



WEST VIRGINIA
Department of Environmental Protection
Division of Water Resources

WEST VIRGINIA/NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
GENERAL WATER POLLUTION CONTROL PERMIT

Permit No. WV0115924

Issue Date: November 5, 2002

Effective Date: December 5, 2002

Expiration Date: December 4, 2007

Subject: Storm Water Associated
With Construction Activities

To whom it may concern:

This is to certify that any establishment with discharges composed entirely of storm water associated with construction activities disturbing one (1) acre or greater of land area (construction activities are earth disturbing operations such as clearing and grubbing, grading, filling and excavation operations during site development for residential, commercial or industrial purposes) and agreeing to be regulated under the terms of this general permit, except for;

1. Operations that result in the disturbance of less than one acre of total land area, which are not part of a larger common plan of development or sale.
2. Storm water discharges associated with earth disturbing activities that the Director has shown to be or may reasonably be expected to be contributing to a violation of a water quality standard.
3. Earth disturbing activities governed by other NPDES permits issued by the Department of Environmental Protection. This includes Division of Mining and Reclamation Permits for coal mining and non-metallic quarries.
4. Landfills, except in the preparation of a new landfill and/or clay borrow areas.
5. Other activities exempt from NPDES permitting requirements as set forth in 40 CFR 122.3 and 47 CSR 10.3.2.b.

is hereby granted coverage under this General WV/NPDES Water Pollution Control Permit to allow storm water discharges into the waters of the State. This General Permit is subject to the following terms and conditions:

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

Sites registered under the 1997 General Storm Water Permit WV0115100 will automatically be provided coverage under General Storm Water Permit WV0115924. Any newly proposed or expanded construction activity on those sites will require new registration under General Storm Water Permit WV0115924.

Sites disturbing 1 to less than 3 acres that were under construction prior to the effective date of this permit, will be required to apply for and receive permit coverage if not completed by March 1, 2003.

SECTION A. TERMS OF PERMIT

Discharges from sites covered under the General Permit will not cause a violation of 46CSR1 and 46CSR 12 of the West Virginia Legislative Rules pursuant to Chapter 22, Article 11 and Article 12.

SECTION B. SCHEDULE OF COMPLIANCE

Compliance with this General Permit and the approved Storm Water Pollution Prevention Plan is required upon the beginning of the construction project.

SECTION C. MANAGEMENT CONDITIONS

C.1 Duty to Comply

C.1.a. The permittee must comply with all conditions of this Permit. Permit noncompliance constitutes a violation of the federal Clean Water Act (CWA) and State Act (Chapter 22, Article 11 and Article 12) and is grounds for enforcement action; for permit modification, relocation and reissuance, suspension or revocation; or for denial of a permit renewal application.

C.1.b. The permittee shall comply with all effluent standards or prohibitions established under Section 307(a) of the CWA for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

C.2 Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for a new permit as detailed in permit re-issuance. The construction activities permitted by this General Permit have 365 days past the expiration of the permit to complete the activity. Sites not completely stabilized will be required to reapply.

C.3 Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit, which has a reasonable likelihood of adversely affecting human health or the environment.

C.4 Permit Actions

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

C.5 Property Rights

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

C.6 Signatory Requirements

All applications, reports, or information submitted to the Director shall be signed and certified as required in 47 CSR 10.4.6 of the West Virginia Legislative Rules. If an authorization becomes inaccurate because a different individual or position has responsibility for the overall operation of the project, a new authorization must be submitted to the Director prior to, or together with any reports, information, or applications to be signed by an authorized representative.

C.7 Transferability

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

C.8. Duty to Provide Information

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

C.9. Other Information

Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.

C.10. Inspections and Entry

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

C.10.a. Enter upon the permittee's premises in which an effluent source or activity is located, or where records must be kept under the conditions of this permit;

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

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

C.11. Permit Modification

This permit may be modified, suspended, or revoked in whole or in part during its term in accordance with the provisions of Chapter 22-11 and 47CSR10 of the Code of West Virginia. Any permittee wishing to modify their coverage under this permit shall submit such request at least 30 days prior to the commencement of the proposed action.

C.12. Water Quality

The effluent or effluents covered by this permit are to be of such quality so as to not cause violations of applicable water quality standards adopted by the State Environmental Quality Board.

C.13. Oil and Hazardous Substance Liability

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

C.14. Liabilities

C.14.a.

