MARYLAND DEPARTMENT OF THE ENVIRONMENT
GENERAL PERMIT FOR STORMWATER ASSOCIATED WITH CONSTRUCTION ACTIVITY
General NPDES Permit Number MDRC
State Discharge Permit Number 20CGP

EFFECTIVE DATE: January ?, ???? EXPIRATION DATE: December ??, ????

Contents

[TOC \o "1-3" \h \z \u]

ED_005088A_00000072-00001

PART I. PERMIT APPLICABILITY

By this permit the Maryland Department of the Environment (the Department) authorizes the discharge of ~~pollutants~~stormwater to Waters of This State in accordance with the effluent limitations and conditions set forth herein associated with construction activity. This authorization is pursuant to the provisions of Title 9 of the Environment Article, Annotated Code of Maryland, and the provisions of the Federal Clean Water Act (CWA), 33 U.S.C. §1251 et seq., as amended by the Water Quality Act of 1987, and implementing regulations 40 CFR Parts 122, 123, 124, and 125. Authorization under this permit is required from the "commencement of construction activities" (see Appendix A).

Commented [A1]: General note – this is all in 10 point font, which is pretty small.

Commented [A2]: Recommend adding Part 127 for e-reporting as well.

Commented [A3]: Should this be "for"? The sentence is unclear; would be better to phrase it as "cannot commence construction without authorization under this permit" or something like that.

"You" and "Your" are used in this permit to refer to the authorized operator or applicant, as the context indicates, and that ~~parties~~ party's facility or responsibilities.

A. Geographic Coverage

This permit applies to Operators registered to do business in Maryland whose construction activities result in stormwater discharges to Waters of This State.

~~B.~~ Eligibility Conditions

~~B.~~ To be eligible to use this permit, you must meet the following criteria:

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1. You are an "operator" of a construction site for which discharges will be covered under this permit. For the purposes of this permit and in the context of stormwater discharges associated with construction activity, an "operator" is any party associated with a construction project that meets either of the following two criteria:
    a. The party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications (e.g., in most cases this is the owner of the site); or
    b. The party has day-to-day operational control of those activities at a project that are necessary to ensure compliance with the permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the permit, correct violations (including repair or installation of erosion and sediment controls), and/or halt construction activity until violations of the permit are corrected; in most cases this is the general contractor (as defined in Appendix A) of the project).

    Where there are multiple operators associated with the same project, all operators must obtain permit coverage. If the operator of a "construction support activity" (concrete or asphalt batch plant) is different than the operator of the main site, that operator must also obtain permit coverage. See Stormwater Pollution Prevention Plan (SWPPP) Part III.F for clarification on the sharing of liability between and among operators on the same site and for conditions that apply to developing a SWPPP for multiple operators associated with the same site. Subcontractors generally are not considered operators for the purposes of this permit.

Commented [A4]: Is there a co-permittee option or are these all separate coverages?

2. Your site's construction activities:
    a. Will disturb one or more acres of land, or will disturb less than one acre of land but are part of a common plan of development or sale that will ultimately disturb one or more acres of land; or
    b. Have been designated by EPA or the Department as needing permit coverage under 40 CFR 122.26(a)(1)(v) or 40 CFR 122.26(b)(15)(ii);

3. For "new sources" (as defined in Appendix A) only:

    a. The Department has not, prior to authorization under this permit, determined that discharges from your site will cause, have the reasonable potential to cause, or contribute to an excursion above any applicable water quality standard. Where such a determination

is made prior to authorization, the Department may notify you that an individual permit application is necessary. However, the Department may authorize your coverage under this permit after you have included appropriate controls and implementation procedures designed to bring your discharge into compliance with this permit, specifically the requirement to meet water quality standards. In the absence of information demonstrating otherwise, the Department expects that compliance with the requirements of this permit, including the requirements applicable to such discharges in Part III.A, will result in discharges that will not cause, have the reasonable potential to cause, or contribute to an excursion above any applicable water quality standard.

b. Discharges from your site to a Tier 2, or Tier 3 water will not lower the water quality of the applicable water. In the absence of information demonstrating otherwise, the Department expects that compliance with the requirements of this permit, including the requirements applicable to such discharges in Part III.B, will result in discharges that will not lower the water quality of such waters.

4. Discharges from your site are not: Already covered by a different NPDES permit for the same discharge; or in the process of having coverage under a different NPDES permit for the same discharge denied, terminated, or revoked.

C. Eligible Discharges (Types of Discharges Authorized)

1. The following stormwater discharges are authorized under this permit provided that appropriate stormwater controls are designed, installed, and maintained (see Parts III.A and III.B):
   a. Stormwater discharges, including stormwater runoff, snowmelt runoff, and surface runoff and drainage, associated with construction activity under 40 CFR 122.26(b)(14)(x) or 122.26(b)(15)(i);

   b. Stormwater discharges designated by the Department as needing a permit under 40 CFR 122.26(a)(1)(v) or 122.26(b)(15)(ii);

   c. Stormwater discharges (no process water) from construction support activities (e.g., concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, borrow areas) provided that:
      i. The support activity is directly related to the construction site required to have permit coverage for stormwater discharges;
      ii. The support activity is not a commercial operation, nor does it serve multiple unrelated construction sites;
      iii. The support activity does not continue to operate beyond the completion of the construction activity at the site it supports; and
      iv. Stormwater controls are implemented in accordance with Parts III.A and III.B for discharges from the support activity areas.

   d. Stormwater discharges from earth-disturbing activities associated with the construction of staging areas and the construction of access roads conducted prior to active mining.

2. The following non-stormwater discharges associated with your construction activity are authorized under this permit provided that, with the exception of water used to control dust and to irrigate vegetation in stabilized areas, these discharges are not routed to areas of exposed soil on your site and you comply with any applicable requirements for these discharges in Parts III.A and III.B:
   a. Discharges from emergency fire-fighting activities;
   b. Landscape irrigation;
   c. Water used to wash vehicles and equipment, provided that there is no discharge of soaps, solvents, or detergents used for such purposes;
   d. Water used to control dust;

e. External building washdown, provided soaps, solvents, and detergents are not used, and external surfaces do not contain hazardous substances (as defined in Appendix A) (e.g., paint or caulk containing polychlorinated biphenyls (PCBs));
f. Pavement wash waters, provided spills or leaks of toxic or hazardous substances have not occurred (unless all spill material has been removed) and where soaps, solvents, and detergents are not used. You are prohibited from directing pavement wash waters directly into any Water of this State, storm drain inlet, or stormwater conveyance, unless the conveyance is connected to a sediment basin, sediment trap, or similarly effective control;
g. Uncontaminated air conditioning or compressor condensate;
h. Uncontaminated, non-turbid discharges of ground water or spring water;
i. Foundation or footing drains where flows are not contaminated with process materials such as solvents or contaminated ground water; and
j. Construction dewatering water discharged in accordance with Part III.A.4. which must be managed by controls in accordance with the 2011 Standards and Specifications for Soil Erosion and Sediment Control or any updated standards issued by MDE (after their effective date)

3. Use of Chemical Additives for Sediment Control: Use of any chemical additives (defined in Appendix A) for sediment control requires prior notice, indicating your intent to use them on your NOI and listing the additives and any pertinent associated documentation in your Stormwater Pollution Prevention Plan (SWPPP). In addition, the use of Cationic Chemical Additives (defined in Appendix A) for sediment control is subject to the Department's approval policy as outlined in Part III.A.2.m of this permit. Any substances not approved by the Department are prohibited.

4. Also authorized under this permit are discharges of stormwater listed above in Part I.C.1 or Part I.C.3, or authorized non-stormwater discharges listed above in Part I.C.2, commingled with a discharge authorized by a different NPDES permit and/or a discharge that does not require NPDES permit authorization.

D. Prohibited Discharges

1. Wastewater from the Concrete Washout, unless managed by an appropriate control in accordance with the 2011 Standards and Specifications for Soil Erosion and Sediment Control, Section H-6.

2. Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials. (Part III.A.3.d)

3. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance (Part III.A.3.a and Part III.A.3.c.iii).

4. Soaps or solvents, or detergents used in vehicle and equipment washing or external building washdown (Part III.A.3.b);

5. Toxic or hazardous substances from a spill or other release (also see Part III.A.3.c.iv); and

6. Water contaminated by toxic or hazardous substances from sites managed under Maryland's Voluntary Cleanup Program (VCP) or Land Restoration Program (LRP), not addressed by a stormwater pollution prevention plan (Part III.F) and consistent with requirements stipulated by MDE LMA.

To prevent the above-listed prohibited non-stormwater discharges, operators must comply with the applicable pollution prevention requirements in Part III.A.3.

E. Requiring an Individual Permit or an Alternative General Permit

The Department includes the prohibited non-stormwater discharges in Part D above as a reminder to the operator that the only non-stormwater discharges authorized by this permit are in Part C above. Any unauthorized non-stormwater discharges must be covered under an individual permit or alternative general permit.

1. Process water discharges from concrete and asphalt plants, including batch plants, are not authorized under this permit and must have coverage under the General Permit for Discharges from Mineral Mines, Quarries, Borrow Pits and Concrete and Asphalt Plants or an individual permit.

2. Earth disturbance for the purposes of preparation of sites for mineral mining or coal mining should ~~achieve~~obtain permit coverage under the specific General Permit for that activity, or under an individual permit, as an alternative to this general permit to avoid duplicative coverage. Such sites require coverage under those General Permits or individual permits specifically designated for discharges from mineral mining and coal mining activities. Mining sites where construction of structures or other non-mining related development will occur as part of reclamation, or any non-mining earth disturbance following completion of mining reclamation (unless otherwise ineligible for coverage), must obtain coverage under this General Permit if earth disturbance of one acre or more will occur.

3. Earth disturbance of one acre or more for the purposes of construction of landfill cells or other structures, roads, and appurtenances to landfill operation must be covered under this General Permit unless the Department has authorized coverage under a different permit or general permit. For areas such as the interior of landfill cells where stabilization does not occur, you may terminate coverage once the landfill cell begins operating as a landfill and accepting waste.

4. The Department may require any person authorized by this permit to apply for and obtain either an individual permit or coverage under an alternative general permit. Any interested person may petition the Department to take action under this paragraph. The Department may require any person authorized to discharge under this permit to apply for an individual permit or obtain coverage under an alternative general permit only if that person has been notified in writing that such a change is required. This notice shall include:
   a. A brief statement of the reasons for this decision;
   b. A statement setting a deadline for the notified person to file an application for an individual permit or file a NOI in accordance with the terms of the alternative general permit;
   c. A permit application if applicable; and
   d. For existing permittees, a statement that on the effective date of the individual permit or the alternative general permit as it applies to the individual permittee, coverage under this general permit shall automatically terminate.

5. The Department may grant additional time to submit the application or NOI upon request of the applicant. If the person so notified fails to submit in a timely manner an individual permit application or an NOI for coverage under an alternative general permit as required by the Department under this paragraph, then the individual permittee's coverage under this permit is automatically terminated at the end of the day specified in the Department's notification.

Commented [A5]: For this construction GP or for IP, or alternative permit? Which NOI is this referring to?

6. Any person authorized by this permit may request to be excluded from the coverage of this permit by applying for an individual permit or filing an NOI for coverage under an alternative general permit. The person seeking an individual permit shall submit an individual application in accordance with the United States Environmental Protection Agency's (EPA) National Pollutant Discharge Elimination System (NPDES) regulations at 40 C.F.R. Part 122, with reasons supporting the request to the Department. The person seeking coverage under an alternative

general permit shall file an NOI in accordance with the terms of the alternative general permit. A request for an individual permit shall be granted if the Department determines that the reasons cited by the applicant are adequate to support the request. If the applicant seeks coverage under an alternative general permit, the terms of that permit will determine whether coverage under the alternative general permit is obtained.

7. When an individual permit is issued to a person otherwise covered by this permit, the applicability of this permit to the individual permittee is automatically terminated on the effective date of the individual permit. Similarly, when a person subject to this permit obtains coverage under an alternative general permit, the applicability of this permit is terminated on the effective date of the alternative general permit. When an individual permit is denied to an applicant otherwise covered by this permit, or the applicant is denied coverage under the terms of an alternative general permit, the applicability of this general permit to the permittee may be terminated by MDE.

F. Continuation of an Expired General Permit

Unless this permit is terminated or your authorization is revoked or terminated by the Department, the terms and conditions of this permit and its authorized dischargers are automatically continued and remain fully effective and enforceable upon expiration of this permit until the date(s) specified under a reissued general permit. However, only those facilities previously authorized to discharge under the expired permit are covered by the continued permit.

Commented [A6]: To reiterate that new coverages are not supposed to be granted under an expired GP, but those with current coverage are allowable.

Part II. AUTHORIZATION UNDER THIS PERMIT

All "operators" (as defined in Appendix A) associated with your construction site, who meet the eligibility requirements (Part I.B), and who seek coverage under this permit, must submit to the Department a complete and accurate NOI, fee payment and associated documentation (Part II.A) according to the deadlines in Table 1. The approval of the authorization is contingent on a response to any comments taken during the comment period (Part II.B), and the Department's review of the submission. Your Authorization is effective once the Department provides you with a registration letter (Part II.C).

