



Proposed Text

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Action: 2026 Reissuance of General Permit - 9VAC25-660

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9VAC25-660-25 Authorization for coverage under VWP general permit effective August 1, 2006. (Repealed.)

A. All complete applications or notifications received by the department through 11:59 p.m. on August 1, 2016, shall be processed in accordance with the VWP general permit regulation in effect August 1, 2006, through August 1, 2016. If the application or notification is incomplete or if there is not adequate time as allowed by § 62.1-44.15:21 of the Code of Virginia to make a completeness determination, the applicant shall reapply for coverage under the VWP general permit effective August 2, 2016, or apply for a VWP individual permit, including payment of any required permit application fee. No refund of permit application fees shall be made.

B. VWP general permit authorizations granted through 11:59 p.m. on August 1, 2016, shall remain in full force and effect until 11:59 p.m. on the expiration date stated on the VWP authorization cover page, unless otherwise revoked or terminated or unless a notice of project completion is received by the department on or before that date. Any permittee that desires to continue an authorized activity beyond the stated expiration date must reapply for coverage under the VWP general permit effective August 2, 2016, pursuant to its terms, standards, and conditions, or apply for a VWP individual permit, including payment of any required permit application fee. This section shall only apply to permittees holding valid authorizations for coverage granted under the VWP general permit effective August 1, 2006, through August 1, 2016.

9VAC25-660-27 VWP general permit and coverage; expiration; transition; continuation

A. The general permit in 9VAC25-660-100 is effective August 2, 2026, and expires August 1, 2036. All applications or notifications received on or after August 2, 2016 2026, will be processed in accordance with the VWP general permit regulation effective August 2, 2016 2026. If there is not adequate time as allowed by § 62.1-44.15:21 of the Code of Virginia to make a permit coverage decision, the applicant shall reapply for coverage under the next consecutive VWP general permit or apply for a VWP individual permit, including payment of any required permit application fee. No refund of permit application fees shall be made.

B. The general permit in 9VAC25-660-100 is effective August 2, 2016, and expires August 1, 2026. Any coverage that is granted pursuant to 9VAC25-660-30 shall remain in full force and effect until 11:59 p.m. on August 1, 2026 2036, unless the general permit coverage is terminated or revoked on or before this date. Where a permittee that has received general permit coverage desires to continue or complete the authorized activities beyond August 1, 2026 2036, the permittee shall reapply for new general permit coverage or for a VWP individual permit, including payment of any required permit application fee. Activities in surface waters

requiring a permit shall not commence or continue until VWP general permit coverage is granted and effective or a VWP individual permit is issued by the department.

C. In any case where an existing permittee has submitted a timely and complete notification or application for coverage under the next consecutive VWP general permit in accordance with this chapter, and the board, through no fault of the permittee, does not issue the next consecutive VWP general permit with an effective date on or before the expiration date of the expiring VWP general permit, the conditions of that expiring VWP general permit and any requirements of coverage granted under it shall continue in force until the effective date of the next consecutive VWP general permit. Application may be made at any time for a VWP individual permit in accordance with 9VAC25-210. Activities in surface waters requiring a permit shall not commence or continue until VWP general permit coverage is granted and effective or a VWP individual permit is issued by the department.

9VAC25-660-30 Authorization to impact surface waters

A. Any person granted coverage under the VWP general permit effective August 2, ~~2016~~ 2026, may permanently or temporarily impact less than one-half acre of nontidal wetlands or open water and up to 300 linear feet of nontidal stream bed, provided that:

1. The applicant submits notification as required in ~~9VAC25-660-50 and 9VAC25-660-60~~ this chapter using forms of application or notification.
2. The applicant remits any required permit application fee.
3. The applicant receives general permit coverage from the Department of Environmental Quality and complies with the limitations and other requirements of the VWP general permit; the general permit coverage letter; the Clean Water Act, as amended; and the State Water Control Law and attendant regulations.
4. The applicant has not been required to obtain a VWP individual permit under 9VAC25-210 for the proposed project impacts. The applicant, at ~~his~~ the applicant's discretion, may seek a VWP individual permit or coverage under another applicable VWP general permit in lieu of coverage under this VWP general permit.
5. Impacts, both temporary and permanent, result from a single and complete project, including all attendant features.
 - a. Where a road segment (e.g., the shortest segment of a road with independent utility that is part of a larger project) has multiple crossings of surface waters (several single and complete projects), the department may, at its discretion, require a VWP individual permit.
 - b. For the purposes of this chapter, when an interchange has multiple crossings of surface waters, the entire interchange shall be considered the single and complete project.
6. The stream impact criterion applies to all components of the project, including structures and stream channel manipulations.
7. When required, compensation for unavoidable impacts is provided in accordance with § 62.1-44.15:23 of the Code of Virginia, 9VAC25-660-70, and the associated provisions of 9VAC25-210-116.