Any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318 or 405 of the Clean Water Act is subject to a civil penalty not to exceed \$25,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing section 301, 302, 306, 307, or 308 of the Clean Water 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 1 year, or both.

C.14.b.

Any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

C.14.c.

Nothing in C.14.a), and b) shall be construed to limit or prohibit any other authority the Director may have under the State Water Pollution Control Act, Chapter 22, Article 11 and State Groundwater Protection Act, Chapter 22, Article 12.

C.15 Outlet Markers

An outlet marker shall be posted during the term of General Permit coverage in accordance with Title 47, Series 11, Section 9 of the West Virginia Legislative Rules.

SECTION D. OPERATION AND MAINTENANCE

D.1. Proper Operation and Maintenance

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

D.2. Need to Halt or Reduce Activity Not a Defense

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

D.3. Bypass

D.3.a. Definitions

D.3.a.1.

“Bypass” means the intentional diversion of waste streams from any portion of a treatment facility; and

D.3.a.2.

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

D.3.b.

Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of D.3.c) and D.3.d) of this permit.

D.3.c. Notification of bypass

D.3.c.1.

If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten (10) days before the date of the bypass.

D.3.c.2

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

D.3.d. Prohibition of bypass

D.3.d.1.

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

D.3.d.1.A.

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

D.3.d.1.B

There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated sediment, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance. This condition is not satisfied if the sediment and erosion control structures were not installed in the proper sequence; and

D.3.d.1.C.

The permittee submitted notices as required under D.3.c) of this permit.

D.3.d.2.

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

D4 Upset

D.4.a. Definition “Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with the terms and conditions of the permit and the Storm Water Pollution Prevention Plan because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

D.4.b. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of D.4.c) are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

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

D.4.c.1.

An upset occurred and that the permittee can identify the cause(s) of the upset:

D.4.c.2.

The permitted project was at the time being properly operated.

D.4.c.3.

The permittee submitted notice of the upset as required in F.2.a) of this permit.

D.4.c.4

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

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

D.5. Removed Substances

Where removed substances are not otherwise covered by the terms and conditions of this permit or other existing permits by the Director, any solids, sludge, filter backwash or other pollutants (removed in the course of treatment or control of wastewater) and which are intended for disposal within the State, shall be

disposed of only in a manner and at a site subject to the approval by the Director. If such substances are intended for disposal outside the State or for reuse, i.e., as a material used for making another product, which in turn has another use, the permittee shall notify the Director in writing of the proposed disposal or use of such substances, the identity of the prospective disposer or users, and the intended place of disposal or use, as appropriate.

SECTION E. MONITORING AND REPORTING

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

E.1. Definitions

“As-built drawing” means a certified drawing of conditions as they were actually constructed.

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

“Clearing” means cutting and removing vegetation with chain saws, brush axes, brush hogs and other mechanical means where there is little or no soil disturbance.

“Common Plan of Development” is a contiguous construction project where multiple separate and distinct construction activities may be taking place at different times on different schedules but under one plan. The “plan” is broadly defined as any announcement or piece of documentation or physical demarcation indicating construction activities may occur on a specific plot; included in this definition are most subdivisions.

“Control” is a Best Management Practice such as erosion control or sediment control that used on a construction project will reduce sedimentation

“Construction Activity” means earth disturbance operations such as clearing and grubbing, grading, filling and excavation during site development for residential, commercial or industrial purposes. This includes but is not limited to access roads, off-site borrow and spoil areas and house lots in subdivisions.

“CWA” means Clean Water Act or the Federal Water Pollution Control Act.

“Director” means the Director of the Division of Water Resources, Department of Environmental Protection, or their designated representative.

“Disturbed area” is the total area of earth disturbing activity that will take place during all phases of a construction project, including but not limited to all waste and borrow sites, utility installation, road building, mass grading, and site development. For the purposes of the General Permit, subdivisions will consider a minimum of ¼ acre disturbance per lot, unless the lot is less than ¼ acre in size, in which the entire lot will be considered as disturbed area.

“Establishment” is an operation or facility as defined in West Virginia Code 22-11-3.

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

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

“Excavating” means large scale grading accomplished usually with heavy machinery.

“Final Stabilization” means disturbed areas shall be covered by some sort of permanent protection. “Final Stabilization” includes; pavement, buildings, stable waterways (rip-rap, concrete, grass or pipe), a healthy, vigorous stand of perennial grass that uniformly covers at least 70 percent of the ground, stable outlet channels with velocity dissipation which directs site runoff to a natural watercourse, and any other approved structure or material.