Emergency Authorization Exception: A person who must conduct earth-disturbing activities prior to obtaining general permit coverage 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, must obtain emergency authorization from the Department within 24 hours after initiating earth-disturbing activities. The person must obtain such emergency authorization in writing or via electronic mail. If the Department denies emergency authorization, the person must immediately stabilize earth disturbance and complete the authorization process under Part II above before resuming earth disturbance. Where circumstances allow, it is recommended that a person obtain emergency authorization prior to initiating earth-disturbing activities. A person with emergency authorization is authorized to discharge on the condition that a complete and accurate NOI is submitted within 7 calendar days after commencing earth-disturbing activities, and must ultimately complete all requirements to obtain regular coverage under the general permit. The person must provide a copy of the emergency authorization with the NOI.

Commented [A7]: Part I?

A. Authorization Request

1. **Notice of Intent (NOI).** You must submit to the Department an NOI (Part II.A.2) to be covered under this general permit. The NOI must be accompanied by the appropriate fee (Part II.A.3), and support documentation (Part II.4). The applicant shall submit the documents in either the electronic or paper format designated by the Department (Part II.A.5 or Part II.A.6), and they must be certified (Part II.7 and Part II.8).

2. **Contents of Notice of Intent.** The NOI shall include, but not be limited to, the following:
   a. The site's name, mailing address, and general location;

b. The site's latitude and longitude (to the nearest 15 seconds);
c. A vicinity map of the site;
d. The Owner/Operator's name and owner's signature, address, telephone number, email address and principal contact;
e. The preparer name, organization, email and phone;
f. The resident agent (for corporations/LLC) name and address, if the business is from out of state.
g. Federal Tax ID (not required for Individual);
h. Workers Compensation Certificate of Compliance document provided by the Workers Compensation Commission. [HYPERLINK "https://www.wcc.state.md.us/PDF/ICR/IC_13_AppCertComp.pdf"] or Workers Comp Provider and Policy Number;
i. A brief project description, including existing and proposed land uses;
j. The type of facility (Individual, Sole Proprietor, Partnership, Volunteer Organization, Corporation, State, Federal, or Local Government);
k. Type of construction (single-family residential, multifamily residential, commercial, industrial, institutional, highway or road, utility or Other)
l. The name of the closest named receiving waters (if the discharge is to a municipal separate storm sewer system, the name of the municipal system and the receiving waters shall be supplied);
m. A confirmation that the permittee has compared the eventual receiving waters with the Maryland 303(d) list, the date on which the comparison took place, and a statement as to whether the eventual receiving waters are listed on the 303(d) list as impaired for pollutants such as sediment or PCBs. Indicate the name and location of the impaired waters and the pollutant for which the water is impaired;
n. A confirmation if the receiving waters are Tier 2 or Tier 3 (sensitive or high quality waters), and if so that the Andi-degradation Checklist has been completed (Part II.A.4.b);
o. The total site area, the total proposed disturbed area, the type(s) of stormwater management best management practice(s) (BMP) proposed, and the total drainage area to be controlled by each type of BMP;
p. An indication whether you were exempted or waived from any requirements in the Stormwater Management Plan;
q. The E&SC Plan Authority and Plan ID;
r. Estimated construction project date and end date;
s. Is this part of a common plan of development or sale?
t. Have earth-disturbing activities commenced on your project/site? If yes, is your project an "emergency-related project";
u. Demolition of any structure built or renovated before January 1, 1980?
v. Do any of the structures being demolished have at least 10,000 square feet of floor space?
w. If chemical additives are used for flocculation, and what product is being used and whether it is cationic (Part I.C.3); and
x. Permit number of any other NPDES Permit related to this site and an indication if this is new or a continuation of coverage (see Table 1).

3. **Fees.** An NOI fee is required at the time of submission of an NOI. The fee schedule is based on the size of the total planned disturbance. If the area of disturbance is projected to increase, an NOI should be resubmitted with a fee that reflects this change in coverage. The applicant must determine the appropriate fee to be paid from the fee schedule set in State regulations COMAR 26.08.04.09-1 C(2).

4. **Additional Documentation Required:** Persons who obtain coverage under this general permit shall, prior to commencing construction, develop and obtain approval from appropriate approval authority of: erosion and sediment control plans (Part II.A.4.a) in accordance with the requirements established in Title 4, Subtitle 1 of the Environment Article, Annotated Code of Maryland (Sediment Control); and in Code of Maryland Regulations (COMAR) 26.17.01 (Erosion and Sediment Control); and stormwater management plans (Part II.A.4.b) (unless exempted by the

following law or regulation or obtaining a proper waiver from the approval authority) in accordance with the requirements established in Title 4, Subtitle 2 of the Environment Article, Annotated Code of Maryland (Stormwater Management); and in COMAR 26.17.02 (Stormwater Management). If your construction activity will result in discharges to Sensitive Waters (Tier 2 or Tier 3), then you must complete an Antidegedation Checklist (Part II.A.4.c). The permit also requires creation of a Stormwater Pollution Prevention Plan (SWPPP) in certain cases (Part II.A.4.~~c~~d)

Commented [A8]: I'm still not sure I understand why all projects don't require a SWPPP? See comments in Part III.F

a. Erosion and Sediment Control (E&SC) and Stormwater Management (SWM) Plans: This permit is not an alternative for and does not take the place of any local permits or ordinances required by Maryland law or regulation or by the county or municipality that has jurisdiction where the construction activity occurs, including but not limited to a grading permit, E&SC plan approval, or SWM plan approval. Prior to submitting your NOI, you must have submitted your E&SC plan and SWM plan for approval to your Local County or municipality. Once these plans are approved, you must submit the proof to include the scanned signature page, or a signed letter indicating approval from the Local Soil Conservation District or other approval authority.
b. Anti-degradation Review for Sensitive Waters (Tier 2 or Tier 3): You must complete and submit an Andi-degradation Checklist, if any portion of the site is within the watershed of a Tier 2 or Tier 3 stream and, if so, any additional information about that may be required for anti-degradation review including, for example, where the stream has assimilative capacity or if any waivers were allowed.

Commented [A9]: Information about what?

Commented [A10]: How would the permittee know this?

c. Stormwater Pollution Prevention Plan (SWPPP): You must develop and submit a SWPPP consistent with Part III.F, when required under the conditions of Part III.F.1.

5. **<u>How to Submit Your NOI and accompanying documentation via eNOI:</u>** You must use the Department's NPDES eNOI Tool to electronically prepare and submit your NOI for coverage under this permit unless you received a Waiver from the Department (Part II.A.6). In addition to the NOI, you will also attach the E&SC, SWM, Anti-degradation Checklist and SWPPP as required by this permit. To access the tool, go to access the system at: [HYPERLINK "https://egov.maryland.gov/mde/npdes/Account/Login"].

6. **<u>Where to Submit NOI and accompanying documentation, when exempted from eNOI:</u>** Only in those cases where you receive a Waiver from use of the eNOI Tool, you can submit your documents via mail. All other applicants shall submit NOIs for coverage under this general permit either through the electronic system designated by the Administration or ..... Waivers from electronic reporting may be granted based on one of the following conditions:

Commented [A11]: Either or what? This sentence is not complete

a. ~~a.~~ If the operator's operational headquarters are physically located in a geographic area (i.e., ZIP code or census tract) that is identified as underserved for broadband Internet access in the most recent report from the Federal Communications Commission; or
b. ~~b.~~ If the operator has limitations regarding available computer access or computer capability. If the operator wishes to obtain a waiver from submitting a report electronically, operators must submit a request to the Department. In that request, operators must document which exemption they meet, provide evidence supporting any claims, and a copy of their completed NOI form. A waiver may only be considered granted once operators receive written confirmation from the Department.

Commented [A12]: This should be separate, not part of "b".

If the Department grants the operator approval to use a paper NOI, and they elect to use it, the operator must request the form from the Department. Those with the waiver will submit completed paper forms, required documents and payment by mail to the Administration at the following address:

Commented [A13]: Can the Department send the form with its grant of waiver letter? Seems like an additional unnecessary step.

The Maryland Department of the Environment
Water Management Administration
P.O. Box 2057
Baltimore, Maryland 21203-2057

7. **Certification.** Any person signing documents under this section shall provide certification in accordance with the laws and regulations identified in Part II.A.8 below.

8. **Signatory Requirements.** All submissions of reports, certifications or information shall be signed and certified as required by 40 CFR 122.22 and in accordance with requirements established in Title 4, Subtitle 1 of the Environment Article, Annotated Code of Maryland (Sediment Control); COMAR 26.17.01 (Erosion and Sediment Control); Title 4, Subtitle 2 of the Environment Article, Annotated Code of Maryland (Stormwater Management); and COMAR 26.17.02 (Stormwater Management). All Notices of Intent or Transfers shall be signed as follows:
   For a corporation: by a responsible corporate officer;
   For a partnership or sole proprietorship: by a general partner or the proprietor, respectively;
   For a municipality, State, federal, or other public agency: by either a principal executive officer or a duly authorized official.

9. **Deadlines for Coverage.** The deadlines in Table 1 apply to operators applying for coverage under this permit. If you miss the deadline to submit your NOI, any and all discharges from your construction activities will continue to be unauthorized under the CWA until they are covered by this or a different NPDES permit. The Department may take enforcement action for any unpermitted discharges that occur between the commencement of construction activities and discharge authorization.

Table [SEQ Table * ARABIC]- Deadlines for Permit Coverage

Type of Operator	NOI Submittal Deadline	Special Instructions
Operator of an Existing Construction Site (i.e. a site with 14GP coverage where construction activities commenced prior to the effective date of this permit).	Within 6 months after the effective date of this permit. Authorization to discharge under 14GP continues in the interim.	On eNOI select 'Continuation'. No additional fee, documentation or comment period is required.
Operator of a New Site (i.e. a site where construction activities commence on or after the effective date of this permit).	A minimum of 60 days prior to commencing construction activities.	
New Operator of Existing Discharger (i.e. an operator that through transfer of ownership and/or operation replaces the operator of an already permitted construction site that is either a "New site" or an "existing site").	A minimum of 30 days prior to date that the transfer will take place to the new owner/operator.	No additional fee or comment period is required.
Change in Construction Activity (i.e. a request to modify an existing registration for use of a chemical additive or other triggering activity requiring SWPPP).	A week prior to commencing making the change.	In these cases were the SWPPP is required, include an updated SWPPP with the submission.
Increase in Construction Activity (i.e. a request to modify an existing registration for an increase in project acreage).	A minimum of 60 days prior to commencing construction activities.	If the increase is one acre or more, the process is the same as a new NOI.
Operator of an "emergency-related project" (i.e., a project initiated in response to a public emergency (e.g., mud slides, earthquake, extreme flooding conditions, disruption in	No later than 7 calendar days after commencing construction activities. You are considered provisionally covered	The Department will notify you that your authorization is delayed or denied.

Commented [A14]: What is the rationale for 6 months vs the 3 months in the EPA CGP?

Commented [A15]: If it's a new site, wouldn't the row above ("new site") apply to them?

Commented [A16]: Seems like a short timeframe compared to other dates in this Table; what is the rationale?

Commented [A17]: Should that be replaced with "if"?

essential public services), for which the related work requires immediate authorization to avoid imminent endangerment to human health or the environment, or to reestablish essential public services).	under the terms and conditions of this permit immediately.	

10. **Failure to Notify.** Persons who disturb earth as part of a construction activity, fail to obtain coverage under an NPDES stormwater discharge permit as required herein, and discharge pollutants to waters of the United States without a permit, are in violation of the Clean Water Act (CWA). Persons who disturb one acre or more of earth, fail to obtain coverage under an NPDES stormwater discharge permit as required herein, and discharge pollutants to waters of the State are in violation of Section 4-413 and 9-322 of the Environment Article, Annotated Code of Maryland.

11. **Modifying your NOI.** Reasons to modify your NOI include an increase in the number of acres that will be disturbed at the site beyond that stated in the documentation of coverage under the general permit, or the addition of an activity that requires a SWPPP. If after submitting your NOI you need to correct or update any fields, you may do so by submitting a "Change NOI" form using eNOI. In cases where the change necessitates a SWPPP, you must include the SWPPP along with the request. For increases in land disturbance of one acre or more, the process to modify the permit coverage shall be the same as for an initial NOI-a "Change NOI" form shall not be used.. The permittee must reissue the NOI and be granted approval from MDE in order to have general permit coverage for the increased acreage before beginning earth disturbance on it.

