



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

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
WATER POLLUTION CONTROL PERMIT**

**Permit No WV0115924**

**Issue Date: January 10, 2019**

**Effective Date: February 9, 2019**

**Revised Date:**

**Expiration Date: February 9, 2024**

**Subject: Stormwater Associated with  
Construction Activities**

**To Whom It May Concern:**

This is to certify that any establishment with discharges composed entirely of stormwater associated with construction activities disturbing one acre or greater of land area which may be regulated under the terms and conditions of this general permit, has satisfied the registration requirements, and which has not been required by the Director of the Division of Water and Waste Management to apply for an individual permit, is hereby eligible to allow stormwater discharges into the surface waters of the State under this General WV/NPDES Water Pollution Control Permit. Authorization to discharge under this permit must be provided by the Director.

Construction activities are land disturbing operations such as grubbing, grading, filling and excavation operations during site development for residential, commercial or industrial purposes. The following are not eligible for coverage under this NPDES General Permit:

1. Operations 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 or sale.
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. Land disturbance activities already governed by other Department of Environmental Protection NPDES permits. This includes Division of Mining and Reclamation permits for coal mining and non-metallic quarries.
4. Landfills, except in the preparation of a new landfill and/or clay borrow areas.
5. Other activities exempt from NPDES permitting requirements as set forth in 40 C.F.R. 122.3 and 47 C.S.R. 10-3.2.b.4 (NPDES Program).
6. Land disturbing activities related to oil and gas activities as required by the Energy Policy Act of 2005. These activities include but are not limited to construction of drilling sites, waste management pits, and access roads, as well as construction of the transportation and treatment infrastructure such as pipelines, natural gas treatment plants, natural gas pipeline compressor stations, and crude oil pumping stations.
7. Construction activities that result in a discharge of a reportable quantity release or that contribute pollutants (other than non-contaminated sediments) to a violation of a water quality standard are still subject to permit coverage.

This General WV/NPDES Water Pollution Control Permit is to allow stormwater discharges into the surface waters of the State while protecting water quality and is subject to the following terms and conditions:

The information submitted on and with the 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 conditions set forth in Parts I, II, III, and IV and appendices A, B, and C.

Persons authorized to discharge storm water associated with the 2012 Permit WV0115924, Stormwater Associated with Construction Activities ("the 2012 Permit"), shall be authorized to complete and/or modify (*e.g.*, SWPPP, GPP, Limits of Disturbance) such activities under the terms and conditions of the 2012 Permit, a copy of which is incorporated into this Permit as Appendix D. This authorization, granted in order to allow for an efficient transition of existing projects to this Permit, allows persons with projects authorized under the 2012 Permit before February 9, 2019 to modify or complete remaining authorized construction activities, and grants such persons authorization to complete all required work under the 2012 Permit terms and conditions, including final site stabilization and obtaining termination of the 2012 Permit terms and conditions.

All such work under the 2012 Permit terms and conditions is expected to be completed on or before February 9, 2020. In the event a permittee cannot practicably complete previously authorized construction activities and associated site stabilization activities, and termination of permit coverage cannot be accomplished, by February 9, 2020, the permittee may request a single additional extension of up to 6 months to complete all work and obtain termination of the 2012 Permit terms and conditions. In the event such an extension is desired, a written request for an extension must be received by the Director no later than 45 days prior to February 9, 2020.

Construction projects that were authorized to continue under the 2012 Permit terms and conditions, and will not be completed within the time allowed in the previous paragraphs, must continue construction under the terms and conditions of this Permit. For any such carryover project, the permittee must provide to the Director a signed certification of agreement to abide by the terms and conditions of this Permit at least 60 days before the end of the extension allowed in the previous paragraphs for operations under the terms and conditions of the 2012 Permit. Annual fees apply to all carryover projects, and an application fee will be required at the time any certification of agreement is submitted. Where any incomplete projects authorized under the 2012 Permit have disturbed lands that have not been permanently stabilized, status maps are required with the signed certification of agreement. The status map shall show all areas disturbed and not stabilized, and the Limits of Disturbance (LOD), which is the total area approved under the registration for land disturbance.

### **Compliance with other laws and statutes**

Compliance with the terms and conditions of this permit shall be deemed compliance for purposes of the State Water Pollution Control Act, W. Va. Code 22-11-1, et seq., and the rules promulgated thereunder, and sections 301, 302, 303, 306, 307, and 403 of the federal Water Pollution Control Act, including all state and federal water quality standards as set forth at W. Va. Code 22-11-6(2). This provision does not apply to any such standard imposed under section 307 of the federal Water Pollution Control Act for a toxic pollutant injurious to human health.

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

### **Continuation of this 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 you 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:

- Your authorization for coverage under a reissued general permit or a replacement of this general permit following your timely and appropriate submittal of a complete application requesting authorization to discharge under the new general permit and compliance with the requirements of the new permit; or
- Your submittal of notification of termination that the facility has ceased operations; or
- Issuance or denial of an individual permit for the facility's discharge; or
- A formal permit decision by DWWM not to reissue this general permit, at which time DWWM will identify a reasonable time period of covered dischargers to seek coverage under an alternative general permit or individual permit. Coverage under this permit will cease at the end of this time period.

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## **PART I. INTRODUCTION**

### **I.A. TERMS OF PERMIT**

The permittee must comply with all terms and conditions of this General Permit. Permit noncompliance constitutes a violation of the *West Virginia Water Pollution Control Act*, W. Va. Code § 22-11-1, et seq. ("WPCA") and/or the *West Virginia Groundwater Protection Act*, W. Va. Code § 22-12-1, et seq. ("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.

### **I.B. COMPLIANCE REQUIREMENT**

Compliance with this General Permit, the approved Stormwater Pollution Prevention Plan and the Groundwater Protection Plan is required upon the beginning of the construction project.

### **I.C. WATER QUALITY**

The permittee must protect water quality and the existing and designated uses of receiving waters by implementing BMPs. Properly designed, operated and maintained BMPs and Enhanced BMPs as set forth and contained in this General Permit are designed to protect applicable water quality standards by minimizing impacts to water quality and protecting existing and designated uses of the water and shall be considered protective of and in compliance with the applicable water quality standards. The Director reserves the authority to impose additional requirements and terms and conditions as necessary on a case-by-case basis upon a demonstration that such are necessary to protect applicable uses.

Compliance with the terms of this Permit, including the use of appropriate BMPs (regular or enhanced) at construction sites, satisfies the antidegradation requirements of 47 C.S.R. 2 and 60 C.S.R. 5.

Receiving waters shall be protected from degradation through the implementation of appropriate BMPs. Enhanced BMPs must be used for projects discharging directly to Special Waters.

Individual stream crossings must be completed in accordance with the 401 certification. Whatever crossing method is chosen by the permittee, the crossing should be completed as soon as practicable.

### **I.D. REQUIRED REPORTING**

#### **I.D.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 47 C.S.R.

11-2. (Special Rules) of the West Virginia Legislative Rules promulgated pursuant to Chapter 22, Article 11.

#### I.D.2. Immediate Reporting

The permittee shall report any spill or release of pollutants to waters of the state which may endanger human health or the environment immediately after becoming aware of the circumstances by using the Department's designated spill alert telephone number ((800) 642-3074) or by calling the Director or his representative. A written submission shall be provided within five calendar 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.

#### I.D.3. Reportable Quantities

This permit does not relieve the permittee of the reporting requirements of 40 C.F.R. Part 117 and 40 C.F.R. Part 302. 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.

#### I.E. DIRECTOR'S AUTHORITY TO REQUIRE OTHER PERMITS

In accordance with WV 47 C.S.R. 10 §13.6.b.2.A, the Director may require any person authorized by this permit to apply for and obtain either an individual NPDES permit or an alternative NPDES 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 NPDES permit only if the owner or operator has been notified in writing that such a permit application is required.