“Grading” means changing surface contours by removing soil and stone from one place and building it up in another.

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

“Groundwater Protection Plan” means groundwater protection practices developed and implemented in accordance with WV Legislative Rules, 47CSR58.

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

“Impervious surface” means a surface composed of any material that significantly impedes or prevents natural infiltration of water into soil. Impervious surfaces include, but are not limited to, roofs, building, streets, parking areas, and any concrete, asphalt, or compacted gravel surface.

“Intermittent stream” means a stream which has no flow during sustained periods of no precipitation and which do not support aquatic life whose life history requires residence in flowing waters for a continuous period of at least six (6) months.

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

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

“Notice of Intent” is the form to be submitted by the applicant to register a small construction project (one that disturbs 1 to less than 3 acres) under the Construction Storm Water General Permit. (NOI)

“Notice of Termination” is the form to be submitted by the applicant to terminate coverage under the Construction General Storm Water Permit, after final stabilization has been completed. See Final Stabilization. (NOT)

“Pre-development” means the condition of the land, the amount and health of the ground cover and vegetation, prior to development. A “good” condition should be assumed for the pre-development condition.

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

Conveyances of pollution formed both as a result of natural erosion or by material means, and which constitutes a component of a drainage system, may fit the statutory definition and thereby subject the operators to liability under the Act.

“Post-development” means the anticipated final conditions of the project, including rooftops, parking lots, streets, drainage systems, vegetation, and any other structure planned. For subdivisions and speculative developments, it will be assumed that all lots are developed.

“Runoff coefficient” means the fraction of total rainfall that is not infiltrated into the ground that will appear at the point of discharge as runoff.

“Run off curve number” is the numeric value reflecting the runoff coefficient and is based on soils, slopes, and type and health of the ground cover.

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

“Site Registration Application Forms” means the forms designed by the Director for the purpose of registering for coverage under a general permit. Under the General Permit WV0115924 there will be two separate forms, one for 1 to less than 3 acres (Notice of Intent) and the Site Registration Application Form for projects that disturb 3 acres and greater.

“Storm Water” means storm water runoff, snowmelt runoff, and surface runoff and drainage.

“Storm Water Management Facilities” means structures such as ponds, basins, outlets, ditches, velocity dissipaters, infiltration trenches and basins, extended detention basins and ponds, and any other structure used to control the quality and quantity of storm water from a development project.

“Storm Water Pollution Prevention Plan” means the Erosion and Sediment Control Plan submitted as part of the Site Registration Application Form.

“Tier 2.5 Waters” means Waters of Special Concern as identified in 46 CSR 1-4F.1.

“Tier 3 Waters” means waters as otherwise identified in 46CSR 1-4G.1.

“1-year, 24-hour precipitation event” means the maximum 24-hour precipitation event with a probable recurrence interval of once in 1 year. This information is available from the National Climatic Center of the Environmental Data Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, or the Natural Resources Conservation Service’s Erosion Control Handbook for Developing Areas.

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

SECTION F. OTHER REPORTING

F.1. Reporting Spill and Accidental Discharges

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to Series 11, Section 2, of the West Virginia Legislative Rules promulgated pursuant to Chapter 22, Article 11.

F.2. Immediate Reporting

F.2.a. The permittee shall report any noncompliance which may endanger health, property or the environment immediately after becoming aware of the circumstances by using the Department’s designated spill alert telephone number (1-800-642-3074). A written submission shall be provided within five (5) days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and time, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

SECTION G. OTHER REQUIREMENTS

G.1. Requiring an individual permit or an alternative general permit.

G.1.a. The Director may require any person authorized by this permit to apply for and obtain either an individual NPDES permit or an alternative NPDES general permit. Any interested person may petition the Director to take action under this paragraph. The Director may require any owner or operator authorized to discharge under this permit to apply for an individual NPDES permit only if the owner or operator has been notified in writing that a permit application is required. This notice shall include a brief statement of the reasons for this decision, an application form, a statement setting a deadline for the owner or operator to file the application, and a statement that on the effective date of the individual NPDES permit or the alternative general permit as it applies to the individual permittee, coverage under this general permit shall automatically terminate. The Director may grant additional time to submit the application upon request of the applicant. If an owner or operator fails to submit in a timely manner an individual NPDES permit application required by the Director under this paragraph, then the applicability of this permit to the individual NPDES permittee is automatically terminated at the end of the day specified for application submittal.