B. NOI Approval Process and Public Review Period

1. *Certification of Erosion and Sediment Control Submission to Approval Authority.* Maryland Department of the Environment (MDE) will begin processing a Notice of Intent (NOI) to be covered under this general permit when the applicant provides certification that a final erosion and sediment control plan (ESC plan) was submitted to the appropriate approval authority in accordance with COMAR 26.17.02.09 E(4) and 26.17.01.07. If an NOI is submitted before the ESC plan is submitted to the approval authority, MDE will not accept it for processing and will send notice to the applicant that the NOI is incomplete and will not be processed until the required information is provided. MDE will regularly post NOI information on the NOI system website to include all completed NOIs (no errors) submitted during the previous week.

2. *Public Notification Period.* In order to provide opportunity for public review of plans for sites to be covered by this permit, MDE will not act on NOIs for construction sites during a minimum 14-day period that begins on the date the NOI information is posted on the NOI system website. After 14 days have elapsed and following MDE's receipt of notification from the applicant demonstrating that the ESC plan for the project has been approved by the appropriate approval authority, MDE will make every reasonable effort, within 48 hours of the end of said 14-day period, to issue notification that the site is covered under the general permit for stormwater associated with construction activities, with the exception described in paragraph 3 of this section. If an NOI is submitted to MDE after the appropriate approval authority has already approved an ESC plan, MDE will provide for public notification of the submission of the NOI, but will not act on the NOI for 14 days. If no adverse comments are received during the 14 days, then the NOI will be processed like all other NOIs. [Note: If you modify/edit/alter the information while the NOI/eNOI is in the public notice period, you may cause the NOI/eNOI to restart the public notice period.]

3. *Exception to NOI Approval Process.* If MDE receives, prior to issuance of General Permit coverage, a request from any person that the site be required to obtain an individual permit, or challenges the requirements in the ESC plan or SWPPP, with a detailed, written explanation as to why the ESC plan or SWPPP fails to meet State erosion and sediment control or stormwater management standards, MDE will do the following: (i) notify the general permit applicant that a

request that an individual permit be required has been received, (ii) evaluate the information, and (iii) make a decision and send notification of that decision to the NOI applicant and the person requesting that an individual permit be required, or that changes are required on the ESC plan or SWPPP as described in Section II.A.4. Additional delays may occur in order for the Department to perform an antidegredation review.

Commented [A18]: Is there a timeframe associated with this? Similar to the 14 days for NOI processing?

C. Effective Date of Coverage.

Based on the Department's review of your NOI (Part II.B) or Transfer Request (Part II.D) and associated documentation and fee payment, the Department may delay your authorization for further review, notify you that additional effluent limitations are necessary, or deny coverage under this permit and require submission of an application for an individual NPDES permit. In these instances, the Department will notify you in writing of the delay, of the need for additional effluent limits, or of the request for submission of an individual NPDES permit application. If your request is granted, the Department will notify you and provide a registration number. Coverage under this general permit is effective on the date described in the registration letter that you receive from the Department. Coverage under this general permit will expire under the terms of the reissued General Permit, when a Notice of Termination form has been completed by the permittee and received by the Administration, or when the Administration administratively terminates coverage for a site, whichever occurs first.

Commented [A19]: Department?

D. Transfer of Authorization.

The authorization under this permit is not transferable to any Operator except in accordance with this section, and in accordance with the Eligibility Conditions of this permit (Part I.B). As part of such transfer, the Department may require a separate application for an individual permit as stated in Part I. E.

1. As the transferor: You must notify the Department prior to relinquishing control, via the eNOI system, of the proposed transfer, indicating the specific date of the proposed transfer of permit coverage, and to whom you are transferring the authorization ~~to~~. You must familiarize the person who is assuming control of the permitted activities ("transferee") with the program and provide the transferee/new owner with copies of: this general permit; the documentation from the Administration that the site has coverage under the general permit; and the NOI submitted for the site.
2. As the transferee: You must certify (Part II.A.7), via the eNOI system, your intent to abide by this permit, and confirm that the other information given on the original NOI remain correct or update this information. By this certification you are acknowledging responsibility for compliance with all of the terms and conditions of this permit (which includes all conditions of the erosion and sediment control plan and stormwater management plan and if you are required to maintain a SWPPP, you must either follow the existing SWPPP or develop your own SWPPP plan).

Commented [A20]: Should they have to say which of these options they choose? Also, if they choose to do a new SWPPP, why not require them to follow the existing one until the new one is developed, submitted, and approved by the Department?

The transfer shall become effective upon receipt by the Department of a completed Transfer Request, signed by both the transferor and transferee. Obligations of the permittee. All conditions and obligations outlined in this general permit shall apply to the new permittee/owner upon transfer. See Part III.C.8 for recordkeeping requirements applicable to the transferor following transfer.

Commented [A21]: Delete? Or new heading/title?

E. Continuation of Coverage under This General Permit

Once construction has commenced, it is a condition of this permit that erosion and sediment control and stormwater management plan approvals be kept up to date ~~in effect~~. Construction activity may not continue if these plans have expired, but may resume once plans are renewed without payment of an additional fee as long as coverage under this General Permit is still in effect.

F. How to Terminate Coverage.

Until you terminate coverage under this permit, you must comply with all conditions and effluent limitations in the permit. To terminate permit coverage, you must submit to the Department a complete and accurate Notice of Termination (NOT), which certifies that you have met the requirements for terminating in Part II.F.

1. Minimum Information Required in NOT

a. The Notice of Termination shall consist of the information requested in the electronic system (Part II.A.5), unless the permittee is otherwise directed by MDE (Part II.A.5). Any alternative form that MDE may direct for use shall include, but not be limited to, the following:

   i. The mailing address and location of the construction site for which notification is submitted. Where a mailing address is not available, the location can be described in terms of the latitude and longitude (to the nearest 15 seconds) and Maryland Grid Coordinates of the approximate center of the facility;

   ii. The permittee's name, address, and telephone number;

   iii. The name, address, and telephone number of the general contractor(s);

   iv. The NOI identification number;

   v. The following certification statement, signed as required by section VI.L. herein:

   vi. "I certify under penalty of law that disturbed soils at the identified site have been permanently stabilized in accordance with approved erosion and sediment control plans; that temporary erosion and sediment controls have been removed or will be removed at an appropriate time; and that all stormwater discharges associated with construction activity from this site that are authorized by this general permit have been eliminated. I understand that by submitting this Notice of Termination, I am no longer authorized to discharge stormwater associated with construction activity by the general permit and that discharging pollutants in stormwater associated with construction activity to waters of the United States is unlawful under the Clean Water Act where the discharge is not authorized by an NPDES permit. I understand that I must maintain the records described in Part III.C.8 of the General Permit for three years from the date of this Notice of Termination. I understand that I have the duty to provide information in Part VI.E. during this record retention period. I also understand that the submittal of this Notice of Termination does not release the permittee from liability for any violations of this permit or the Clean Water Act which may have occurred at this site."

b. The permittee shall transmit the completed Notice of Termination form through the electronic system designated by the Administration (Part II.A.5). If you have received a waiver (Part II.A.6) from the Department, you may file the NOT via mail to the following address:

The Maryland Department of the Environment
Compliance Program
Water Management Administration
1800 Washington Blvd., Suite 420
Baltimore, Maryland 21230-1708

2. Conditions for Terminating Coverage[tc \l2 "H. Notice of Termination.]

You m~~ay~~ terminate permit coverage only if one or more of the following conditions has occurred:

a. You have completed all construction activities at your site and, if applicable, construction support activities covered by this permit (see Part I.C.1.c), and you have met the following requirements:

   i. For any areas that (1) were disturbed during construction, (2) are not covered over by permanent structures, and (3) over which you had control during the construction activities, you have met the permanent stabilization requirements for final vegetative or non-vegetative stabilization in Part III.A.2.f;

   ii. You have removed and properly disposed of all construction materials, waste and waste handling devices, and have removed all equipment and vehicles that were used during construction, unless intended for long-term use following your termination of permit coverage;

iii. You have removed all stormwater controls that were installed and maintained during construction, except those that are intended for long-term use following your termination of permit coverage or those that are biodegradable; and

iv. You have removed all potential pollutants and pollutant-generating activities associated with construction, unless needed for long-term use following your termination of permit coverage; or

b. You have transferred control of all areas of the site for which you are responsible under this permit to another operator, and that operator has submitted an NOI and obtained coverage under this permit; or

c. You have obtained coverage under an individual or alternative general NPDES permit. To terminate coverage under these conditions , you must submit a Notice of Termination form, which may be obtained through the electronic system designated by the Administration, on MDE's website, or upon request to MDE.

Part III. CONTROL MEASURES AND EFFLUENT LIMITATIONS

A. Technology-Based Limits.[tc \l2 "H.Notice of Termination.]

In the technology-based limits included in this Part, the term "minimize" means reduce and/or eliminate to the extent achievable using control measures (including best management practices) that are technologically available and economically practicable and achievable in light of best industry practice.

Commented [A22]: Is this defined? How does MDE determine this?

1. Control Measure Selection and Design Considerations

You must design, install, and maintain stormwater controls required in Parts III.A.2 (sediment) and III.A.3 (pollution prevention) to minimize the discharge of pollutants in stormwater from construction activities. These stormwater controls ~~at a minimum~~ must be developed in accordance with the requirements established in Title 4, Subtitle 1 of the Environment Article, Annotated Code of Maryland (Sediment Control); and in Code of Maryland Regulations (COMAR) 26.17.01 (Erosion and Sediment Control) and as included in the State's "2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control" (https://mdewwp.page.link/ESCRegs). If MDE adopts applicable requirements after the effective date of this permit, including but not limited to revised Standards and Specifications for Soil Erosion and Sediment Control, the permittee must comply by the deadline set forth in those requirements. To meet this requirement, you must:

a. Account for the following factors in designing your stormwater controls:

i. The expected amount, frequency, intensity, and duration of precipitation;

ii. The nature of stormwater runoff and run-on at the site, including factors such as expected flow from impervious surfaces, slopes, and site drainage features. You must design stormwater controls to control stormwater volume, velocity, and peak flow rates to minimize discharges of pollutants in stormwater and to minimize channel and streambank erosion and scour in the immediate vicinity of discharge points; and

iii. The soil type and range of soil particle sizes expected to be present on the site.

b. Design and install all stormwater controls in accordance with good engineering practices, including applicable design specifications.

c. Complete installation of stormwater controls by the time each phase of construction activity has begun.

i. By the time construction activity in any given portion of the site begins, install and make operational any downgradient sediment controls (e.g., buffers, perimeter controls, exit point controls, storm drain inlet protection) that control discharges from the initial site clearing, grading, excavating, and other earth-disturbing activities.

ii. Following the installation of these initial controls, install and make operational all stormwater controls needed to control discharges prior to subsequent earthdisturbing activities.

d. Ensure that all stormwater controls are maintained and remain in effective operating condition during permit coverage and are protected from activities that would reduce their effectiveness.
   i. Comply with any specific maintenance requirements for the stormwater controls listed in this permit, as well as any recommended by the manufacturer.
   ii. If at any time you find that a stormwater control needs routine maintenance, you must immediately initiate the needed maintenance work, and complete such work by the close of the next business day.
   iii. If at any time you find that a stormwater control needs repair or replacement, you must comply with the corrective action requirements in Part III.D.

2. **Erosion and Sediment Controls**
You must implement erosion and sediment controls consistent with approved erosion and sediment control and stormwater management plans and in accordance with the following requirements to minimize the discharge of pollutants in stormwater from construction activities. These controls are intended to prevent the discharge of significant amounts of sediment to surface waters, or conveyance systems leading to surface waters, particularly in the Chesapeake Bay watershed or impaired waterways.

a. Provide and maintain natural buffers and/or equivalent E&SC when Waters of this State are located within 50 feet (or 100 feet or more if within a Tier 2 watershed as identified in the Design Manual) of the site's earth disturbances.
   i. Compliance Alternatives. For any discharges to Waters of this State located within 50 feet of your site's earth disturbances, you must comply with one of the following:
      - alternative 1: Provide and maintain a 50-foot undisturbed natural buffer; or
      - alternative 2 : Provide and maintain an undisturbed natural buffer that is less than 50 feet and is supplemented by erosion and sediment controls that achieve, in combination, the sediment load reduction equivalent to a 50-foot undisturbed natural buffer; or
      - alternative 3 : If infeasible to provide and maintain an undisturbed natural buffer of any size, implement erosion and sediment controls to achieve the sediment load reduction equivalent to a 50-foot undisturbed natural buffer. Buffer widths are further described in the Design Manual.