#### I.F. ALLOWABLE DISCHARGES

All discharges authorized by this permit shall be composed entirely of stormwater, except as follows:

Discharges from emergency firefighting activities, fire hydrant flushing; waters used to wash vehicles, provided there is no discharge of soaps, solvents, or detergents used for that purpose; waters used to control dust; potable water sources, including uncontaminated waterline flushing; landscape irrigation; lawn watering; routine external building washdown which does not use detergents; pavement washwater provided spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used, provided that such pavement wash waters may not be discharged directly into any surface water, storm drain inlet, or stormwater conveyance, unless the conveyance is connected to a sediment basin, sediment trap, or similarly effective control; uncontaminated air conditioning condensate; uncontaminated, non-turbid discharges of groundwater or springs; foundation or footing drains

where flows are not contaminated with process materials such as solvents that are combined with stormwater discharges associated with industrial activity; other construction dewatering activities that are treated by an appropriate control.

### I.G. PROHIBITED DISCHARGES

The following discharges are not authorized by this permit.

- Sediment laden stormwater that has not gone through an appropriate best management control;  
Directing pavement wash-waters directly into any surface water, storm drain inlet, or stormwater conveyance, unless the conveyance is connected to a sediment basin, sediment trap, or similarly effective control;
- Wastewater from washout of concrete unless managed by an appropriate control;  
Wastewater from washout and cleanout of stucco, paint, bituminous asphalt, form release oils, curing compounds and other construction materials;  
Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and soaps, solvents, or detergents used in vehicle and equipment washing, or external building washdown.
- Toxic or hazardous substances from a spill or other release.

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 does not authorize new sources or new discharges of constituents of concern to impaired waters unless consistent with the approved sediment TMDL and/or applicable state law (WV 47CSR10 and WV Code 22-11).

### PART II. PRE-CONSTRUCTION REQUIREMENTS

PRIOR TO CONSTRUCTION, the following are required:

- A complete application, prepared by a Qualified Person, for authorization to discharge stormwater from construction related land disturbance shall include:
  - Installation of a sign at the entrance to the project or posting of a notice in a public place in close proximity to the construction site as indication the application has been submitted;
  - Timely corrections or submission of additional information to provide clarity about the proposed construction project, as requested by the Director;
  - Cooperation with the public notice process, when appropriate, by making prompt payment to the local newspaper that will publish the Class I legal advertisement, effectively notifying the public that the application is pending;

- Making timely changes to the application, as necessary, based on public input; and

After receiving Director's approval and before beginning construction activities:

- Install sediment and erosion controls;
- Qualified Person inspects the newly installed sediment and erosion controls.
  - Impounding structures not built as approved shall be inspected and documented as meeting the trapping capacities and efficiencies of the structures approved in the registration.

## II.A. APPLICATIONS

### II.A.1. Application Requirements

Submittal of the application shall be made using the online Electronic Submission System, unless otherwise approved by the Director. All documents must be signed in accordance with the signatory requirements described in Appendix A.7.

#### II.A.1.a. Application Fee

The application fee shall be paid in full prior to the Director reviewing the application. Fee amounts listed in and subject to changes in the NPDES Fee Schedule C.S.R. 47-26.

#### II.A.1.b. Public Notice Advertisement

Applications for projects less than 100 acres are not subject to public notice or public hearing requirements other than notification on the DEP website that the registration application has been received, and signage at the site of the construction project.

Applications for land disturbance of 100 or more acres are subject to Public Notice in a local newspaper therefore, the Notarized Statement for Billing form is required with the application:

#### II.A.1.c. 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;
- Pre-Construction Drainage Map
- During Construction Drainage Map showing the proposed location of all drainage structures and associated access routes;
- Annual Progress Map if permitted for longer than one year;
- Detailed Site Plan (Maps) showing Limits of Disturbance and Receiving Waters; and
- Design Details for:

- Sediment basins, road, cut and fill cross sections, and other engineered structural design calculations; and
- Other controls to include post-development stormwater management plans required by local governments
- Applications for Large Construction Projects shall be submitted 45 days before the anticipated date of construction is to begin.
  - Applications for Large Construction Projects requiring Public Notice per II.A.1.b. shall be submitted 100 days before the anticipated date of construction is to begin.

#### II.A.1.d. Construction Projects Disturbing 1 to <3 Acres

Projects disturbing 1 to < 3 acres of land shall submit an application in accordance with the following:

##### II.A.1.d.1. Projects of 1 to <3 Acres That Will Be Completed in 1 Year or Less

Projects disturbing more than one acre but less than three acres that (1) do not discharge to or upstream of Tier 3 waters, and (2) will be completed within twelve (12) months, shall submit only the Notice of Intent Form (NOI) at least 15 days prior to initiating earth disturbance. The DEP shall provide its written confirmation of coverage via email or otherwise, within 10 days of submission of an NOI. If no response from the DEP is received, construction can proceed 15 days after submitting the NOI, subject to the terms and conditions of the permit, provided that the permittee provides notice by email or otherwise to the DEP prior to commencing earth disturbance. *Permit coverage for any project authorized through an NOI automatically terminates at the end of twelve (12) months beginning from the date of issuance of the site authorization to the NOI registrant or, in the event that no response was received by the applicant, from the 15<sup>th</sup> day that the NOI was submitted. Any person authorized under an NOI that cannot complete all required work prior to the automatic termination must file an application for coverage as a minor activity 30 days prior to the termination date.* All permit terms and conditions must be complied with, provided however, that because the permit authorization terminates automatically, no Notice of Termination (NOT) is required. Construction cannot commence without a Stormwater Pollution Prevention Plan and Groundwater Protection Plan available onsite.

##### II.A.1.d.2. Projects of 1 to <3 Acres That Will Be Not Be Completed in 1 Year or Less

A project that disturbs one to less than three acres but will not complete construction and post-construction activities within twelve (12) months must file an application as set forth below.

Projects disturbing one acre but less than three acres of land but not qualifying to use the NOI other than single-family homes as explained in Part II.A.1.e. below, shall submit an application containing the following:

- Application form, to include template for the sign

- Stormwater Pollution Prevention Plan;
  - Groundwater Protection Plan;
  - Pre-Construction Drainage Map;
  - Temporary Drainage Structure Map
  - Site Plan (Map) showing Limits of Disturbance and Receiving Waters
  - Typical Design Details.
- Applications for Minor Construction Projects shall be submitted 30 days before the anticipated date of construction is to begin.

#### II.A.1.e. Construction of Single-Family Homes: 1 to < 3 Acres

Projects for construction of Single-Family Homes of 1 to <3 acres including offsite borrow and waste sites, by the homeowner or homeowner's contractor are subject to this permit and shall submit:

- Application Form; and
- Agreement to use DWWM Individual House Sample Sediment and Erosion Control Plan found in the West Virginia Erosion and Sediment Control BMP Manual (BMP Manual), or other BMPs that are equally protective of water quality.
- Applications for construction of Single-Family Homes of 1 to < 3 acres shall be submitted 30 days before the anticipated date construction is to begin.

#### II.A.1.f. Offsite Waste and Borrow Areas

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 single-family homes, linear projects, or any other construction project. 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.

If a waste/borrow area is not known during the initial application, the registration can still be issued. Once the location of a waste/borrow area is identified it is the responsibility of the applicant to modify their registration to include contiguous area(s) or non-contiguous areas of one acre or more. When the permittee does not have "legal ability to control" non-contiguous areas of one acre or more, the permittee may contact the DEP to inquire if the non-contiguous acre or more has been properly permitted and therefore, a site suitable for waste or borrow. The permittee may also make an inquiry of the party that does have the "legal ability to control" the non-contiguous site if it is properly permitted before accepting material from or sending material to the site.