G.1.b. Storm water discharges associated with construction activities for operations regulated pursuant to West Virginia Code Chapter 22, Article 6 (Oil and Gas Operations) are covered by this General Permit. However, the permittee shall comply with the provisions of the site Construction and Reclamation Plan (Chapter 35-4-16) in lieu of the provisions of Section G.4 of this General Permit. Separate application to the Division of Water

Resources for coverage under this General Permit is not required. Other provisions of this General Permit are applicable to these operations and failure to comply with the approved Construction and Reclamation Plan shall constitute a failure to comply with Section G.4 of this General Permit.

G2. Prohibition of non-storm water discharges

Except as provided below, all discharges covered by this permit shall be composed entirely of storm water. Discharges of material other than storm water must be in compliance with an NPDES permit (other than this permit) issued for the discharge.

The following non-storm water discharges are authorized by this permit: discharges from fire fighting activities, fire hydrant flushing; waters used to wash vehicles or control dust; potable water sources, including waterline flushing; lawn watering; routine external building washdown which does not use detergents; pavement washwater where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used; air conditioning condensate; springs; uncontaminated groundwater; and foundation or footing drains where flows are not contaminated with process materials such as solvents that are combined with storm water discharges associated with industrial activity.

This permit does not authorize the conveyance, diversion, channeling, directing or otherwise allowing the discharge of storm water into a sinkhole without an Underground Injection Control Permit.”

G3. Releases in excess of Reportable Quantities

This permit does not relieve the permittee of the reporting requirements of 40 CFR 117 and 40 CRF 302. The discharge of hazardous substances in the storm water discharge(s) from a project is not authorized by this General Permit, and in no case shall the discharge(s) contain a hazardous substance equal to or in excess of reporting quantities.

G4. Storm Water Pollution Prevention Plans (SWPPP)/Groundwater Protection Plans (GPP)

A Storm Water Pollution Plan and a Groundwater Protection Plan shall be developed for each project covered by this permit. These two plans may be combined into one plan so long as all of the requirements for both plans are met. Alternatively, they may be developed and maintained as separate stand-alone documents.

Storm Water Pollution Prevention Plans shall be prepared in accordance with good engineering practices. The plan shall identify potential sources of pollution that may reasonably be expected to affect the quality of storm water discharges associated with construction activity. In addition, the plan shall describe and ensure the implementation of practices that are to be used to reduce the pollutants in storm water discharges associated with construction activity and to assure compliance with the terms and conditions of this permit.

Groundwater Protection Plans (GPP) shall be prepared in accordance with Section G.4.e.2.c.iv. of this permit and the requirements of Title 47, Series 58, Section 4.11. et seq (Groundwater Protection Regulations). The GPP shall identify all operations that may reasonably be expected to contaminate the groundwater resources with an indication of the potential for soil and groundwater contamination from those operations. In addition the GPP shall provide a thorough and detailed description of procedures designed to protect groundwater from the identified potential contamination sources. Guidance in the completion of a GPP is available from the Division of Water Resources. A generic GPP will be provided as part of the instructions.

G4.a. The SWPPP and the GPP shall be signed in accordance with Section C.6. and retained on site.

G4.b. The application and SWPPP shall be submitted to the Division of Water Resources at least 45 days before construction is to begin, except as noted in G.4.b.3., G.4.b.4, and G.4.b.5. Developers should submit applications for review prior to accepting bids on the project. As the plans are evaluated by the Director or authorized representative, the Director or authorized representative may notify the permittee during the 45-day review period that the plan(s) do not meet one or more of the minimum requirements of this section. After such notification from the Director or authorized representative, the permittee shall make changes to the plan in accordance with the time frames established below, and shall submit to the Director, a written certification that the requested changes have been made.