Commented [A23]: Who determines what an equivalent to a buffer is? Does it have to be approved by MDE or SCD? Is there a list of practices that are considered equivalent to a buffer? If so, recommend referencing that here.

b. Minimize soil compaction. In areas of your site where final vegetative stabilization will occur or where infiltration practices will be installed:
   i. Restrict vehicle and equipment use in these locations to avoid soil compaction; and
   ii. Before seeding or planting areas of exposed soil that have been compacted, use techniques that rehabilitate and condition the soils as necessary to support vegetative growth.

c. Preserve native topsoil, unless infeasible.

d. Minimize steep slope disturbances. Minimize the disturbance of "steep slopes" (as defined in Appendix A).

e. Install sediment controls along any perimeter areas of the site that will receive pollutant discharges.
   i. Remove sediment before it has accumulated to one-half of the above-ground height of any perimeter control.
   ii. Exception. For areas at "linear construction sites" (as defined in Appendix A) where perimeter controls are infeasible (e.g., due to a limited or restricted right-of-way), implement other practices as necessary to minimize pollutant discharges to perimeter areas of the site.

f. Stabilize exposed portions of the site. Implement and maintain stabilization measures (e.g., seeding protected by erosion controls until vegetation is established, sodding, mulching, erosion control blankets, hydromulch, gravel) that minimize erosion from exposed portions of the site in accordance with Parts III.A.2.f.i and III.A.2.f.ii. Stabilization requirements are found in the 2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control. These include details on mulching, plant species, and seeding rates. Straw is the preferred mulch for stabilizing disturbed areas after seeding. Straw mulch is uniformly spread at a rate of 2 tons per acre to a depth of 1 to 2 inches. Adequate stabilization requires 95% groundcover. If environmental conditions, such as winter weather, prevent or delay seed germination, it is important to use a method of anchoring mulch to prevent erosion. Options include wood cellulose fiber, binders, and plastic netting.

i. Stabilization Deadlines:
- Initiate the installation of stabilization measures immediately in any areas of exposed soil where construction activities have permanently ceased or will be temporarily inactive for 14 or more calendar days or as otherwise dictated by your E&SC Plan; and
- Complete the installation of stabilization measures as soon as practicable as identified on your approved E&SC plan, but no later than,
    - within three (3) calendar days as to the surface of all perimeter controls, dikes, swales, ditches, perimeter slopes, and all slopes steeper than 3 horizontal to 1 vertical (3:1), and in all watersheds identified as Tier 2 or Tier 3 for antidegradation purposes.; and
    - seven (7) calendar days as to all other disturbed areas on the project site except for those areas under active grading after stabilization has been initiated.

ii. Final Stabilization Criteria (for any areas not covered by permanent structures). The following must be met,:
- The stabilization requirements in the approved plans;
- A uniform (e.g,, evenly distributed, without large bare areas) perennial vegetative cover with a density of 70 percent of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures. (When the preconstruction background native vegetation cover would have been less than 100 percent of the ground (e.g., arid areas, beaches), the 70 percent coverage criteria is adjusted as follows: if the native vegetation covers 50 percent of the ground, 70 percent of 50 percent (0.70 X 0.50 = 0.35) would require 35 percent total cover for final stabilization. On a beach with no natural vegetation, no stabilization is required.); and/or
- Equivalent permanent stabilization measures (such as the use of riprap, gabions, or
- geotextiles) have been employed..
- Exceptions:
    - Disturbed areas on agricultural land that are restored to their preconstruction agricultural use. This Part for final stabilization criteria does not apply, unless the areas disturbed were not previously used for agricultural activities, such as buffer strips immediately adjacent to Waters of this State, and areas which are not being returned to their preconstruction agricultural use.
    - Areas that need to remain disturbed. In limited circumstances, stabilization may not be required if the intended function of a specific area of the site necessitates that it remain disturbed, and only the minimum area needed remains disturbed (e.g., dirt access roads, utility pole pads, areas being used for storage of vehicles, equipment, materials).

g. Direct stormwater to vegetated areas and maximize stormwater infiltration and filtering to reduce pollutant discharges, unless infeasible.

h. Minimize sediment track-out.
   i. Restrict vehicle use to properly designated exit points;
   ii. Use appropriate stabilization techniques at all points that exit onto paved roads. Exception: Stabilization is not required for exit points at linear utility construction sites that are used only episodically and for very short durations over the life of the project, provided other exit point controls are implemented to minimize sediment track-out;
   iii. Implement additional track-out controls as necessary to ensure that sediment removal occurs prior to vehicle exit; and
   iv. Where sediment has been tracked-out from your site onto paved roads, sidewalks, or other paved areas outside of your site, remove the deposited sediment by the end of the same business day in which the track-out occurs or by the end of the next business day if track-out occurs on a non-business day. Remove the track-out by sweeping, shoveling, or vacuuming these surfaces, or by using other similarly effective means of sediment removal. You are prohibited from hosing or sweeping tracked-out sediment into any stormwater conveyance, storm drain inlet, or Waters of this State.

Commented [A24]: This is confusing. If track out is occuring doesn't that mean they are conducting business? What is considered a "non-business day"? Why are they being granted extra time to remove the sediment?

i. Minimize dust. On areas of exposed soil, minimize the generation of dust through the appropriate application of water or other dust suppression techniques.

j. If you install a sediment basin or similar impoundment:
   i. Situate the basin or impoundment outside of any Waters of this State and any natural buffers established under Part III.A.2.a;
   ii. Design the basin or impoundment to avoid collecting water from wetlands;
   iii. Design the basin or impoundment to provide storage for either:
      - The calculated volume of runoff from a 2-year, 24-hour storm (see Appendix H); or
      - 3,600 cubic feet per acre drained.
   iv. Utilize outlet structures that withdraw water from the surface of the sediment basin or similar impoundment, unless infeasible;
   v. Use erosion controls and velocity dissipation devices to prevent erosion at inlets and outlets; and
   vi. Remove accumulated sediment to maintain at least one-half of the design capacity and conduct all other appropriate maintenance to ensure the basin or impoundment remains in effective operating condition.

k. Protect storm drain inlets.
   i. Install inlet protection measures that remove sediment from discharges prior to entry into any storm drain inlet that carries stormwater flow from your site to a water of the U.S., provided you have authority to access the storm drain inlet; and
   ii. Clean, or remove and replace, the protection measures as sediment accumulates, the filter becomes clogged, and/or performance is compromised. Where there is evidence of sediment accumulation adjacent to the inlet protection measure, remove the deposited sediment by the end of the same business day in which it is found or by the end of the following business day if removal by the same business day is not feasible.

l. Minimize erosion of stormwater conveyance channels and their embankments, outlets, adjacent streambanks, slopes, and downstream waters. Use erosion controls and velocity dissipation devices within and along the length of any stormwater conveyance channel and at any outlet to slow down runoff to minimize erosion.

m. If you are using chemical additives (defined in Appendix A) for control of sediment (such as polymers or flocculants) at your site, you must comply with the requirements identified in this section. You shall refer to the most current version of Standards for Use of Chemical

Additives for Sediment Control document available on the Department's website for specific instructions on information which must be included in your SWPPP, additional requirements, and assistance in applying for additive use.

i. The use of chemical additives for sediment control should only be considered in the event that water quality standards cannot be met using conventional best management practices.
ii. Should the use of chemical additives be necessary, you must utilize conventional best management practices for erosion and sediment controls prior to and after the application of chemical additives.
iii. Additives may only be applied where treated stormwater is directed to a sediment control (e.g., sediment basin, perimeter control) prior to discharge. This permit intends to authorize additives used to create flocculation of suspended materials in stormwater or groundwater. It does not authorize use of additives for bank or soil stabilization.
iv. Chemical additives must be approved by the Department prior to use. The Department maintains a current list of pre-approved polymers/flocculants including approved application method and maximum allowable dosage concentration or application rate on its website ([HYPERLINK "https://mdewwp.page.link/MDFlocs"]).
v. If you wish to use a chemical additive which is not found on the approved list, you must request approval by following the Department's Procedures for Review of Chemical Additives for Sediment Control. You may not begin use of any chemical additive absent from the pre-approved list until you receive written approval from the Department.
vi. You are required to identify all additives you will be using on your Notice of Intent (pursuant to Part II.A.1 of this permit). If you wish to change to or add another preapproved chemical, you shall provide notification to the Industrial and General Permits Division of the Department within 30 days of commencing the use of the new pre-approved additive.
vii. You must minimize exposure of stored chemicals to stormwater. Store all treatment chemicals in leakproof containers that are kept under storm-resistant cover and surrounded by secondary containment structures (e.g., spill berms, decks, spill containment pallets), or provide equivalent measures designed and maintained to minimize the potential discharge of treatment chemicals in stormwater or by any other means (e.g., storing chemicals in a covered area, having a spill kit available on site and ensuring personnel are available to respond expeditiously in the event of a leak or spill).
viii. You must comply with relevant local requirements affecting the use of chemical additives. If requested by the E&SC plan approval authority, provide an SDS with your E&SC plan.
ix. You must use chemical additives and chemical treatment systems in accordance with good engineering practices, and with dosing specifications and sediment removal design specifications provided by the provider/supplier of the applicable chemicals.
x. You must document any departures from good engineering practices or dosing specifications and sediment removal design specifications provided by the provider/supplier of the applicable chemicals..
xi. Selection of additives and dosing rates should be determined based on site-specific test results. Documentation of the chemical selection process and dosing rate determination shall be included in your SWPPP. Dosing rates cannot exceed those found on the Department's list of pre-approved additives.
xii. Ensure that all persons who handle and use chemical additives at the site are provided with appropriate, product-specific training. At a minimum, this training must cover proper dosing requirements and safe handling practices.
xiii. You must notify and receive written approval from the Department's Industrial and General Permits Division at least 30 days prior to using cationic chemical additives (as defined in Appendix A).

xiv. To receive authorization to use cationic chemical additives under this permit, you must identify in your SWPPP appropriate controls and implementation procedures (including where the chemical is applied, description of active treatment systems required, dosing, filtering, pH monitoring, etc.) designed to ensure that your use of cationic chemical additives will not lead to a violation of water quality standards. See the Standards for Use of Chemical Additives for Sediment Control document for additional instructions for completing your SWPPP and requesting use of cationic chemical additives.

xv. A copy of the SWPPP section regarding use of cationic chemical additives must be submitted along with the NOI and Request for Use of Cationic Chemical Additives form. You are required to comply with all such requirements if the Department has authorized you to use cationic chemical additives at your site.

xvi. Depending on the additive selected for use, you may be required to sample discharges and test for residuals or other components. Any such monitoring requirement will be laid out in your registration letter. Results of required monitoring shall be maintained with the SWPPP and made available if requested by Department personnel.

xvii. Authorization is conditioned on your compliance with additional requirements necessary to ensure that the use of such chemicals will not cause an exceedance of water quality standards. If you use polymers and/or other chemical treatments as part of your controls, you must identify the polymers and/or chemicals used and the purpose in your SWPPP.

n. The permittee shall consider State listed rare, threatened, and endangered species and/or their habitat in the design of the erosion and sediment control plan in accordance with the 2011 Standards and Specifications for Soil Erosion and Sediment Control, Section A-4. If rare, threatened, and endangered species and/or their habitat is identified, the permittee shall contact the appropriate approval authority to determine additional regulatory requirements.

o. Manage stockpiles or land clearing debris piles composed, in whole or in part, of sediment and/or soil:

i. Locate the piles outside of any natural buffers established under Part III.A.2.a and away from any stormwater conveyances, drain inlets, and areas where stormwater flow is concentrated;

ii. Install a sediment barrier along all downgradient perimeter areas;

iii. For piles that will be unused for 14 or more days, provide cover or appropriate temporary stabilization (consistent with Part III.A.2.f);

iv. You are prohibited from hosing down or sweeping soil or sediment accumulated on pavement or other impervious surfaces into any stormwater conveyance, storm drain inlet, or Waters of This State.