B. The board waives the requirement for coverage under a VWP general permit for activities that occur in an isolated wetland of minimal ecological value, as defined in 9VAC25-210-10. Upon request by the department, any person claiming this waiver shall demonstrate to the satisfaction of the department that he qualifies for the waiver.

C. Coverage under this VWP general permit does not relieve the permittee of the responsibility to comply with any other applicable federal, state, or local statute, ordinance, or regulation.

D. Coverage under a nationwide or regional permit promulgated by the U.S. Army Corps of Engineers (USACE), and for which the department has issued § 401 certification in accordance with 9VAC25-210-130 H as of August 2, ~~2016~~ 2026, shall constitute coverage under this VWP general permit, unless a state program general permit (SPGP) is required and granted for the activity or impact.

E. When the department determines on a case-by-case basis that concerns for water quality and the aquatic environment so indicate, the department may require a VWP individual permit in accordance with 9VAC25-210-130 B rather than granting coverage under this VWP general permit.

9VAC25-660-35 Administrative continuance. (Repealed.)

~~Beginning on August 2, 2016, in any case where an existing permittee has submitted a timely and complete notification or application for coverage under the next consecutive VWP general permit, in accordance with 9VAC25-660-50 and 9VAC25-660-60 and the board, through no fault of the permittee, does not issue the next consecutive VWP general permit with an effective date on or before the expiration date of the expiring VWP general permit, the conditions of that expiring VWP general permit and any requirements of coverage granted under it shall continue in force until the effective date of the next consecutive VWP general permit.~~

9VAC25-660-100 VWP general permit

VWP GENERAL PERMIT NO. WP1 FOR IMPACTS LESS THAN ONE-HALF ACRE UNDER THE VIRGINIA WATER PROTECTION PERMIT AND THE VIRGINIA STATE WATER CONTROL LAW

Effective date: August 2, ~~2016~~ 2026

Expiration date: August 1, ~~2026~~ 2036

In compliance with § 401 of the Clean Water Act, as amended (33 USC § 1341) and the State Water Control Law and regulations adopted pursuant thereto, the board has determined that there is a reasonable assurance that this VWP general permit, if complied with, will protect instream beneficial uses, will not violate applicable water quality standards, and will not cause or contribute to a significant impairment of state waters or fish and wildlife resources. In issuing this VWP general permit, the board has not taken into consideration the structural stability of any proposed activities.

The permanent or temporary impact of less than one-half acre of nontidal wetlands or open water and up to 300 linear feet of nontidal stream bed shall be subject to the provisions of the VWP general permit ~~set forth herein~~; any requirements in coverage granted under this VWP general permit; the Clean Water Act, as amended; and the State Water Control Law and regulations adopted pursuant to it.

Part I.

Special Conditions.

A. Authorized activities.

1. The activities authorized by this chapter shall not cause more than the permanent or temporary impacts to less than one-half acre of nontidal wetlands or open water and up to 300 linear feet of nontidal stream bed. Additional permit requirements as stipulated by the department in the coverage letter, if any, shall be enforceable conditions of this permit.

2. Any changes to the authorized permanent impacts to surface waters shall require a notice of planned change in accordance with 9VAC25-660-80. An application or request for modification to coverage or another VWP permit application may be required.

3. Any changes to the authorized temporary impacts to surface waters shall require written notification to and approval from the Department of Environmental Quality in accordance with 9VAC25-660-80 prior to initiating the impacts and restoration to preexisting conditions in accordance with the conditions of this permit.

4. Modification to compensation requirements may be approved at the request of the permittee when a decrease in the amount of authorized surface waters impacts occurs, provided that the adjusted compensation meets the initial compensation goals.