- G4.b.1. Except as provided below in paragraph (2), the permittee shall have 30 days after such notification to make the changes necessary.
- G4.b.2. The permittee of a storm water discharge associated with industrial activity composed in part or in whole of runoff from construction activities shall have 24 hours after such notification to make changes relating to sediment and erosion controls to prevent loss of sediment from an active site, unless additional time is provided by the Director or an authorized representative.
- G4.b.3. Projects disturbing less than 3 acres and that do not discharge to or upstream of a Tier 2.5 or Tier 3 waters shall submit only the Notice of Intent Form (NOI) 10 days prior to initiating construction.
- G4.b.4. Projects that will discharge to or upstream of Tier 2.5 or Tier 3 waters and disturb 3 acres or more, or that will disturb 100 or more acres, or that the grading phase of construction will last for more than one year, shall submit the application and SWPPP at least 90 days prior to construction to allow for the public notice procedure.
- G4.b.5. Projects proposing permanent storm water basins or ponds shall submit the GPP with the application.
- G4.c. The permittee shall modify, using forms provided by DWR, the SWPPP whenever there is a change in design, construction, scope of operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to the waters of the State, or if the SWPPP proves to be ineffective in achieving the general objectives of controlling pollutants in storm water discharges associated with construction activity. Should conditions warrant, the Director may request changes to the SWPPP during a field inspection. The Director may review changes or modifications to the SWPPP in the same manner as above.

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

- G4.d. In addition to the requirements of G4.e, the SWPPP shall also include, at a minimum, the following items:

- G4.d.1 General Management Controls

- G4.d.1.A Preventive Maintenance – A preventive maintenance program shall involve inspection and maintenance of sediment and erosion control devices and storm water management structures to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters.

- G4.d.1.B Good Housekeeping – Good housekeeping requires the maintenance of a clean and orderly project.

- G4.d.1.C Spill Prevention and Response Procedures – Areas where potential spills can occur, and their accompanying drainage points shall be identified clearly in the storm water pollution prevention plan. Where appropriate, specifying material handling procedures and storage requirements in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean up should be available to personnel.

- G4.d.1.D. Employee Training – Employees training programs shall inform personnel at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping and routine inspection. A pollution prevention plan shall identify time frames for such training.

- G4.d.1.E. Visual Inspection – Qualified company personnel shall be identified to inspect as set forth under Maintenance G4.e)(2)(E). A tracking or follow-up procedure should be used to ensure that adequate response and corrective actions have been taken in response to the inspection. Records of inspections shall be maintained for review by the Director.

- G4.d.1.F. Record keeping and Internal Reporting Procedures – Incidents such as spills, leaks and improper dumping, along with other information describing the quality and quantity of storm water discharges should be included in the records. Inspections and maintenance activities such as cleaning sediment basins or traps and other sediment trapping structures or catch basins and reseeding should be documented and recorded.

- G4.d.2. Consistency with other plans-Spill Prevention Control and Countermeasure (SPCC) plans under Section 311 of the CWA or any BMP's or GPP pursuant to 47 CSR 58 may be incorporated into a storm water prevention plan by reference.
- G4.e. Requirements for Construction Activities – Operations that discharge storm water associated with construction activity disturbing one or more acres are not only subject to the requirements of Section G.4.d) of this permit, but are also subject to the following requirements. The storm water pollution prevention plans shall include, as a minimum, the following items.
- G4.e.1. Site Description – Each plan shall, at a minimum, provide a description of the following:
- G4.e.1.A A description of the nature of the construction activity, including a proposed timetable for major activities;
- G4.e.1.B. Estimates of the total area of the site and the part of the site that is expected to undergo excavation or grading, the increase in impervious area by acreage and percentage, and the total amount of excavation by cut and fill;
- G4.e.1.C. For each discharge design point an estimate of the pre-construction peak discharge from 1 year, 24 hour storm in cubic feet per second and an estimate of the post-development peak discharge from a 1 year, 24 hour storm in cubic feet per second using the Natural Resource Conservation Service's TR-55 or TR-20 or other approved methodology. Provide a description of the nature of fill material to be used, and data describing the soil from the Natural Resource Conservation Service's county soil survey and any known water quality data of any discharge from the site.
- G4.e.1.D. A site map indicating, with a minimum of 5 foot contours, drainage patterns and slopes prior to construction and anticipated conditions after grading activities, topsoil stockpiles, waste areas, borrow sites, locations of sediment control structures identified in the narrative, the location of impervious areas after construction is completed, final storm water routing including all ditches and pipe systems, property boundaries and easements, nearest receiving stream, access roads, legend and springs, surface waters and any other information necessary to describe the project in detail.
- G4.e.2. Controls – Each construction operation covered by this permit shall develop a description of controls appropriate for the project, and implement such controls. The description of these controls shall address the following minimum components, including a schedule for implementing such controls.
- G4.e.2.A. Erosion and Sediment Controls
- G4.e.2.A.i. Vegetative Practices – A description of interim and permanent stabilization practices, including site-specific scheduling of the implementation of the practices shall be provided. Site plans should ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized as rapidly as possible. Stabilization practices may include: temporary seeding, permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees, preservation of mature vegetation, and other appropriate measures. Also include in the plan seedbed preparation requirements and the type and amount of soil amendments necessary to establish a healthy stand of vegetation. A record of the dates when major grading activities will occur, and when construction activities temporarily or permanently cease on a portion of the site, and when stabilization measures will be initiated shall be included in the plan. Except as noted below, stabilization measures shall be initiated as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than 7 days after the construction activity in that portion of the site has temporarily or permanently ceased.
- G4.e.2.A.i.a. Where the initiation of stabilization measures by the 7th day after construction activity temporary or permanently ceases is precluded by snow cover, stabilization measures shall be initiated as soon as conditions allow.
- G4.e.2.A.i.b. Where construction activity will resume on a portion of the site within 21 days from when activities ceased, (e.g., The total time period that construction activity is temporarily halted is less than 21 days) then stabilization measures do not have to be initiated on that portion of the site by the 7th day after construction activities have temporarily ceased.