3. Pollution Prevention Requirements

You must implement pollution prevention controls in accordance with the following requirements to minimize the discharge of pollutants in stormwater and to prevent the discharge of pollutants from spilled or leaked materials from construction activities.

a. For equipment and vehicle fueling and maintenance:

i. Provide an effective means of eliminating the discharge of spilled or leaked chemicals, including fuels and oils, from these activities;

ii. If applicable, comply with the Spill Prevention Control and Countermeasures (SPCC) requirements in 40 CFR part 112 and Section 311 of the CWA;

iii. Ensure adequate supplies are available at all times to handle spills, leaks, and disposal of used liquids;

iv. Use drip pans and absorbents under or around leaky vehicles;

v. Dispose of or recycle oil and oily wastes in accordance with other federal, state, tribal, or local requirements;
vi. Clean up spills or contaminated surfaces immediately, using dry clean up measures (do not clean contaminated surfaces by hosing the area down); and
vii. Eliminate the source of the spill to prevent a discharge or a continuation of an ongoing discharge.

b. For equipment and vehicle washing:
   i. Provide an effective means of minimizing the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters; (Examples of effective means include locating activities away from waters of the U.S. and stormwater inlets or conveyances and directing wash waters to a sediment basin or sediment trap, using filtration devices, such as filter bags or sand filters, or using other similarly effective controls.)
   ii. Ensure there is no discharge of soaps, solvents, or detergents in equipment and vehicle wash water; and
   iii. For storage of soaps, detergents, or solvents, provide either
      - cover (e.g., plastic sheeting, temporary roofs) to minimize the exposure of these detergents to precipitation and to stormwater, or
      - a similarly effective means designed to minimize the discharge of pollutants from these areas.

c. For storage, handling, and disposal of building products, materials, and wastes:
   i. For building materials and building products (Examples of building materials and building products typically present at construction sites include asphalt sealants, copper flashing, roofing materials, adhesives, concrete admixtures, and gravel and mulch stockpiles), provide either
      - cover (e.g., plastic sheeting, temporary roofs) to minimize the exposure of these products to precipitation and to stormwater, or
      - a similarly effective means designed to minimize the discharge of pollutants from these areas.

   ii. For pesticides, herbicides, insecticides, fertilizers, and landscape materials: In storage areas, provide either
      - cover (e.g., plastic sheeting, temporary roofs) to minimize the exposure of these chemicals to precipitation and to stormwater, or
      - a similarly effective means designed to minimize the discharge of pollutants from these areas; and ii. Comply with all application and disposal requirements included on the registered pesticide, herbicide, insecticide, and fertilizer label (see also Part III.A.3.e).

   iii. For diesel fuel, oil, hydraulic fluids, other petroleum products, and other chemicals:
      - Store chemicals in water-tight containers, and provide either
         - cover (e.g., plastic sheeting, temporary roofs) to minimize the exposure of these containers to precipitation and to stormwater, or
         - a similarly effective means designed to minimize the discharge of pollutants from these areas (e.g., having a spill kit available on site and ensuring personnel are available to respond expeditiously in the event of a leak or spill), or provide secondary containment (e.g., spill berms, decks, spill containment pallets); and
      - Clean up spills immediately, using dry clean-up methods where possible, and dispose of used materials properly. You are prohibited from hosing the area down to clean surfaces or spills; and
      - Eliminate the source of the spill to prevent a discharge or a furtherance of an ongoing discharge.

iv. For hazardous or toxic wastes:
- Separate hazardous or toxic waste from construction and domestic waste;
- Store waste in sealed containers, which are constructed of suitable materials to prevent leakage and corrosion, and which are labeled in accordance with applicable Resource Conservation and Recovery Act (RCRA) requirements and all other applicable federal, state, tribal, or local requirements;
- Store all outside containers within appropriately-sized secondary containment (e.g., spill berms, decks, spill containment pallets) to prevent spills from being discharged, or provide a similarly effective means designed to prevent the discharge of pollutants from these areas (e.g., storing chemicals in a covered area, having a spill kit available on site);
- Dispose of hazardous or toxic waste in accordance with the manufacturer's recommended method of disposal and in compliance with federal, state, tribal, and local requirements;
- Clean up spills immediately, using dry clean-up methods, and dispose of used materials properly. You are prohibited from hosing the area down to clean surfaces or spills:
- Follow all other federal, state, tribal, and local requirements regarding hazardous or toxic waste; and
- Eliminate the source of the spill to prevent a discharge or a furtherance of an ongoing discharge.

v. For construction and domestic wastes:
- Provide waste containers (e.g., dumpster, trash receptacle) of sufficient size and number to contain construction and domestic wastes;
- Keep waste container lids closed when not in use and close lids at the end of the business day for those containers that are actively used throughout the day. For waste containers that do not have lids, provide either
  - cover (e.g., a tarp, plastic sheeting, temporary roof) to minimize exposure of wastes to precipitation, or
  - a similarly effective means designed to minimize the discharge of pollutants (e.g., secondary containment);
- On business days, clean up and dispose of waste in designated waste containers; and
- Clean up immediately if containers overflow.

vi. For sanitary waste, position portable toilets so that they are secure and will not be tipped or knocked over, and located away from Waters of this State and stormwater inlets or conveyances.

d. For washing applicators and containers used for stucco, paint, concrete, form release oils, curing compounds, or other materials:

i. Direct wash water into a leak-proof container or leak-proof and lined pit designed so that no overflows can occur due to inadequate sizing or precipitation;

ii. Handle washout or cleanout wastes as follows:
- Do not dump liquid wastes in storm sewers or Waters of this State.;
- Dispose of liquid wastes in accordance with applicable requirements in Part III.A.3.c; and
- Remove and dispose of hardened concrete waste consistent with your handling of other construction wastes in Part III.A.3.c; and

iii. Locate any washout or cleanout activities as far away as possible from Waters of This State and stormwater inlets or conveyances, and to the extent feasible, designate areas to be used for these activities and conduct such activities only in these areas.

e. For the application of fertilizers:

i. Apply at a rate and in amounts consistent with manufacturer's specifications, or document in the SWPPP departures from the manufacturer specifications where appropriate in accordance with Part III.F;
ii. Apply at the appropriate time of year for your location, and preferably timed to coincide as closely as possible to the period of maximum vegetation uptake and growth;
iii. Avoid applying before heavy rains that could cause excess nutrients to be discharged;
iv. Never apply to frozen ground;
v. Never apply to stormwater conveyance channels; and
vi. Follow all other federal, state, tribal, and local requirements regarding fertilizer application, including Agriculture Article § 8-803.4.

f. Releases in Excess of Reportable Quantities. In the event of a discharge of hazardous substances or oil from a construction site, such discharge shall be minimized and/or contained in accordance with the approved erosion and sediment control and stormwater management plans.

i. Where a release containing a hazardous substance or oil in an amount equal to or in excess of a reporting quantity established under either 40 CFR 110, 40 CFR 117, or 40 CFR 302, occurs during a 24 hour period:
- The permittee shall notify the National Response Center (NRC) as soon as he or she has knowledge of the discharge at 1-800-424-8802 or 202-267-2675 (in the Washington, DC metropolitan area), in accordance with the requirements of 40 CFR 110, 40 CFR 117, and 40 CFR 302;
- The permittee shall notify the Maryland Department of the Environment as soon as he or she has knowledge of the discharge. The contact numbers are 410-537-3510 between 8AM - 5PM or after hours at (866) 633-4686
- The permittee shall submit within 7 calendar days of knowledge of the release an application for individual permit coverage in accordance with the requirements of 40 CFR 122.26(c)(1)(ii), with a written description of the release, the circumstances leading to the release, the nature and date of the release, and steps taken to control and respond to the release. This application should be sent to the Maryland Department of the Environment, Water and Science Administration;
- The permittee shall, within 14 days of knowledge of the release, modify the existing erosion and sediment control and stormwater management plans to identify and provide for the implementation of steps to prevent and control the recurrence of such releases or similar releases in the future, and to respond to such releases. The permittee shall also provide notification to the Maryland Department of the Environment that the erosion and sediment control plan and stormwater management plan modifications have been completed and approved by the appropriate approval authority.

ii. Discharges of hazardous substances and oil resulting from on-site spills are not authorized by this permit.
iii. No condition of this general permit shall release the permittee from any responsibility or requirements under other environmental statutes or regulations.

4. Construction Dewatering Requirements

Comply with the following requirements to minimize the discharge of pollutants in ground water or accumulated stormwater that is removed from excavations, trenches, foundations, vaults, or other similar points of accumulation, in accordance with Part I.C.2. (Uncontaminated, clear (non-turbid) dewatering water can be discharged without being routed to a control.)

a. Treat dewatering discharges with controls to minimize discharges of pollutants;(Appropriate controls include sediment basins or sediment traps, sediment socks, dewatering tanks, tube

settlers, weir tanks, filtration systems (e.g., bag or sand filters), and passive treatment systems that are designed to remove sediment. Appropriate controls to use downstream of dewatering controls to minimize erosion include vegetated buffers, check dams, riprap, and grouted riprap at outlets.)

b. Do not discharge visible floating solids or foam;

c. Use an oil-water separator or suitable filtration device (such as a cartridge filter) that is designed to remove oil, grease, or other products if dewatering water is found to contain these materials;

d. To the extent feasible, use vegetated, upland areas of the site to infiltrate dewatering water before discharge. You are prohibited from using Waters of this State as part of the treatment area;

e. At all points where dewatering water is discharged, comply with the velocity dissipation requirements of Part III.A.2.l;

f. With backwash water, either haul it away for disposal or return it to the beginning of the treatment process; and

g. Replace and clean the filter media used in dewatering devices when the pressure differential equals or exceeds the manufacturer's specifications.

B. Water Quality-Based Limits.[tc \l2 "H.Notice of Termination.]

1. General Effluent Limitation to Meet Applicable Water Quality Standards

Discharges must be controlled as necessary to meet applicable water quality standards. In the absence of information demonstrating otherwise, the Department expects that compliance with the conditions in this permit will result in stormwater discharges being controlled as necessary to meet applicable water quality standards. If at any time you become aware, or the Department determines, that discharges are not being controlled as necessary to meet applicable water quality standards, you must take corrective action as required in Parts III.D.1 and III.D.2, and document the corrective actions as required in Part III.D.3.

The Department may insist that you install additional controls (to meet the narrative water quality-based effluent limit above) on a site-specific basis, or require you to obtain coverage under an individual permit, if information in your NOI or from other sources indicates that your discharges are not controlled as necessary to meet applicable water quality standards. This includes situations where additional controls are necessary to comply with a wasteload allocation in an EPA-established or approved TMDL (i.e. the Chesapeake Bay TMDL).

Commented [A25]: The permit should incorporate WQBELs to implement TMDLs, per 40 C.F.R. 122.44(d)(1)(vii)(B).

If during your coverage under a previous permit, you were required to install and maintain stormwater controls specifically to meet the assumptions and requirements of an EPA-approved or established TMDL (for any parameter) or to otherwise control your discharge to meet water quality standards, you must continue to implement such controls as part of your coverage under this permit.

Commented [A26]: Would ANY previous permit count, or does this mean the previous CGP?

2. Discharge Limitations for Sites Discharging to Sensitive Waters

For any portion of the site that discharges to a sediment or nutrient-impaired water or to a water that is identified by the Department, or EPA as Tier 2, or Tier 3 for antidegradation purposes, you must comply with the inspection frequency specified in III.C and you must comply with the stabilization deadline specified in Part III.A.2.f. In addition, on a case-by-case basis, the Department may notify operators of new sites or operators of existing sites with increased discharges that additional analyses, stormwater controls, or other measures are necessary to comply with the applicable antidegradation requirements, or notify you that an individual permit application is necessary.

3. Discharge Limitations for Sites Discharging to Impaired Waters

If you discharge to a water that is impaired for a parameter other than a sediment related parameter or nutrients, the Department will inform you if any additional controls are necessary for your

discharge to be controlled as necessary to meet water quality standards, including for it to be consistent with the assumptions of any available wasteload allocation in any applicable TMDL, or if coverage under an individual permit is necessary.

If you discharge to a water that is impaired for polychlorinated biphenyls (PCBs) and are engaging in demolition of any structure with at least 10,000 square feet of floor space built or renovated before January 1, 1980, you must:

a. Implement controls to minimize the exposure of PCB-containing building materials, including paint, caulk, and pre-1980 fluorescent lighting fixtures, to precipitation and to stormwater (Examples of controls to minimize exposure of PCBs to precipitation and stormwater include separating work areas from non-work areas and selecting appropriate personal protective equipment and tools, constructing a containment area so that all dust or debris generated by the work remains within the protected area, using tools that minimize dust and heat. . For additional information, refer to 20-CP Fact Sheet); and
b. Ensure that disposal of such materials is performed in compliance with applicable state, federal, and local laws.

C. Site Inspection, Monitoring and Records.

After the first earth disturbance occurs on the site, and thenceforth during the entire period of permit coverage whether the site is active or inactive, the permittee shall conduct inspections of the permitted area.

1. Person(s) Responsible for Inspecting Site

The person(s) inspecting the site may be a person on the permittee's staff or a third party hired or arranged to conduct inspections. The person conducting the inspection must hold a valid certificate of attendance from a training program for responsible personnel as required by Section 4-104(b) of the Environment Article, unless the erosion and sediment control plan approval authority has waived the requirement for a Certificate of Training in accordance with Section 4-104(c) of the Environment Article.

2. Frequency of Inspections

~~At a minimum~~ The permittee shall conduct inspections at one of the two following intervals, unless you are subject to the Part III.C.3 site inspection frequency for discharges to sensitive waters or qualify for a Part III.C.4 reduction in the inspection frequency:

a. Once each calendar week (Sunday to Saturday), and after a rainfall event resulting in runoff (either the same day the rainfall event concludes or the next day), or
b. Once every four (4) calendar days.

Commented [A27]: Is there a specific amount of measurable rainfall or event storm that this will be tied to?

3. Increase in Inspection Frequency for Sites Discharging to Sensitive Waters

For any portion of the site that discharges to a sediment or nutrient-impaired water or to a water that is identified by the Department as Tier 2, or Tier 3 for antidegradation purposes (see Part III.B.2), instead of the inspection frequency specified in Part III.C.2, you must conduct inspections in accordance with the following inspection frequencies: Once every four (4) calendar days and within 24 hours of the occurrence of a storm event of 0.25 inches or greater, or the occurrence of runoff from snowmelt sufficient to cause a discharge. To determine if a storm event of 0.25 inches or greater has occurred on your site, you must either keep a properly maintained rain gauge on your site, or obtain the storm event information from a weather station that is representative of your location. For any day of rainfall during normal business hours that measures 0.25 inches or greater, you must record the total rainfall measured for that day in accordance with Part III.C.7.f.