B. Overall conditions.

1. The activities authorized by this VWP general permit shall be executed in a manner so as to minimize adverse impacts on instream beneficial uses as defined in § 62.1-10 (b) of the Code of Virginia.

2. No activity may substantially disrupt the movement of aquatic life indigenous to the water body, including those species that normally migrate through the area, unless the primary purpose of the activity is to impound water. Pipes and culverts placed in streams must be installed to maintain low flow conditions and shall be countersunk at both inlet and outlet ends of the pipe or culvert, unless otherwise specifically approved by the Department of Environmental Quality on a case-by-case basis, and as follows: The requirement to countersink does not apply to extensions or maintenance of existing pipes and culverts that are not countersunk, floodplain pipes and culverts being placed above ordinary high water, pipes and culverts being placed on bedrock, or pipes and culverts required to be placed on slopes 5.0% or greater. Bedrock encountered during construction must be identified and approved in advance of a design change where the countersunk condition cannot be met. Pipes and culverts 24 inches or less in diameter shall be countersunk three inches below the natural stream bed elevations, and pipes and culverts greater than 24 inches shall be countersunk at least six inches below the natural stream bed elevations. Hydraulic capacity shall be determined based on the reduced capacity due to the countersunk position. In all stream crossings appropriate measures shall be implemented to minimize any disruption of aquatic life movement.

3. Wet or uncured concrete shall be prohibited from entry into flowing surface waters, unless the area is contained within a cofferdam and the work is performed in the dry or unless otherwise approved by the Department of Environmental Quality. Excess or waste concrete shall not be disposed of in flowing surface waters or washed into flowing surface waters.

4. All fill material shall be clean and free of contaminants in toxic concentrations or amounts in accordance with all applicable laws and regulations.

5. Erosion and sedimentation controls shall be designed ~~in accordance with to~~ comply with the requirements of the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992 Stormwater Management Regulation (9VAC25-875). These controls shall be placed prior to clearing and grading and maintained in good working order to minimize impacts to state waters. These controls shall remain in place until the area is stabilized and shall then be removed.

6. Exposed slopes and streambanks shall be stabilized immediately upon completion of work in each permitted impact area. All denuded areas shall be

properly stabilized in accordance to comply with the requirements of the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992 Stormwater Management Regulation (9VAC25-875).

7. All construction, construction access (e.g., cofferdams, sheetpiling, and causeways) and demolition activities associated with the project shall be accomplished in a manner that minimizes construction or waste materials from entering surface waters to the maximum extent practicable, unless authorized by this VWP general permit.

8. No machinery may enter flowing waters, unless authorized by this VWP general permit or approved prior to entry by the Department of Environmental Quality.

9. Heavy equipment in temporarily impacted wetland areas shall be placed on mats, geotextile fabric, or other suitable material to minimize soil disturbance to the maximum extent practicable. Equipment and materials shall be removed immediately upon completion of work.

10. All nonimpacted surface waters and compensatory mitigation areas within 50 feet of authorized activities and within the project or right-of-way limits shall be clearly flagged or marked for the life of the construction activity at that location to preclude unauthorized disturbances to these surface waters and compensatory mitigation areas during construction. The permittee shall notify contractors that no activities are to occur in these marked surface waters.

11. Temporary disturbances to surface waters during construction shall be avoided and minimized to the maximum extent practicable. All temporarily disturbed wetland areas shall be restored to preexisting conditions within 30 days of completing work at each respective temporary impact area, which shall include reestablishing preconstruction elevations and contours with topsoil from the impact area where practicable and planting or seeding with appropriate wetland vegetation according to cover type (i.e., emergent, scrub-shrub, or forested). The permittee shall take all appropriate measures to promote and maintain revegetation of temporarily disturbed wetland areas with wetland vegetation through the second year post-disturbance. All temporarily impacted streams and streambanks shall be restored to their preconstruction elevations and contours with topsoil from the impact area where practicable within 30 days following the construction at that stream segment. Streambanks shall be seeded or planted with the same vegetation cover type originally present, including any necessary, supplemental erosion control grasses. Invasive species identified on the Department of Conservation and Recreation's Virginia Invasive Plant Species List, September 2024, shall not be used to the maximum extent practicable or without prior approval from the Department of Environmental Quality.