When contaminated soils are identified, a soil handling plan shall be provided. Contaminated soil is not suitable material for borrow or fill unless approved by the Director.

#### II.A.2. Emergency Procedures

When 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, or the environment, or to reestablish essential public services, authorization to discharge is conditioned that a complete and accurate application is submitted within 30 calendar days after commencing earth-disturbing activities establishing eligibility under this permit.

Documentation to substantiate the occurrence of the public emergency must be included in the application.

## II.B. POSTING SIGN OR NOTICE

Within 72 hours of filing an application, 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; containing the following information:

- The applicant's name and emergency telephone number;
- Project Reference ID;
- For info on this stormwater permit  
Call: 800-654-5227 or [DEP.Comments@wv.gov](mailto:DEP.Comments@wv.gov).
- Permit Number (See II.B.4.)

II.B.1. 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.

II.B.2. If it is not feasible to display a sign at or near the project, the applicant may post, within 72 hours of filing the application a notice containing the foregoing information at a local public building, including, but not limited to, a town hall or public library.

II.B.3. The application shall provide the location where the sign or notice is to be posted.

II.B.4. Within 7 business days of assignment of the permit registration number, the applicant shall affix such number to the sign or to the posted notice.

## II.C. INCOMPLETE OR INCORRECT APPLICATIONS

As the application is evaluated by the Director, notice may be sent to the applicant during the review period that the plan does not meet one or more of the specific minimum requirements of this permit. After such notification, the applicant shall have 30 days to resubmit the application.

II.C.1. An applicant needing additional time to respond to requests for changes or additional information must request an extension prior to the end of the 30 days, or:

- The Director may terminate the application, after making a reasonable attempt at, and being unsuccessful in, contacting the applicant to provide notice of the pending

termination. The Director may cause a pending termination message to be sent from his official mailbox which has an email address of [DEPNPDESEP@wv.gov](mailto:DEPNPDESEP@wv.gov) to the applicant's email address as listed on the registration application.

- It is the responsibility of the applicant to keep the Director informed of accurate contact information, and in lieu of a successful notice from his official mailbox, the Director may attempt to contact the applicant by phone to provide notice of the pending termination.
- Upon successful contact with the applicant, the Director has the option of terminating or extending the due date for resubmission of the application.

#### II.D. PUBLIC NOTICING OF APPLICATIONS

The Applicant shall cooperate with the public notice of applications required by Part II.A.1.b:

- Making payment for a Class I Legal Advertisement concerning the application to the local newspaper with the largest readership in the vicinity of the proposed project.
- Obtaining from the newspaper, and submitting to the Director, an affidavit of the publication of the Class I Legal Advertisement.

#### II.E. AUTHORIZATION TO DISCHARGE

The applicant is prohibited from disturbing land prior to obtaining approval from the Director for activities covered by this permit. The Director shall send an approval or denial of the application via his official mailbox, [DEPNPDESEP@wv.gov](mailto:DEPNPDESEP@wv.gov) and,

- The Director has no further obligation to attempt to verify the applicant received the approval or denial, as
- It is the responsibility of the applicant to keep the Director informed of up-to-date and accurate contact information.

The Applicant shall maintain a copy of the approval from the Director onsite and make it available to DWWM Personnel or the public upon request.

#### II.F. INSTALLATION OF EROSION AND SEDIMENT CONTROLS

After receiving approval from the Director and before beginning construction activities, the permittee shall install erosion and sediment control BMPs in accordance with the approved registration. BMPs shall be in place and functional prior to land disturbance associated with the authorized construction activities. For registrations proposed to be completed in multiple phases, the BMPs for each phase must be constructed and functional prior to land disturbance beginning in that phase associated with the authorized construction activities. Erosion and sediment control BMPs shall be implemented in accordance with standard procedures set forth in the BMP Manual, however, other BMPs may be used if equally protective of water quality.

## II.G. QUALIFIED PERSON TO INSPECT EROSION AND SEDIMENT CONTROLS

The permittee shall ensure that all newly installed erosion and sediment control BMPs are inspected by a Qualified Person. Any defective controls identified during the inspection must be repaired and/or installed correctly as soon as practicable following each inspection, and must be re-examined no later than the next regularly-scheduled inspection. If it is not practicable that repairs can be completed within 7 days of such an inspection, that fact shall be explained on the inspection report and such explanation shall include an anticipated completion date.

Construction activities may begin after the Qualified Person inspects and finds that all erosion and sediment control BMPs are installed properly in the areas where earth disturbing activities are planned to commence.

Sediment control BMPs shall be constructed in accordance with the approved registration (Part II. A.1.c. and II.A.1.d.). All basins and traps not constructed in accordance with the approved registration shall be inspected and documented by a Qualified Person as affording the same trapping capacity and efficiency as the approved structures. Thereafter, routine inspections of the structures by a Qualified Person shall be conducted in accordance with III.B. until structure removal. All documentation of inspections shall be kept on site during construction on a form, prescribed by the Director for the length of the construction project.

## II.H. STORMWATER POLLUTION PREVENTION PLAN (SWPPP) COMPONENTS

SWPPPs shall be prepared in accordance with good engineering practices and retained per II.H.5. The plan shall identify potential sources of pollution that may reasonably be expected to affect the quality of stormwater discharges associated with construction activity. The plan 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. The SWPPP shall be prepared by a Qualified Person.

### II.H.1. Nature of the Activity

The SWPPP shall contain a description of the nature of the construction activity, including a projected or planned timetable for major activities such as: cut and fill plans, proposed road construction or upgrades, grading plans, and a narrative of the pollution prevention techniques proposed to be implemented before, during and after construction. The narrative shall also include a description of planned major grading activities and stabilization measures.

#### II.H.1.a. Maps

Site maps shall contain a North arrow with a minimum of five-foot topographical contours. The maps shall include:

- Nearest receiving streams, springs, surface waters to the site;

- Existing roads including public roads from which access to the site will be constructed;
- Access roads;
- Drainage patterns during and after construction with the outlet markers depicting the stormwater discharge points;
- Slopes prior to construction and anticipated conditions after grading activities;
- Location of topsoil stockpiles;
- Waste areas of 1 acre or greater within or contiguous to the construction site;
- Borrow sites of 1 acre or greater within or contiguous to the construction site;
- Locations and identification of sediment control structures;
- Total acreage and location of impervious areas after construction is complete;
- Location of rain gauge provided by the applicant
  - o Or a statement the applicant will obtain the precipitation event information from a National Oceanic Atmospheric Administration (NOAA) weather station that is representative of the location and provide the Station ID Number.
- Post-development stormwater management structures required by local governments
- Final stormwater conveyances, including all ditches and pipe systems;
- Property boundaries and easements; and
- A legend, complete with 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) unless the Director allows use of some other means of illustrating the site or project.

II.H.1.b. The map shall be accompanied by a description of an estimate of the total area of the site, the part of the site that is expected to undergo excavation or grading, and an estimate of the total amount of excavation by cut and fill as well as a general description of where excavated material will be placed on the site.

Where a Minor project (less than 3 acres), or a project not designed by a professional engineer, contains cut and fill areas, the DEP reserves the right to request additional information on a case-by-case basis to assure that slip potential is sufficiently limited.

A description of measures to be taken to reduce the potential for subgrade saturation and ensure stability of fill areas shall be submitted.

II.H.1.c. Each road or access road shall be classified as either permanent or temporary and categorized as Construction Activity - New or Improved; Incidental Construction Activity; or Maintenance Only. Construction requirements of this section apply to newly constructed roads (i.e., those constructed after the effective date of this Permit), and mere use and maintenance of a road without improvement by land disturbance is not subject to the Permit, as long as that use is consistent with its original purpose.

