

**2023 Virgin Islands Construction General Permit (VI CGP) – Fact Sheet**

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## **I. Background**

Congress passed the Federal Water Pollution Control Act of 1972 (Public Law 92-500, October 18, 1972) (hereinafter the "Clean Water Act" or "CWA"), 33 U.S.C. 1251 et seq., with the stated objectives to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." Section 101(a), 33 U.S.C. 1251(a). To achieve this goal, the CWA provides that "the discharge of any pollutant by any person shall be unlawful" except in compliance with other provisions of the statute. CWA section 301(a), 33 U.S.C. 1311. The CWA defines "discharge of a pollutant" broadly to include "any addition of any pollutant to navigable waters from any point source." CWA section 502(12), 33 U.S.C. 1362(12). EPA is authorized under CWA section 402(a) to issue a National Pollutant Discharge Elimination System (NPDES) permit for the discharge of any pollutant from a point source. These NPDES permits are issued by EPA regional offices or NPDES-authorized State or Tribal agencies. Since 1972, EPA and the authorized States have issued NPDES permits to thousands of dischargers, including industrial (e.g., manufacturing, energy and mining facilities) and municipal (e.g., sewage treatment plants) facilities. As required under Title III of the CWA, EPA has promulgated Effluent Limitations Guidelines (ELGs) and New Source Performance Standards (NSPS) for many industrial point source categories, and these requirements must be incorporated into NPDES permits. 33 U.S.C. 1311(b). The Water Quality Act (WQA) of 1987 (Public Law 100-4, February 4, 1987) amended the CWA, adding CWA section 402(p), requiring implementation of a comprehensive program for addressing stormwater discharges. 33 U.S.C. 1342(p).

### **A. Clean Water Act Stormwater Program**

Prior to the Water Quality Act of 1987, there were numerous questions regarding the appropriate means of regulating stormwater discharges within the NPDES program due to the serious water quality impacts of stormwater discharges, the variable nature of stormwater, and the large number of stormwater point sources. EPA undertook multiple regulatory actions to address these unique discharges. Congress, with the addition of section 402(p), established a structured and phased approach to address stormwater discharges and fundamentally altered the way stormwater is addressed under the CWA as compared with other point source discharges of pollutants. Section 402(p)(1) created a temporary moratorium on NPDES permits for point source stormwater discharges, except for those listed in section 402(p)(2), including dischargers already required to have a permit and discharges associated with industrial activity. In 1990, pursuant to section 402(p)(4), EPA promulgated the Phase I stormwater regulations for those stormwater discharges listed in 402(p)(2). See 55 FR 47990 (November 16, 1990). The Phase I regulations required NPDES permit coverage for discharges associated with industrial activity and from "large" and "medium" municipal separate storm sewer systems (MS4s). CWA section 402(p)(2). As part of that rulemaking, EPA interpreted stormwater "discharges associated with industrial activity" to include stormwater discharges associated with "construction activity" as defined at 40 CFR 122.26(b)(14)(x). See 55 FR 48033-34. As described in the Phase I regulations, dischargers must obtain authorization to discharge (or "permit coverage"), including discharges associated with construction activity, including clearing, grading, and excavation, if the construction activity:

- will result in the disturbance of five acres or greater; or
- will result in the disturbance of less than five acres of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or greater.

See 40 CFR 122.26(b)(14)(x) and (c)(1).

Section 402(p)(5) and (6) establish a process for EPA to evaluate potential sources of stormwater discharges not included in the Phase I regulations and to designate discharges for

regulation to protect water quality. Section 402(p)(6) instructs EPA to “issue regulations...which designate stormwater discharges, other than those discharges described in [section 402(p)(2)], to be regulated to protect water quality and shall establish a comprehensive program to regulate such designated sources.” In 1999, pursuant to the broad discretion granted to the Agency under section 402(p)(6), and in response to a court remand in *Natural Resources Defense Council v. EPA*, 966 F.2d 1292, 1306 (9th Cir. 1992) (holding that EPA had failed to explain in its 1990 Phase 1 stormwater rule why stormwater discharges from construction sites disturbing less than five acres were not industrial in nature), EPA promulgated the Phase II stormwater regulations that designated discharges associated with “small” construction activity and “small” MS4s. 64 FR 68722 (December 8, 1999). NPDES permit coverage is required for discharges associated with “small” construction activity, including clearing, grading, and excavation, if the construction activity:

- will result in land disturbance of equal to or greater than one acre and less than five acres; or
- will result in disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres.

See 40 CFR 122.26(b)(15).

EPA continues to have discretionary authority under section 402(p)(6) to designate additional stormwater discharges for regulation under the CWA to protect water quality. The NPDES regulations establish a process for exercising discretion to designate and require NPDES permits for unregulated stormwater discharges. See 40 CFR 122.26(a)(9)(i)(C)-(D); see also *Env't Defense Ctr. v. EPA*, 344 F.3d 832, 873-76 (9th Cir. 2003).

## **B. TPDES Permits for Stormwater Discharges Associated with Construction Activity within the USVI Territory**

EPA has authorized the United States Virgin Islands (USVI) Government's Department of Planning and Natural Resources (VIDPNR) to run the Territorial Pollutant Discharge Elimination System (TPDES) Program, and issue TPDES permits following the appropriate promulgated regulation. The TPDES regulations that were promulgated provide two options for obtaining authorization to discharge or “permit coverage”: general permits and individual permits. A brief description of these types of permits as they apply to construction and development (C&D) sites follows:

1. **USVI Construction General Permit (VI CGP).** Since 2007, VIDPNR has issued a Construction General Permit (VI CGP) that covers stormwater discharges associated with construction activity within the USVI Territory. The 2012 VI CGP became effective on December 1, 2012 and expired at midnight on November 30, 2017. The 2023 VI CGP replaces the 2012 VI CGP for construction sites still covered under this administratively continued permit.
2. **Individual NPDES Permits.** A permitting authority may require any construction site to apply for an individual permit rather than using the general permit. Likewise, any discharger may apply to be covered under an individual permit rather than seek coverage under an otherwise applicable general permit. See 12 V.I.R.R. §184-46(b)(3)(ii) (2007). Unlike a general permit, an individual permit is intended to be issued to one permittee, or a few co-permittees. Individual permits for stormwater discharges from construction sites are rarely used, but when they are, they are most often used for very large projects or projects located in sensitive watersheds.

**C. Technology-Based Effluent Limitations Guidelines and Standards in TPDES Permits**

Effluent limitations guidelines (ELGs) and new source performance standards (NSPSs) dictate technology-based effluent limitations in permits under CWA sections 301 and 306 for categories of point source discharges. These ELGs and NSPSs, which can be either numeric or non-numeric, must be incorporated into TPDES permits, as appropriate, along with water quality-based effluent limitations, if necessary. ELGs and NSPSs are based on the degree of control that can be achieved using various levels of pollutant control technology as defined in Title III of the CWA and summarized as follows:

- 1. Best Practicable Control Technology Currently Available (BPT).** The CWA requires EPA to specify BPT effluent limitations for conventional, toxic, and nonconventional pollutants. In doing so, EPA must determine what level of control is technologically available and economically practicable. CWA section 301(b)(1)(A). In specifying BPT, EPA must look at a number of factors. EPA considers the total cost of application of technology in relation to the effluent reduction benefits to be achieved from such application. The Agency also considers the age of the equipment and facilities, the process employed and any required process changes, engineering aspects of the application of the control technologies, non-water quality environmental impacts (including energy requirements), and such other factors as the Administrator deems appropriate. CWA section 304(b)(1)(B).
- 2. Best Available Technology Economically Achievable (BAT).** BAT effluent limitations are applicable to toxic (priority) and nonconventional pollutants. EPA has identified 65 pollutants and classes of pollutants as toxic pollutants, of which 126 specific pollutants have been designated priority toxic pollutants. See 40 CFR 401.15 and 40 CFR part 423, Appendix A. In general, BAT represents the best available performance of facilities through application of the best control measures and practices economically achievable including treatment techniques, process and procedure innovations, operating methods, and other alternatives within the point source category. CWA section 304(b)(2)(A). The factors EPA considers in assessing BAT include the cost of achieving BAT effluent reductions, the age of equipment and facilities involved, the processes employed, the engineering aspects of the control technology, potential process changes, non-water quality environmental impacts (including energy requirements), and such factors as the Administrator deems appropriate. CWA section 304(b)(2)(B).
- 3. Best Conventional Pollutant Control Technology (BCT).** The 1977 amendments to the CWA required EPA to identify effluent reduction levels for conventional pollutants associated with BCT for discharges from existing point sources. BCT is not an additional limitation but replaces Best Available Technology (BAT) for control of conventional pollutants. In addition to other factors specified in CWA section 304(b)(4)(B), the Act requires that EPA establish BCT limitations after consideration of a two-part "cost-reasonableness" test. EPA explained its methodology for the development of BCT limitations in July 1986. 51 FR 24974 (July 9, 1986). Section 304(a)(4) designates the following as conventional pollutants: biochemical oxygen demand (BOD<sub>5</sub>), total suspended solids (TSS), fecal coliform, pH, and any additional pollutants defined by the Administrator as conventional. See 40 CFR 401.16. The Administrator has designated oil and grease as an additional conventional pollutant. 44 FR 44501 (July 30, 1979). CWA section 304(b)(4)(B).
- 4. Best Available Demonstrated Control Technology (BADT) for New Source Performance Standards (NSPS).** NSPS apply to all pollutants and reflect effluent reductions that are achievable based on the BADT. New sources, as defined in CWA section 306, can install the best and most efficient production processes and wastewater treatment

technologies. As a result, NSPS should represent the greatest degree of effluent reduction attainable through the application of the best available demonstrated control technology. In establishing NSPS, CWA section 306 directs EPA to take into consideration similar factors that EPA considers when establishing BAT, namely the cost of achieving the effluent reduction and any non-water quality, environmental impacts and energy requirements. CWA section 306(1)(B).

TPDES permits are required under Section 402(a)(1) of the CWA to include conditions for meeting technology-based ELGs established under Section 301 and, where applicable, any NSPS established under Section 306. Once an ELG or NSPS is promulgated in accordance with these sections, TPDES permits must incorporate limits based on such limitations and standards. See 40 CFR 122.44(a)(1). Prior to the promulgation of territorial ELGs and/or NSPS, VIDPNR must establish and include in TPDES permits technology-based effluent limitations on a case-by-case basis based on their best professional judgment. See CWA section 402(a)(1)(B); 125.3(a)(2)(ii)(B).