12. Materials (including fill, construction debris, and excavated and woody materials) temporarily stockpiled in wetlands shall be placed on mats or geotextile fabric, immediately stabilized to prevent entry into state waters, managed such that leachate does not enter state waters, and completely removed within 30 days following completion of that construction activity. Disturbed areas shall be returned to preconstruction elevations and contours with topsoil from the impact area where practicable; restored within 30 days following removal of the stockpile; and restored with the same vegetation cover type originally present, including any necessary, supplemental erosion control grasses. Invasive species identified on the Department of Conservation and Recreation's Virginia Invasive Plant Species List, September 2024, shall not be used to the maximum extent practicable or without prior approval from the Department of Environmental Quality.

13. Continuous flow of perennial springs shall be maintained by the installation of spring boxes, french drains, or other similar structures.

14. The permittee shall employ measures to prevent spills of fuels or lubricants into state waters.

15. The permittee shall conduct his activities in accordance with the time-of-year restrictions recommended by the Virginia Department of Wildlife Resources, the Virginia Marine Resources Commission, or other interested and affected agencies, as contained, when applicable, in a Department of Environmental Quality VWP general permit coverage letter, and shall ensure that all contractors are aware of the time-of-year restrictions imposed.

16. Water quality standards shall not be violated as a result of the construction activities.

17. If stream channelization or relocation is required, all work in surface waters shall be done in the dry, unless otherwise authorized by the Department of Environmental Quality, and all flows shall be diverted around the channelization or relocation area until the new channel is stabilized. This work shall be accomplished by leaving a plug at the inlet and outlet ends of the new channel during excavation. Once the new channel has been stabilized, flow shall be routed into the new channel by first removing the downstream plug and then the upstream plug. The rerouted stream flow must be fully established before construction activities in the old stream channel can begin.

C. Road crossings.

1. Access roads and associated bridges, pipes, and culverts shall be constructed to minimize the adverse effects on surface waters to the maximum extent practicable. Access roads constructed above preconstruction elevations and contours in surface waters must be bridged, piped, or culverted to maintain surface flows.

2. Installation of road crossings shall occur in the dry via the implementation of cofferdams, sheetpiling, stream diversions, or other similar structures.

D. Utility lines.

1. All utility line work in surface waters shall be performed in a manner that minimizes disturbance, and the area must be returned to its preconstruction elevations and contours with topsoil from the impact area where practicable and restored within 30 days of completing work in the area, unless otherwise authorized by the Department of Environmental Quality. Restoration shall be the seeding or planting of the same vegetation cover type originally present, including any necessary, supplemental erosion control grasses. Invasive species identified on the Department of Conservation and Recreation's Virginia Invasive Plant Species List, September 2024, shall not be used to the maximum extent practicable or without prior approval from the Department of Environmental Quality.

2. Material resulting from trench excavation may be temporarily sidecast into wetlands not to exceed a total of 90 days, provided the material is not placed in a manner such that it is dispersed by currents or other forces.

3. The trench for a utility line cannot be constructed in a manner that drains wetlands (e.g., backfilling with extensive gravel layers creating a french drain effect). For example, utility lines may be backfilled with clay blocks to ensure that the trench does not drain surface waters through which the utility line is installed.

E. Stream modification and ~~stream bank~~ streambank protection.

1. Riprap bank stabilization and riprap aprons for outfalls shall be of an appropriate size and design ~~in accordance to comply with the requirements of the~~

Virginia Erosion and Sediment Control Handbook, Third Edition, 1992 Stormwater Management Regulation (9VAC25-875).

~~2. Riprap apron for all outfalls shall be designed in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992.~~

~~3.~~ 2. For ~~stream bank~~ streambank protection activities, the structure and backfill shall be placed as close to the ~~stream bank~~ streambank as practicable. No material shall be placed in excess of the minimum necessary for erosion protection.

~~4.~~ 3. All ~~stream bank~~ streambank protection control structures shall be located to eliminate or minimize impacts to vegetated wetlands to the maximum extent practicable.

~~5.~~ 4. Asphalt and materials containing asphalt or other toxic substances shall not be used in the construction of submerged sills or breakwaters.

~~6.~~ 5. Redistribution of existing stream substrate for the purpose of erosion control is prohibited.

~~7.~~ 6. No material removed from the stream bottom shall be disposed of in surface waters, unless otherwise authorized by this VWP general permit.