G.4.e.2.A.i.c. Temporary diversions, both upslope and diversions to trapping structures, must be seeded and stabilized immediately and prior to becoming functional.

G.4.e.2.A.ii Structural Practices – A description of the structural practices to be used to divert flows around exposed soils, store flows or otherwise limit runoff from exposed areas and eliminate sediment laden runoff from the site. Such practices may include but are not limited to silt fences, earth dikes and berms, land grading, diversions, brush barriers, drainage swales, check dams subsurface drains, pipe slope drains, storm drain inlet protection, rock outlet protection, reinforced soil retention systems and geotextiles, gabions and rip-rap, and permanent and temporary sediment traps/basins.

For locations on a site that have a drainage area of 5 acres or less, a sediment trap which provides a storage volume equal to 3600 cubic feet per acre of drainage area shall be installed. Half of the volume of the trap will be in a permanent pool and half will be dry storage.

For drainage areas of greater than five acres, a sediment basin providing 3600 cubic feet per drainage acre shall be installed. Half of the volume of the basin will be in a permanent pool and half will be dry storage. Sediment basins must be able to dewater the wet storage volume in 48 to 72 hours. A sediment basin must be able to pass through the spillway(s) a twenty-five-year, 24-hour storm event with one foot of freeboard. The inlet(s) to a sediment trapping structure must be protected against erosion by the appropriate material such a riprap.

If necessary, diversions will be used to direct runoff to the trapping structure. Diversions must be stabilized immediately and prior to becoming functional.

For locations served by a common drainage where a detention basin providing 3600 cubic feet of storage is not attainable, silt fences, rock check dams, sediment traps in series or equivalent or additional sediment and erosion controls within the project area are required in lieu of the required sized sediment basin. Justification and a narrative description of the additional measures must be provided for use of any practice(s) other than sediment basins or traps.

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

Sediment trapping structures will be eliminated, and the area properly reclaimed and stabilized, when the contributing drainage area is stabilized and the structures are no longer needed, unless the structure is converted into a permanent storm water detention/retention structure. All trapped sediments will be disposed on in an upland area where there is no chance of entering nearby streams. Breaching the embankment to dewater the structure is not permitted. Dewatering and removal of the structure should not cause a violation of water quality standards. Provide a description of the procedures that will be used in removing these structures and the time frame.

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

G.4.e.2.A.iii Presumptive Conditions for Discharges to Tier 2.5 Waters

Construction activities discharging to Tier 2.5 waters will be deemed not to cause significant degradation if, in addition to the standard General Permit conditions, the following presumptive conditions are met. Projects that do not meet the presumptive conditions will be required to seek coverage under an individual permit.

- a. An undisturbed buffer zone shall be maintained between the construction activity and the stream of at least 100 feet. Certain limited construction activities may be allowed within the buffer zone and considered consistent with these criteria, if it is demonstrated that such construction is necessary and unavoidable. Examples would include road construction necessary to access the site, installation of water quality protective measures that could not otherwise be constructed, or the construction of linear projects such as utility lines or highways, whose alignment cannot avoid the stream. In those circumstances, any buffer waiver would apply only to the area needed to construct that portion of the facility. Any temporary structures allowed within the buffer zone must be removed upon completion of construction and the area re-vegetated, preferably with native or non-invasive plants.