#### **D. EPA's Construction and Development Effluent Limitations Guidelines and New Source Performance Standards**

On December 1, 2009, EPA promulgated ELGs and NSPSs to control the discharge of pollutants from construction sites. See 74 Fed. Reg. 62996, and 40 CFR 450.21. These requirements, known as the "Construction and Development Rule" or "C&D rule," became effective on February 1, 2010. Following the promulgation of the C&D rule in 2009, several parties filed petitions for review of the final rule, identifying potential deficiencies with the dataset that EPA used to support its decision to adopt a technology-based numeric turbidity limitation as well as other issues. On March 6, 2014, pursuant to a settlement agreement to resolve the litigation, EPA finalized amendments to the C&D rule that withdrew the technology-based numeric turbidity limitation and monitoring requirements and provided clarification regarding several other requirements of the rule. See 79 Fed. Reg. 12661 and 80 Fed. Reg. 25235. Because the 2023 VI CGP is being issued after the effective date of the 2014 C&D rule amendments, VIDPNR must incorporate these requirements into this permit. Therefore, the 2023 VI CGP includes significant revisions to the 2012 VI CGP to reflect the C&D rule amendments. A summary of the C&D rule requirements is included in Section II below.

## **II. Summary of C&D Rule Requirements**

The C&D rule requirements include non-numeric effluent limitations that apply to all permitted discharges from construction sites (40 CFR 450.21). The effluent limitations are structured to require construction operators to first prevent the discharge of sediment and other pollutants through the use of effective planning and erosion controls; and second, to control discharges that do occur through the use of effective sediment controls. Operators must implement a range of pollution control and prevention measures to limit or prevent discharges of pollutants, including those from dry weather discharges as well as wet weather (i.e., stormwater).

The non-numeric effluent limitations are designed to prevent or minimize the mobilization and stormwater discharge of sediment and sediment-bound pollutants, such as metals and nutrients, and to prevent or minimize exposure of stormwater to construction materials, debris and other sources of pollutants on construction sites. In addition, these non-numeric effluent limitations limit the generation of dissolved pollutants, such as nutrients, organics, pesticides, herbicides and metals that may be present naturally in the soil on construction sites, such as arsenic or selenium, or may have been contributed by previous activities on the site such as agriculture or industrial activity. These pollutants, once mobilized by rainfall and stormwater, can detach from the soil particles and become dissolved pollutants. Once dissolved, these pollutants

would not be removed by down-slope sediment controls. Source control through minimization of soil erosion is therefore the most effective way of controlling the discharge of these pollutants.

The C&D rule's non-numeric effluent limits are as follows (see 40 CFR 450.21):

**A. Erosion and Sediment Controls**

Operators must design, install, and maintain effective erosion controls and sediment controls to minimize the discharge of pollutants. At a minimum, such controls must be designed, installed, and maintained to:

1. Control stormwater volume and velocity to minimize soil erosion in order to minimize pollutant discharges;
2. Control stormwater discharges, including both peak flowrates and total stormwater volume, to minimize channel and streambank erosion and scour in the immediate vicinity of discharge points;
3. Minimize the amount of soil exposed during construction activity;
4. Minimize the disturbance of steep slopes;
5. Minimize sediment discharges from the site. The design, installation and maintenance of erosion and sediment controls must address factors such as the amount, frequency, intensity and duration of precipitation, the nature of resulting stormwater discharge, and soil characteristics, including the range of soil particle sizes expected to be present on the site;
6. Provide and maintain natural buffers around waters of the United States, direct stormwater to vegetated areas and maximize stormwater infiltration to reduce pollutant discharges, unless infeasible;
7. Minimize soil compaction. Minimizing soil compaction is not required where the intended function of a specific area of the site dictates that it be compacted; and
8. Unless infeasible, preserve topsoil. Preserving topsoil is not required where the intended function of a specific area of the site dictates that the topsoil be disturbed or removed.

**B. Soil Stabilization Requirements**

Operators must, at a minimum, initiate soil stabilization measures immediately whenever any clearing, grading, excavating or other earth disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days. Stabilization must be completed within a period of time determined by the permitting authority. In limited circumstances, stabilization may not be required if the intended function of a specific area of the site necessitates that it remain disturbed.

**C. Dewatering Requirements**

Operators must minimize the discharge of pollutants from dewatering activities, including discharges from dewatering of trenches and excavations. Discharges are prohibited unless managed by appropriate controls.

**D. Pollution Prevention Measures**

Operators must design, install, implement, and maintain effective pollution prevention measures to minimize the discharge of pollutants. At a minimum, such measures must be designed, installed, implemented, and maintained to:

- i. Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;
- ii. Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to stormwater. Minimization of exposure is not required in cases where the exposure to precipitation and to stormwater will not result in a discharge of pollutants, or where exposure of a specific material or product poses little risk of stormwater contamination (such as final products and materials intended for outdoor use); and
- iii. Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.

#### **E. Prohibited Discharges**

The following discharges from C&D sites are prohibited:

- Wastewater from washout of concrete, unless managed by an appropriate control;
- Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials;
- Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and
- Soaps or solvents used in vehicle and equipment washing.

#### **F. Surface Outlets**

When discharging from basins and impoundments, operators must utilize outlet structures that withdraw water from the surface, unless infeasible.

This fact sheet discusses in the sections below how VIDPNR has incorporated these requirements into its 2023 VI CGP. The discussion will include a summary of each provision and the VIDPNR's rationale for articulating the provision in this way. VIDPNR notes that most of the 2012 VI CGP provisions are retained in the 2023 VI CGP.

### **III. Summary of Significant Changes to the 2023 VI CGP**

The final permit includes several new or modified requirements, many of which are related to the implementation of the 2014 C&D rule amendments, and thus differ from the 2012 VI CGP.

The following table summarizes the significant changes made in the final 2023 VI CGP and groups each potential revision into one of two categories: Changes to Clarify Permit and Added Specificity. The table also identifies where each change is found in the final permit.

|                                  | Summary of Permit Change                                                                                                                                                                                                   | Part(s) Where Change Appears         |
|----------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------|
| <b>Changes to Clarify Permit</b> | Update permit language related to water quality to reflect changes made to same provision in EPA's Multi-Sector General Permit (MSGP)                                                                                      | 1.1.6, 1.1.7, 2.2.13.g, 7.2.6.b.vi.c |
|                                  | Include polychlorinated biphenyl (PCB) related requirements, and requirements related to discharging to waters impaired for PCBs in accordance with EPA's 2022 Construction General Permit (EPA CGP)                       | 1.2.2g, 3.2a, 7.2.3g,                |
|                                  | Clarify that uncontaminated dewatering discharges in compliance with Part 2.4 are authorized                                                                                                                               | 1.2.2.l                              |
|                                  | Clarify that operators of an existing site are given continued coverage under the 2012 VI CGP as long as an NOI for coverage under the 2023 VI CGP is submitted no later than 90 days following the permit effective date  | Table 1                              |
|                                  | Include list of NOI modifications that result in a 14-day review process                                                                                                                                                   | 1.4.4                                |
|                                  | State clearly that VIDPNR does not recommend or endorse specific stormwater control or SWPPP products or vendors                                                                                                           | 2.1, 7.1                             |
|                                  | Include suggested stormwater control design considerations if the site has previously experienced major storms, and clarified that stormwater controls must be designed using the most recent precipitation data available | 2.1.1                                |
|                                  | More clearly differentiate between routine maintenance fixes and corrective actions                                                                                                                                        | 2.1.4.b, c, and d, 4.6.1.c, 5.1.1    |
|                                  | Include considerations for when stormwater infiltration may be inadvisable                                                                                                                                                 | 2.2.2                                |
|                                  | Clarify that perimeter controls are required in addition to establishing a natural buffer between construction activities and receiving waters, where applicable                                                           | 2.2.3.a                              |
|                                  | Specify that soil stockpile requirements do not apply to rock piles                                                                                                                                                        | 2.2.5                                |
|                                  | Clarify that inlet protection measures are not required for storm drain inlets that are conveyed to a sediment basin or similar control                                                                                    | 2.2.10, 7.2.4.g, 7.2.6.b.iv          |
|                                  | Provide additional considerations regarding the use of erosion control netting for site stabilization                                                                                                                      | 2.2.14                               |
|                                  | Clarify when waste containers with lids must be closed                                                                                                                                                                     | 2.3.3.e.ii                           |
|                                  | Clarify how liquid wastes must be handled for washing of certain applicators or containers                                                                                                                                 | 2.3.4.b                              |
|                                  | Provide clarifications to further explain when inspections are required for rain storms                                                                                                                                    | 4.2.2                                |

|                          | Summary of Permit Change                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Part(s) Where Change Appears                                   |
|--------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|
|                          | Clarify that the SWPPP site map must be updated following site inspection to reflect any changes to stormwater controls, where applicable                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 4.6.4                                                          |
|                          | Clarify that inspection reports and SWPPPs may be kept in electronic form as long as they are accessible in the same way as a paper report                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | 4.7.3, 5.4.3, 7.3                                              |
|                          | Streamline corrective action documentation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | 5.4                                                            |
|                          | Consolidate stormwater team and training requirements                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | 6.1, 6.2                                                       |
|                          | Reformat Appendix C requirements for the determination of eligibility related to endangered species protection so that what is included is streamlined down to a worksheet                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | 1.1.4, Appendix C                                              |
| <b>Added Specificity</b> | More specifically describe where perimeter controls are needed, how to install them to ensure effectiveness, and when to conduct repairs                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | 2.2.3                                                          |
|                          | Specify what types of pollution prevention requirements apply to petroleum and chemical containers based on the volume of the container                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 2.3.3.c, 7.2.6.b.ix                                            |
|                          | Specify that waste containers are not required for the waste remnant of certain non-polluting construction materials or products                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 2.3.3.e, 7.2.4.i, 7.2.6.b.ix                                   |
|                          | Add specificity to dewatering discharge requirements: <ul style="list-style-type: none"> <li>• Improve clarity of required controls for sediment and other pollutant discharges from dewatering activities</li> <li>• Establish turbidity benchmark monitoring requirements for dewatering discharges to surface waters</li> <li>• Include more detailed inspection requirements for dewatering activities, including:               <ul style="list-style-type: none"> <li>- Indicate on NOI if dewatering will occur on site and whether dewatering will occur on a current or former remediation site</li> <li>- More frequent inspections for ground water dewatering</li> <li>- Specify areas of dewatering operation that must be inspected, and what to look for</li> <li>- Operators required to record date, names of personnel making the inspection, times, estimated rate, visual qualities of discharge, and whether there are visual signs of sediment deposition, and to take and keep photos of dewatering controls and discharge</li> </ul> </li> </ul> | 2.4, 3.3, 4.3.2, 4.6.3, 5.1.5, 5.2.2, 7.2.4, 7.2.8, Appendix K |

|  | Summary of Permit Change                                                                                                                                                                                                                                                                            | Part(s) Where Change Appears |
|--|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
|  | <ul style="list-style-type: none"> <li>Specify what corrective action is required based on benchmark exceedances or visual signs of turbid discharges or sediment deposition</li> <li>Include paper turbidity monitoring form for operators subject to benchmark monitoring requirements</li> </ul> |                              |
|  | Specify the options for obtaining the necessary training for personnel conducting site inspections, including providing an EPA-developed inspector training program                                                                                                                                 | 4.1, 6.3                     |
|  | Specify that inspections include checking for signs of sedimentation and other pollutants that are visible from points of discharge from the site                                                                                                                                                   | 4.6.1.e, 4.6.2.b             |
|  | Require photo documentation of stabilized site as part of permit termination                                                                                                                                                                                                                        | 8.2.1.a, Appendix I          |
|  | Add question to the NOI for operators to indicate if other operators involved in the same project are also covered under the VI CGP                                                                                                                                                                 | Appendix H                   |

The permit includes several new or modified requirements. The following summarizes the significant changes to the 2023 VI CGP permit.