F. Stormwater management facilities.

1. Stormwater management facilities shall be installed in accordance with best management practices and watershed protection techniques (e.g., vegetated buffers, siting considerations to minimize adverse effects to aquatic resources, bioengineering methods incorporated into the facility design to benefit water quality and minimize adverse effects to aquatic resources) that provide for long-term aquatic resources protection and enhancement, to the maximum extent practicable.

2. Compensation for unavoidable impacts shall not be allowed within maintenance areas of stormwater management facilities.

3. Maintenance activities within stormwater management facilities shall not require additional permit coverage or compensation, provided that the maintenance activities do not exceed the original contours of the facility, as approved and constructed, and are accomplished in designated maintenance areas as indicated in the facility maintenance or design plan or when unavailable, an alternative plan approved by the Department of Environmental Quality.

Part II.

Construction and Compensation Requirements, Monitoring, and Reporting.

A. Minimum compensation requirements.

1. The permittee shall provide any required compensation for impacts in accordance with the conditions in this VWP general permit, the coverage letter, and the chapter promulgating the general permit.

2. Compensation options that may be considered under this VWP general permit include the purchase of mitigation bank credits or the purchase of in-lieu fee program credits with a primary service area that covers the impact site in accordance with § 62.1-44.15:23 of the Code of Virginia, 9VAC25-660-70, and the associated provisions of 9VAC25-210-116.

3. The final compensation plan shall be submitted to and approved by the department prior to a construction activity in permitted impacts areas. The department shall review and provide written comments on the final plan within 30

days of receipt or it shall be deemed approved. The final plan as approved by the department shall be an enforceable requirement of any coverage under this VWP general permit. Deviations from the approved final plan shall be submitted and approved in advance by the department.

B. Impact site construction monitoring.

1. Construction activities authorized by this permit that are within impact areas shall be monitored and documented. The monitoring shall consist of:

a. Preconstruction photographs taken at each impact area prior to initiation of activities within impact areas. Photographs remain on the project site and shall depict the impact area and the nonimpacted surface waters immediately adjacent to and downgradient of each impact area. Each photograph shall be labeled to include the following information: permit number, impact area number, date and time of the photograph, name of the person taking the photograph, photograph orientation, and photograph subject description.

b. Site inspections shall be conducted by the permittee or the permittee's qualified designee once every calendar month during activities within impact areas. Monthly inspections shall be conducted in the following areas: all authorized permanent and temporary impact areas; all avoided surface waters, including wetlands, stream channels, and open water; surface water areas within 50 feet of any land disturbing activity and within the project or right-of-way limits; and all on-site permanent preservation areas required under this permit. Observations shall be recorded on the inspection form provided by the Department of Environmental Quality. The form shall be completed in its entirety for each monthly inspection and shall be kept on site and made available for review by the Department of Environmental Quality staff upon request during normal business hours. Inspections are not required during periods of no activity within impact areas.

2. Monitoring of water quality parameters shall be conducted during permanent relocation of perennial streams through new channels in the manner noted in this subdivision. The permittee shall report violations of water quality standards to the Department of Environmental Quality in accordance with the procedures in ~~9VAC25-660-100~~ Part II C of this permit. Corrective measures and additional monitoring may be required if water quality standards are not met. Reporting shall not be required if water quality standards are not violated.

a. A sampling station shall be located upstream and immediately downstream of the relocated channel.

b. Temperature, pH, and dissolved oxygen (D.O.) measurements shall be taken every 30 minutes for at least two hours at each station prior to opening the new channels and immediately before opening new channels.

c. Temperature, pH, and D.O. readings shall be taken after opening the channels and every 30 minutes for at least three hours at each station.

C. Reporting.

1. Written communications required by this VWP general permit shall be submitted to the appropriate Department of Environmental Quality office. The VWP general permit tracking number shall be included on all correspondence.

2. The Department of Environmental Quality shall be notified in writing prior to the start of construction activities at the first authorized impact area.

3. A construction status update form provided by the Department of Environmental Quality shall be completed and submitted to the Department of Environmental Quality twice per year for the duration of coverage under a VWP general permit.

Forms completed in June shall be submitted by or on July 10, and forms completed in December shall be submitted by or on January 10. The form shall include reference to the VWP permit tracking number and one of the following statements for each authorized surface water impact location:

- a. Construction activities have not yet started;
- b. Construction activities have started;
- c. Construction activities have started but are currently inactive; or
- d. Construction activities are complete.

