a minimum of five-foot contours, drainage patterns prior to, during, and after

construction, and slopes prior to construction and anticipated conditions after grading activities, topsoil stockpiles, waste areas, borrow sites, locations of sediment control structures identified in the narrative, the location of impervious areas after construction is complete, final stormwater management structures and routing including all ditches and pipe systems, property boundaries and easements, the LOD, nearest receiving stream, access roads, existing roads, public roads from which access to the site will be constructed, legend and springs, surface waters, the location of stormwater discharge points(s), the location of the rain gauge unless the application contains a statement that information regarding rain events will be obtained from a National Oceanic Atmospheric Administration weather station representative of the site, and any other information necessary to describe the project in detail.

The project shall be illustrated in an ArcGIS Shapefile (.shp) or in an AutoCAD Drawing (.dwg) in World Geodetic System (WGS) 84. Identify the LOD, centerline, mileposts, stations, and other information necessary to describe the project in detail.

G.5.e.1.C.1. Applicants for permit coverage for non-linear projects may request approval to submit site maps indicating ten-foot contours, provided the entire project to be permitted under the Larger Common Plan of Development definition does not exceed 5 acres.

G.5.e.1.C.2. Applicants for permit coverage for linear projects shall identify all areas with steep slopes, as defined herein.

G.5.e.1.C.3. For projects to be constructed in those counties of West Virginia that discharge into the Chesapeake Bay drainage basin, the site maps shall clearly illustrate the pre-development land use as well as the post development land use.

G.5.e.1.D. A description and detail of the proposed construction entrance(s). Each site shall have stone access entrance and exit drives and parking areas to reduce the tracking of sediment onto public or private roads. Except for haul roads, all unpaved roads on the site carrying more than 25 vehicles per day shall be graveled.

G.5.e.1.D.1. Each road or access road covered by this permit shall be classified as either permanent or temporary and categorized as Construction Activity – New or Improved; Incidental Construction Activity; or Maintenance Only.

- Temporary roads shall be reclaimed as soon as practical after they are no longer needed for operations.
- New or Improved roads shall be designed with the complete specifications along the entire road.
- Incidental Construction Activity necessary to address rills and gullies and other drainage issues, shall be designed with the complete specifications on that specific segment.
- Maintenance only means to be graveled only.

The SWWP shall contain plans and specifications for each road or access road requiring construction activities within the LOD area. The plans and specifications

shall include a map, stationed baseline, appropriate profile and cross sections, gradients, flow patterns, surfacing materials, cuts, fill, embankments, drainage ditches, culverts/water bars, and erosion and sediment structures.

Each road shall be designed with the following specifications:

- All unpaved roads on the site shall be graveled or have other durable surface.
- The maximum pitch grade shall not exceed 15%.
- The surface shall pitch toward the ditch line at a minimum slope of 2% to 4%. A road located in an area that doesn't have hillside runoff may be crowned with a minimum slope of 2% to 4% from the center line.
- A ditch shall be provided on the inside of any road having hillside runoff, with ditch relief culverts and/or water bars spaced according to grade and installed wherever necessary to insure proper drainage of runoff water beneath or through the access road.
- Ditch lines shall be capable of passing the peak discharge of a 10-year, 24-hour precipitation event.
- Ditch relief culverts shall be capable of passing the peak discharge of a 2-year, 24-hour precipitation event and placed at a spacing using the formula: 400/% grade + 75' culvert spacing.
- Sediment control shall be provided at the inlet by sumps, rock checks, or equal structure and the slope at the outlet end shall be protected with an apron of rock riprap, a water energy dissipater, or other similar structure.
- Alternative design criteria for access road drainage may be approved by the Director where the design criteria of this section are demonstrated to be impractical or unnecessary.

A road not retained as a permanent road shall be reclaimed as soon as practical after it is no longer needed for operations. This reclamation shall include:

- Removing and disposing of road surfacing materials that are incompatible with prior land use and revegetation requirements.
- Reshaping cut and fill slopes as necessary to be compatible with the land use and complement the natural drainage pattern of the surrounding terrain.
- Prior to abandonment of access roads, efforts shall be made to prevent erosion by the use of culverts, water bars, or earth berms. Water bars or earth berms shall be installed according to the following formula for spacing: 400/% grade + 75' water bar or earth berm spacing.

- Upon abandonment, the road bed shall be scarified or ripped, and all areas associated with access roads shall be immediately seeded and mulched.