#### **A. Changes to Clarity of the Permit**

The following summarizes the significant changes to the 2023 VI CGP.

- *Approved stormwater control and stormwater pollution prevention plan products* – VIDPNR includes new language in the permit to clearly state that the department does not endorse specific stormwater control or stormwater pollution prevention plan (SWPPP) products or vendors. Industry stakeholders commenting on EPA's 2022 CGP suggested that the permit include such language to help discourage some vendors from misleadingly suggesting that the permitting authority or the permit approves of specific products. See footnotes 13 and 78 in Parts 2.1 and 7.1, respectively, of the permit.
- *Differentiate between routine maintenance and corrective action* – VIDPNR defines routine maintenance as minor repairs or other upkeep performed to ensure the site's stormwater controls remain in effective operating condition, not including significant repairs or the need to install a new or replacement control. If a stormwater control needs a significant repair or a new or replacement control is needed, the permit requires that it be treated as a corrective action. This change addresses feedback provided by industry stakeholders on EPA's 2022 CGP who observed that there is considerable confusion about which maintenance repairs are considered routine versus those that should be treated as corrective actions. VIDPNR is providing flexibility for routine maintenance, which cannot be completed by the close of the next business day after the condition requiring maintenance is discovered, by enabling operators to have up to seven days to complete this work. The additional time is conditioned on the operator documenting in the site inspection report why it would be infeasible to finish the work by the close of the next business, and why the repairs or other upkeep should still be treated as routine maintenance. Where the operator finds that the same routine maintenance fix must be repeatedly (i.e., three or more times) made to the same stormwater control at the same location, the operator must complete the work for any subsequent occurrences of the same problem under the corrective action procedures in Part 5 of the permit, or document in the site inspection report why the specific reoccurrence of the problem should still be addressed as a routine maintenance fix. See Parts 2.1.4.b, c, and d, and 5.1.1 of the permit.
- *Include additional stormwater control design considerations* – The VI CGP requires operators to take into account several factors in designing stormwater controls that comply with permit conditions. The factors include the expected amount, frequency, intensity, and duration of precipitation. See Part 2.1.1 of the permit. VIDPNR clarifies that the relevant data used must be the most recent data available to account for recent precipitation patterns and trends. VIDPNR also suggests that operators include consideration and contingencies for the implementation of structural improvements, enhanced or resilient stormwater controls, and other mitigation measures to help minimize the stormwater discharge impacts from major storms (e.g., hurricanes, storm surges, extreme precipitation, or flood events) where the site has been exposed to or previously experienced such storms.
- *Clarify factors where infiltration would be infeasible or inadvisable* – The VI CGP requires that operators direct stormwater to vegetated areas and maximize stormwater infiltration and filtering to reduce pollutant discharges, unless infiltration would be inadvisable due to the underlying geology and groundwater concerns, or infeasible due to site constraints. VIDPNR suggests some of the considerations operators should take into account in determining whether infiltration at a particular site is infeasible or inadvisable, such as factors relating to the underlying soils or geology, hydrology, depth to the groundwater table, proximity to

source water protection area(s), or specific contaminant concerns. See Part 2.2.2 and footnote 19 in the permit.

- *Clarify application of perimeter control and natural buffer requirements* – VIDPNR understands that there may be confusion about whether perimeter controls are necessary on the site when the operator is already providing a natural buffer pursuant to the requirements of the permit. VIDPNR clarifies that perimeter controls must be installed upgradient of any natural buffers except in situations where the perimeter control is being used by the operator to fulfill one of the buffer alternative requirements, in which case the operator would not be required to install a second perimeter control. See Part 2.2.3.a of the permit.
- *Clarify pollution prevention requirements for construction waste* – The 2023 VI CGP extends existing pollution control flexibilities that apply to building materials and products in Part 2.3.3.a to certain types of construction wastes in Part 2.3.3.e. Waste containers are not required for the waste remnant or unused portions of any construction materials or final products where the exposure to precipitation and to stormwater will not result in a discharge of pollutants, or where exposure of a specific material or product poses little risk of stormwater contamination, provided that these wastes are stored separately from other construction or domestic wastes that do not meet these criteria, are stored in designated areas of the site, and are described in the SWPPP. See Parts 2.3.3.e, 7.2.4.i, and 7.2.6.b.ix of the permit.
- *Clarify proper handling of washing applicators and containers used for stucco, paint, concrete, form release oils, curing compounds, or other materials* – The permit includes some additional details based on feedback provided in the public comments regarding how operators should handle washout or cleanout wastes. This includes not allowing liquid wastes to enter site drainage features, not allowing such wastes to be disposed of through infiltration or to otherwise be disposed of on the ground, and complying with applicable Territorial requirements for disposal. See Part 2.3.4.b of the permit.
- *Clarify requirements for inspections during storm events* – For inspections required in response to storm events producing 0.25 inches of rain within a 24-hour period, VIDPNR provided additional text explaining when inspections are required under different storm length scenarios. See Part 4.2.2.a.
- *Include information on availability of stormwater pollution prevention plan (SWPPP), inspection reports, and corrective action log in electronic form* – The 2012 VI CGP enabled operators to keep their SWPPP, inspection reports, and corrective action records in electronic form, as long as they could be accessed and read by the operator and by any EPA, territorial, or local inspection authorities in the same manner as a paper copy. The final 2023 VI CGP includes text to clarify that electronic versions of the SWPPP, inspection reports, and corrective action logs may be used as long as they meet certain minimum requirements. See footnotes 71, 73, and 84 to Parts 4.7.3, 5.4.3, and 7.3, respectively, of the permit.
- *Update process for Threatened and Endangered Species Protection eligibility determinations* – VIDPNR updated Appendix C of the VI CGP, which establishes procedures for operators to follow in determining their eligibility for coverage with respect to the protection of endangered and threatened species. The changes to Appendix C are primarily in the form of clarifications to existing procedures or updates to resources that operators can use to determine whether species or critical habitats are located in the “action area” of the construction site. VIDPNR included protection of locally listed endangered species and locally designated critical habitat under the Virgin Islands’ Indigenous and Endangered Species Act (IESA) of 1990 and reformatted Appendix C into a worksheet-style format that

breaks apart the procedures, criterion selection, and required supporting documentation into a series of individual questions and fillable answers, rather than long narrative instructions. It follows EPA's format and presents procedures in a more dynamic, structured way to help the operator arrive at the correct ESA/IESA criterion selection by eliminating ones that do not apply to their site and ensures that all required supporting documentation is included when submitting the NOI. See Appendix C of the permit, and related information from EPA at <https://www.epa.gov/npdes/construction-general-permit-threatened-and-endangered-species>.

## **B. Added Specificity to Permit Requirements**

VIDPNR finalized select modifications to the permit in accordance with EPA's updated 2022 Construction General Permit (EPA CGP). These changes incorporate enhancements that reflect current best practices and are narrowly focused on specific topics. The following is a summary of these changes:

- *Include additional perimeter control installation and maintenance requirements* – Due to the vital role that sediment controls installed along the downslope side of the construction site perimeter play in minimizing sediment discharges, it is important for the VI CGP requirements related to these controls to reflect best practices that are available, effective, and practicable. EPA reviewed a number of state permits and best management practice manuals during the development of the 2022 EPA CGP and concluded that some targeted changes to the permit perimeter control requirements are appropriate and warranted. For this reason, VIDPNR incorporated additional perimeter control installation and maintenance requirements that are focused on ensuring that these controls continue to work effectively. For example, under the new provision, if there is evidence of stormwater circumventing or undercutting the perimeter control after a storm event, the operator is required to extend the length of the perimeter control or repair any undercut areas, whichever applies. This change is intended to ensure that maintenance of these controls is focused on fixing problems as soon as they are found and making sure they work effectively before the next storm event occurs. See Part 2.2.3 of the permit.
- *Update pollution prevention requirements for chemicals used and stored on site* – VIDPNR finalized changes to the pollution prevention requirements for diesel fuel, oil, hydraulic fuels, or other petroleum products, and other chemicals. These changes ensure requirements are proportionate to the volume of chemicals being used and stored on the site, and relative to the risk of a spill or leak. VIDPNR improved requirements in this section by strengthening the linkage between the type of pollution prevention control needed and the volume of chemical containers kept on site. Consistent with this principle, the final permit establishes control requirements that are appropriate for chemical containers with a storage capacity of less than 55 gallons by requiring that the operator use water-tight containers, place them on a spill containment pallet (or similar device) if kept outside, and have a spill kit available at all times and in good working condition, and personnel available to respond quickly to a spill or leak. These controls will be effective at preventing a discharge from a spill or leak, while also having the added advantage of being moved more easily around the site. The final permit also includes controls that are more suitable to larger chemical containers with a storage capacity of 55 gallons or more, such as requiring a temporary roof or secondary containment to prevent a discharge from a leak or spill. VIDPNR modified the requirements so that they are applied based on the volume of container at the site (i.e., containers with a storage capacity of less than 55 gallons, or 55 gallons or more). VIDPNR also added some additional specificity to the final provisions to require that all containers be closed, sealed, and secured when not being actively used. VIDPNR also added an additional flexibility to allow operators with certain site constraints to store larger volume containers as far away

from receiving waters, site drainage features, and stormwater inlets as possible if it is infeasible to store them at least 50 feet away. See Part 2.3.3.c of the permit.