- 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.

The SWPPP shall contain plans and specifications for each access road requiring construction activities within the LOD area. The plans and specifications shall include a map, stationed baseline, appropriate profile gradients, flow patterns, surfacing materials, cuts, fill, embankments, drainage ditches, culverts/water bars, and erosion and sediment structures.

Each access road shall be designed with the following specifications:

- Stone access entrance and exit drives.
- Parking areas to reduce the tracking of sediment onto public or private roads.
- All unpaved roads on the site shall be graveled or have other durable surface or shall implement BMPs chosen to effectively control sediment and erosion. Unpaved roads shall be stabilized in accordance with II.H.1. d.1.
- The maximum slope for an access road shall be reasonably designed taking into consideration all site factors, including but not limited to, topography, soil type, other construction activity, etc. Slope in excess of 20% shall be described in the site plan drawings.
- The surface shall pitch toward the ditch line at a minimum slope of 2%. A road located in an area that doesn't have hillside runoff may be crowned with a minimum slope 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.
- 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 used, but only when approved by the Director.

II.H.1.c.1. A road not to be retained as a permanent road shall be reclaimed as soon as practical after it is no longer needed for operations. The reclamation shall include:

- Removing and disposing of road surfacing materials that are incompatible with prior land use and revegetation requirements; and
- 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:  $400/\% \text{ grade} + 75' = \text{water bar or earth berm spacing}$ .
- Upon abandonment, the roadbed shall be scarified or ripped and all areas associated with access roads shall be immediately seeded and mulched.

II.H.1.c.2. The application for registration shall identify existing All-Terrain Vehicle (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 shall include the vehicle travel lanes for all trails not accepted by the landowner. During construction, the applicant shall maintain the trails and include trail areas during inspections to prevent sediment laden stormwater runoff from entering the waters of the state.

II.H.1.c.3. Use of an access road without improvement by land disturbance is not subject to the Permit, as long as that use is consistent with its original purpose.

#### II.H.1.d. Impact Reduction

Site maps shall also include the location and type of stabilization methods for all disturbed areas. Plans shall ensure that existing vegetation is preserved where attainable. Efforts shall also be made to limit disturbance on steep slopes, minimize soil compaction, and preserve topsoil where feasible. A description of interim and final stabilization practices, including site specific implementation schedules of the practices shall be provided and may include: temporary seeding, permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees, preservation of mature vegetation, and other appropriate

II.H.1.d.1. The SWPPP shall contain stabilization practices to ensure that disturbed portions of the site are stabilized as rapidly as possible. Satisfactory stabilization means all disturbed areas shall be covered by permanent protection such as pavement, pervious pavement, compacted gravel, buildings, waterways (riprap, concrete, grass, or pipe), a healthy, vigorous stand of grass or native vegetation that uniformly covers more than 70% of the ground, stable outlet channels with velocity dissipation which directs site runoff to a natural watercourse, and any other structure or material approved by the Director.

II.H.1.d.2. Vegetative practices shall describe seedbed preparation requirements and the type and amount of soil amendments necessary to establish a healthy stand of vegetation. Soil maps shall be submitted.

For projects with unknown sources of potential borrow material or when excavation is necessary before adequate soil amendments may be determined, the Qualified Person shall, as soon as materials are located or excavated, prepare the soil amendment plan. The plan shall become a part of the records retained in accordance with Part II.H.5.

II.H.2. The SWPPP shall be signed in accordance with Appendix A.7. and retained onsite throughout the course of the project.

### II.H.3. Potential Pollutants

The SWPPP shall include a complete list and description of potential pollutants at the project site such as products used in the operation and maintenance of vehicles and equipment as well as construction of buildings, parking lots, and other structures. The erosivity of soils must be considered when selecting erosion and sediment control BMPs.

#### II.H.3.a. Potential pollutants can be identified by including:

- A report showing the soil mapping units associated with the proposed area and a table with a description of each map unit, acres in the permit area, and percent of permit area;
- Identification of soils and a soil handling plan;
- A statement whether cement will be mixed onsite or delivered by truck;
- A description of the types of equipment to be used, serviced, repaired, or cleaned onsite;
- A description of the products to be used in construction of buildings and parking lots;
- A statement whether fertilizers, herbicides, and pesticides will be used on the site including a schedule of application; and
- A description of the post-development use of the site.
  - o Certain post-development discharges might require further approval for discharges from the Director, under an individual permit or other general permit.

II.H.3.b. Include a description of the controls and procedures for preventing potential pollutants from entering stormwater runoff, based on II.H.3.a.

II.H.3.b.1. Design, select, and identify erosion and sediment control BMPs. The BMPs should be selected from the BMP Manual. Alternative BMPs may be used if determined by the Director to be equally protective of water quality.

#### II.H.3.b.2. Use of Best Management Practices Required

II.H.3.b.2.a. To protect water quality, BMPs shall be required for direct discharges into any waters other than those categorized as Special Waters. BMPs consist of:

- Inspection of all erosion and sediment controls within disturbed areas at least once every 7 calendar days and within 24 hours after any precipitation event greater than 0.5 inches per 24-hour period, unless such inspections are not practicable within 24 hours, in which case the inspections should be done as soon as practicable, and the reason for the delay explained in the inspection report and such explanation shall include an anticipated completion date.
- Repairs or maintenance to BMPs shall be performed as soon as practicable after the inspection following the 0.5-inch rain event, and repairs shall be re-inspected no later than the next inspection date.
- Temporary seeding and/or mulching within 7 days, or as soon thereafter as practicable, when areas will not be re-disturbed for more than 14 days.

- Permanent seeding and/or mulching within 7 days of reaching final grade.
- Seeding and/or mulching must be performed within 14 days, or as soon practicable, of ceasing construction activities. If this is not done within 14 days, the inspection reports shall explain the reason why seeding and/or mulching were not performed within the fourteen-day period.
- Final stabilization within 7 days after construction has been complete.

II.H.3.b.2.b. To protect water quality, Enhanced BMPs shall be required for direct discharges into all Special Waters. Enhanced BMPs consist of:

- Inspection of all erosion and sediment controls within disturbed areas at least once every 7 calendar days and within 24 hours after any precipitation event greater than 0.25 inches per 24-hour period, unless such inspections are not practicable within 24 hours, in which case the inspections should be done as soon as practicable, and the reason for the delay explained in the inspection report and such explanation shall include an anticipated completion date.
- Repairs or maintenance to BMPs shall be performed as soon as practicable after the inspection following the 0.25-inch rain event, and repairs shall be re-inspected no later than the next inspection date.
- Temporary seeding and/or mulching within 7 days when areas will not be re-disturbed for more than 14 days.
- Permanent seeding and/or mulching within 7 days of reaching final grade.
- Seeding and/or mulching must be performed within 14 days, or as soon practicable, of ceasing construction activities. If this is not done within 14 days, the inspection reports shall explain the reason why seeding and/or mulching were not performed within the fourteen-day period.

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.

II.H.3.b.3. Hay or straw bales shall not be used as primary or secondary filtering devices; Polymers, flocculants, or other treatment chemicals may be used only in accordance with good engineering practices and specifications for use by the chemical provider/supplier. The use of cationic treatment chemicals is prohibited;

II.H.3.b.4. Identify a specific location and procedure for rinsing mobile mixing drums or truck drums. The procedure must name an appropriate control for the wastewater created by such rinsing and fully explain how the permittee will prevent wastewater from entering stormwater runoff;

II.H.3.b.5. Describe procedures to prevent spillage, leakage, and improper disposal of fuel, oil, grease, solvent, soap, and cleaning plans. The procedures must explain how these products will be handled to prevent any pollutants from entering stormwater.