4. Reductions in Inspection Frequency

For areas meeting stabilization requirements of COMAR 26.17.01.07.B.6(f) and the erosion and sediment control plan, inspections may be reduced to once per month ~~if construction activity is suspended.~~ (If construction activity resumes in such a portion of the site at a later date, the

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inspection frequency immediately increases to that required in III.C.2; the permittee must document the beginning and ending dates of the period of stabilization in its inspection records).

5. **Areas That Must Be Inspected**
During your site inspection, you must ~~at a minimum~~ inspect the following areas of your site:
   a. All areas that have been cleared, graded, or excavated and that have not yet completed stabilization consistent with Part III.A.2.f;
   b. All stormwater controls (including pollution prevention controls) installed at the site to comply with this permit (This includes the requirement to inspect for sediment that has been tracked out from the site onto paved roads, sidewalks, or other paved areas consistent with Part III.A.2.h).;
   c. Material, waste, borrow, and equipment storage and maintenance areas that are covered by this permit;
   d. All areas where stormwater typically flows within the site, including drainageways designed to divert, convey, and/or treat stormwater;
   e. All points of discharge from the site; and
   f. All locations where stabilization measures have been implemented.

   You are not required to inspect areas that, at the time of the inspection, are considered unsafe to your inspection personnel.

6. **Requirements for Inspections**
During your site inspection, you must ~~at a minimum~~:
   a. 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;
   b. Check for the presence of conditions that could lead to spills, leaks, or other accumulations of pollutants on the site;
   c. Identify any locations where new or modified stormwater controls are necessary to meet the requirements of Parts III.A and/or III.B;
   d. Check for signs of visible erosion and sedimentation (i.e., sediment deposits) that have occurred and are attributable to your discharge at points of discharge and, if applicable, the banks of any waters of the U.S. flowing within or immediately adjacent to the site;
   e. Identify any incidents of noncompliance observed;
   f. If a discharge is occurring during your inspection:
      i. Identify all discharge points at the site; and ~~o~~Observe and document the visual quality of the discharge, and
      ii. 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.
   g. Based on the results of your inspection, complete any necessary maintenance under Part III.A.1.d and corrective action under Part III.D.

7. **Inspection Report**
You must complete an inspection report within 24 hours of completing any site inspection, and meet the applicable signature requirements. Example forms for the inspection ~~may~~ can be found on the Department's website. Each inspection report must include the following:
   a. the date and time of the inspection;
   b. the name(s) of the individual(s) who performed the inspection;
   c. Weather information (~~current~~ conditions during the inspection as well as time and amount of last recorded precipitation).
   d. A summary of your inspection findings, covering ~~at a minimum~~ the observations you made in accordance with Part III.C.6, including any necessary maintenance or corrective actions; (such as whether significant amounts of sediment were observed as described in Part III.C.6.d, Prevention of the Discharge of Significant Amounts of Sediment, above); an assessment of the condition of erosion and sediment controls and how any deficiencies were or are being addressed; and a description and date of any erosion and sediment control implementation and

maintenance performed, including identification of any controls that have not been installed as required;

e. a description of the site's present phase of construction;

f. If you are inspecting your site at the frequency specified in Part III.C.3 (discharges to Sensitive Waters), and you conducted an inspection because of rainfall measuring 0.25 inches or greater, you must include the applicable rain gauge or weather station readings that triggered the inspection; and

g. If you determined that it is unsafe to inspect a portion of your site, you must describe the reason you found it to be unsafe and specify the locations to which this condition applies.

8. Records On-site

a. After the first earth disturbance occurs on the site, and thenceforth during the entire period of permit coverage whether the site is active or inactive, the permittee shall post, at a safe, publicly accessible location in close proximity to the project site, a notice of permit coverage, including the project name as listed on the permit, the permittee, the words "General Permit for Stormwater Associated with Construction Activity", and the permit registration number.

b. During the entire period of permit coverage, the permittee shall maintain the following records, which shall be on-site and available when the site is active:

i. The NOI and records of all data used to complete the NOI;
ii. the approved erosion and sediment control plan;
iii. the approved stormwater management plan;
iv. a copy of this General Permit;
v. a copy of your SWPPP (if applicable)
vi. a copy of your Antidegradation Checklist (if applicable)
vii. a copy of the general permit registration document from the Department;
viii. a copy of transfer of authorization documents (if applicable);
ix. all inspection reports and enforcement actions issued to the permittee from any appropriate enforcement or approval authority, including MDE, the delegated enforcement authority, or the U.S. Environmental Protection Agency; and
x. Written reports of all inspections conducted by the permittee.

c. For a period of three (3) years from the date that general permit coverage for the site is terminated, the permittee shall maintain the records in Part III.C.8.b above and a copy of the Notice of Termination (after it is prepared).

d. When a permit is transferred, the original permittee must maintain the records in Part III.C.8.b above that document the permit activity up to the date of transfer. The original permittee must maintain those records for three (3) years from the date of transfer. Both the original permittee and the new permittee must maintain a copy of the Transfer of Authorization document.

e. The permittee shall ensure that samples and measurements taken for the purpose of monitoring are representative of the monitored activity. If the Department requires monitoring at a site covered by this permit, the permittee shall use monitoring procedures that are sufficiently sensitive to meet an imposed limit, in accordance with federal regulations at 40 CFR 122.44(i)(1)(iv). Records of monitoring information must include:

i. the date, exact place, and time of sampling or measurements;
ii. the individual(s) who performed the sampling or measurements;
iii. the date(s) analyses were performed;
iv. the individual(s) who performed the analyses;
v. the analytical techniques or methods used;
vi. the results of such analyses; and
vii. all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation.

f. Reporting Requirements. The permittee shall submit, upon request by MDE, the information maintained in accordance with Part III.C.8 to:

The Maryland Department of the Environment
Water and Science Administration
Compliance Program
1800 Washington Blvd, Ste 420
Baltimore, Maryland 21230-1708

D. Corrective Actions

1. Conditions Triggering Corrective Action.

You must take corrective action to address any of the following conditions identified at your site:

a. A stormwater control needs repair or replacement (beyond routine maintenance required under Part III.A.1.d); or
b. A stormwater control necessary to comply with the requirements of this permit was never installed, or was installed incorrectly; or
c. Your discharges are causing an exceedance of applicable water quality standards; or
d. A prohibited discharge has occurred (see Part I.D), or
e. There are indications of significant amounts of sediment discharging such as:
   i. Earth slides or mud flows;
   ii. Concentrated flows of stormwater such as rills, rivulets or channels that cause erosion when such flows are not filtered, settled or otherwise treated to remove sediment;
   iii. Turbid flows of stormwater that are not filtered, settled or otherwise treated to reduce turbidity;
   iv. Deposits of sediment at the construction site in areas that drain to unprotected stormwater inlets or catch basins that discharge directly to surface waters;
   v. Deposits of sediment from the construction site on public or private streets outside of the permitted construction activity;
   vi. Deposits of sediment from the construction site on any adjacent property outside of the permitted construction activity; or
   vii. Discharges from the construction site to municipal conveyances, curbs and gutters, or streams running through or along the site where visual observations show that the discharges differ from ambient conditions in terms of turbidity so as to indicate significant amounts of sediment present in them.

2. Corrective Action Deadlines

If the permittee observes any of the triggering events described in Section III.D.1 above, or if any person informs the enforcement authority or MDE of a triggering event and the enforcement authority or MDE informs the permittee that one or more of the triggering events was verified, the permittee must undertake the following actions and record the dates and results of these actions in an onsite logbook.

a. Within one day the permittee shall inspect erosion and sediment control practices to verify compliance with its approved Plans. Any deficiencies, including, but not limited to, failure to follow the approved sequence of construction, failure to maintain approved buffers, grading beyond the limit of disturbance, or any approved sediment and erosion controls found to be missing, improperly installed or in need of maintenance must be corrected immediately and may be considered to be a violation of this permit until such time that they are corrected.
b. If the site is found to be in compliance with its approved Plans, the permittee shall, by the next business day, contact the Compliance Program of the Water and Science Administration in MDE, the enforcement authority for the site (if it is not MDE), and the appropriate approval authority for Erosion and Sediment Control and inform the authorities about the conditions observed during the inspection cited above. In addition to any requirements imposed by the delegated enforcement authority or MDE, the permittee shall, after notifying

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the enforcement authority, implement any of the following that are determined to be appropriate towards the prevention of further triggering events:

i. Any change that may be approved in the field by the inspector for the enforcement authority for the site;
ii. Modifications to the Plans allowed as field modifications by the approval authority;
iii. Performing temporary or permanent seeding of disturbed areas more frequently than required by the approved Plan or regulation; or
iv. Increasing buffer distances.

The permittee shall implement any changes needed based on the above review within four days after the triggering event is observed.

If additional triggering events are observed, the permittee shall, through its site engineer, determine if the Erosion and Sediment Control Plan and Stormwater Management Plan are adequate, if an update to a SWPPP is required or whether additional on-site practices or plan modifications are required. Within three days of the ~~second~~ observation of a second triggering event, the permittee shall contact the Compliance Program of the Water and Science Administration in MDE, the enforcement authority for the site (if it is not MDE), and the approval authority for the Plans and advise them that:

a. The permittee observed a triggering event;
b. The event happened despite the fact that erosion and sediment controls were properly installed and maintained; and
c. The permittee is reviewing plans and will afford the approval authority the opportunity to concurrently review them.

The permittee's review of plans shall begin within three days of the triggering event. The permittee must submit revised plans to the approval authority no later than 14 days after the ~~second~~ observation of a second triggering event. The permittee must obtain approval of the revised Plans from the approval authority and begin implementation of the changes immediately upon approval.

3. Corrective Action Report

For each corrective action taken in accordance with this Part, you must complete a report in accordance with the following:

a. Within 24 hours of identifying the corrective action condition, document the specific condition and the date and time it was identified.
b. Within 24 hours of completing the corrective action (in accordance with the deadlines in Part III.D.2), document the actions taken to address the condition, including whether any SWPPP modifications are required.
c. Each corrective action report must be signed in accordance with Part II.A.7 of this permit.
d. You must keep a copy of all corrective action reports 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 Department.
e. You must retain all corrective action reports completed for this Part for at least three (3) years from the date that your permit coverage expires or is terminated.

E. Staff Training Requirements

Each operator, or group of multiple operators, must assemble a "stormwater team" to carry out compliance activities associated with the requirements in this permit. At least one of the team members must be a qualified person who holds a valid certificate of attendance at a training program in accordance with Environment Article § 4-104 ~~and~~ and must be on site as required by the approved Erosion and Sediment Control Plan.

1. Prior to the commencement of construction activities,

You must ensure that the following personnel on the stormwater team understand the requirements of this permit and their specific responsibilities with respect to those requirements:

a. Personnel who are responsible for the design, installation, maintenance, and/or repair of stormwater controls (including pollution prevention controls);
b. Personnel responsible for the application and storage of treatment chemicals (if applicable);
c. Personnel who are responsible for conducting inspections as required in Part III.C.1; and
d. Personnel who are responsible for taking corrective actions as required in Part III.D.

2. **Regarding subcontractors or outside service providers,**
You are responsible for ensuring that all activities on the site comply with the requirements of this permit. You are not required to provide or document formal training for subcontractors or other outside service providers, but you must ensure that such personnel understand any requirements of this permit that may be affected by the work they are subcontracted to perform.

3. **Specific training related to scope of jobs,**
~~At a minimum, m~~Members of the stormwater team must be trained to understand the following if related to the scope of their job duties (e.g., only personnel responsible for conducting inspections need to understand how to conduct inspections):
a. The permit deadlines associated with installation, maintenance, and removal of stormwater controls and with stabilization;
b. The location of all stormwater controls on the site required by this permit and how they are to be maintained;
c. The proper procedures to follow with respect to the permit's pollution prevention requirements; and
d. When and how to conduct inspections, record applicable findings, and take corrective actions.

4. **Easy access to documents,**
Each member of the stormwater team must have easy access to an electronic or paper copy of applicable portions of this permit, the most updated copy of your SWPPP, and other relevant documents or information that must be kept with the SWPPP.

F. Stormwater Pollution Prevention Plan (SWPPP)

1. GENERAL REQUIREMENTS

All operators associated with a construction site under this permit must develop a SWPPP consistent with the requirements in Part III.F prior to their submittal of the NOI, if they have any of the conditions at your site:
a. Use Chemical Additives for Sediment Control,
b. Have potential for any of the non-stormwater discharges prohibited above (whether the site is known to be contaminated by PCBs, PFAS, mercury, lead, or other metals, or any other source of toxic industrial pollution) or
c. Are sharing liability between and among operators on the same site.

Commented [A28]: Are there sites that these conditions would NOT apply to?

Commented [A29]: Where is this list? Above where? Is this referring to Part I.D? It should be referenced here for clarity

The SWPPP does not establish the effluent limits that apply to your site's discharges; these limits are established in this permit in Parts III.A and III.B.