- *Specify new clarified dewatering discharge requirements* – VIDPNR finalized several changes to the permit's dewatering requirements to improve compliance and further reduce pollutant loads to receiving waters. VIDPNR, in concurrence with EPA, notes that there are common compliance issues with VI CGP dewatering requirements at sites with controls that are improperly installed and maintained, resulting in significant discharges of sediment and other pollutants to receiving waters. Given the high rate at which dewatered water may be discharged, EPA and VIDPNR inspection personnel have observed that it is possible that a site may discharge more sediment in several hours of poorly managed dewatering activities than might otherwise be discharged from a site via stormwater discharges over the entire course of the construction project. Additionally, VIDPNR has found there to be good example provisions from other state construction stormwater permits and standalone NPDES dewatering permits that can be used to strengthen the VI CGP's dewatering conditions.

The final dewatering revisions to the permit add clarity to the existing pollutant control provisions, increase the number of inspections required while the dewatering discharge is occurring, establish a tailored checklist of problems to review during the inspection, and identify specific triggers for when corrective action is required. For example, one new dewatering-related inspection provision requires the operator to check whether a sediment plume, foam, and/or other evidence of pollutants such as a visible sheen or oily deposit on the bottom or shoreline of the receiving water was observed during the inspection at the point of discharge to any receiving water flowing through or immediately adjacent to the site and/or to drainage features. If such pollutant indicators are observed, the permit requires the operator to, among other things, take immediate steps to minimize the discharge of pollutants, including the possibility of shutting off the dewatering discharge depending on the severity of the condition and to ensure that the dewatering controls being used are operating effectively. During an inspection of the dewatering operation, the operator would also be required to take photographs of (1) the dewatering water prior to treatment by a control(s) and the final discharge after treatment; (2) the dewatering control(s); and (3) the point of discharge to any receiving waters flowing through or immediately adjacent to the site and/or to site drainage features, storm drain inlets, and other conveyances to receiving waters. This documentation will help demonstrate how well the dewatering controls are working and will show where adaptations made after any problems have been found have resulted in improved pollutant control. See Parts 2.4, 4.3.2, 4.6.3, 5.1.5, and 5.2.2 of the permit.

- *Require turbidity benchmark monitoring for sites discharging dewatering water to surface waters* – The 2023 VI CGP requires targeted sampling of dewatering discharges to all surface waters. Under this new requirement, operators must collect at least one turbidity sample of the dewatering discharge each day a discharge occurs and compare the weekly average of the results with a benchmark turbidity value of 1, 3, or 50 Nephelometric Turbidity Units (NTU), as applicable.
  - The turbidity benchmark is 1 NTU for dewatering discharges to marine and coastal waters where coral reef systems are located and the effective turbidity water quality criterion is 1 NTU under 12 V.I.R.R. §186-4(b).
  - The turbidity benchmark is 3 NTU for dewatering discharges to marine and coastal waters where coral reef systems are not located and the effective turbidity water quality criterion is 3 NTU under 12 V.I.R.R. §186-4(b).

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- o The turbidity benchmark is 50 NTU for dewatering discharges to all other surface waters not subject to Part 3.3.2a or b.
  - o VIDPNR derived these benchmark thresholds based on the USVI water quality standards, a review of turbidity thresholds and water quality standards for states and other territories, EPA's 2022 CGP turbidity benchmark requirements, other NPDES dewatering permit conditions, literature related to the effects of turbidity on aquatic life, and public comments received during the comment period on the 2022 EPA CGP. USVI marine and coastal waters (Class A, B, and C Waters) have turbidity criteria of 1 and 3 NTU except for select Class B waters for St. Thomas and St. Croix per 12 V.I.R.R. § 186-4(b). All Territorial Waters, including inland waters, are subject to the narrative turbidity criterion at 12 V.I.R.R. § 186-5(a)(1)(C) and required to be free of "substances producing objectionable turbidity, such as sediment, floating debris, scum and other floating materials attributable to discharges in amounts sufficient to be unsightly, deleterious, create a nuisance, or be detrimental to the existing or designated uses of the waterbody."

For clarity, VIDPNR emphasizes that the benchmark threshold for turbidity is not an effluent limit. As such, an exceedance of the benchmark threshold does not itself constitute a permit violation. Rather, the benchmark threshold acts as a warning sign to the operator that changes may be needed in the dewatering controls to improve pollutant removal and protect water quality. Accordingly, if the weekly average of the turbidity samples exceeds the benchmark, the operator is required to conduct follow-up corrective action designed to lower the turbidity levels in the discharge. The new corrective action provisions for a benchmark exceedance require the operator to immediately take all reasonable steps to minimize or prevent the discharge of pollutants until a solution can be implemented, including safely shutting off the dewatering discharge depending on the severity of the condition; determining whether the dewatering controls are operating effectively and whether they are causing the conditions; and making any necessary adjustments, repairs, or replacements to the dewatering controls to lower the turbidity levels or remove the visible plume or sheen. Operators are also required to report their weekly average turbidity results to VIDPNR on a quarterly basis using the paper form in Appendix K, until VIDPNR provides notice that electronic submission is required.

For the 2023 VI CGP, VIDPNR includes turbidity monitoring for surface waters because these waters are sensitive to turbidity and have turbidity water quality and/or narrative criteria. The monitoring requirements for dewatering discharges will help ensure that such discharges do not further contribute excess pollutants to these waters and that existing uses are maintained and protected. Turbidity monitoring will provide operators with a baseline and comparable understanding of dewatering discharge quality, potential water quality problems, and dewatering control measure effectiveness. These data will supplement information provided through the daily inspections during dewatering activities and allow VIDPNR to review the pollutant concentrations in dewatering discharges. See Part 3.3, 5.1.5, and 5.2.2 of the permit.

EPA includes an extensive discussion of the rationale behind the decision to include benchmark monitoring for dewatering discharges to sensitive waters in the 2022 EPA CGP in Section VI, Part 3.3 of the EPA CGP fact sheet. EPA has also provided additional technical assistance resources for operators to use in implementing these provisions. For example, EPA has developed a Monitoring and Inspection Guide for Construction Dewatering, available on EPA's website at <https://www.epa.gov/npdes/construction-general-permit-resources-tools-and-templates-which-provides-guidelines> on how to correctly monitor for turbidity, determine if the weekly average exceeds the benchmark, and, if so, how to proceed with

corrective action, as well as how to comply with the permit's dewatering inspection requirements.

- *Update training requirements for personnel conducting site inspections* – VIDPNR finalized modifications to the training requirements for personnel conducting site inspections. These changes address problems found during many construction site inspections, where permittees are not properly conducting inspections or documenting their findings in accordance with the permit. VIDPNR strengthened the training requirements for inspection personnel to ensure their competency to conduct such inspections. For this reason, the permit specifies that a qualified person carrying out inspections must either (1) have completed the new EPA construction inspection course developed for this permit and passed the exam, or (2) hold a current valid construction inspection certification or license from a program that covers essentially the same core material as EPA's inspection course. These new requirements are an extension of what the 2012 VI CGP already required for the "qualified person" to conduct inspections and can be found on EPA's 2022 CGP webpage (<https://www.epa.gov/npdes/2022-construction-general-permit-cgp>). Documentation that the relevant personnel has completed the EPA course and passed the exam will serve as proof that the operator has met the new inspection training requirements. Alternatively, if the relevant personnel elect to obtain the required training through a different program that covers the same basic principles, the operator will need to provide documentation that these personnel have successfully completed the program and are in possession of a current, valid certification or license. See Parts 4.1, 6.3, and 7.2.2 of the permit.
- *Specify requirements for documenting signs of sedimentation attributable to construction site discharges* – VIDPNR specifies in the permit that during an inspection, operators must check for signs of sediment deposition that are visible from the site and attributable to the operator's discharge, for example sand bars with no vegetation growing on top in adjacent receiving waters or in other constructed or natural site drainage features, or the buildup of sediment deposits on nearby streets, curbs, or open conveyance channels. This change is intended to address a frequent problem observed during compliance inspections that the permittee does not document obvious signs of sedimentation in the receiving water or in drainage features that convey to receiving waters. The intent of this addition is to emphasize that the site inspection is an ideal time to examine whether there are any obvious signs of sedimentation attributable to the site's discharges, and to require documentation of such sedimentation. VIDPNR notes that the VI CGP already requires operators to check for signs of visible erosion and sedimentation (i.e., sediment deposits) that have occurred and are attributable to the operator's discharge at points of discharge and, if applicable, on the banks of any receiving waters flowing within or immediately adjacent to the site. See Part 4.6.1.e of the permit.
- *Require photo documentation of adequate site stabilization* –The final permit adds a new provision requiring operators as part of their Notice of Termination (NOT) to take and submit photographs showing the stabilized areas of the site following completion of construction. VIDPNR includes this requirement primarily as an additional level of documented evidence that operators are complying with the stabilization requirements prior to terminating coverage. Given the importance of stabilization to preventing continuing erosion and sedimentation, VIDPNR views the additional photo documentation requirement to be a relatively inexpensive, effective, and straightforward way for the operator to show the agency that it has complied with the permit's final stabilization requirements. See Part 8.2.1.a of the permit. Related to this new requirement, VIDPNR added a check box to the NOT form to confirm that the operator has attached photographs as required by Part 8.2.1.a, including the date each photograph was taken, and a brief description of the area of the site captured by the photograph.

- **Add new Notice of Intent (NOI) questions** – VIDPNR added new questions to the NOI form that construction operators will use to obtain coverage under the 2023 VI CGP. One question asks operators if dewatering water will be discharged during the course of their permit coverage. While VIDPNR suspects that most VI CGP-covered projects discharge dewatering water during construction, it is useful to the department to know what the prevalence of this practice is at its permitted sites. This question will provide a straightforward way of compiling information broadly about permittees and enable VIDPNR to know which operators may be affected by the permit's new dewatering requirements. A follow-up question asks operators who indicate that there will be a dewatering discharge to identify if their site is located on a current or former remediation site. This question is intended to provide VIDPNR with additional information regarding sites and their potential for contaminated discharge. Another question asks the operator completing the NOI whether there are other operators who are also covered by the VIDPNR at the same site and, if so, what their TPDES ID numbers are. Because the 2012 VI CGP NOI did not ask the operator to indicate whether there are multiple operators permitted for the same site, VIDPNR is often unable to easily determine who all the permitted entities are at larger projects and whether there may be some parties that should have obtained permit coverage as operators but have yet to do so. The NOI form also includes a new question that requires the operator to confirm that any personnel conducting inspections at the site will meet the modified training requirements in Part 6 of the permit. VIDPNR also finalized clarifying edits to better explain the types of documentation that are needed for several of the eligibility criteria. As mentioned in Section III.A in the summary of the "Update process for Threatened and Endangered Species Protection eligibility determinations," VIDPNR has also reformatted the Threatened and Endangered Species Protection section of the NOI, which now consists of questions that were previously contained in narrative instructions in Appendix C along with updated links to available mapping tools to assist operators in determining whether any listed or threatened species are known to occur in the action area of their site.