4. The Department of Environmental Quality shall be notified in writing within 30 days following the completion of all activities in all authorized impact areas.

5. The permittee shall notify the Department of Environmental Quality in writing when unusual or potentially complex conditions are encountered that require debris removal or involve a potentially toxic ~~substance~~ substances. Measures to remove the obstruction, material, or toxic substance or to change the location of a structure are prohibited until approved by the Department of Environmental Quality.

6. The permittee shall report fish kills or spills of oil or fuel immediately upon discovery. If spills or fish kills occur between the hours of 8:15 a.m. to 5 p.m., Monday through Friday, the appropriate Department of Environmental Quality regional office shall be notified; otherwise, the Department of Emergency Management shall be notified at 1-800-468-8892.

7. Violations of state water quality standards shall be reported to the appropriate Department of Environmental Quality office no later than the end of the business day following discovery.

8. The permittee shall notify the Department of Environmental Quality no later than the end of the third business day following the discovery of additional impacts to surface waters, including wetlands, stream channels, and open water that are not authorized by the Department of Environmental Quality or to any required preservation areas. The notification shall include photographs, estimated acreage or linear footage of impacts, and a description of the impacts.

9. Submittals required by this VWP general permit shall contain the following signed certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violation."

Part III.

Conditions Applicable to All VWP General Permits.

A. Duty to comply. The permittee shall comply with all conditions, limitations, and other requirements of the VWP general permit; any requirements in coverage granted under this VWP general permit; the Clean Water Act, as amended; and the State Water Control Law and regulations adopted pursuant to it. Any VWP general permit violation or noncompliance is a violation of the Clean Water Act and State Water Control Law and is grounds for (i) enforcement action, (ii) VWP

general permit coverage termination for cause, (iii) VWP general permit coverage revocation, (iv) denial of application for coverage, or (v) denial of an application for a modification to VWP general permit coverage. Nothing in this VWP general permit shall be construed to relieve the permittee of the duty to comply with all applicable federal and state statutes, regulations, and toxic standards and prohibitions.

B. Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent impacts in violation of the VWP general permit that may have a reasonable likelihood of adversely affecting human health or the environment.

C. Reopener. This VWP general permit may be reopened to modify its conditions when the circumstances on which the previous VWP general permit was based have materially and substantially changed, or special studies conducted by the department or the permittee show material and substantial change since the time the VWP general permit was issued and thereby constitute cause for revoking and reissuing the VWP general permit.

D. Compliance with state and federal law. Compliance with this VWP general permit constitutes compliance with the VWP permit requirements of the State Water Control Law. Nothing in this VWP general permit shall be construed to preclude the institution of any legal action under or relieve the permittee from any responsibilities, liabilities, or other penalties established pursuant to any other state law or regulation or under the authority preserved by § 510 of the Clean Water Act.

E. Property rights. Coverage under this VWP general permit does not convey property rights in either real or personal property or any exclusive privileges, nor does it authorize injury to private property, any invasion of personal property rights, or any infringement of federal, state, or local laws or regulations.

F. Severability. The provisions of this VWP general permit are severable.

G. Inspection and entry. Upon presentation of credentials, the permittee shall allow the department or any duly authorized agent of the department, at reasonable times and under reasonable circumstances, to enter upon the permittee's property, public or private, and have access to inspect and copy any records that must be kept as part of the VWP general permit conditions; to inspect any facilities, operations, or practices (including monitoring and control equipment) regulated or required under the VWP general permit; and to sample or monitor any substance, parameter, or activity for the purpose of ensuring compliance with the conditions of the VWP general permit or as otherwise authorized by law. For the purpose of this section, the time for inspection shall be deemed reasonable during regular business hours. Nothing contained ~~herein~~ in this general permit shall make an inspection time unreasonable during an emergency.

H. Transferability of VWP general permit coverage. VWP general permit coverage may be transferred to another permittee when all of the criteria listed in this subsection are met. On the date of the VWP general permit coverage transfer, the transferred VWP general permit coverage shall be as fully effective as if it had been granted directly to the new permittee.

1. The current permittee notifies the department of the proposed transfer of the general permit coverage and provides a written agreement between the current and new permittees containing a specific date of transfer of VWP general permit responsibility, coverage, and liability to the new permittee, or that the current permittee will retain such responsibility, coverage, or liability, including liability for compliance with the requirements of enforcement activities related to the authorized activity.