- The application for registration shall identify existing ATV trails to be retained by the landowner upon termination of the permit registration. ATV trails that are not shown with the original application may be identified through a minor modification to the registration. ATV trails shall be maintained by the applicant and stabilized upon conclusion of construction when not identified in the registration as a landowner accepted trail. Stabilization will include the vehicle travel lanes for all trails not accepted by the landowner. During construction, the applicant shall maintain the trails to prevent sediment laden stormwater runoff from entering the waters of the state.

G.5.e.1.E. Cross-sections and/or profiles which accurately depict the surface configuration along the proposed project area including all access roads.

Cross-sections and/or profiles shall be developed from sufficient slope measurements to adequately represent the existing land configuration of the proposed project area. The Director may require additional slope measurements at specified intervals and locations on a site-by-site basis.

G.5.e.1.F. A Soils Report is required with an attached map outlining the Limits of Disturbance and showing the soil mapping units associated with the permit and a table with a description of each map unit, acres in the permit area and percent of permit area.

G.5.e.1.G. Culverts, bridges, low water crossings or other structures and crossing techniques shall be used to cross intermittent or perennial streams. During construction, consideration shall be given to such factors as weather conditions, season of the year, time period for construction, etc., in order to minimize adverse impacts on the water quality and to the stream channel. These structures shall be capable of passing the peak flow for a ten (10) year, twenty-four (24) hour precipitation event from the contributing watershed. Structures of a lesser design capacity may be approved by the Director if the flow through capacity of the structure itself is at least equal to or greater than the flow capacity of the stream channel as measured immediately upstream and downstream of the crossing. Individual stream crossings shall be completed in a continuous, progressive manner and completed within 72 hours under normal or low stream flow conditions. An alternative time frame may be approved by the Director where it is demonstrated that 72 hours is impractical.

The main objective of any waterbody crossing is to construct the pipeline in a manner which minimizes erosion and subsequent sedimentation into the waterbody. Crossings will be constructed as close as possible to right angles with the waterbody channel. Adequate downstream flow rates will be maintained at all times to protect aquatic life and prevent the interruption of existing downstream uses. Each

waterbody crossing will be treated as a separate construction entity, such that trenching, pipe installation, backfilling and temporary stabilization or final restoration are completed in the minimum number of consecutive calendar days possible.

G.5.e.2. Controls

Each construction activity covered by this permit shall develop a description of controls appropriate for the project and implement such controls. The description of these controls shall address the following minimum components, including a schedule for implementing such controls.

Erosion and sediment control methods shall be implemented in accordance with the BMP Manual, however the Director may approve other BMPs.

For projects disturbing 100 or more acres, permittees are required to file quarterly or as otherwise required by the Director, a construction report accurately depicting the extent, location and status of construction activity and any other information necessary to describe construction activities in detail.

A status report for other projects shall be submitted upon request from the Director.

All reports submitted to the Director shall be certified in accordance with C.6 and signed by an authorized representative in accordance with 47CSR10 § 4.6 and shall be filed on a form provided by the Director.

G.5.e.2.A. Erosion and sediment controls

G.5.e.2.A.1. Vegetative practices

A description of interim and permanent stabilization practices, including site specific implementation schedules of the practices shall be provided. Site

plans should ensure that existing vegetation is preserved where attainable. A natural vegetative buffer shall be provided adjacent to receiving streams or other waters on or near the project site. Vegetative buffers should be a minimum of 50 feet, however, such buffers are not intended as a stand-alone erosion and sediment control practice. Vegetative buffers strips are not required if:

- A natural vegetative buffer does not exist in pre-construction conditions, such as when the buffer has already been removed by existing development or agricultural activities; or
- The receiving water is a man-made stormwater conveyance or storage structure, such as a ditch or storm water pond; or
- Consistent with 47 C.S.R. 5.a.; or
- In project locations where the vegetative buffer must be encroached to construct necessary infrastructure, such as a utility line or an access

road. Justification for any encroachment must be provided by the applicant; or

- Linear projects where right-of-way acquisition or area is limited.

Site plans should also ensure that disturbed portions of the site are stabilized as rapidly as possible. Stabilization practices may include: temporary seeding, permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees, preservation of mature vegetation, and other appropriate measures. Also include in the plan seedbed preparation requirements and the type and amount of soil amendments necessary to establish a healthy stand of vegetation. A record of the dates when major grading activities will occur, and when construction activities temporarily or permanently cease on a portion of the site, and when stabilization measures will be initiated shall be included in the plan.