II.H.3.b.6. Describe how washout and cleanout of stucco, paint, form release oils, curing compounds, bituminous asphalt, and other construction materials will be managed to prevent pollutants from entering stormwater runoff;

II.H.3.b.7. Describe an employee training program for all on-site personnel directly involved with construction activities at all levels of responsibility that reiterates the components and goal of the SWPPP.

- Training should address topics such as spill and leak response and internal reporting, good housekeeping, and routine inspection and maintenance.
- Training shall be on a quarterly basis while construction activities are occurring.
- A list of attendees and topics covered at each training session shall be documented and maintained in the SWPPP.

II.H.3.b.8. A natural vegetative buffer shall be provided adjacent to receiving streams or other waters on or near the project site. Vegetative buffers shall be a minimum of 50 feet, however;

- A natural vegetated buffer may not be used as a stand-alone erosion and sediment control practice but must be used in conjunction with other BMPs.
- Vegetative buffer 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 developmental 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
  - Project activities occur within waters approved under a Clean Water Act (CWA) Section 404 permit and Section 401 water quality certification; or
  - The projects located where the vegetative buffer must be encroached to construct necessary infrastructure, such as a utility line or an access road. Justification for any encroachment may be subject to approval by the Director; or
  - Linear projects where right-of-way acquisition or area is limited.

II.H.3.b.9. 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.

- Divert flows around exposed soils and limit runoff from exposed areas with BMPs such as:
  - Silt fences, earthen 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.
  - 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.

- BMPs should be selected from the BMP Manual, however, other BMPs may be approved if equally protective of water quality.
- If necessary, diversions will be used to direct runoff to the trapping structure.
  - Diversions to trapping structures must be stabilized as they are brought to final grade to prevent sediment laden water from leaving the site.
  - Diversions shall have the capacity to pass safely the peak discharge from a 10-year, 24- hour precipitation event.

II.H.3.b.10. 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 shall 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.

II.H.3.b.11. 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. However, this requirement may be waived at the discretion of the Director when skimmer devices are used. Dewatering structures must withdraw from the surface, unless infeasible. A sediment basin must be able to pass through the spillway(s) a 25-year, 24-hour precipitation event, and still maintain at least one foot of freeboard.

II.H.3.b.12. For locations served by a common drainage where a sediment basin providing 3,600 cubic feet of storage is not attainable or dewatering structures that withdraw from the surface are not feasible, BMPs that are equally protective of water quality 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.

II.H.3.b.13. Protection must be provided for the inlet(s) and outlet(s) of a sediment trapping structure to protect against erosion by an appropriate material such as riprap or other similar media.

#### II.H.4. Preventative Maintenance

The SWPPP shall include 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 to identify and address conditions that could cause breakdowns or failures resulting in discharges of sediment to surface waters including:

- Good housekeeping protocols to ensure a clean and orderly project. This includes minimizing the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to stormwater;

- 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);
- At a frequency, sufficient to keep roads and streets clean, all public and private roads and streets adjacent to a construction site must be cleaned of debris, mud, and dirt tracked or originating from the project site;
- Provisions must be made to control fugitive dust on and originating from the construction site.;
- Spill prevention and response procedures - Areas where potential spills may occur, and their accompanying drainage points, shall be identified clearly in the SWPPP. Also, where appropriate, specify material handling procedures and storage requirements. Procedures for cleaning up spills shall be identified in the plan and made readily available to the appropriate personnel. The necessary equipment to implement a cleanup shall be available to personnel, including spill kits.

#### II.H.5. Record Keeping

The permittee shall retain all records required by this permit for a period of 3 years from the date permit coverage is terminated. This includes, but is not limited to:

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

Record retention is not required by the permittee for specific records that have been submitted to the DEP.

All SWPPPs required under this permit are considered reports that shall be available for review to the public under Section 308(b) of the CWA and WV Code 29B-1-1. The permittee may claim any portion of a SWPPP as confidential to the extent permissible by 47 C.S.R. 10-12.7. (NPDES Program).

All GPPs are considered reports and shall be made available as required by WV Code 29B 1-1.

Permittees are not required to retain copies of records that are submitted to the DEP after coverage is terminated.

#### II.I. GROUNDWATER PROTECTION PLAN (GPP)

GPPs shall be prepared in accordance with the requirements of 47 C.S.R. 58-4.11. et seq. (Groundwater Protection Regulations). GPPs shall be submitted using a template provided by the DEP, and shall only include the information available at the time of application. It is understood that some aspects of the GPP, such as the type of tanks and equipment that

contractors will be using at the construction project, may not be known at the time the GPP is submitted with the Notice of Intent or Application. In that event, the GPP should be submitted with the Notice of Intent or Application with as much information as possible when originally submitted, and updated thereafter as additional information comes available. A complete GPP must be submitted to the Director at least 10 days before commencing earth disturbing activities, with the DEP providing a response within 5 days of the submission, and a copy of the GPP shall be retained on the construction site and available for review by the Director upon request.

The GPP shall identify all operations that may reasonably be expected to contaminate 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.

II.I.1. The GPP shall be a stand-alone document and shall be submitted with the registration as such, rather than as a component of the SWPPP,

#### II.I.2. GPP Elements

The GPP shall include the following elements:

II.I.2.a. A description of the operations, processes and materials present at the facility that may affect or contaminate groundwater.

II.I.2.b. Procedures and containment facilities to protect groundwater resources from the potential contaminants listed above. These processes and facilities shall be identified on a facility map.

II.I.2.c. A GPP containing a Karst Mitigation Plan shall be submitted with applications for registration under this NPDES General Permit for all areas with Karst topography.

Procedures for protecting groundwater when designing and adding new equipment and operations. Adequate design of these operations should be considered in the GPP when making changes in areas of karst, wetlands, faults, subsidence, areas determined by the Bureau for Public Health to be delineated wellhead protection areas, or other areas determined by the Director to be vulnerable based upon geologic or hydrogeologic information.

- The permittee must revise the GPP within 30 calendar days to address any newly delineated areas or other vulnerable areas upon notification by the Director or the Bureau for Public Health.

II.I.2.d. A summary of activities presently regulated for groundwater protection. These may include: registration of above ground and underground storage tanks, required groundwater monitoring or the construction and use of a landfill and list any other permits, required spill prevention and response plans, registrations, certifications or approvals from agencies that regulate groundwater protection measures at the facility. These may include but are not limited to:

- Stormwater
- Solid Waste Facility
- Resource Conservation and Recovery Act (Hazardous Waste Treatment, Storage and Disposal or Transporter)
- UST — Underground Storage Tank
- AST — Above Ground Storage Tank
- CERCLA — Superfund
- WV Voluntary Remediation — Brownsfields
- FIFRA — Federal Insecticide, Fungicide and Rodenticide Act
- Well Head Protection Program
- Underground Injection Control
- Toxic Substances Control Act
- Best Management Plans
- Management of used oil

II.1.2.e. All available groundwater quality data for the facility as well as well locations or other sampling points.

II.1.2.f. A statement documenting that waste materials will not be used for deicing, fill, or any other use, unless that use is allowed by regulation or permit.

II.1.2.g. A training component wherein the applicant states that employees with the potential to pollute groundwater will be trained in prevention procedures.

II.1.2.h. Documentation of quarterly inspections of the GPP elements by facility personnel are required. Documentation of this section must include a description of groundwater protection procedures and how control structures and devices are managed. Create and attach a copy of the facility's inspection form to the GPP.

II.1.2.i. Safety data sheets for all chemicals, or substances, used or stored on site.

II.1.3. The GPP shall be signed in accordance with Appendix A.7 and a copy retained onsite.