- b. Permanent structural measures shall be provided to attenuate storm water runoff such that the pre-construction peak discharge rate is not exceeded for the 1 year, 24 hour storm. The storm water management plan shall also discuss BMP's to be implemented to reduce potential storm water pollutants from the site.
- c. All disturbed areas shall be seeded and mulched immediately upon reaching final grade. In the event the construction activity stops for 2 weeks or more in an area, that area will be immediately seeded and mulched with a temporary vegetative cover.

G4.e.2.B Storm Water Management Plan

A description of measures that will be installed during construction to control storm water discharges after the project is completed shall be included in the storm water pollution prevention plan. The completed project shall convey storm water runoff in a manner that will protect both the site and the receiving stream from post-construction erosion. All waterways and other runoff conveyance structures shall be permanently stabilized as appropriate for expected flows. In developing structural practices for storm water control, the operator shall consider the use of, but not limited to: infiltration of runoff onsite; flow attenuation by use of open vegetated swales and natural depressions; storm water retention structures and storm water detention structures. A combination of practices may be utilized. Low impact development technology is encouraged to minimize alteration of the pre-construction site hydrology. Velocity dissipation devices shall be placed at the outlet of all detention or retention structures and along the length of any outlet channel as necessary to provide a non-erosive velocity flow from the structure to a natural water course. Projects that increase the impervious surface on the project area by fifteen percent (15%) or more shall demonstrate that existing channel characteristics in the natural watercourse will not be altered by the storm water discharge. This provision may be complied with by:

- i. providing structural measures to attenuate the storm water runoff so that the pre-construction peak discharge rate is not exceeded; or
- ii. providing a hydrologic and/or geomorphic assessment that demonstrates that the increased peak discharge rate can be accommodated by the receiving stream without altering the existing channel characteristics (increased bank erosion or channel instability).

Projects located in areas that have local government requirements and/or criteria for post construction storm water management may address Item (i) by meeting those requirements. If local storm water management criteria have not been established, the design shall address maintenance of pre-construction flows for the 1 year, 24-hour storm. Alternative design measures will be considered with technical justification provided by the applicant. All designs for this provision should consider reduction of both the frequency and duration of peak flow rates. Item (ii) should be addressed by demonstration that the receiving natural channel can convey the developed condition 1 year, 24-hour storm within the channel banks and at a non-erosive velocity. A detailed assessment will not be required for Item (ii) if the proposed discharge rate is one (1) percent or less of the expected flow rate for the receiving stream at the point of discharge (for the 1 year, 24 hour storm) or the project is less than (3) acres in size (unless required by local government).

Projects that are expected to significantly increase peak storm water discharge rates should also consider control of storm water discharges for flood protection purposes (out of bank flooding). Flood protection would be considered at a minimum as control of the post-construction peak discharge rate for a 10-year, 24-hour storm to the pre-construction peak discharge rate. However, the level of protection should be based on the hazard involved to downstream life and property. The permittee shall be required to meet any local government or other agency requirements for storm water management and provide verification thereof (See Section D below).

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

sional Engineer. These structures shall also have a certified as-built drawing submitted with the Notice of Termination at the completion of the project. Permittees are only responsible for the installation and maintenance of storm water management facilities prior to final stabilization of the site and termination of General Permit coverage, however the entity responsible for post-construction maintenance shall be identified.

G4.e.3.C Other Controls

G4.e.2.C.i Waste Disposal –All solid waste and construction/demolition material must be disposed of in accordance with the Code of West Virginia and Legislative Rule Title 33 Series 1, “Solid Waste Management Rule”.

G4.e.2.C. ii Each site shall have stone access entrance and exit drives and parking areas to reduce the tracking of sediment onto public or private roads. Except for haul roads, all unpaved roads on the site carrying more than 25 vehicles per day shall be graveled.

G4.e.2.C.iii The plan shall ensure and demonstrate compliance with applicable State, local sanitary sewer or septic system regulations.

G4.e.2.C.iv Groundwater Protection Plan (GPP) – The applicant shall prepare a GPP that will satisfy the State’s Groundwater Protection Act. Projects proposing permanent storm water ponds or basins will submit the GPP for review.

G4.e.2.D Approved State or Local Plans

Facilities which discharge storm water associated with industrial activity from construction activities must include in their storm water pollution prevention plan procedures and requirements specified in applicable sediment and erosion site plans or storm water management plans approved by State or local officials. Sediment and erosion control or storm water management plans approved by other state or local programs and that are either incorporated by reference in the General Permit or a part of an approved SWPPP, may be enforced under this permit. Certification of compliance with the state or local ordinances must be included in the application.