#### **IV. Categories of Facilities That Can Be Covered Under This Permit**

This permit covers stormwater discharges associated with construction activities located in the Territory of the United States Virgin Islands, which disturb one or more acres of land, or will disturb less than one acre but are part of a common plan of development or sale that will ultimately disturb one acre or more. See 40 CFR 122.26(b)(14)(x) and (15), and Part 1.1 of the permit. The table below summarizes which construction activities may be covered by this permit:

**Categories of facilities that can be covered under this permit**

| <b>Examples of Affected Entities</b>                                                                                                                                                                                                                         | <b>North American Industry Classification System (NAICS) Code</b> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| Construction site operators disturbing one or more acres of land, or less than one acre but part of a larger common plan of development or sale if the larger common plan will ultimately disturb one acre or more, and performing the following activities: |                                                                   |
| Construction of Buildings                                                                                                                                                                                                                                    | 236                                                               |
| Heavy and Civil Engineering Construction                                                                                                                                                                                                                     | 237                                                               |

Note that this list of NAICS codes covers those industry segments most likely to make use of this permit, but any construction operator that meets the eligibility requirements established for coverage is eligible. Eligibility for coverage by the permit is available to operators of "new sites," operators of "existing sites," "new operators of permitted sites," and operators of "emergency-related projects," as discussed in Part 1.2 and defined in Appendix A.

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**UNITED STATES VIRGIN ISLANDS  
DEPARTMENT OF PLANNING AND NATURAL RESOURCES**



**TERRITORIAL POLLUTION DISCHARGE ELIMINATION SYSTEM**

**GENERAL PERMIT NUMBER VIGSA0000**

**AUTHORIZATION FOR STORM WATER DISCHARGES ASSOCIATED WITH  
CONSTRUCTION ACTIVITY**

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In compliance with the provisions of the Clean Water Act, 33 U.S.C. §1251 et. seq., (hereafter CWA), as amended by the Water Quality Act of 1987, P.L. 100-4, and the Virgin Islands Water Pollution Control Act, 12 V.I. CODE ANN. §184 (1998 & Supp. 2004) et. Seq., operators of large and small construction activities that are described in Part 1.1 of this Territorial Pollutant Discharge Elimination System (TPDES) Virgin Island Construction General Permit (VI CGP), except for those activities excluded from authorization of discharge in Part 1.3 of this permit, are authorized by the Virgin Islands Department of Planning And Natural Resources, hereafter referred to as VIDPNR, to discharge pollutants to waters of the United States Virgin Islands in accordance with the effluent limitations and conditions set forth herein. Permit coverage is required from the "commencement of construction activities" (see Appendix A) until one of the conditions for terminating VI CGP coverage has been met (see Part 8.2).

This permit is conditioned upon payment of applicable fees, submittal of a complete Notice of Intent (NOI) application form and written approval of coverage from the director of Division of Environmental Protection of VIDPNR, in accordance with 12 V.I. CODE ANN. §184 (1998 & Supp. 2004).

This permit becomes effective on 12:00 am, **TBD**.

This permit and the authorization to discharge expire at 11:59pm, **TBD**.

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Honorable Jean-Pierre L. Oriol  
Commissioner

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Date

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## **1 HOW TO OBTAIN COVERAGE UNDER THE VIRGIN ISLANDS CONSTRUCTION GENERAL PERMIT (VI CGP)**

The Virgin Islands Construction General Permit (VI CGP) applies to the entire Territory of the United States Virgin Islands. To be covered under this permit, you must meet the eligibility conditions and follow the requirements for obtaining permit coverage in this Part.

### **1.1 ELIGIBILITY CONDITIONS**

**1.1.1** You are an “operator” of a construction site for which discharges will be covered under this permit. For the purposes of this permit and in the context of stormwater discharges associated with construction activity, an “operator” is any party associated with a construction project that meets either of the following two criteria:

- a.** The party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or
- b.** The party has day-to-day operational control of those activities at a project that are necessary to ensure compliance with the permit conditions.

Where there are multiple operators associated with the same project, all operators must obtain permit coverage.<sup>1</sup> Subcontractors generally are not considered operators for the purposes of this permit.

#### **1.1.2 Your site's construction activities:**

- a.** Will disturb one or more acres of land, or will disturb less than one acre of land but are part of a common plan of development or sale (as defined in Appendix A) that will ultimately disturb one or more acres of land; or
- b.** Have been designated by VIDPNR as needing permit coverage under 12 V.I.R.R. §184-45(a)(1)(viii) or 40 CFR §122.26(b)(15)(ii);

#### **1.1.3 Discharges from your site are not:**

- a.** Already covered by a different TPDES permit for the same discharge; or
- b.** In the process of having coverage under a different TPDES permit for the same discharge denied, terminated, or revoked.<sup>2, 3</sup>

**1.1.4** You can demonstrate you meet one of the criteria in the Endangered Species Protection section of the Notice of Intent (NOI) that you submit for coverage under this permit, per Part 1.4, with respect to the protection of species that are either locally-listed under the U.S. Virgin Islands Indigenous and Endangered Species Act (IESA) of 1990 and will not

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<sup>1</sup> If the operator of a “construction support activity” (see Part 1.2.1c) is different than the operator of the main site, that operator must also obtain permit coverage. See Part 7.1 for clarification on the sharing of permit-related functions between and among operators on the same site and for conditions that apply to developing a SWPPP for multiple operators associated with the same site.

<sup>2</sup> Parts 1.1.3a and 1.1.3b do not include sites currently covered under the 2012 VI CGP (VIGSA0000) that are in the process of obtaining coverage under this permit, nor sites covered under this permit that are transferring coverage to a different operator.

<sup>3</sup> Notwithstanding a site being made ineligible for coverage under this permit because it falls under the description of Parts 1.1.3a or 1.1.3b, above, DPNR-DEP may waive the applicable eligibility requirement after specific review if it determines that coverage under this permit is appropriate.

result in adverse modification or destruction of habitat that is locally designated as "critical habitat" under the IESA or Federally listed as endangered or threatened species ("listed") and will not result in the adverse modification or destruction of habitat that is Federally designated critical habitat under the Endangered Species Act (ESA).

**1.1.5** You have completed the screening process in Appendix D relating to the protection of historic properties; and

**1.1.6** For "new sources" (as defined in Appendix A) only:

**a.** VIDPNR has not, prior to authorization under this permit, determined that discharges from your site will not meet applicable water quality standards. Where such a determination is made prior to authorization, VIDPNR may notify you that an individual permit application is necessary. However, VIDPNR may authorize your coverage under this permit after you have included appropriate controls and implementation procedures designed to bring your discharge into compliance with this permit, specifically the requirement to meet water quality standards. In the absence of information demonstrating otherwise, VIDPNR expects that compliance with the requirements of this permit, including the requirements applicable to such discharges in Part 3, will result in discharges that meet applicable water quality standards.

**b.** Discharges from your site to a Class A water<sup>4</sup> will not lower the water quality of the applicable water. In the absence of information demonstrating otherwise, VIDPNR expects that compliance with the requirements of this permit, including the requirements applicable to such discharges in Part 3.2, will result in discharges that will not lower the water quality of such waters.

**1.1.7** If you plan to add "cationic treatment chemicals" (as defined in Appendix A) to stormwater and/or authorized non-stormwater prior to discharge, you may not submit your NOI until you notify VIDPNR (see Appendix J) in advance and VIDPNR authorizes coverage under this permit after you have included appropriate controls and implementation procedures designed to ensure that your use of cationic treatment chemicals will result in discharges that meet applicable water quality standards.

## **1.2 TYPES OF DISCHARGES AUTHORIZED<sup>5</sup>**

**1.2.1** The following stormwater discharges are authorized under this permit provided that appropriate stormwater controls are designed, installed, and maintained (see Parts 2 and 3):

**a.** Stormwater discharges, including stormwater runoff and surface runoff and drainage, associated with construction activity under 12 V.I.R.R. §184-45(b)(1)(ii);

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<sup>4</sup> Note: Your site will be considered to discharge to a Class A water if the first receiving water to which you discharge is identified by VIDPNR as a Class A water. For discharges that enter a storm sewer system prior to discharge, the first receiving water to which you discharge is the waterbody that receives the stormwater discharge from the storm sewer system..

<sup>5</sup> See "Discharge" as defined in Appendix A. Note: Any discharges not expressly authorized in this permit cannot become authorized or shielded from liability under CWA Section 402(k) by disclosure to VIDPNR after issuance of this permit via any means, including the NOI to be covered by the permit, the SWPPP, or during an inspection.

- b.** Stormwater discharges designated by VIDPNR as needing a permit under 12 V.I.R.R §184-45(a)(1)(viii) or 40 CFR §122.26(b)(15)(ii);
- c.** Stormwater discharges from on or off-site construction support activities (e.g., concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, borrow areas) provided that:
  - i.** The support activity is directly related to the construction site required to have permit coverage for stormwater discharges;
  - ii.** The support activity is not a commercial operation, nor does it serve multiple unrelated construction sites;
  - iii.** The support activity does not continue to operate beyond the completion of the construction activity at the site it supports; and
  - iv.** Stormwater controls are implemented in accordance with Part 2 and Part 3 for discharges from the support activity areas; and

**1.2.2** The following non-stormwater discharges associated with your construction activity are authorized under this permit provided that, with the exception of water used to control dust and to irrigate vegetation in stabilized areas, these discharges are not routed to areas of exposed soil on your site and you comply with any applicable requirements for these discharges in Parts 2 and 3:

- a.** Discharges from emergency fire-fighting activities;
- b.** Fire hydrant flushings;
- c.** Landscape irrigation;
- d.** Water used to wash vehicles and equipment, provided that there is no discharge of soaps, solvents, or detergents used for such purposes;
- e.** Water used to control dust;
- f.** Potable water including uncontaminated water line flushings;
- g.** External building washdown, provided soaps, solvents, and detergents are not used, and external surfaces do not contain hazardous substances (as defined in Appendix A) (e.g., paint or caulk containing polychlorinated biphenyls (PCBs));
- h.** Pavement wash waters, provided spills or leaks of toxic or hazardous substances have not occurred (unless all spill material has been removed) and where soaps, solvents, and detergents are not used. You are prohibited from directing pavement wash waters directly into any receiving water, storm drain inlet, or constructed or natural site drainage features, unless the feature is connected to a sediment basin, sediment trap, or similarly effective control;
- i.** Uncontaminated air conditioning or compressor condensate;
- j.** Uncontaminated, non-turbid discharges of ground water or spring water;
- k.** Foundation or footing drains where flows are not contaminated with process materials such as solvents or contaminated ground water; and

- I. Uncontaminated construction dewatering water<sup>6</sup> discharged in accordance with Part 2.4.