Except as noted below, 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 7 days after the construction activity in that portion of the site has permanently ceased.

G.5.e.2.A.1.a. Where the initiation of stabilization measures by the 7th day after construction activity temporarily or permanently ceases is precluded by natural causes, stabilization measures shall be initiated as soon as conditions allow.

G.5.e.2.A.1.b. Where construction activity will resume on a portion of the site within 21 days from when activities ceased, (e.g., the total time period that construction activity is temporarily halted is less than 21 days) then stabilization measures do not have to be initiated on that portion of the site by the 7th day after construction activities have temporarily ceased. This section does not authorize operators to delay stabilizing hillside slips or landslides, or from preventing mudflows or from taking any other corrective action necessary to protect waters of the state without delay.

G.5.e.2.A.1.c. Areas where the seed has failed to germinate adequately within 30 days after seeding and mulching must be reseeded immediately, or as soon as weather conditions allow. Reseeding and re-mulching must be done until a uniform perennial vegetative cover with a density of 70% is attained.

G.5.e.2.A.1.d. All diversions constructed to final grade, including clean water diversions shall be stabilized prior to becoming functional. Internal construction diversions must be stabilized upon reaching final grade.

G.5.e.2.A.2. Structural practices

A description of the structural practices to be used to divert flows around exposed soils, store flows or otherwise limit runoff from exposed areas and eliminate sediment-laden runoff from the site. Such practices may include but are not limited to silt fences, filter socks, trench plugs, earth dikes and berms, land grading, diversions, drainage swales, check dams, sumps, subsurface drains, pipe slope

drains, storm drain inlet protection, rock outlet protection, reinforced soil retention systems and geotextiles, gabions and riprap, and permanent and temporary sediment traps/basins.

When the construction of diversions, traps, basins, ponds, permanent stormwater management structures, are not built in accordance with the approved plan, the permittee shall cause that structure to be certified as meeting the functional capability of the approved structure. Such certification shall be performed by a professional engineer or professional surveyor. The Director reserves the right to require such "as-built" certifications for any permanent structure not listed herein when the ability of the structure to protect water quality is not in accordance with the DWWM BMP or other design manuals.

G.5.e.2.A.2.a. For locations on a site that have a drainage area of 5 acres or less, a sediment trap which provides a storage volume equal to 3,600 cubic feet per acre of drainage area shall be installed. Half of the volume of the trap will be in a permanent pool and half will be dry storage. A sediment trap must be able to pass through the spillway(s) a 10-year, 24-hour precipitation event, and still maintain at least one foot of freeboard.

G.5.e.2.A.2.b. For drainage areas of greater than 5 acres, a sediment basin providing 3,600 cubic feet per drainage acre shall be installed. Half of the volume of the basin shall be in a permanent pool and half shall be dry storage. Sediment basins must be able to dewater the dry storage volume in 48 to 72 hours. A sediment basin must be able to pass through the spillway(s) a 25-year, 24-hour storm event, and still maintain at least one foot of freeboard.

G.5.e.2.A.2.c. The inlet(s) and outlet(s) for a sediment trapping structure must be protected against erosion by appropriate material such as riprap or other similar media.

G.5.e.2.A.2.d. If necessary, diversions will be used to direct runoff to the trapping structure. Diversions may need to be stabilized prior to becoming functional.

G.5.e.2.A.2.e. For locations served by a common drainage where a detention basin providing 3,600 cubic feet of storage is not attainable, additional sediment and erosion controls within the project area are required in lieu of the required sized sediment basin. Justification and a narrative description of the additional measures proposed must be provided for use of any practice(s) other than sediment basins or traps.

G.5.e.2.A.2.f. Fill slopes must be protected by measures used to divert runoff away from fill slopes to conveyance measures such as pipe slope drains or stable channels.

G.5.e.2.A.2.g. Sediment trapping structures will be eliminated, and the area properly reclaimed and stabilized when the contributing drainage area is stabilized, and the structures are no longer needed, unless the structure is converted into a permanent stormwater detention/retention structure.

G.5.e.2.A.2.h. All trapped sediments will be disposed on an upland area where there is no chance of entering nearby streams.