## II.J. CONSISTENCY WITH OTHER PLANS

SWPPPs may reflect requirements for Spill Prevention Control and Countermeasure plans under section 311 of the CWA or any BMPs and GPPs pursuant to 47 C.S.R. 58 (Groundwater Protection Rule) or otherwise required by an NPDES permit. Incorporate any part of such plans into the SWPPP by reference.

## PART III. REQUIREMENTS DURING CONSTRUCTION

During construction, the permittee is required to:

- Follow all approved plans, follow good housekeeping protocol, respond to and report spills and leaks;
- Ensure a Qualified Person conducts inspections to verify that the approved BMPs effectively protect water quality;
- Implement additional controls as needed to protect water quality;

- Update the SWPPP/GPP with the revised or additional controls and retain the updated SWPPP/GPP on site;
- Submit modifications to the approved plans when necessary to reflect the additional controls outside of the existing LOD, or significant revisions to the SWPPP/GPP where the Director has requested a modification in writing, and
- Stabilize disturbed areas.

### III.A. COMPLY WITH APPROVED REGISTRATION

III.A.1. The permittee shall construct the project as described in the approved registration.

III.A.2. The permittee shall practice good housekeeping measures to maintain a clean and orderly project. This includes minimizing the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to stormwater.

III.A.2.a. The permittee shall implement spill and leak prevention practices in accordance with the approved plan and respond promptly when incidents occur. The necessary equipment to implement a cleanup shall be available on-site to personnel, including spill kits.

III.A.3. 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 or 7 days for sites required to use enhanced BMPs.

- Where the initiation of stabilization measures by the 7<sup>th</sup> day, as applicable after construction activity temporarily or permanently ceases is precluded by natural causes, such as a drought or flood, stabilization measures shall be initiated as soon as conditions allow.
- Where construction activity will resume on a portion of the site within 14 days from when activities ceased, (i.e., the total time period that construction activity is temporarily halted is less than 14 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.
- Areas where the seed has failed to germinate adequately (uniform perennial vegetative cover with a density of 70%) within 30 days after seeding and/or mulching must be reseeded immediately, or as soon as weather conditions allow.

### III.B. INSPECTIONS BY QUALIFIED PERSON

The permittee shall ensure site inspections are conducted by a Qualified Person in accordance with this section. The purpose of the inspections is to ensure compliance with

the approved plan, and when the approved plan is not effective at protecting water quality, the inspection is to document that plan improvements are needed.

III.B.1. The person(s) inspecting the site may be a staff person or a third party hired to conduct such inspections as long as they meet the definition of a Qualified Person.

III.B.2. The site must be inspected as listed below, unless the site discharges to Special Waters or the site qualifies for a reduction in the inspection frequency pursuant to III.B.2.b below:

- At least once every seven (7) calendar days and
- Within 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.

III.B.2.a. An increase in inspection frequency is required for all sites or any portion thereof discharging to Special Waters.

Inspections must be conducted in accordance with the following inspection frequencies:

- Once every 7 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.

III.B.2.b. 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 final 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 inspection report.

Exceptions:

For "linear projects", where disturbed portions have undergone final stabilization at the same time active construction continues elsewhere, 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 final stabilization has been completed. Inspect once more within 24 hours of the occurrence of a precipitation event of 0.5 inches or greater or 0.25 inches or greater for discharges to Special Waters. 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.

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 three (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 three (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 inspection report.

III.B.2.c. For any day of rainfall during normal business hours that measures 0.5 inches or greater, or 0.25 inches or greater for discharges to Special Waters, the total rainfall measure for that day must be recorded.

To determine if a precipitation event of 0.5 inches or greater, or 0.25 inches or greater for discharges to Special Waters, 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.

#### III.B.2.d. Areas That Must Be Inspected

During the site inspection, 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 must be listed in the inspection record;
- 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 filter 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.

### III.B.2.e. Requirements for Self-inspections

During the site inspection, 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.

### III.B.2.f. Self-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, including the observations made during the inspections, and any necessary maintenance or corrective actions;
- A record of rainfall measuring 0.5 inches or greater, or 0.25 inches or greater for discharges to Special Waters, 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 by the Qualified Person.

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 three (3) years from the date that permit coverage is terminated.

- The Qualified Person must re-inspect within 48 hours to verify repairs or replacements to the defective BMPs or pollution controls noted in the previous inspection.

#### III.B.2.g. Requirement to Correct Deficiencies

Based on the results of the inspection, the permittee must complete any necessary maintenance and corrective action as soon as practicable following each inspection, and must be re-examined no later than the next regularly-scheduled inspection. If it is not practicable that repairs can be completed within 7 days of such an inspection, that fact shall be explained on the inspection report and such explanation shall include an anticipated completion date.

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 authorized representative in writing.

#### III.C.1. IMPLEMENT ADDITIONAL BMPS TO PROTECT WATER QUALITY

When an inspection indicates the BMPs are ineffective at protecting waters of the state, the permittee shall immediately implement additional controls and,

- Update the SWPPP and GPP to reflect the new BMPs, and
- Either obtain approval of the additional BMPs during a site visit conducted by the Director, or
- Submit a modification application in accordance with this permit.
- Permittees who find that the approved BMPs are ineffective at protecting receiving waters and who are unable to identify or employ BMPs capable of preventing sediment laden runoff from leaving the project site shall immediately cease further land disturbance until such time that the unauthorized discharge ceases.

No sediment-laden water shall be allowed to leave the site without going through an appropriate BMP.

III.C.2. The permittee shall update the SWPPP, using forms provided by DWWM, whenever there is a change in design, construction, scope of operation, or maintenance of BMPs, 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 request, review and approve such updates or require the permittee to apply for a modification to the approved application when necessary to reflect the addition of controls outside of the existing LOD, or significant revisions to the SWPPP where the Director has requested a modification in writing.

The permittee shall update the GPP whenever there is a change in design, construction, operation, or maintenance of BMPs which could reasonably be expected to have an impact on the potential contamination of groundwater. The Director may review and approve such updates or require a modification when necessary to reflect the addition of controls outside of the existing LOD, or significant revisions to the GPP where the Director has requested a modification in writing.

#### III.D. FEES

Permittees are required to pay annual permit fees within 30 days of receiving the invoice.

III.D.1. It is the responsibility of the permittee to keep the Director informed of accurate, up-to-date billing addresses and electronic addresses (email addresses) so that invoices may be delivered promptly and to the correct address.

III.D.2. Discharging stormwater from construction sites covered by this permit while failing to pay fees is considered operating without a permit.

III.D.3. Permittees must pay assessed fees until such time that the Director approves the Notice of Termination required by Part IV.

#### PART IV. REQUIREMENTS AFTER CONSTRUCTION

After construction is complete, the permittee is required to:

- Verify all disturbed areas are stabilized and permanent stormwater conveyances and management structures are properly constructed by having a Qualified Person confirm the site is ready for the Director to conduct the final inspection.
- Confirm all records required by this permit that have not been submitted to the DEP are available for retention for 3 years after permit coverage is terminated and make available when requested by the Director,
- Verify all fees are paid in full,
- Prepare and submit the Notice of Termination (N.O.T.)
  - The permittee has the option of including a Stabilization Certification with the N.O.T.
- Continue to maintain permit coverage until notification from the Director that coverage is terminated.

#### IV.A. VERIFY ALL DISTURBED AREAS ARE STABILIZED

Sediment trapping structures shall 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 control structure. This must be accomplished before the Notice of Termination is submitted.

- All trapped sediments shall be disposed on an upland area where there is no chance of entering nearby streams.