**1.2.3** Also authorized under this permit are discharges of stormwater listed above in Part 1.2.1, or authorized non-stormwater discharges listed above in Part 1.2.2, commingled with a discharge authorized by a different TPDES permit and/or a discharge that does not require TPDES permit authorization.

### **1.3 PROHIBITED DISCHARGES<sup>7</sup>**

The discharges listed in this Part are prohibited outright or authorized only under the identified conditions. To prevent the discharges in Parts 1.3.1 through 1.3.5, operators must comply with the applicable pollution prevention requirements in Part 2.3 or ensure the discharge is authorized by another TPDES permit consistent with Part 1.2.3 for commingled discharges.

- 1.3.1** Wastewater from washout of concrete, unless managed by an appropriate control as described in Part 2.3.4;
- 1.3.2** Wastewater from washout and/or cleanout of stucco, paint, form release oils, curing compounds, and other construction materials;
- 1.3.3** Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance;
- 1.3.4** Soaps, solvents, or detergents used in vehicle and equipment washing or external building washdown; and
- 1.3.5** Toxic or hazardous substances from a spill or other release.

### **1.4 SUBMITTING YOUR NOTICE OF INTENT (NOI)**

All "operators" (as defined in Appendix A) associated with your construction site who meet the Part 1.1 eligibility conditions, and who seek coverage under this permit, must submit to VIDPNR a complete and accurate NOI in accordance with the deadlines in Table 1 prior to commencement of construction activities (as defined in Appendix A).

**Exception:** If you are conducting construction activities in response to a public emergency (e.g., mud slides, earthquake, extreme flooding conditions, widespread disruption in essential public services), and the related work requires immediate authorization to avoid imminent endangerment to human health, public safety, or the environment, or to reestablish essential public services, you may discharge on the condition that a complete and accurate NOI is submitted within 30 calendar days after commencing construction activities (see Table 1) establishing that you are eligible for coverage under this permit. You must also provide documentation in your Stormwater Pollution Prevention Plan (SWPPP) to substantiate the occurrence of the public emergency pursuant to Part 7.2.3i.

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<sup>6</sup> VIDPNR notes that operators may need to comply with additional procedures to verify that the dewatering discharge is uncontaminated.

<sup>7</sup> VIDPNR includes these prohibited non-stormwater discharges here as a reminder to the operator that the only non-stormwater discharges authorized by this permit are at Part 1.2.2. Any unauthorized non-stormwater discharges must be covered under an individual permit or alternative general permit.

#### **1.4.1 Prerequisite for Submitting Your NOI**

You must develop a SWPPP consistent with Part 7 and submit your completed SWPPP to VIDPNR for review at the time you submit your NOI for coverage under this permit pursuant to Part 1.4.2.

#### **1.4.2 How to Submit Your NOI**

- a. Until [placeholder for date in 2024 that is 1 year beyond GP reissuance], you are required to complete and submit VIDPNR's NOI form specific to this permit, found in Appendix H.
- b. Effective [placeholder for date in 2024 that is 1 year beyond GP reissuance], you are required to use VIDPNR's NOI system (accessible at [placeholder for website address]) to prepare and submit your NOI electronically. However, if the VIDPNR grants you a waiver to use a paper NOI form, and you elect to use it, you must complete and submit the NOI form found in Appendix H.
- c. If pursuant to 1.4.2a or 1.4.2b, you are submitting a paper NOI form, you must submit the form to one of the following VIDPNR offices, corresponding with the island on which the construction activity covered is located. :

##### **ST. CROIX**

Virgin Islands Department of Planning and Natural Resources  
Water Pollution Control Program  
ATTN: TPDES Program  
45 Estate Mars Hill  
Frederiksted, VI 00840

##### **ST. THOMAS & ST. JOHN**

Virgin Islands Department of Planning and Natural Resources  
Water Pollution Control Program  
ATTN: TPDES Program  
4611 Tutu Park Mall, Suite 300, Second Floor  
St. Thomas, VI 00802

#### **1.4.3 Deadlines for Submitting Your NOI and Your Official Date of Permit Coverage**

Table 1 provides the deadlines for submitting your NOI and the official start date of your permit coverage, which differ depending on when you commence construction activities.

**Table 1 NOI Submittal Deadlines and Official Start Date for Permit Coverage.**

| Type of Operator                                                                                                                                                                                                                                                                                                                                                                                 | NOI Submittal Deadline <sup>8</sup>                                                         | Permit Authorization Date <sup>9</sup>                                                                                                                                                                                                                                                                                                                                                                                |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Operator of a new site</b> (i.e., a site where construction activities commence on or after <b>TBD</b> .)                                                                                                                                                                                                                                                                                     | At least 90 calendar days before commencing construction activities.                        | At least 75 calendar days after VIDPNR notifies you that it has received a complete NOI, to allow for a review of your submitted SWPPP, and upon VIDPNR notifying you of permit authorization unless VIDPNR notifies you that your authorization is delayed or denied.                                                                                                                                                |
| <b>Operator of an existing site</b> (i.e., a site with 2012 VI CGP coverage where construction activities commenced prior to <b>TBD</b> .)                                                                                                                                                                                                                                                       | No later than <b>TBD</b> .                                                                  | 14 calendar days after VIDPNR notifies you that it has received a complete NOI, unless VIDPNR notifies you that your authorization is delayed or denied.<br><br>Provided you submit your NOI no later than <b>TBD</b> your authorization under the 2012 VI CGP is automatically continued until you have been granted coverage under this permit or an alternative TPDES permit, or coverage is otherwise terminated. |
| <b>New operator of a permitted site</b> (i.e., an operator that through transfer of ownership and/or operation replaces the operator of an already permitted construction site that is either a "new site" or an "existing site")                                                                                                                                                                | At least 14 calendar days before the date the transfer to the new operator will take place. | 14 calendar days after VIDPNR notifies you that it has received a complete NOI, unless VIDPNR notifies you that your authorization is delayed or denied.                                                                                                                                                                                                                                                              |
| <b>Operator of an "emergency-related project"</b> (i.e., a project initiated in response to a public emergency (e.g., mud slides, earthquake, extreme flooding conditions, disruption in essential public services), for which the related work requires immediate authorization to avoid imminent endangerment to human health or the environment, or to reestablish essential public services) | No later than 30 calendar days after commencing construction activities.                    | You are considered provisionally covered under the terms and conditions of this permit immediately, and fully covered 14 calendar days after VIDPNR notifies you that it has received a complete NOI, unless VIDPNR notifies you that your authorization is delayed or denied.                                                                                                                                        |

<sup>8</sup> If you miss the deadline to submit your NOI, any and all discharges from your construction activities will continue to be unauthorized under the CWA until they are covered by this or a different TPDES permit. VIDPNR may take enforcement action for any unpermitted discharges that occur between the commencement of construction activities and discharge authorization.

<sup>9</sup> Discharges are not authorized if your NOI is incomplete or inaccurate or if you are not eligible for permit coverage.

#### 1.4.4 Modifying your NOI

If after submitting your NOI you need to correct or update any fields, indicate any NOI changes on the same NOI form in Appendix H and resubmit the NOI form as directed in Part 1.4.2c, or following the procedures specified by VIDPNR if VIDPNR has provided notice that electronic submission of NOIs is required under Part 1.4.2.

When there is a change to the site's operator, the new operator must submit a new NOI, and the previous operator must submit a Notice of Termination (NOT) form as specified in Part 8.3.

The following modifications to an NOI form will result in a minimum 14-day review process:

- Changes to the name of the operator;
- Changes to the project or site name;
- Changes to the estimated area to be disturbed;
- Changes to the name of the receiving water<sup>10</sup>, or additions to the applicable receiving waters;
- Changes to eligibility information related to endangered species protection or historic preservation;
- Changes to information provided related to the use of chemical treatment at your site; and
- Changes to answers provided regarding the demolition of structures over 10,000 square feet of floor space built or renovated before January 1, 1980.

During the minimum 14-day review process, you may continue to operate based on the information provided in your original NOI, but you must wait until the review period has ended before you may commence or continue activities on any portion of your site that would be affected by any of the above modifications, unless VIDPNR notifies you that the authorization is delayed or denied.

#### 1.4.5 Your Official End Date of Permit Coverage

Once covered under this permit, your coverage will last until the date that:

- a. You terminate permit coverage consistent with Part 8; or
- b. You receive permit coverage under a different TPDES permit or a reissued or replacement version of this permit after expiring on **TBD** or
- c. You fail to submit an NOI for coverage under a reissued or replacement version of this permit before the deadline for existing construction sites where construction activities continue after this permit has expired.

#### 1.5 REQUIREMENT TO POST A NOTICE OF YOUR PERMIT COVERAGE

You must post a sign or other notice of your permit coverage at a safe, publicly accessible location in close proximity to the construction site. The notice must be located so it is visible from the public road that is nearest to the active part of the construction

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<sup>10</sup> As defined in Appendix A, a "receiving water" is "a "Water of the United States Virgin Islands" as defined in 12 V.I.R.R. §184-2 into which the regulated stormwater discharges.

site, and it must use a font large enough to be readily viewed from a public right-of-way.<sup>11</sup> At a minimum, the notice must include:

- a. The TPDES ID (i.e., permit tracking number assigned to your NOI);
- b. A contact name and phone number for obtaining additional construction site information;
- c. The Uniform Resource Locator (URL) for the SWPPP (if available), or the following statement using the VIDPNR office corresponding with the island on which the construction activity covered is located: "If you would like to obtain a copy of the Stormwater Pollution Prevention Plan (SWPPP) for this site, contact VIDPNR by phone at (340) 774-3320 for sites on St. Thomas or St. John or (340) 773-1082 for sites on St. Croix;" and
- d. The following statement using the VIDPNR office corresponding with the island on which the construction activity covered is located: "If you observe indicators of stormwater pollutants in the discharge or in the receiving water, contact VIDPNR by phone at (340) 774-3320 [for sites on St. Thomas or St. John] or (340) 773-1082 [for sites on St. Croix]."