G.5.e.2.A.2.i. Breaching the embankment to dewater the structure is not permitted. Dewatering and structure removal shall not cause a violation of water quality standards. Provide a description of the procedures that will be used in removing these structures and the time frame.

G.5.e.2.A.2.j. No sediment-laden water will be allowed to leave the site without going through an appropriate BMP.

G.5.e.2.A.2.k. Hay or straw bales are not acceptable BMPs for primary or secondary filtering devices.

G.5.e.2.A.3. For projects affecting steep slopes, a description of the structural practices to be used to provide land stabilization shall be included in the SWPPP. Structural practices for steep slopes shall be designed and certified by a registered professional engineer.

G.5.e.2.A.3.a. Where trenching activities are proposed in areas where existing ground slopes are greater than 3:1, trench plugs shall be constructed with a drain at every other plug and other critical locations. A drain shall also be installed at low topographical areas along a proposed pipeline where the existing ground slopes perpendicular to the ROW are greater than 3:1. The Director may approve other methods of positive drainage control for trenching activities.

G.5.e.2.A.3.b. Fill areas shall be constructed on the most stable and moderate slopes available with the natural downslope at the toe of the fill not to exceed a slope of 3:1. Where possible, the toe of the fill shall rest on or above a natural terrace or bench in a manner which will provide additional stability and prevent mass movement. Where the natural downslope exceeds 3:1, keyway cuts or a rock-toe buttress drainage provisions and/or alternative shall be constructed.

G.5.e.2.A.3.c. Erosion control devices including Pipeline Right-of-Way diversions/slope breakers shall be installed as the ROW is grubbed or prior to the disturbance or exposure of soils to the elements and maintained during all phases of the operation and constructed such that prevents seepage or ponding and will convey stormwater off the right of way. The maximum allowable disturbed area prior to slope breaker construction is one 1 acre. The spacing of Pipeline Right-of-Way diversions shall be per the BMP Manual. Measures must be taken to prevent filtration of the pad material if springs, natural water courses or wet weather seeps are encountered during trench construction; trenching activities at the toe of a slope should be avoided wherever possible. When this practice is unavoidable trench controls that bolster the trenching activities should be designed for ensure slope stability in these areas.

G.5.e.2.B. Stormwater management plan

Projects located in areas that have local government requirements and/or criteria for post development stormwater management must meet those requirements and/or criteria. Compliance with this General Permit does not assure compliance with local codes, regulations, or ordinances. A description of measures that will be installed during construction to control pollutants in stormwater discharges after the project is completed shall be included in the SWPPP.

The permittee shall submit all calculations, watershed mapping, design drawings, and any other information necessary to explain the technical basis for the stormwater management plan. Since development site conditions vary widely, plan preparers will have significant latitude in designing practices to comply with this provision of the permit. However, design procedures shall follow professionally accepted engineering and hydrologic methodologies. Permanent stormwater management structures that will impound water (detention/retention basins or similar structures) shall be designed and certified by a registered professional engineer or professional surveyor.

G.5.e.2.C. Other controls

G.5.e.2.C.1. All solid waste and construction & demolition material must be disposed of in accordance with the Code of West Virginia and Legislative Rule Title 33 Series 1, (Solid Waste Management Rule).

G.5.e.2.C.2. Provisions must be made to control fugitive dust.

G.5.e.2.C.3. GPP

The applicant shall prepare a GPP that will satisfy the requirements of the *Groundwater Protection Rule,* 47 C.S.R. 58 § 4.11. In accordance with § 4.10, the facility or activity design must adequately address the issues arising from locating in the area(s) of a potentially more vulnerable groundwater resource areas of karst, wetlands, fault(s), subsidence, delineated wellhead protection areas or other areas determined by the director to be vulnerable based on geologic or hydrogeologic information.

G.5.e.2.C.4. Employee training

Employee training programs shall inform on-site personnel who are directly involved with construction activities at all levels of responsibility of the components and goals of the SWPPP. Training should address topics such as spill response, good housekeeping and routine inspection. Training shall be on a quarterly basis while construction activities are occurring, and records of the training shall be maintained on site for review by the Director.

G.5.e.2.C.5. Visual inspection

Qualified personnel shall be identified to inspect as set forth under G.5.e.2.D.2. A tracking procedure shall be used to ensure that adequate corrective actions have been taken in response to deficiencies identified during an inspection. Records of inspections shall be maintained onsite for review by the Director.