- Breaching the embankment to dewater the structure is not permitted. Dewatering and structure removal shall not cause a violation of water quality standards.
- Dewatering may not be done by pumping from a sump, trap, or basin directly into a stream. The dewatering description shall clearly show that only clarified water is to be discharged to waters of the state and shall include the method to be employed to ensure sediment is not pumped or otherwise discharged.

#### IV.B. RECORDS INSPECTIONS

In accordance with II.H.5. verify records required by this permit are assembled and ready for retention.

#### IV.C. PREPARE FOR TERMINATION

##### IV.C.1.

From the date final stabilization is achieved, the permittee has 30 days to ready the site for submittal of N.O.T and by the 30th day must submit the N.O.T. via electronic notice of termination to the Director.

IV.C.1.a. An inspection by a Qualified Person shall be conducted wherein all areas of the project and all off-site areas impacted by the project are inspected for compliance with this permit. The Qualified Person shall conduct a review of the available records to verify compliance with the retention requirements of this permit.

IV.C.1.b. The Qualified Person shall issue a report to the permittee outlining any deficiencies to be corrected. The permittee shall correct deficiencies as soon as practicable following the inspection and request a re-inspection by the Qualified Person. Once an inspection identifies no deficiencies, the site may be considered ready for the submittal of the N.O.T.

IV.C.1.c. The permittee shall review the fee payment history and pay any unpaid fees during this 30-day period.

#### IV.D. TERMINATION OF COVERAGE

After meeting the requirements of Part IV.C., all permittees other than those with General Permit coverage under an NOI shall apply for termination of permit coverage by submitting an N.O.T., which will serve as a request for final inspection. Upon receipt of the N.O.T., the Director shall inspect the site to determine the appropriateness of ending permit coverage.

IV.D.1. Final stabilization inspections for 1 to < 3 acres sites shall be conducted 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.

IV.D.2. The permittee has the option of submitting a certification by a registered professional engineer or professional surveyor that the site meets stabilization requirements. Should the Director not inspect within the time frames established in this section, the Stabilization Certificate shall be accepted in lieu of the final inspection by the Director's staff.

IV.D.3. ATV trails accepted by the landowner and identified in the registration, do not require a healthy, vigorous stand of grass or native vegetation that uniformly covers more than 70 percent of the ground in the vehicle lanes of the trail to be considered for termination. No eroded areas of trails that are the source of sediment in stormwater runoff may be deemed stable or eligible for release. A registration modification must be approved by the Director prior to submittal of the Notice of Termination and prior to registration expiration for ATV trails not previously identified by the permittee to be turned over to the landowner.

IV.D.4. Permit coverage for construction activities encompassed by this permit expires upon verification of satisfactory stabilization of the site and payment of all outstanding fees. Satisfactory stabilization means ALL disturbed areas shall be covered by some permanent protection. Stabilize includes pavement, compacted gravel, permeable pavements/pavers, 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 herein-described activity is to be constructed or installed and operated, used and maintained strictly in accordance with the terms and conditions of this General Permit with any plans, specifications, and information submitted with the individual 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 General Permit, with any plans, specifications and information submitted, and with any plan of maintenance and method of operation thereof submitted shall constitute grounds for the revocation or suspension of this permit to any individual establishment or other person and for the invocation of all the enforcement procedures set forth in Chapter 22, Articles 11 and 12 of the Code of West Virginia.

This permit is issued in accordance with the provisions of Chapter 22, Article 11 of the Code of West Virginia.

BY:

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Katheryn Emery, Acting Director

## Appendix A

### I. STANDARD CONDITIONS

#### 1. Duty to Comply

- (a) The permittee must comply with all conditions of this permit. Permit noncompliance constitutes a violation of the CWA and State Act (Chapter 22, Article 11 or Article 12) and is grounds for enforcement action; for permit modification, revocation and reissuance, suspension or revocation; or denial of a permit renewal application.
- (b) The permittee shall comply with all applicable standards or prohibitions established under 40 C.F.R. 503 and Title 33 Series 2 within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

#### 2. When to Apply

State NPDES rules require permit applications to be filed at least 180 days prior to the commencement of the activity. The DWWM is attempting, through this general permit process, to streamline the permitting of this activity. Therefore, projects which may potentially obtain coverage under this general permit and which submit complete application forms, shall make submission in accordance with II.A. prior to the anticipated date of discharge.

#### 3. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for a new permit by submitting a General Permit registration as detailed in permit reissuance.

#### 4. 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.

#### 5. 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 planned changes or anticipated noncompliance, does not stay any permit conditions.

#### 6. Property Rights

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

#### 7. Signatory Requirements

All application, reports, or information submitted to the Director shall be signed and certified as required in 47 C.S.R. 10.4.6. (NPDES Program). 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.

#### 8. Transfers

This permit is not transferable to any person, except after written notice to and written approval by 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. Notice must contain the new owner's name and address.

#### 9. Duty to Provide Information

The permittee shall furnish to the Director, within a reasonable 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. The permittees shall also furnish to the Director, upon request, copies of records required to be kept by this permit.

#### 10. Other Information

The permittee shall furnish to the Director 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 he/she has failed to submit any relevant facts in a facility registration application form or submitted incorrect information in a facility registration application form or in any report to the Director, he/she shall promptly submit omitted/corrected facts or information.

## 11. Endangered and Threatened Species and State Historic Preservation Officer

If a site discharges to a stream where a federally endangered or threatened species or its critical habitats are present, the applicant must contact the U.S. Fish and Wildlife Service to ensure that requirements of the federal Endangered Species Act, 16 U.S.C. 1531 et. seq. is met

For those projects that may impact historic preservation sites, the permittee shall coordinate the project with the State Historic Preservation Officer.

## 12. Inspection and Entry

The permittee shall allow the EPA, Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

- a) Enter upon the permittee's premises in which any storage, treatment or activity is located, or where records must be kept under the conditions of this permit;
- b) Have access to and copy at reasonable times, any records that must be kept under the conditions of this permit;
- c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by 47C.S.R. 10, any substances or parameters at any locations.

## 13. Permit Modification

This permit may be modified, suspended, or revoked by the Director in whole or in part during its term in accordance with the provisions of Chapter 22, Article 11 of the Code of West Virginia.

Any permittee wishing to modify his registration for a Large Construction Activity shall submit such request at least 45 days prior to the commencement of the proposed action for modification.

Any permittee wishing to modify his registration for a Minor Construction Activity shall submit such request at least 30 days prior to the commencement of the proposed action for modification.

Any permittee wishing to modify his registration under a NOI shall submit such request at least 15 days prior to the commencement of the proposed action for modification.

## 14. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the CWA.

## 15. Outlet Markers

In accordance with Title 47, Series 11, Section 9 (Special Rules) of the West Virginia Legislative Rules, an outlet marker shall be posted on the stream bank for each outlet covered by this permit

## 16. Water Withdrawal

If water for hydroseeding, dust control, or hydrostatic testing is to be derived from waters of the state, withdrawals shall only be made during times when stream flow is sufficient to support both aquatic life and the withdrawal. During periods of active withdrawal, the permittee and/or operator shall consult DWWM's Water Withdrawal Guidance Tool daily and document the recommendations. This documentation shall be maintained by the permittee and made available for inspection. Withdrawals shall only be taken when the tool indicates that it is safe by the statement "it should be safe to withdraw from any stream in the area". Use of the tool in itself does not guarantee protection of aquatic life and best professional judgment must still be used when making withdrawals, as the tool cannot account for all localized conditions and may not react to the withdrawal dependent on its proximity to the stream gage. The tool provides useful information on general stream flow adequacy to assist the permittee with withdrawal decisions.

The tool may be found at the following link:

<http://www.dep.wv.gov/WWE/wateruse/Pages/WaterWithdrawal.aspx>.

## 17. Liabilities

17.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.