## **2 TECHNOLOGY-BASED EFFLUENT LIMITATIONS**

You must comply with the following technology-based effluent limitations in this Part for all authorized discharges.<sup>12</sup>

### **2.1 GENERAL STORMWATER CONTROL DESIGN, INSTALLATION, AND MAINTENANCE REQUIREMENTS**

You must design, install, and maintain stormwater controls required in Parts 2.2, 2.3, and 2.4 to minimize the discharge of pollutants in stormwater from construction activities.<sup>13</sup> To meet this requirement, you must:

#### **2.1.1 Account for the following factors in designing your stormwater controls:**

- a. The expected amount, frequency, intensity, and duration of precipitation;<sup>14</sup>
- b. The nature of stormwater runoff (i.e., flow) and run-on at the site, including factors such as expected flow from impervious surfaces, slopes, and site drainage features. You must design stormwater controls to control stormwater volume, velocity, and peak flow rates to minimize discharges of pollutants in stormwater and to minimize channel and streambank erosion and scour in the immediate vicinity of discharge points; and

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<sup>11</sup> If the active part of the construction site is not visible from a public road, then place the notice of permit coverage in a position that is visible from the nearest public road and as close as possible to the construction site.

<sup>12</sup> For each of the effluent limits in Part 2, as applicable to your site, you must include in your SWPPP (1) a description of the specific control(s) to be implemented to meet the effluent limit; (2) any applicable design specifications; (3) routine maintenance specifications; and (4) the projected schedule for installation/implementation. See Part 7.2.6.

<sup>13</sup> The permit does not recommend or endorse specific products or vendors.

<sup>14</sup> Stormwater controls must be designed using the most recent data available to account for recent precipitation patterns and trends.

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

If your site is exposed to or has previously experienced major storms, such as hurricanes, storm surge, extreme/heavy precipitation, and flood events, you should also include consideration of and contingencies for whether implementing structural improvements, enhanced/resilient stormwater controls, and other mitigation measures may help minimize impacts from stormwater discharges from such major storm events.

**2.1.2 Design and install all stormwater controls in accordance with good engineering practices, including applicable design specifications.<sup>15</sup>**

For the purposes of this permit, VIDPNR considers “good engineering practices” and “applicable design specifications” to mean being able to meet the minimum requirements found in the most recent version of the Virgin Islands Environmental Protection Handbook (VIEPH), unless the manufacturer’s specifications are more stringent, in which case you must follow the more stringent design and installation requirements.

**2.1.3 Complete installation of stormwater controls by the time each phase of construction activities has begun.**

- a. By the time construction activity in any given portion of the site begins, install and make operational any downgradient sediment controls (e.g., buffers, perimeter controls, exit point controls, storm drain inlet protection) that control discharges from the initial site clearing, grading, excavating, and other earth-disturbing activities.<sup>16</sup>
- b. Following the installation of these initial controls, install and make operational all stormwater controls needed to control discharges prior to subsequent earth-disturbing activities.

**2.1.4 Ensure all stormwater controls are maintained and remain in effective operating condition during permit coverage and are protected from activities that would reduce their effectiveness.**

- a. Comply with any specific maintenance requirements for the stormwater controls listed in this permit, as well as any recommended by the manufacturer.<sup>17</sup>
- b. If at any time you find that a stormwater control needs routine maintenance (i.e., minor repairs or other upkeep performed to ensure the site’s stormwater controls remain in effective operating condition, not including significant repairs or the need to install a new or replacement control), you must immediately initiate the needed work, and complete such work by the close of the next business day. If it is infeasible to complete the routine maintenance by the close of the next business day, you must document why this is the case and why the repair or other upkeep to be performed

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<sup>15</sup> Design specifications may be found in manufacturer specifications and/or in applicable erosion and sediment control manuals or ordinances. Any departures from such specifications must reflect good engineering practices and must be explained in your SWPPP. You must also comply with any additional design and installation requirements specified for the effluent limits in Parts 2.2, 2.3, and 2.4.

<sup>16</sup> Note that the requirement to install stormwater controls prior to each phase of construction activities for the site does not apply to the earth disturbance associated with the actual installation of these controls. Operators should take all reasonable actions to minimize the discharges of pollutants during the installation of stormwater controls.

<sup>17</sup> Any departures from such maintenance recommendations made by the manufacturer must reflect good engineering practices and must be explained in your SWPPP.

should still be considered routine maintenance in your inspection report under Part 4.7.1c and complete such work no later than seven (7) calendar days from the time of discovery of the condition requiring maintenance.

- c. If you must repeatedly (i.e., three (3) or more times) make the same routine maintenance fixes to the same control at the same location, even if the fix can be completed by the close of the next business day, you must either:
  - i. Complete work to fix any subsequent repeat occurrences of this same problem under the corrective action procedures in Part 5, including keeping any records of the condition and how it was corrected under Part 5.4; or
  - ii. Document in your inspection report under Part 4.7.1c why the specific reoccurrence of this same problem should still be addressed as a routine maintenance fix under this Part.<sup>18</sup>
- d. If at any time you find that a stormwater control needs a significant repair or that a new or replacement control is needed, you must comply with the corrective action deadlines for completing such work in in Part 5.2.1c.

## **2.2 EROSION AND SEDIMENT CONTROL REQUIREMENTS**

You must implement erosion and sediment controls in accordance with the following requirements to minimize the discharge of pollutants in stormwater from construction activities.

### **2.2.1 Provide and maintain natural buffers and/or equivalent erosion and sediment controls for discharges to any receiving waters that is located within 50 feet of the site's earth disturbances.**

- a. **Compliance Alternatives.** For any discharges to receiving waters located within 50 feet of your site's earth disturbances, you must comply with one of the following alternatives:
  - i. Provide and maintain a 50-foot undisturbed natural buffer; or
  - ii. Provide and maintain an undisturbed natural buffer that is less than 50 feet and is supplemented by erosion and sediment controls that achieve, in combination, the sediment load reduction equivalent to a 50-foot undisturbed natural buffer; or
  - iii. If infeasible to provide and maintain an undisturbed natural buffer of any size, implement erosion and sediment controls to achieve the sediment load reduction equivalent to a 50-foot undisturbed natural buffer.

See Appendix F, Part F.2 for additional conditions applicable to each compliance alternative.

- b. **Exceptions.** See Appendix F, Part F.2 for exceptions to the compliance alternatives.

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<sup>18</sup> Such documentation could include, for example, that minor repairs completed within the required timeframe are all that is necessary to ensure that the stormwater control continues to operate as designed and installed and that the stormwater control remains appropriate for the flow reaching it.

**2.2.2 Direct stormwater to vegetated areas and maximize stormwater infiltration and filtering to reduce pollutant discharges, unless infiltration would be inadvisable due to the underlying geology (e.g., karst topography) and ground water contamination concerns, or infeasible due to site conditions.<sup>19</sup>**

**2.2.3 Install sediment controls along any perimeter areas of the site that are downslope from any exposed soil or other disturbed areas.<sup>20</sup>**

- a.** The perimeter control must be installed upgradient of any natural buffers established under Part 2.2.1, unless the control is being implemented pursuant to Part 2.2.1a.ii-iii;
- b.** To prevent stormwater from circumventing the edge of the perimeter control, install the perimeter control on the contour of the slope and extend both ends of the control up slope (e.g., at 45 degrees) forming a crescent rather than a straight line;
- c.** After installation, to ensure that perimeter controls continue to work effectively:
  - i.** Remove sediment before it has accumulated to one-half of the above-ground height of any perimeter control; and
  - ii.** After a storm event, if there is evidence of stormwater circumventing or undercutting the perimeter control, extend controls and/or repair undercut areas to fix the problem.
- d. Exception.** For areas at “linear construction sites” (as defined in Appendix A) where perimeter controls are infeasible (e.g., due to a limited or restricted right-of-way), implement other practices as necessary to minimize pollutant discharges to perimeter areas of the site.

**2.2.4 Minimize sediment track-out.**

- a.** Restrict vehicle use to properly designated exit points;
- b.** Use appropriate stabilization techniques<sup>21</sup> at all points that exit onto paved roads;
  - i. Exception:** Stabilization is not required for exit points at linear utility construction sites that are used only episodically and for very short durations over the life of the project, provided other exit point controls<sup>22</sup> are implemented to minimize sediment track-out;

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<sup>19</sup> Operators should consider whether factors such as specific contaminant concerns from the construction site, the underlying soils or geology, hydrology, depth to the ground water table, or proximity to source water or wellhead protection area(s) make the site unsuitable for infiltrating construction stormwater. Site conditions that may be of particular concern include proximity to: a current or future drinking water aquifer; a drinking water well or spring (including private/household wells); highly conductive geology such as karst; known pollutant hot spots, such as hazardous waste sites, landfills, gas stations, brownfields; an on-site sewage system or underground storage tank; or soils that do not allow for infiltration. Operators may find it helpful to consult EPA's [Drinking Water Mapping Application to Protect Source Waters \(DWMAPS\)](#). DWMAPS is an online mapping tool that can be used to locate drinking water providers, potential sources of contamination, polluted waterways, and information on protection initiatives in the site area.

<sup>20</sup> Examples of perimeter controls include filter berms; different types of silt fence such as wire-backed silt fence, super silt fence, or multi-layer geotextile silt fence; compost filter socks; gravel barriers; and temporary diversion dikes.

<sup>21</sup> Examples of appropriate stabilization techniques include the use of aggregate stone with an underlying geotextile or non-woven filter fabric, and turf mats.

<sup>22</sup> Examples of other exit point controls include preventing the use of exit points during wet periods;

- c. Implement additional track-out controls<sup>23</sup> as necessary to ensure that sediment removal occurs prior to vehicle exit; and
- d. Where sediment has been tracked-out from your site onto paved roads, sidewalks, or other paved areas outside of your site, remove the deposited sediment by the end of the same business day in which the track-out occurs or by the end of the next business day if track-out occurs on a non-business day. Remove the track-out by sweeping, shoveling, or vacuuming these surfaces, or by using other similarly effective means of sediment removal. You are prohibited from hosing or sweeping tracked-out sediment into any constructed or natural site drainage feature, storm drain inlet, or receiving water.<sup>24</sup>

**2.2.5 Manage stockpiles or land clearing debris piles composed, in whole or in part, of sediment and/or soil:<sup>25</sup>**

- a. Locate the piles outside of any natural buffers established under Part 2.2.1 and away from any constructed or natural site drainage features, storm drain inlets, and areas where stormwater flow is concentrated;
- b. Install a sediment barrier along all downgradient perimeter areas of stockpiled soil or land clearing debris piles;<sup>26</sup>
- c. For piles that will be unused for 14 or more days, provide cover<sup>27</sup> or appropriate temporary stabilization (consistent with Part 2.2.14);
- d. You are prohibited from hosing down or sweeping soil or sediment accumulated on pavement or other impervious surfaces into any constructed or natural site drainage feature, storm drain inlet, or receiving water.