2. The department does not within 15 days notify the current and new permittees of the board's intent to modify or revoke and reissue the VWP general permit.

I. Notice of planned change. VWP general permit coverage may be modified subsequent to issuance in accordance with 9VAC25-660-80.

J. VWP general permit coverage termination for cause. VWP general permit coverage is subject to termination for cause by the department after public notice and opportunity for a hearing in accordance with 9VAC25-210-180. Reasons for termination for cause are as follows:

1. Noncompliance by the permittee with any provision of this chapter, any condition of the VWP general permit, or any requirement in general permit coverage;
2. The permittee's failure in the application or during the process of granting VWP general permit coverage to disclose fully all relevant facts or the permittee's misrepresentation of any relevant facts at any time;
3. The permittee's violation of a special or judicial order;
4. A determination by the department that the authorized activity endangers human health or the environment and can be regulated to acceptable levels by a modification to the VWP general permit coverage or a termination;
5. A change in any condition that requires either a temporary or permanent reduction or elimination of any activity controlled by the VWP general permit; or
6. A determination that the authorized activity has ceased and that the compensation for unavoidable adverse impacts has been successfully completed.

K. The department may terminate VWP general permit coverage without cause when the permittee is no longer a legal entity due to death or dissolution or when a company is no longer authorized to conduct business in the Commonwealth. The termination shall be effective 30 days after notice of the proposed termination is sent to the last known address of the permittee or registered agent, unless the permittee objects within that time. If the permittee does object during that period, the department shall follow the applicable procedures for termination under ~~9VAC25-210-180~~ 9VAC25-210, this chapter, and ~~§ 62.1-44.15:25~~ subdivision (5) of § 62.1-44.15 of the Code of Virginia.

L. VWP general permit coverage termination by consent. The permittee shall submit a request for termination by consent within 30 days of completing or canceling all authorized activities requiring notification under 9VAC25-660-50 A and all compensatory mitigation requirements. When submitted for project completion, the request for termination by consent shall constitute a notice of project completion in accordance with 9VAC25-210-130 F. The director may accept this termination of coverage on behalf of the department. The permittee shall submit the following information:

1. Name, mailing address, and telephone number;
2. Name and location of the activity;
3. The VWP general permit tracking number; and
4. One of the following certifications:
 - a. For project completion:

"I certify under penalty of law that all activities and any required compensatory mitigation authorized by the VWP general permit and general permit coverage have been completed. I understand that by submitting this notice of termination I

am no longer authorized to perform activities in surface waters in accordance with the VWP general permit and general permit coverage, and that performing activities in surface waters is unlawful where the activity is not authorized by the VWP permit or coverage, unless otherwise excluded from obtaining coverage. I also understand that the submittal of this notice does not release me from liability for any violations of the VWP general permit or coverage."

b. For project cancellation:

"I certify under penalty of law that the activities and any required compensatory mitigation authorized by the VWP general permit and general permit coverage will not occur. I understand that by submitting this notice of termination I am no longer authorized to perform activities in surface waters in accordance with the VWP general permit and general permit coverage, and that performing activities in surface waters is unlawful where the activity is not authorized by the VWP permit or coverage, unless otherwise excluded from obtaining coverage. I also understand that the submittal of this notice does not release me from liability for any violations of the VWP general permit or coverage, nor does it allow me to resume the authorized activities without reapplication and coverage."

c. For events beyond permittee control, the permittee shall provide a detailed explanation of the events, to be approved by the Department of Environmental Quality, and the following certification statement:

"I certify under penalty of law that the activities or the required compensatory mitigation authorized by the VWP general permit and general permit coverage have changed as the result of events beyond my control (see attached). I understand that by submitting this notice of termination I am no longer authorized to perform activities in surface waters in accordance with the VWP general permit and general permit coverage, and that performing activities in surface waters is unlawful where the activity is not authorized by the VWP permit or coverage, unless otherwise excluded from obtaining coverage. I also understand that the submittal of this notice does not release me from liability for any violations of the VWP general permit or coverage, nor does it allow me to resume the authorized activities without reapplication and coverage."

