



**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: May 13, 2013

Effective Date: June 12, 2013

Expiration Date: May 13, 2018

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

is hereby granted coverage under this General Water Pollution Control Permit to allow stormwater discharges into the surface waters of the State. This General Permit is subject to the following terms and conditions:

The information submitted on and with the site 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 and J.

Activities under active construction prior to the effective date of this General Permit are not required to apply for coverage. However, any new activities disturbing one acre or more, after the effective date of the General Permit, are required to obtain coverage under this General Permit.

SECTION A. TERMS OF PERMIT

Discharges covered under this General Permit shall not cause or contribute to a violation 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. SCHEDULE OF COMPLIANCE

Compliance with this General Permit and the approved Stormwater Pollution Prevention Plan (SWPPP) 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. If this General Permit is not reissued or replaced prior to the expiration date, it will be administratively continued in accordance with 47CSR10 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 Secretary 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 Secretary 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

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 or designated representative 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 under this permit shall submit such a request at least 45 days prior to the commencement of the proposed action for modification if no public notice period is required. A modification that will have a public notice period must be submitted at least 90 days prior to construction to allow for the public notice procedure. *Provided*, that upon approval of a request for modification by the Director, the permittee may immediately commence the proposed action.

C.12. Water Quality

The discharge or discharges covered by this permit are to be of such quality so as to not cause violations of applicable water quality standards.

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 knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than six months per violation, or by both, in accordance with W. Va. Code § 22-11-24.

C.13.c. Nothing in sections C.14.a. or C.14.b. shall be construed to limit or prohibit any other authority the Secretary may have under the WPCA or the GWPA.

C.14 Outlet Markers. An outlet marker shall be posted during the term of General Permit coverage in accordance with the *Special Rules* of the DWWM, 47 C.S.R. 11 § 9.

SECTION D. OPERATION AND MAINTENANCE

D.1. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all activities and systems of treatment and control 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 treatment facility; and

D.3.a.2. "Severe property damage" means substantial physical damage to property, damage to the treatment facility 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.1.B. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, 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 Stormwater Pollution Prevention Plan 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 treatment facilities, inadequate treatment facilities, 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 Stormwater Pollution Prevention Plan 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

Where removed substances are not otherwise covered by the terms and conditions of this permit or other existing permits by the Director, any solids, sludge, filter backwash or other pollutants (removed in the course of treatment or control of wastewater) and which are intended for disposal within the State, shall be disposed of only in a manner and at a site subject to the approval by the Director. If such substances are intended for disposal outside the State or for reuse, i.e., as a material used for making another product, which in turn has another use, the permittee shall notify the Director in writing of the proposed disposal or use of such substances, the

identity of the prospective disposer or users, and the intended place of disposal or use, as appropriate.

SECTION E. MONITORING AND REPORTING

Monitoring of discharges is not required for construction activities unless directed by the Director.

E.1. Definitions

“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 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.

“Control” is a best management practice 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 residential, 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.

“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, equipment lay down or staging areas where such land disturbance activity will take place, 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.

“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 large scale grading 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 perennial grass that uniformly 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.

“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 the *Groundwater Protection Rule*, 47 C.S.R. 58.

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

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

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

“Notice of Intent” (NOI) is the form to be submitted by the applicant to register a minor construction project (one that disturbs one to less than three acres) under the General Water Pollution Control Permit for Stormwater Associated with Oil and Gas related Construction

Activities. A project that disturbs one to less than three acres but will have a grading phase of construction that will last one year or longer must file a Site Registration Application Form.

“Notice of Termination” (NOT) is the form to be submitted by the permittee to terminate coverage under the General Water Pollution Control 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.

“Secretary” means the Secretary of the Department of Environmental Protection, or her designated representative.

“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 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 and allow the majority of the sediment to settle out.

“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.

“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.

“Site Registration Application forms” means the forms designed by the Director for the purpose of registering for coverage under a general permit. Under the General Water Pollution Control Permit for Stormwater Associated with Oil and Gas related Construction Activities there will be two separate forms, one for one to less than three acres (Notice of Intent) and the Site Registration Application form for projects that disturb three acres and greater. A project that disturbs one to less than three acres but will have a grading phase of construction that will last one year or longer must file a Site Registration Application form.

“Stormwater” means stormwater runoff, snowmelt runoff, and surface runoff and drainage.

“Stormwater management facilities” means structures such as ponds, basins, outlets, ditches, velocity dissipaters, infiltration trenches and basins, extended detention basins and ponds, and any other structure used to control the quality and quantity of stormwater from a development project.