G4.e.2.E Maintenance

A description of procedures to maintain in good and effective condition and promptly repair or restore all grade surfaces, walls, dams and structures, vegetation, erosion and sediment control measures and other protective devices identified in the site plan. At a minimum, procedures in a plan shall provide that all erosion controls on the site are inspected at least once every seven calendar days and within 24 hours after any storm event of greater than 0.5 inches of rain per 24 hour period.

G4.f All Storm Water Pollution Prevention Plans and Groundwater Protection Plans required under this permit are considered reports that shall be available to the public under Section 308(b) of the CWA. The owner or operator of a project with storm water discharges covered by this permit shall make plans available to members of the public upon request by the public. However, the permittee may claim any portion of a Storm Water Pollution Plan or Groundwater Plan as confidential in accordance with 47 CSR 10-12.7.

G4.g No condition of this permit shall release the permittee from any responsibility or requirements under other environmental statutes or regulations.

G4.h Permanent ponds and basins and ponds and basins that will remain in use for more than one year must be designed and certified by a Registered Professional Engineer.

G5. Discharges to Impaired Waters

This permit does not authorize new sources or new discharges of constituents of concern to impaired waters unless consistent with the approved Total Maximum Daily Load (TMDL) and applicable state law. Impaired waters are those that do not meet applicable water quality standards and are listed on the Clean Water Act Section 303(d) list. Pollutants of concern are those constituents for which the water body is listed as

impaired. Discharges of pollutants of concern to impaired water bodies for which there is an approved total maximum daily load (TMDL) are not eligible for coverage under this permit unless they are consistent with the approved TMDL. Within six months of the TMDL approval, permittees must incorporate any limitations, conditions, or requirements applicable to their discharges necessary for compliance with the TMDL, including any monitoring or reporting required by DWR rules, into their storm water pollution prevention plan in order to be eligible for coverage under this general permit.

Sites that discharge into a receiving water which has been listed on the Clean Water Act 303(d) list of impaired waters, and with discharges that contain the pollutant(s) for which the water body is impaired, must document in the SWPPP how the BMP's will control the discharge of the pollutant(s) of concern.

G6. Endangered and Threatened Species

If a site discharges to a stream where a Federally endangered or threatened species or its habitat are present, the applicant should contact the US Fish and Wildlife Service to insure that requirements of the Federal Endangered Species Act are met.

H. Reopener Clause

If there is evidence indicating potential or realized impacts on water quality due to any storm water discharge associated with industrial activity covered by this permit, the owner or operator of such discharge may be required to obtain an individual permit or alternative general permit in accordance with Section G.1. of this permit or the permit may be modified to include different limitations and/or requirements.

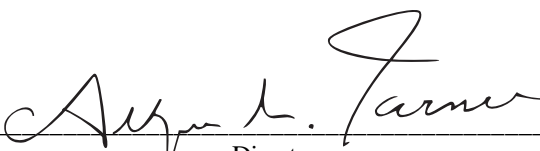
I. The conditions, standards, and limitations of this General Permit will be reviewed at the time of reissuance for possible revisions that may lead to more or less stringent conditions, standards, and limitations.

J. Permit coverage for construction activities encompassed by this permit expires upon satisfactory stabilization of the site. Satisfactory stabilization means **ALL** disturbed areas shall be covered by some sort of permanent protection. "Stabilize" includes; pavement, buildings, waterways (rip-rap, concrete, grass, or pipe), a healthy, vigorous stand of grass that uniformly covers more than 70 percent of the ground, stable outlet channels with velocity dissipation which directs site runoff to a natural watercourse, and any other approved structure or material. The permittee will request a final inspection by sending in the "Notice of Termination". The "Notice of Termination" shall also include as-built drawings, certified by a Registered Professional Engineer, for any permanent ponds or basins. Sites not stabilized will continue to have coverage under this permit and will be assessed an annual permit fee as promulgated by the West Virginia Legislature. Sites will be assessed a pro-rated annual fee based upon the completion date and proper stabilization.

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

Failure to comply with the terms and conditions of this permit, with any plans, specifications and information submitted, and with any plan of maintenance and method of operation thereof submitted shall constitute grounds for the revocation or suspension of this permit to any individual establishment or other person and for the invocation of all the enforcement procedures set forth in Chapter 22, Articles 11 and 12 of the Code of West Virginia.

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

By: 
Director