G.5.e.2.C.6. Recordkeeping and internal reporting procedures

Incidents such as spills, leaks and improper dumping, along with other information describing the quality and quantity of stormwater discharges should be included in the records. Recordkeeping of quality and quantity of stormwater discharges may be accomplished through documentation of visual observations of stormwater discharges and BMP installation. Inspection and maintenance records for review by the Director during active construction. After construction is complete, the permittee shall make the records available within 24 hours of a request from the Director.

The permittee shall retain records required by this permit for a period of 3 years from the date permit coverage is terminated to include at a minimum:

- Personnel training records;
- Incident reports of spills, leaks and improper dumping;
- Field modifications;
- Inspection and maintenance records;
- Corrective action reports.

G.5.e.2.D. Maintenance

A description of procedures to maintain in good and effective condition and promptly repair or restore all grade surfaces, walls, dams and structures, vegetation, erosion and sediment control measures and other protective devices identified in the site plan. At a minimum, the installation and maintenance of a rain gauge located within 3 miles of the active operation, unless the application contains a statement that information regarding rain events will be obtained from a National Oceanic Atmospheric Administration weather station representative of the site, including procedures in the site plan shall provide that all erosion and sediment controls on the site are inspected at least once every 7 calendar days for actively disturbed areas, 14 calendar days for restored areas and within 24 hours after any storm event of greater than 0.5 inches of rain per 24-hour period. Inspections conducted in accordance with Enhanced BMPs shall follow storm events of greater than 0.25 inches per 24-hour period.

G.5.e.2.D.1. All public and private roads adjacent to a construction entrance must be inspected and cleaned of debris originating from the construction site as necessary.

G.5.e.2.D.2. All critical potential slope failure areas shall be inspected by a Registered Professional Engineer or other qualified person acting under the direction of the professional at least once every 7 calendar days and within 24 hours of any rain event of greater than 0.25 inches of rain per 24-hour period.

After the slope has been stabilized, regular inspection frequencies may resume, and the Qualified Person may again conduct inspections.

G.5.f. All SWPPPs and GPPs required under this permit are considered reports that shall be available to the public. The owner or operator of a project with stormwater discharges covered by this permit shall make plans available for review to members of the public upon request. However, the permittee may claim any portion of a SWPPP or GPP as confidential in accordance with 47 C.S.R. 10-12.7.

G.5.g Compliance with other laws and statutes

Nothing in this General Permit shall be construed as excusing the permittee from compliance with any applicable federal, state, or local statutes, ordinances, or regulations.

G.6. Discharges to Waters with Approved TMDLs

Dischargers located in a watershed area with sediment related TMDL are required to implement Enhanced BMPs to demonstrate compliance with the applicable waste load allocation.

G.7. Presumptive conditions for discharges to Tier 3 waters

In accordance with Section C.12 Water Quality, Construction activities discharging to Tier 3 waters are required to utilize Enhanced BMPs, and no further antidegradation review is necessary, other than complying with public noticing.

SECTION H. REOPENER CLAUSE

If there is evidence indicating reasonable potential or realized impacts on water quality due to any stormwater discharge authorized by this General Permit, the owner or operator of such discharge may be required to obtain an individual permit in accordance with Section G.1. of this permit, or the permit may be modified to include different limitations and/or requirements.

SECTION I.

The conditions, standards, and limitations of this General Permit will be reviewed at the time of reissuance for possible revisions that may lead to more or less stringent conditions, standards, and limitations.

SECTION J.

Permit coverage for construction activities encompassed by this permit expires upon verification of satisfactory stabilization of the site. Satisfactory stabilization means ALL disturbed areas shall be covered by some permanent protection. Stabilization includes pavement, buildings, waterways (riprap, concrete, grass, or pipe), a healthy, vigorous stand of grass or native vegetation that uniformly covers more than 70 percent of the ground, stable outlet channels with velocity dissipation which directs site runoff to a natural watercourse, and any other approved structure

or material. Within 30 days of stabilization, the permittee will verify all permit fees are paid in full and request a final inspection by sending in the Notice of Termination (N.O.T.) via ESS.

Satisfactory stabilization shall be verified by the Director during a final site inspection, however, the permittee has the option of including with the N.O.T. a certification by a registered professional engineer or professional surveyor of demonstrated qualifications that the site meets stabilization requirements.