“Stormwater Pollution Prevention Plan” (SWPPP) means the erosion and sediment control plan and the post development plan submitted as part of the Site Registration Application form.

“Tier 3 Waters” means waters that meet the definition of “outstanding national resource waters” as that term is defined at 47 C.S.R. 2 § 2.10 and discussed at 47 C.S.R. 2 § 4.1.c.

“Trout Streams” means any waters which meet the definition of “trout waters” as that term is defined at 47 C.S.R. 2 § 2.19.

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

SECTION F. OTHER 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

F.2.a. 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 five 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.

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.

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. Stormwater Pollution Prevention Plans and Groundwater Protection Plans (SWPPP/GPP)

A Stormwater Pollution Prevention Plan and a Groundwater Protection Plan shall be developed for each project covered by this permit. These two plans may be combined

into one plan if all of the requirements for both plans are met. Alternatively, they may be developed and maintained as separate stand-alone documents
Stormwater Pollution Prevention Plans (SWPPP) shall be prepared in accordance with good engineering practices. The SWPPP shall identify all pollutants and 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.

Groundwater Protection Plans (GPP) 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. The GPP is not required to be submitted to the Division of Water and Waste Management for review. Guidance in the completion of a GPP is available from the Division of Water and Waste Management.

G.4.a. The SWPPP and the GPP shall be signed in accordance with Section C.6. and retained onsite.

G.4.b. The application and SWPPP shall be submitted to the Division of Water and Waste Management at least 45 days before construction activity is to begin, except as noted in G.4.b.3. and G.4.b.4. Prospective permittees should submit applications for review prior to accepting construction bids on the project. As the plans are evaluated by the Director or designated representative, the Director or designated representative may notify the permittee during the 45-day review period that the plan does not meet one or more of the minimum requirements of this section. After such notification from the Director or designated representative, the permittee shall make changes to the plan in accordance with the time frames established below, and shall submit to the Director a written certification that the requested changes have been made.

G.4.b.1. Except as provided in G.4.b.2., the permittee shall have 30 days after such notification to make the changes necessary.

G.4.b.2. The permittee 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 or an designated representative.

G.4.b.3. Projects disturbing one to less than three acres that do not discharge to or upstream of Tier 3 Waters and that have a grading phase of construction

that will last less than one year shall submit only the Notice of Intent (NOI) Form 10 days prior to initiating construction. Projects disturbing one to less than three acres that discharge upstream of a Tier 3 Water shall submit the NOI Form and Storm Water Pollution Prevention Plan (SWPPP) at least 45 days prior to initiating construction. Projects disturbing one to less than three acres that will have a grading phase of construction that will last one year or longer shall submit the Site Registration Application Form and Storm Water Pollution Prevention Plan (SWPPP) at least 90 days prior to initiating construction to allow for the public notice procedure.

G.4.b.4. 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 application and SWPPP at least 90 days prior to construction to allow for the public notice procedure.

G.4.b.5. Within 24 hours of filing an NOI (one to less than three acres) or a Site Registration Application form (three acres or more) with DWWM, all projects 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 registrant's name or the name of a contact person along with a telephone number; 2) A brief description of the project; 3) a statement indicating that the NOI or SWPPP, as applicable, has been filed with the DWWM; 4) the address and telephone number of the agency where the NOI or SWPPP is maintained; and 5) That any person may obtain a copy of the NOI or SWPPP by contacting the DWWM at (800) 654-5227. The sign shall be a minimum of two feet by two feet and at least three feet above ground level, clearly visible and legible from a public roadway or right-of-way. If it is not feasible to display a sign at or near the project, the registrant, with prior approval from the DWWM, may post a notice containing the foregoing information at a local public building, including, but not limited to, a town hall or public library.

G.4.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, or the Director's representative, 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.4.d. In addition to the requirements of G.4.e, the SWPPP shall also include, at a minimum, the following items:

G.4.d.1. General management controls

G.4.d.1.A. Preventive maintenance

A preventive maintenance program shall involve inspection and maintenance of sediment and erosion control best management practices to identify and address conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters.

G.4.d.1.B. Good housekeeping

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

G.4.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.4.d.2. Consistency with other plans

Stormwater Pollution Prevention Plans 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 any part of such plans into the SWPPP by reference.

G.4.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.4.d. of this permit, but are also subject to the following requirements. The SWPPP shall include, at a minimum, the following items.