17.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.

17.c. Nothing in 17.a. and 17.b. shall be construed to limit or prohibit any other authority the Director may have under the State Water Pollution Control Act, Chapter 22, Article 11 and State Groundwater Protection Act, Chapter 22, Article 12.

## 18. Reopener Clause

If there is evidence indicating 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 or alternative General Permit in

accordance with Section I.E. of this General Permit or the General Permit may be modified to include different limitations and/or requirements. The conditions, standards, and limitations of this General Permit shall be reviewed at the time of reissuance for possible revisions that may lead to more or less stringent conditions, standards, and limitations.

## Appendix B

### I. OPERATION AND MAINTENANCE

#### 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.

#### 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 to maintain compliance with the conditions of this permit.

#### 3. Bypass

##### 3.a. Definitions

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

3.a.2. "Severe property damage" means substantial physical damage to property, damage to 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.

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 Appendix B 3.c. and 3.d. of this permit.

##### 3.c. Notification of bypass

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.

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

##### 3.d. Prohibition of bypass

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

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

3.d.1.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

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

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 Appendix B 3.d.1. of this permit.

#### 4. Upset

4.a. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with the technology-based permit effluent limits or failure of a BMP that occurs 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.

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 penult and the SWPPP if the requirements of Appendix B 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.

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:

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

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

4.c.3. The permittee submitted notice of the upset in accordance with Part I.D.2.; and

4.c.4. The permittee complied with any remedial measures required under Appendix A 4 of this permit.

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

5. Removed Substances

Spills and releases must be cleaned up expeditiously, and contaminated media must be properly disposed in accordance with all applicable requirements of 33 C.S.R. 1.

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, state and federal guidelines and placed behind sediment trapping BMPs in a manner that prevents erosion.

## Appendix C

### I. Definitions:

1. "Access Road" means surface roadbed area within a right-of-way for purposes of travel by land vehicles and/or equipment used in Construction activities. A road consists of the area within the right-of-way, including the roadbed, shoulders, adjacent parking and side areas, approaches, adjacent ditches, and other adjacent or contiguous related structures. The term includes access roads constructed, reconstructed, or improved for use in all construction operations, provided however, this term does not include general areas of construction activities, or the active construction area for cut and fill activities, where vehicles travel but are not specifically designated for travel to and from the construction site.
2. "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/or 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 plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
3. "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 little or no soil is disturbed.
4. "Clean Water Act" (CWA) (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Public Law 92-500, as amended by Public Law 95-217, Public Law 97-117 and Public Law 95-576; 33 U.S.C. 1251 et seq.
5. "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; included in this definition are most subdivisions.
6. "Control" is a best management practice such as erosion control or sediment control that will reduce sedimentation on a construction project.
8. "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.
9. "Detailed Site Plan" is a design plan drawing of sufficient scale to depict proposed construction activity, surface drainage patterns, erosion and sediment control best management practices, limits of disturbance boundary, north arrow, and containing surface contours on minimum 5-foot contours.

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

11. "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, all waste and borrow sites, utility installation, road building, mass grading, and site development.

12. "Diversion" means a stabilized berm or stabilized 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.

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

14. "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 and use of such practices apply when disturbed areas discharge to Special Waters.

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

16. "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.

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

18. "Evaluation Point" means the point where the majority of the surface storm water leaves a permitted site.

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

20. "Final stabilization" means long-term stability of soil and rock against slides, slips, erosion and mudflows by covering disturbed areas with permanent protection such as pavement, compacted gravel, permeable pavements/pavers, buildings, stable waterways (riprap, concrete, grass or pipe), a healthy, vigorous stand of grass or natural vegetation 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.

21."Grading" means disturbing the surface of the land, including 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.

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

23."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.

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

25."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.

26. "Impaired Streams" means waters that do not meet applicable water quality standards and are listed on the Clean Water Act Section 303(d) list.

27."Large Construction Activity" mean an activity which disturbs 3 or more acres of land.

28. "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.

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

30."Minor Construction Activity" means an activity which disturbs one to less than three acres of land that will not be completed in a year or less.

31. "National Pollutant Discharge Elimination System" (NPDES) means the national program for issuing, denying, modifying, revoking and reissuing, suspending, revoking, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements under Section 307, 318, 402, and 405 of CWA, including any approved state program.

32."Natural Vegetative Buffer" is an area of undisturbed vegetation that occurs spontaneously without regular maintenance or management and is adjacent to or surrounds streams or other waters.

33. "Notice Of Intent" (NOI) is the form to be submitted by the applicant to register a small construction project (one that disturbs one to less than three acres) under the Construction Stormwater General Permit. A project that disturbs one to less than three acres but will have construction activities one year or longer must file a Site Registration Application Form.

34."Notice of Termination" (NOT) is the form to be submitted by all permittees other than those operating under an NOI to terminate coverage under the Construction General Stormwater Permit, after final stabilization has been completed. See Final Stabilization.

35."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.

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

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

38."Qualified Person" means a person who is knowledgeable in the principles and practices of sediment and erosion controls, pollution prevention, 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.

39. "Satisfactory Stabilization": means a condition where exposed soils or disturbed areas are provided temporary vegetative and/or non-vegetative protective cover to prevent erosion and sediment loss. Satisfactory stabilization may include temporary seeding, geotextiles, mulches, and other techniques to reduce or eliminate erosion until either final stabilization can be achieved or until further construction activities take place to re-disturb this area.

40."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.

41."Sediment TMDL" means a Total Maximum Daily Load that has been developed for sediment and the effects of sedimentation. It does not include TMDLs that are developed for substances or conditions that may accompany sediment, including without limitation pH, iron or aluminum, unless sediment is also expressly made a part of the TMDL.

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

43."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 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.

44."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.

45. "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.

46. "Special Waters" means (i) Tier 3 waters, as those waters are defined and set forth in 47 C.S.R., Series 2; (ii) trout waters specifically identified in 47 C.S.R., Series 2 (excluding warm water streams, warm water fisheries stocked with trout or those without sufficient age classes of trout to demonstrate a population of trout through natural reproduction); and (iii) streams for which a sediment TMDL (but not those streams for which a TMDL for iron, aluminum or other parameters are developed, unless sediment is also addressed) has been completed.

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

48. "Stormwater Pollution Prevention Plan" (SWPPP) means a site-specific, written document that, among other things: (1) identifies potential sources of stormwater pollution at the construction site; (2) describes stormwater controls to reduce or eliminate pollutants in stormwater discharges from the construction site; and (3) identifies procedures the operator will implement to comply with the terms and conditions of this general permit.

49. "Tier 3 Waters" means waters as otherwise identified in 47 C.S.R. 2-4.1. c. (Requirements Governing Water Quality Standards).

50. "Total Maximum Daily Load (or TMDL)" is a term in the Clean Water Act that establishes the maximum amount of a pollutant allowed in a waterbody and serves as the starting point or planning tool for restoring water quality.

51. Trout Streams - Waters which sustain year-round trout populations. Excluded are those warm water streams, warm water fisheries stocked with trout or those without sufficient age classes of trout to demonstrate a population of trout through natural reproduction.

52. "Water Quality Standards" are the foundation of the water quality-based control program mandated by the Clean Water Act.

53. "1-year, 24-hour precipitation event" means the maximum 24-hour precipitation event with a probable recurrence interval of once in one year.

54. "2-year, 24-hour precipitation event" means the maximum 24-hour precipitation event with a probable recurrence interval of once in two years.

55. "10-year, 24-hour precipitation event" means the maximum 24-hour precipitation event with a probable recurrence interval of once in 10 years.

56. "25-year, 24-hour precipitation" means the maximum 24-hour precipitation event with a probable recurrence interval of once in 25 years.