Final stabilization inspections for 1 to less than 3-acre sites shall be conducted by the Director within 30 days of receipt of the N.O.T. and for sites 3 acres and larger the final stabilization inspection shall be conducted within 60 days. The stabilization certification from the registered professional engineer or professional surveyor will be accepted in lieu of final inspections not conducted within the time frames prescribed herein. The certification shall include evidence of stabilization by use of photographs with location identification or video with location.

Sites not stabilized after submitting the N.O.T., shall continue to have coverage under this permit only when assessments of annual permit fees as promulgated by the West Virginia Legislature are paid and the permittee not only works to completely stabilize the site, but also requests a follow-up to the previously conducted final inspection by submitting a new N.O.T.

The herein-described activity is to be constructed or installed and operated, used and maintained strictly in accordance with the terms and conditions of this permit with any plans, specifications, and information submitted with the approved application form, with any plan of maintenance and method of operation thereof submitted and with any applicable rules and regulations promulgated by the Environmental Quality Board and the Director of the Department of Environmental Protection.

Failure to comply with the terms and conditions of this permit; with any plans, specifications or information submitted to the Department; or with any plan of maintenance or method of operation submitted to the Department shall subject the offending individual registrant to suspension or revocation of the registrant's operation from this General Permit and/or to other enforcement action as provided in W. Va. Code §§ 22-11-12, 22-11-22, 22-11-24 or 22-12-10.

This Permit is issued in accordance with W. Va. Code § 22-6-7, which is incorporated into the Horizontal Well Act by W. Va. Code § 22-6A-5(a)(4), which grants the Director of the Department of Environmental Protection the authority to issue water pollution control permits. This authority is in addition to the authority vested in the Director to issue water pollution control permits in accordance with W. Va. Code § 22-11-8. Pursuant to W. Va. Code § 22-6-7(e), water pollution control permits issued to the oil and gas industry "shall be issued by the [Director] of the [DWWM] in consultation with Chief of the Office of Oil and Gas."

By:

Harold D. Ward

Harold D. Ward, Acting Director

APPENDIX A

CONSTRUCTION SITE INSPECTIONS

At a minimum, the site must be inspected as listed below, unless the site is required to implement Enhanced BMPs or the site qualifies for a reduction in the inspection frequency: at least once every 7 calendar days and every 24 hours of the occurrence of a precipitation event of 0.5 inches, or greater, or the occurrence of runoff from snowmelt sufficient to cause a discharge.

An increase in inspection frequency is required for sites that are required to implement Enhanced BMPs.

For any portion of the site that discharges to a water that is identified as Tier 2 or Tier 3 for antidegradation purposes, inspections must be conducted in accordance with the following inspection frequencies: once every 4 calendar days, and within 24 hours of the occurrence of a precipitation event of 0.25 inches or greater, or the occurrence of runoff from snowmelt sufficient to cause a discharge.

Reductions in inspection frequency may occur in accordance with the following:

Stabilized areas:

The permittee may reduce the frequency of inspections to twice per month, no more than 14 calendar days apart, in any area of the site where the stabilization has been completed. If construction activity resumes in this portion of the site at a later date, the inspection frequency immediately increases to that required previous to the reduced frequency. The beginning and ending dates of this period must be recorded in the SWPPP.

Exceptions:

For “linear projects”, where disturbed portions have undergone final stabilization at the same time active construction continues in other areas, the permittee may reduce the frequency of inspections to twice per month no more than 14 calendar days apart, in any area of the site where the stabilization has been completed. Inspect once more within 24 hours of the occurrence of a precipitation event of 0.5 inches or greater. If there are no issues or evidence of stabilization problems, further inspections may be suspended. If “wash-out” of stabilization materials and/or sediment is observed, following re-stabilization, the reduced inspection frequency is suspended. Inspections must continue until final stabilization is visually confirmed following a precipitation event of 0.5 inches or greater.

Drought-stricken areas:

During a drought period, the permittee may reduce the frequency of inspections to once per month and within 24 hours of the occurrence of a precipitation event of 0.5 inches or greater. The reduced schedule must be documented in the SWPPP along with the beginning and ending dates of the drought period. To determine if a precipitation event of 0.5 inches or greater has occurred on-site, the permittee must either keep a properly maintained rain gauge on the site or obtain the precipitation event information from a weather station that

is representative of the location. For any day of rainfall during normal business hours that measures 0.5 inches or greater, you must record the total rainfall measured for that day must be recorded in the SWPPP.