You have the option of developing a group SWPPP where you are one of several operators at your site. For instance, if both the owner and the general contractor of the construction site are operators and thus are both required to obtain a permit, the owner may be the party undertaking SWPPP development, and the general contractor (or any other operator at the site) can choose to use this same SWPPP, as long as the SWPPP addresses the general contractor's (or other operator's) scope of construction work and functions to be performed under the SWPPP. Regardless of whether there is a group SWPPP or several individual SWPPPs, all operators ~~would bears~~ jointly and severally liable for compliance with the permit. Where there are multiple operators associated with the same site through a common plan of development or sale, operators may assign to themselves various permit-related functions under the SWPPP provided that each SWPPP, or a group SWPPP, documents which operator will perform each function under the SWPPP. However, dividing the functions to be performed under each SWPPP, or a single group SWPPP, does not relieve an individual operator from liability for complying with the permit

should another operator fail to implement any measures that are necessary for that individual operator to comply with the permit, e.g., the installation and maintenance of any shared controls. In addition, all operators must ensure, either directly or through coordination with other operators, that their activities do not cause a violation and/or render any other operators' controls and/or any shared controls ineffective. All operators who rely on a shared control to comply with the permit are jointly and severally liable for violations of the permit resulting from the failure to properly install, operate and/or maintain the shared control. The SWPPP must be kept up-to-date throughout coverage under this permit.

2. SWPPP CONTENTS

~~At a minimum,~~ The SWPPP must include the information specified in this Part and as specified in other parts of this permit.

a. All Site Operators. Include a list of all other operators who will be engaged in construction activities at the site, and the areas of the site over which each operator has control.

b. Stormwater Team. Identify the personnel (by name or position) that are part of the stormwater team, as well as their individual responsibilities, including which members are responsible for conducting inspections.

c. Nature of Construction Activities. (If plans change due to unforeseen circumstances or for other reasons, the requirement to describe the sequence and estimated dates of construction activities is not meant to "lock in" the operator to meeting these dates. When departures from initial projections are necessary, this should be documented in the SWPPP, the E&SC, or in associated records, as appropriate.) Include the following:

   i. A description of the nature of your construction activities, including the age or dates of past renovations for structures that are undergoing demolition;

   ii. The size of the property (in acres or length in miles if a linear construction site);

   iii. The total area expected to be disturbed by the construction activities (to the nearest quarter acre or nearest quarter mile if a linear construction site);

   iv. A description of any on-site and off-site construction support activity areas covered by this permit (see Part I.C.1.e);

   v. The maximum area expected to be disturbed at any one time, including on-site and off-site construction support activity areas;

   vi. A description and projected schedule for the following:

      - Commencement of construction activities in each portion of the site, including clearing and grubbing, mass grading, demolition activities, site preparation (i.e., excavating, cutting and filling), final grading, and creation of soil and vegetation stockpiles requiring stabilization;
      - Temporary or permanent cessation of construction activities in each portion of the site;
      - Temporary or final stabilization of exposed areas for each portion of the site; and
      - Removal of temporary stormwater controls and construction equipment or vehicles, and the cessation of construction-related pollutant-generating activities.

   vii. A list and description of all pollutant-generating activities on the site. For each pollutant-generating activity, include an inventory of pollutants or pollutant constituents (e.g., sediment, fertilizers, pesticides, paints, caulks, sealants, fluorescent light ballasts, contaminated substrates, solvents, fuels) associated with that activity, which could be discharged in stormwater from your construction site. You must take into account where potential spills and leaks could occur that contribute pollutants to stormwater discharges, and any known hazardous or toxic substances, such as PCBs and asbestos, that will be disturbed or removed during construction;

   viii. Business days and hours for the project;

   ix. If you are conducting construction activities in response to a public emergency (see Part I.F.1), a description of the cause of the public emergency (e.g., mud slides, earthquake, extreme flooding conditions, widespread disruption in essential public

Commented [A30]: Shouldn't this be included in the list of conditions that would require a SWPPP in F.1? If there are any pollutant generating activities on the site, a SWPPP would have to be prepared to address them.

services), information substantiating its occurrence (e.g., state disaster declaration or similar state or local declaration), and a description of the construction necessary to reestablish affected public services.

d. Site Map. Include a legible map, or series of maps, showing the following features of the site:
   i. Boundaries of the property;
   ii. Locations where construction activities will occur, including:
      - Locations where earth-disturbing activities will occur (note any phasing), including any demolition activities;
      - Approximate slopes before and after major grading activities (note any steep slopes (as defined in Appendix A));
      - Locations where sediment, soil, or other construction materials will be stockpiled;
      - Any water of the U.S. crossings;
      - Designated points where vehicles will exit onto paved roads;
      - Locations of structures and other impervious surfaces upon completion of construction; and
      - Locations of on-site and off-site construction support activity areas covered by this permit (see Part I.C.1.c).
   iii. Locations of all Waters of this State within and one mile downstream of the site's discharge point. Also identify if any are listed as impaired, or are identified as a Tier 2, or Tier 3 water;
   iv. Areas of federally listed critical habitat within the site and/or at discharge locations;
   v. Type and extent of pre-construction cover on the site (e.g., vegetative cover, forest, pasture, pavement, structures);
   vi. Drainage patterns of stormwater and authorized non-stormwater before and after major grading activities;
   vii. Stormwater and authorized non-stormwater discharge locations, including:
      - Locations where stormwater and/or authorized non-stormwater will be discharged to storm drain inlets; and
      - Locations where stormwater or authorized non-stormwater will be discharged directly to Waters of this State.
   viii. Locations of all potential pollutant-generating activities identified in Part III.F.2.c.vii;
   ix. Locations of stormwater controls, including natural buffer areas and any shared controls utilized to comply with this permit; and
   x. Locations where polymers, flocculants, or other treatment chemicals will be used and stored.

e. Non-Stormwater Discharges. Identify all authorized non-stormwater discharges in Part I.C.2 that will or may occur.

f. Description of Stormwater Controls.
   i. For each of the Part III.A.2 erosion and sediment control effluent limits, Part III.A.3 pollution prevention effluent limits, and Part III.A.4 construction dewatering effluent limits, as applicable to your site, you must include the following:
      - A description of the specific control(s) to be implemented to meet the effluent limit;
      - Any applicable stormwater control design specifications (including references to any manufacturer specifications and/or erosion and sediment control manuals/ordinances relied upon, and any departures from such specifications must reflect good engineering practice and must be explained in the SWPPP.);
      - Routine stormwater control maintenance specifications; and
      - The projected schedule for stormwater control installation/implementation.
   ii. You must also include any of the following additional information as applicable.
      - Natural buffers and/or equivalent sediment controls (see Part III.2.A). You must include the following:
         - The compliance alternative to be implemented;
         - If complying with alternative 2, the width of natural buffer retained;

Commented [A31]: References above were to state-listed, not federal. Recommend choosing one and being consistent.

- If complying with alternative 2 or 3, the erosion and sediment control(s) you will use to achieve an equivalent sediment reduction, and any information you relied upon to demonstrate the equivalency;
- If complying with alternative 3, a description of why it is infeasible for you to provide and maintain an undisturbed natural buffer of any size;
- For "linear construction sites" where it is infeasible to implement compliance alternative 1, 2, or 3, a rationale for this determination, and a description of any buffer width retained and/or supplemental erosion and sediment controls installed; and
- A description of any disturbances that have been exempted from these requirements by the approval authority that occur within 50 feet of a water of the U.S.

- Perimeter controls for a "linear construction site" (see Part III.A.2.e). For areas where perimeter controls are not feasible, include documentation to support this determination and a description of the other practices that will be implemented to minimize discharges of pollutants in stormwater associated with construction activities. Note: Routine maintenance specifications for perimeter controls documented in the SWPPP must include the Part III.A.2.e.i requirement that sediment be removed before it has accumulated to one-half of the above-ground height of any perimeter control.
- Sediment track-out controls (see Parts III.A.2.h.ii and III.A.2.h.iii). Document the specific stabilization techniques and/or controls that will be implemented to remove sediment prior to vehicle exit.
- Treatment chemicals (see Part III.A.2.m), you must include the following:
  - A listing of the soil types that are expected to be exposed during construction in areas of the project that will drain to chemical treatment systems. Also include a listing of soil types expected to be found in fill material to be used in these same areas, to the extent you have this information prior to construction;
  - A listing of all treatment chemicals to be used at the site and why the selection of these chemicals is suited to the soil characteristics of your site;
  - If the Department authorized you to use cationic chemical additives for sediment control, include the specific controls and implementation procedures designed to ensure that your use of cationic chemical additives will not lead to an exceedance of water quality standards;
  - The dosage of all treatment chemicals to be used at the site ~~and~~ the methodology to be used to determine dosage;
  - Information from any applicable Safety Data Sheet (SDS);
  - Schematic drawings of any chemically enhanced stormwater controls or chemical treatment systems to be used for application of the treatment chemicals;
  - A description of how chemicals will be stored consistent with Part III.A.2.m.vi;
  - References to applicable state or local requirements affecting the use of treatment chemicals, and copies of applicable manufacturer's specifications regarding the use of your specific treatment chemicals and/or chemical treatment systems; and
  - A description of the training that personnel who handle and apply chemicals have received prior to permit coverage, or will receive prior to use of the treatment chemicals at your site.
- Stabilization measures (see Part III.A.2.f). You must include the following:
  - The specific vegetative and/or non-vegetative practices that will be used;
  - The stabilization deadline that will be met in accordance with Part III.A.2.f.i-ii;

- If complying with the deadlines for sites in arid, semi-arid, or drought-stricken areas, the beginning and ending dates of the seasonally dry period and the schedule you will follow for initiating and completing vegetative stabilization; and
- If complying with deadlines for sites affected by unforeseen circumstances that delay the initiation and/or completion of vegetative stabilization, document the circumstances and the schedule for initiating and completing stabilization.

Commented [A32]: Is this applicable in MD?

- Spill prevention and response procedures (see Part I.D.5 and Part III.A.3.c.iv). You must include the following:
  - Procedures for expeditiously stopping, containing, and cleaning up spills, leaks, and other releases. Identify the name or position of the employee(s) responsible for detection and response of spills or leaks; and
  - Procedures for notification of appropriate facility personnel, emergency response agencies, and regulatory agencies where a leak, spill, or other release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity consistent with Part 2.3.6 and established under either 40 CFR 110, 40 CFR 117, or 40 CFR 302, occurs during a 24-hour period. Contact information must be in locations that are readily accessible and available to all employees. You may also reference the existence of Spill Prevention Control and Countermeasure (SPCC) plans developed for the construction activity under Part 311 of the CWA, or spill control programs otherwise required by an NPDES permit for the construction activity, provided that you keep a copy of that other plan on site.

Commented [A33]: What is this a reference to?

- Waste management procedures (see Part III.A.3.c). Describe the procedures you will follow for handling, storing, and disposing of all wastes generated at your site consistent with all applicable federal, state, tribal, and local requirements, including clearing and demolition debris, sediment removed from the site, construction and domestic waste, hazardous or toxic waste, and sanitary waste.
- Application of fertilizers (see Part III.A.3.e). Document any departures from the manufacturer specifications where appropriate.

g. Procedures for Inspection, Maintenance, and Corrective Action. Describe the procedures you will follow for maintaining your stormwater controls, conducting site inspections, and, where necessary, taking corrective actions, in accordance with Part III.A.1.d, Part III.C, and Part III.D of this permit. Also include:
   i. The inspection schedule you will follow, which is based on whether your site is subject to Part III.C.2 or Part III.C.3, and/or whether your site qualifies for any of the reduced inspection frequencies in Part III.C.4;
   ii. If you will be conducting inspections in accordance with the inspection schedule in Part III.C.a, or Part III.C.3, the location of the rain gauge or the address of the weather station you will be using to obtain rainfall data; and
   iii. Any maintenance or inspection checklists or other forms that will be used.

h. Staff Training. Include documentation that the required personnel were, or will be, trained in accordance with Part III.E.

i. Compliance with Other Requirements.
   i. Threatened and Endangered Species Protection. Include documentation required in Part III.A.2.n supporting your eligibility with regard to the protection of threatened and endangered species and designated critical habitat.
   ii. Safe Drinking Water Act Underground Injection Control (UIC) Requirements for Certain Subsurface Stormwater Controls. If you are using any of the

Commented [A34]: State, federal, or both?

following stormwater controls at your site, document any contact you have had with the Department for implementing the requirements for underground injection wells in the Safe Drinking Water Act and EPA's implementing regulations at 40 CFR 144 -147. Such controls would generally be considered Class V UIC wells:

iii. Infiltration trenches (if stormwater is directed to any bored, drilled, driven shaft or dug hole that is deeper than its widest surface dimension, or has a subsurface fluid distribution system);

iv. Commercially manufactured pre-cast or pre-built proprietary subsurface detention vaults, chambers, or other devices designed to capture and infiltrate stormwater flow; and

v. Drywells, seepage pits, or improved sinkholes (if stormwater is directed to any bored, drilled, driven shaft or dug hole that is deeper than its widest surface dimension, or has a subsurface fluid distribution system).

j. SWPPP Certification. You must sign and date your SWPPP in accordance with Part I.F.5.

k. Post-Authorization Additions to the SWPPP. Once you are authorized for coverage under this permit, you must include the following documents as part of your SWPPP:

i. Any correspondence exchanged between you and the Department related to coverage under this permit;

ii. A copy of the acknowledgment letter you receive from the Department assigning your NPDES ID (i.e., permit tracking number);

iii. A copy of this permit (an electronic copy easily available to the stormwater team is also acceptable).