G.4.e.1. Site description

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

G.4.e.1.A. A description of the nature of the construction activity, including a proposed timetable for major activities;

G.4.e.1.B. Estimates of the following: total area of the site, the part of the site that is expected to undergo excavation or grading, and the total amount of excavation by cut and fill;

G.4.e.1.C. Site maps indicating, with a minimum of five-foot contours, drainage patterns 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 routing including all ditches and pipe systems, property boundaries and easements, nearest receiving stream, access roads, legend and springs, surface waters and any other information necessary to describe the project in detail.

G.4.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.4.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.

G.4.e.2.A. Erosion and sediment controls

G.4.e.2.A.i. 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 and 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 seven days after the construction activity in that portion of the site has permanently ceased.

G.4.e.2.A.i.a. Where the initiation of stabilization measures by the seventh day after construction activity temporarily or permanently ceases is precluded by natural causes, stabilization measures shall be initiated as soon as conditions allow.

G.4.e.2.A.i.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 seventh day after construction activities have temporarily ceased.

G.4.e.2.A.i.c. Areas where the seed has failed to germinate adequately (uniform perennial vegetative cover with a density of 70%) within 30 days after seeding and mulching must be reseeded immediately, or as soon as weather conditions allow.

G.4.e.2.A.i.d. Clean water diversions must be stabilized prior to becoming functional.

G.4.e.2.A.ii. 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, earth dikes and berms, land grading, diversions, drainage swales, check dams, 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.

G.4.e.2.A.ii.a. For locations on a site that have a drainage area of five 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.

G.4.e.2.A.ii.b. For drainage areas of greater than five 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.4.e.2.A.ii.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.4.e.2.A.ii.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.4.e.2.A.ii.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.4.e.2.A.ii.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.4.e.2.A.ii.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.4.e.2.A.ii.h. All trapped sediments will be disposed on an upland area where there is no chance of entering nearby streams.

G.4.e.2.A.ii.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.4.e.2.A.ii.j. No sediment-laden water will be allowed to leave the site without going through an appropriate best management practice.

G.4.e.2.A.ii.k. Hay or straw bales are not acceptable BMPs.

G.4.e.2.A.iii. Presumptive conditions for discharges to Tier 3 waters

Construction activities discharging upstream or to Tier 3 waters will go through the Tier 3.0 anti-degradation review process.

G.4.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 SWPP.

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.

G.4.e.2.C Other controls

G.4.e.2.C.i. 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.4.e.2.C.ii. Provisions must be made to control fugitive dust.

G.4.e.2.C.iii. Groundwater Protection Plan (GPP)

The applicant shall prepare a GPP that will satisfy the requirements of the *Groundwater Protection Rule*, 47 C.S.R. 58 § 4.11.

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

Employee training programs shall inform personnel 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 or designated representative.

G.4.e.2.C.v. Visual inspection

Company personnel shall be identified to inspect as set forth under G.4.e.2.D. 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 or designated representative.

G.4.e.2.C.vi. 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. Record keeping of quality and quantity of stormwater discharges may be accomplished through documentation of visual observations of stormwater discharges and best management practice installation. Inspection and maintenance records must be kept onsite for review by the Director or designated representative.

G.4.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, procedures in the site plan shall provide that all erosion controls on the site are inspected at least once every seven 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.

G.4.e.2.D.i. 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.4.f. All SWPPPs and GPPs required under this permit are considered reports that shall be available to the public under Section 308(b) of the CWA. 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 CSR10-12.7. (NPDES Program).

G.4.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.5. Discharges to Waters with Approved TMDLs

Dischargers located in a watershed area where a Total Maximum Daily Load (TMDL) has been developed and approved by the U.S. EPA may be required to implement additional BMP's and/or conduct additional monitoring activities, as necessary to comply with an applicable waste load allocation.

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.

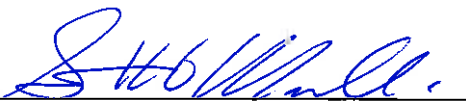
SECTION J.

Permit coverage for construction activities encompassed by this permit expires upon satisfactory stabilization of the site. Satisfactory stabilization means ALL disturbed areas shall be covered by some permanent protection. Stabilize 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. The permittee will request a final inspection by sending in the Notice of Termination. Sites not stabilized will continue to have coverage under this permit and will be assessed an annual permit fee as promulgated by the West Virginia Legislature. Sites will be assessed a prorated annual fee based upon the completion date and proper stabilization. The Notice of Termination must be submitted within 30 days after final stabilization is achieved.

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 individual site registration 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 Secretary 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(4), which grants the Secretary 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 Secretary 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 [Division of Water and Waste Management] in consultation with Chief of the Office of Oil and Gas."

BY: 
Director