M. Civil and criminal liability. Nothing in this VWP general permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

N. Oil and hazardous substance liability. Nothing in this VWP general permit shall be construed to preclude the institution of legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under § 311 of the Clean Water Act or §§ 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

O. Duty to cease or confine activity. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the activity for which VWP general permit coverage has been granted in order to maintain compliance with the conditions of the VWP general permit or coverage.

P. Duty to provide information.

1. The permittee shall furnish to the department information that the department may request to determine whether cause exists for modifying, revoking, or terminating VWP permit coverage or to determine compliance with the VWP general permit or general permit coverage. The permittee shall also furnish to the department, upon request, copies of records required to be kept by the permittee.

2. Plans, maps, conceptual reports, and other relevant information shall be submitted as required by the department prior to commencing construction.

Q. Monitoring and records requirements.

1. Monitoring of parameters, other than pollutants, shall be conducted according to approved analytical methods as specified in the VWP general permit. Analysis of pollutants will be conducted according to 40 CFR Part 136 as published in the July 1, 2024, update, Guidelines Establishing Test Procedures for the Analysis of Pollutants.

2. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

3. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart or electronic recordings for continuous monitoring instrumentation, copies of all reports required by the VWP general permit, and records of all data used to complete the application for coverage under the VWP general permit, for a period of at least three years from the date of general permit expiration. This period may be extended by request of the department at any time.

4. Records of monitoring information shall include, as appropriate:

- a. The date, exact place, and time of sampling or measurements;
- b. The name of the individuals who performed the sampling or measurements;
- c. The date and time the analyses were performed;
- d. The name of the individuals who performed the analyses;
- e. The analytical techniques or methods supporting the information such as observations, readings, calculations, and bench data used;
- f. The results of such analyses; and
- g. Chain of custody documentation.

R. Unauthorized discharge of pollutants. Except in compliance with this VWP general permit, it shall be unlawful for the permittee to:

- 1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances;
- 2. Excavate in a wetland;
- 3. Otherwise alter the physical, chemical, or biological properties of state waters and make them detrimental to the public health, to animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, for recreation, or for other uses; or
- 4. On and after October 1, 2001, conduct the following activities in a wetland:
 - a. New activities to cause draining that significantly alter or degrade existing wetland acreage or functions;
 - b. Filling or dumping;
 - c. Permanent flooding or impounding; or
 - d. New activities that cause significant alteration or degradation of existing wetland acreage or functions.

S. Duty to reapply. Any permittee desiring to continue a previously authorized activity after the expiration date of the VWP general permit shall comply with the provisions in 9VAC25-660-27.

9VAC25-660-9998 FORMS (9VAC25-660)

[Department of Environmental Quality Water Division Permit Application Fee Form, Form 5 \(rev. 10/2018\)](#)

~~Standard Joint Permit Application for Projects in Waters and Wetlands of the Commonwealth of Virginia (rev. 9/2018)~~

~~Virginia Department of Transportation, Inter-Agency Coordination Meeting Joint Permit Application (eff. 6/2008)~~

[Standard Joint Permit Application for Projects in Waters and Wetlands of the Commonwealth of Virginia \(rev. 8/2023\)](#)

[Virginia Department of Transportation, Interagency Coordination Meeting Joint Permit Application \(rev. 7/2017\)](#)

[Monthly Reporting of Impacts Less than or Equal to One-Tenth Acre Statewide \(eff. 8/2007\)](#)

9VAC25-660-9999 Documents Incorporated by Reference (9VAC25-660)

~~Classification of Wetlands and Deepwater Habitats of the United States, Cowardin, Lewis M. II, et al., United States Fish and Wildlife Service, December 1979, Reprinted 1992.~~

[Classification of Wetlands and Deepwater Habitats of the United States, adapted from Cowardin, Carter, Golet, and LaRoe \(1979\), Wetlands Subcommittee, Federal Geographic Data Committee, August 2013](#)

~~Guidelines for Specification of Disposal Sites for Dredged or Fill Material, 40 CFR Part 230~~

~~Virginia Erosion and Sediment Control Handbook, Third Edition, 1992, Department of Conservation and Recreation~~

~~Virginia Invasive Plant Species List, Natural Heritage Technical Document 14-11, Department of Conservation and Recreation, Division of Natural Heritage (2014)~~

[Virginia Invasive Plant Species List, Division of Natural Heritage, Department of Conservation and Recreation, September 2024](#)