Frozen conditions:

If the permittee suspends construction activities due to frozen conditions, inspections on the site may be temporarily suspended until thawing conditions begin to occur if: runoff is unlikely due to continuous frozen conditions that are likely to continue at the site for at least 3 months based on historic seasonal averages. If unexpected weather conditions (such as above freezing temperatures or rain events) make discharges likely, the permittee must immediately resume the regular inspection frequency as applicable; land disturbances have been suspended and all disturbed areas of the site have been stabilized.

If still conducting construction activities during frozen conditions, the permittee may reduce the inspection frequency to once per month if: runoff is unlikely due to continuous frozen conditions that are likely to continue at the site for at least 3 months based on historic seasonal averages. If unexpected weather conditions (such as above freezing temperatures or rain events) make discharges likely, the permittee must immediately resume the regular inspection frequency; and except for areas undergoing construction activities, disturbed areas of the site have been stabilized, the beginning and ending dates of this period must be documented in the SWPPP

For any day of rainfall during normal business hours that measures 0.5 inches or greater, the total rainfall measure for that day must be recorded.

To determine if a precipitation event of 0.5 inches or greater has occurred on the site, the permittee must either: keep a properly maintained rain gauge on-site or obtain the precipitation event information from a NOAA weather station that is representative of the location.

Areas That Must Be Inspected

During the site inspection, at a minimum the following areas of the site must be inspected:

- All areas that have been cleared, graded, or excavated and that have not yet completed stabilization;
- All stormwater controls (including pollution prevention controls) installed and procedures initiated listed in the SWPPP;
- Material, waste, borrow, and equipment storage and maintenance areas that are covered by this permit;
- All areas where stormwater typically flows within the site, including drainageways designed to divert, convey, and/or treat stormwater;
- All points of discharge from the site;
- All receiving waters to look for sediment laden stormwater entering the waterbody; and

- All locations where stabilization measures have been implemented.

Areas that, at the time of the inspection, are considered unsafe to inspection personnel do not have to be inspected.

Requirements for Inspections

During the site inspection, at a minimum the Qualified Person shall:

- Check whether all stormwater controls (i.e., erosion and sediment controls and pollution prevention controls) are properly installed, appear to be operational, and are working as intended to minimize pollutant discharges;
- This includes the requirement to inspect for sediment that has been tracked out from the site onto paved roads, sidewalks, or other paved areas.
- Check for the presence of conditions that could lead to spills, leaks, or other accumulations of pollutants on the site;
- Identify any locations where new or modified stormwater controls are necessary to protect waters of the state or meet other requirements of this NPDES General Permit;
- Check for signs of visible erosion and sedimentation (i.e., sediment deposits) that have occurred and are attributable to the discharge at points of discharge and, if applicable, the banks of any waters of the State flowing within or immediately adjacent to the site;
- Identify any incidents of noncompliance observed;
- If a discharge is occurring during the inspection:
- Identify all discharge points at the site; and
- Observe and document the visual quality of the discharge and take note of the characteristics of the stormwater discharge, including color; odor; floating, settled, or suspended solids; foam; oil sheen; and other indicators of stormwater pollutants.

Inspection Report

An inspection report must be completed by the inspector within 24 hours of completing any site inspection. Each inspection report must include the following:

- The inspection date;
- Names and titles of personnel making the inspection;
- A summary of inspection findings, covering at a minimum the observations made during the inspections, including any necessary maintenance or corrective actions;

- A record of rainfall measuring 0.5 inches or greater and the source of the measurement (the applicable rain gauge or weather station readings); and

- If it was determined unsafe to inspect a portion of the site, describe the reason it was found it to be unsafe and specify the locations to which this condition applies.

Each inspection report must be signed in accordance with C.6 of this permit.

Each inspection report must be maintained at the site or at an easily accessible location, so that it can be made available at the time of an on-site inspection or upon request by the Director.

All inspection reports must be maintained for at least (3) years from the date that permit coverage expires or is terminated.

The permittee is required to correct all deficiencies identified during inspections.

- The Qualified Person must re-inspect to verify repairs or replacements to the defective components of the SWPPP noted in the previous inspection.

Requirement to Correct Deficiencies

Based on the results of the inspection, the permittee must complete any necessary maintenance and corrective action.