3. ON-SITE AVAILABILITY OF YOUR SWPPP

You must keep a current copy of your SWPPP 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 Department, EPA, the local agency approving stormwater management plans, or the operator of a storm sewer system receiving discharges from the site. The Department may provide access to portions of your SWPPP to a member of the public upon request. Confidential Business Information (CBI) will be withheld from the public, but may not be withheld from the Department. If an on-site location is unavailable to keep the SWPPP when no personnel are present, notice of the plan's location must be posted near the main entrance of your construction site.

4. SWPPP MODIFICATIONS

a. You must modify your SWPPP, including the site map(s), within seven (7) days of any of the following conditions:

i. Whenever new operators become active in construction activities on your site, or you make changes to your construction plans, stormwater controls, or other activities at your site that are no longer accurately reflected in your SWPPP. This includes changes made in response to corrective actions triggered under Part III.D. You do not need to modify your SWPPP if the estimated dates in Part III.F.2.vi change during the course of construction;

ii. To reflect areas on your site map where operational control has been transferred (and the date of transfer) since initiating permit coverage;

iii. If inspections or investigations by the Department or its authorized representatives determine that SWPPP modifications are necessary for compliance with this permit;

iv. Where the Department determines it is necessary to install and/or implement additional controls at your site in order to meet the requirements of this permit, the following must be included in your SWPPP:

- A copy of any correspondence describing such measures and requirements; and
- A description of the controls that will be used to meet such requirements.

v. To reflect any revisions to applicable federal, state, or local requirements that affect the stormwater controls implemented at the site; and

vi. If applicable, if a change in chemical treatment systems or chemically enhanced stormwater control is made, including use of a different treatment chemical, different dosage rate, or different area of application.

b. You must maintain records showing the dates of all SWPPP modifications. The records must include the name of the person authorizing each change (see Part III.F.2.j above) and a brief summary of all changes.

c. All modifications made to the SWPPP consistent with Part III.F.4 must be authorized by a person identified in I.F.5.

d. Upon determining that a modification to your SWPPP is required, if there are multiple operators covered under this permit, you must immediately notify any operators who may be impacted by the change to the SWPPP.

Part VI. STANDARD PERMIT CONDITIONS

Commented [A35]: Missing a section for "Duty to Reapply" See 40 CFR 122.21(d)

A. Compliance with this General Permit and Water Pollution Abatement Statutes

You must comply at all times with the terms and conditions of this permit, the provisions of the Environment Article, Title 7, Subtitle 2 and Title 9, Subtitles 2 and 3 of the Annotated Code of Maryland, and the Clean Water Act, 33 U.S.C. § 1251 et seq. Any noncompliance with any of the requirements of this permit constitutes a violation of the Clean Water Act. As detailed in Part IV (Corrective Actions) of this permit, failure to take any required corrective actions constitute an independent, additional violation of this permit and the Clean Water Act. As such, any actions and time periods specified for remedying noncompliance do not absolve parties of the initial underlying noncompliance. However, where corrective action is triggered by an event that does not itself constitute permit noncompliance, such as an exceedance of an applicable benchmark, there is no permit violation provided you take the required corrective action within the relevant deadlines established in Part III.D.

B. Property Rights.

The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

C. Water Construction and Obstruction

This permit does not authorize you to construct or place physical structures, facilities, or debris or undertake related activities in any Waters of this State.

D. Right of Entry

You must permit the Secretary of the Department, the Regional Administrator for the EPA, or their authorized representatives, upon the presentation of credentials, to:

1. enter upon your premises where a discharges' source is located or where any records are required to be kept under the terms and conditions of this permit;
2. access and copy, at reasonable times, any records required to be kept under the terms and conditions of this permit;
3. inspect, at reasonable times, any monitoring equipment or monitoring method required in this permit;
4. inspect, at reasonable times, any collection, treatment, pollution management, or discharge facilities required under this permit;
5. sample, at reasonable times, any discharge of pollutants; and
6. take photographs (which may require direction for reasons of national security).

E. Duty to Provide Information.

You must provide within a reasonable time, any information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit to the Department. You must also provide copies of records required to be kept by this permit to the Department, upon request.

Commented [A36]: This should be more specific. Within x days, etc. Some type of timeframe attached to it. What does MDE consider a reasonable time?

F. Availability of Reports

Except for data determined to be confidential under the Maryland Public Information Act and/or Section 308 of the Clean Water Act, 33 U.S.C. § 1318, all submitted data, plans or reports prepared pursuant to this permit, including self-inspection information, must be available for public inspection at the offices of the Department and the Regional Administrator of the Environmental Protection Agency.

G. Submitting Additional or Corrected Information

When you become aware that you failed to submit any relevant facts or submitted incorrect information in the NOI or in any other approved plans or report to the Department, you must submit the facts or information to the Department within 30 days.

H. Removed Substances

Wastes such as solids, sludges, or other pollutants removed from or resulting from treatment or control of wastewaters or facility operations, must be disposed of in a manner to prevent any wastes or runoff from wastes from contacting Waters of this State.

I. Toxic Pollutants

You must comply with effluent standards or prohibitions for toxic pollutants established under the Federal Clean Water Act, or under Section 9-314 and Sections 9-322 to 9-328 of the Environment Article, Annotated Code of Maryland. You must be in compliance within the time provided in the regulations that establish these standards or prohibitions, even if this permit has not yet been modified to incorporate the requirement.

J. Oil and Hazardous Substances Prohibited

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve you from any responsibility, liability, or penalties to which the permittee may be subject under Section 311 of the Clean Water Act (33. U.S.C. § 1321), or under the Annotated Code of Maryland.

K. Proper Operation and Maintenance.

The permittee shall at all times properly operate and maintain all systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance requires the installation and operation of backup, auxiliary, or similar systems or controls, by a permittee when necessary to achieve compliance with the conditions of the permit.

L. Bypass

Any bypass of treatment facilities necessary to maintain compliance with the terms and conditions of this permit is prohibited unless:

1. the bypass is unavoidable to prevent a loss of life, personal injury or substantial physical damage to property, damage to the treatment facilities which would cause them to become inoperable, or substantial and permanent loss of natural resources;
2. there are no feasible alternatives;
3. notification is received by the Department within 24 hours (if orally notified, then followed by a written submission within five calendar days of the permittee's becoming aware of the bypass). Where the need for a bypass is known (or should have been known) in advance, this notification shall be submitted to the Department for approval at least ten calendar days before the date of bypass or at the earliest possible date if the period of advance knowledge is less than ten calendar days; and
4. the bypass is allowed under conditions determined by the Department to be necessary to minimize adverse effects.

M. Upset

Conditions Necessary for Demonstration of an Upset An upset shall constitute an affirmative defense to an action brought for noncompliance with technology-based effluent limitations only if the permittee demonstrates, through properly signed, contemporaneous operating logs, or other relevant evidence, that:

1. an upset occurred and that the permittee can identify the specific cause(s) of the upset;
2. the permitted facility was at the time being operated in a prudent and workman-like manner and in compliance with proper operation and maintenance procedures;
3. the permittee submitted a 24-hour notification of upset in accordance with the reporting requirements of Corrective Actions above;
4. the permittee submitted, within five (5) calendar days of becoming aware of the upset, documentation to support and justify the upset; and
5. the permittee complied with any remedial measures required to minimize adverse impact.

N. Need to Halt or Reduce Activity Not a Defense.

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

O. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any adverse impact to waters of the State or to human health resulting from noncompliance with any effluent limitations specified in this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

P. Permit Actions.

Authorization under this permit may be modified, revoked and reissued, or terminated for cause. At any time at the discretion of MDE or the U.S. Environmental Protection Agency, or if there is evidence indicating that stormwater discharges authorized by this permit cause, have the reasonable potential to cause or contribute to an excursion above any applicable water quality standard, MDE may require the owner or operator of such discharge to obtain an individual permit or alternative general permit coverage. A request by the permittee for a modification, revocation or reissuance, termination, or a notification of planned changes or anticipated noncompliance does not suspend the permittee's obligation to comply with all permit conditions.

Q. Severability.

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.

R. Reopener Clause for Permits

This permit must be modified, or alternatively, revoked and reissued, in accordance with the procedures contained in COMAR 26.08.04.10 and 40 C.F.R. §§ 122.62, 122.63, 122.64 and 124.5, to comply with any applicable effluent standard or limitation issued or approved under Sections 301, 304, and 307 of the Clean Water Act [33 USCS §§ 1311, 1314, 1317] if the effluent standard or limitation issued or approved:

1. contains different conditions or is otherwise more stringent than any effluent limitation in this permit; or
2. controls any pollutant not limited in this permit. This permit, as modified or reissued under this section, must also contain any other requirements of the Act then applicable.

S. Civil and Criminal 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

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subject under section 309 of the CWA, with Title 9 of the Environment Article, Annotated Code of Maryland, any applicable State or Federal law, or regulation under authority preserved by section 510 of the CWA.

T. Action on Violations

The issuance or reissuance of this permit does not constitute a decision by the State not to proceed in an administrative, civil, or criminal action for any violations of State law or regulations occurring before the issuance or re-issuance of this permit, nor a waiver of the State's right to do so.

U. Civil Penalties for Violations of Permit Conditions.

In addition to civil penalties for violations of State water pollution control laws set forth in Section 9-342 of the Environment Article, Annotated Code of Maryland, the Clean Water Act and EPA regulations at 40 C.F.R. Part 19 provide that any person who violates Section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under Section 402 of the Act or in a permit issued under Section 404 of the Act, is subject to a civil penalty not to exceed $37,500 per day for each violation. Statutory penalties of the CWA are subject to the Civil Monetary Penalty Inflation Adjustment Rule (40 CFR 19.4).

V. Criminal Penalties for Violations of Permit Conditions.

In addition to the criminal penalties for violations of State water pollution control laws set forth in Section 9-343 of the Environment Article, Annotated Code of Maryland, the Clean Water Act provides that:

1. Any person who negligently violates Section 301, 302, 306, 307, 308, 311(b)(3), 318, or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under Section 402 of the Act, or in a permit issued under Section 404 of the Act, 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; In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to a fine of not more than $50,000 per day of violation or by imprisonment of not more than two years, or both;
2. Any person who knowingly violates Section 301, 302, 306, 307, 308, 311(b)(3), 318, or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under Section 402 of the Act, or in a permit issued under Section 404 of the Act, is subject to a fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than three years, or both; in the case of a second or subsequent conviction for a knowing violation, a person shall be subject to a fine of not more than $100,000 per day of violation, or imprisonment of not more than 6 years, or both;
3. Any person who knowingly violates Sections 301, 302, 306, 307, 308, 311(b)(3), 318, or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under Section 402 of the Act, or in a permit issued under Section 404 of the Act, and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury, is subject to a fine of not more than $250,000 or imprisonment for not more than 15 years, or both; in the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than $500,000 or by imprisonment of not more than 30 years, or both; an organization, as defined in Section 309(c)(3)(B)(iii) of the Act, shall, upon conviction of violating the imminent danger provision be subject to a fine of not more than $1,000,000 for a first violation and up to $2,000,000 for second or subsequent convictions;
4. Any person who: falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit, or knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance, shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this

paragraph, punishment is a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or both.

W. Administrative Penalties for Violations of Permit Conditions.

In addition to administrative penalties for violations of State water pollution control laws set forth in Section 9-342 of the Environment Article, Annotated Code of Maryland, the Clean Water Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to an administrative penalty, as follows:

1. Class I Penalty. Not to exceed the maximum amounts authorized by Section 309(g)(2)(A) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently $16,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed $37,500).
2. Class II Penalty. Not to exceed the maximum amounts authorized by Section 309(g)(2)(B) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently $16,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed $187,500).

Part V. AUTHORITY TO ISSUE GENERAL NPDES PERMITS

On September 5, 1974, the Administrator of the EPA approved the proposal submitted by the State of Maryland for the operation of a permit program for discharges into navigable waters under Section 402 of the federal Clean Water Act, 33 U.S.C. Section 1342. On May 15, 1989, EPA and Maryland entered into a superseding Memorandum of Agreement for such discharges. On September 30, 1990, the Administrator of the EPA approved the proposal submitted by the State of Maryland for the operation of a general permit program. Under the approvals described above, this general discharge permit is both a State of Maryland general discharge permit and an NPDES general discharge permit.

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D. Lee Currey, Director
Water and Science Administration

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