**2.2.6 Minimize dust.** On areas of exposed soil, minimize dust through the appropriate application of water or other dust suppression techniques to control the generation of pollutants that could be discharged in stormwater from the site.

**2.2.7 Minimize steep slope disturbances.** Minimize the disturbance of “steep slopes” (as defined in Appendix A).<sup>28</sup>

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minimizing exit point use by keeping vehicles on site to the extent possible; limiting exit point size to the width needed for vehicle and equipment usage; using scarifying and compaction techniques on the soil; and avoiding establishing exit points in environmentally sensitive areas (e.g., karst areas; steep slopes).

<sup>23</sup> Examples of additional track-out controls include the use of wheel washing, rumble strips, and rattle plates.

<sup>24</sup> Fine grains that remain visible (e.g., staining) on the surfaces of off-site streets, other paved areas, and sidewalks after you have implemented sediment removal practices are not a violation of Part 2.2.4.

<sup>25</sup> The requirements in Part 2.2.5 do not apply to the storage of rock, such as rip rap, landscape rock, pipe bedding gravel, and boulders. Refer to Part 2.3.3a for the requirements that apply to these types of materials.

<sup>26</sup> Examples of sediment barriers include berms, dikes, fiber rolls, silt fences, sandbags, gravel bags, or straw bale.

<sup>27</sup> Examples of cover include tarps, blown straw and hydroseeding.

<sup>28</sup> Where disturbance to steep slopes cannot be avoided, operators should consider implementing controls suitable for steep slope disturbances that are effective at minimizing erosion and sediment discharge (e.g., preservation of existing vegetation, hydraulic mulch, geotextiles and mats, compost blankets, earth dikes or

**2.2.8 Preserve native topsoil, unless infeasible.<sup>29</sup>**

**2.2.9 Minimize soil compaction.<sup>30</sup>** In areas of your site where final vegetative stabilization will occur or where infiltration practices will be installed:

- a. Restrict vehicle and equipment use in these locations to avoid soil compaction; and
- b. Before seeding or planting areas of exposed soil that have been compacted, use techniques that rehabilitate and condition the soils as necessary to support vegetative growth.

**2.2.10 Protect storm drain inlets.**

- a. Install inlet protection measures that remove sediment from discharges prior to entry into any storm drain inlet that carries stormwater from your site to a receiving water, provided you have authority to access the storm drain inlet.<sup>31</sup> Inlet protection measures are not required for storm drain inlets that are conveyed to a sediment basin, sediment trap, or similarly effective control; and
- b. Clean, or remove and replace, the inlet protection measures as sediment accumulates, the filter becomes clogged, and/or performance is compromised. Where there is evidence of sediment accumulation adjacent to the inlet protection measure, remove the deposited sediment by the end of the same business day in which it is found or by the end of the following business day if removal by the same business day is not feasible.

**2.2.11 Control stormwater discharges, including both peak flowrates and total stormwater volume, to minimize channel and streambank erosion and scour in the immediate vicinity of discharge points.<sup>32</sup>**

**2.2.12 If you install a sediment basin or similar impoundment:**

- a. Situate the basin or impoundment outside of any receiving water, and any natural buffers established under Part 2.2.1;
- b. Design the basin or impoundment to avoid collecting water from wetlands;
- c. Design the basin or impoundment to provide storage for either:

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drainage swales, terraces, velocity dissipation devices). To identify slopes and soil types that are of comparatively higher risk for sediment discharge operators can use Table F-2 in Appendix F.

<sup>29</sup> Stockpiling topsoil at off-site locations, or transferring topsoil to other locations, is an example of a practice that is consistent with the requirements in Part 2.2.8. Preserving native topsoil is not required where the intended function of a specific area of the site dictates that the topsoil be disturbed or removed. For example, some sites may be designed to be highly impervious after construction, and therefore little or no vegetation is intended to remain, or may not have space to stockpile native topsoil on site for later use, in which case it may not be feasible to preserve topsoil.

<sup>30</sup> Minimizing soil compaction is not required where the intended function of a specific area of the site dictates that it be compacted.

<sup>31</sup> Inlet protection measures can be removed in the event of flood conditions or to prevent erosion.

<sup>32</sup> Examples of stormwater controls that can be used to comply with this requirement include the use of erosion controls and/or velocity dissipation devices (e.g., check dams, sediment traps), within and along the length of a constructed site drainage feature and at the outfall to slow down stormwater.

- i. The calculated volume of runoff from a 2-year, 24-hour storm;<sup>33</sup> or
- ii. 3,600 cubic feet per acre drained.
- d. Utilize outlet structures that withdraw water from the surface of the sediment basin or similar impoundment, unless infeasible;<sup>34</sup>
- e. Use erosion controls and velocity dissipation devices to prevent erosion at inlets and outlets; and
- f. Remove accumulated sediment to maintain at least one-half of the design capacity and conduct all other appropriate maintenance to ensure the basin or impoundment remains in effective operating condition.

**2.2.13 If using treatment chemicals (e.g., polymers, flocculants, coagulants):**

- a. **Use conventional erosion and sediment controls before and after the application of treatment chemicals.** Chemicals may only be applied where treated stormwater is directed to a sediment control (e.g., *sediment basin, perimeter control*) before discharge.
- b. **Select appropriate treatment chemicals.** Chemicals must be appropriately suited to the types of soils likely to be exposed during construction and present in the discharges being treated (i.e., *the expected turbidity, pH, and flow rate of stormwater flowing into the chemical treatment system or area*).
- c. **Minimize discharge risk from stored chemicals.** Store all treatment chemicals in leak-proof containers that are kept under storm-resistant cover and surrounded by secondary containment structures (e.g., *spill berms, dikes, spill containment pallets*), or provide equivalent measures designed and maintained to minimize the potential discharge of treatment chemicals in stormwater or by any other means (e.g., *storing chemicals in a covered area, having a spill kit available on site and ensuring personnel are available to respond expeditiously in the event of a leak or spill*).
- d. **Comply with Territorial/Federal requirements.** Comply with all other applicable Federal or Territorial requirements regarding the use of treatment chemicals.
- e. **Use chemicals in accordance with good engineering practices and specifications of the chemical provider/supplier.** Use treatment chemicals and chemical treatment systems in accordance with good engineering practices, and with dosing specifications and sediment removal design specifications provided by the provider/supplier of the applicable chemicals, or document in your SWPPP specific departures from these specifications and how they reflect good engineering practice.
- f. **Ensure proper training.** Ensure all persons who handle and use treatment chemicals at the construction site are provided with appropriate, product-specific training prior

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<sup>33</sup> Operators may refer to <https://www.epa.gov/npdes/construction-general-permit-resources-tools-and-templates> for guidance on determining the volume of precipitation associated with their site's local 2-year, 24-hour storm event.

<sup>34</sup> The circumstances in which it is infeasible to design outlet structures in this manner are rare. If you determine that it is infeasible to meet this requirement, you must provide documentation in your SWPPP to support your determination, including the specific conditions or time periods when this exception will apply.

to beginning application of treatment chemicals. Among other things, the training must cover proper dosing requirements.

- g. Perform additional measures specified by the VIDPNR for the authorized use of cationic chemicals.** If you have been authorized to use cationic chemicals at your site pursuant to Part 1.1.7, you must perform all additional measures as conditioned by your authorization to ensure the use of such chemicals will not result in discharges that do not meet water quality standards.

**2.2.14 Stabilize exposed portions of the site.** Implement and maintain stabilization measures (e.g., seeding protected by erosion controls until vegetation is established,<sup>35</sup> sodding, mulching, erosion control blankets, hydromulch, gravel) that minimize erosion from any areas of exposed soil on the site in accordance with Part.

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<sup>35</sup> If you will be evaluating the use of some type of erosion control netting to the site as part of your site stabilization, VIDPNR encourages you to consider employing products that have been shown to minimize impacts on wildlife. For instance, the U.S. Fish & Wildlife Service provides recommendations on the type of netting practices that are considered "wildlife friendly," including those that use natural fiber or 100 percent biodegradable materials and that use a loose weave with a non-welded, movable jointed netting, as well as those products that are not wildlife friendly including square plastic netting that are degradable (e.g., photodegradable, UV-degradable, oxo-degradable), netting made from polypropylene, nylon, polyethylene, or polyester. Other recommendations include removing the netting product when it is no longer needed. See [https://www.fws.gov/midwest/eastlansing/library/pdf/WildlifeFriendlyErosionControlProducts\\_revised.pdf](https://www.fws.gov/midwest/eastlansing/library/pdf/WildlifeFriendlyErosionControlProducts_revised.pdf) for further information. There also may be local requirements about using wildlife friendly erosion control products.

**a. Stabilization Deadlines:**<sup>36</sup>

**Table 2 Deadlines for Initiating and Completing Site Stabilization.**

| Total Amount of Land Disturbance Occurring At Any One Time <sup>37</sup>                                                                                                                                                                                                                                       | Deadline                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>i. Five acres or less (<math>\leq 5.0</math>)</b><br><br><b>Note: this includes sites disturbing more than five acres (<math>&gt;5.0</math>) total over the course of a project, but that limit disturbance at any one time (i.e., phase the disturbance) to five acres or less (<math>\leq 5.0</math>)</b> | <ul style="list-style-type: none"> <li>Initiate the installation of stabilization measures immediately<sup>38</sup> in any areas of exposed soil where construction activities have permanently ceased or will be temporarily inactive for 14 or more calendar days;<sup>39</sup> and</li> <li>Complete the installation of stabilization measures as soon as practicable, but no later than 14 calendar days after stabilization has been initiated.<sup>40</sup></li> </ul>        |
| <b>ii. More than five acres (<math>&gt;5.0</math>)</b>                                                                                                                                                                                                                                                         | <ul style="list-style-type: none"> <li>Initiate the installation of stabilization measures immediately<sup>41</sup> in any areas of exposed soil where construction activities have permanently ceased or will be temporarily inactive for 14 or more calendar days;<sup>42</sup> and</li> <li>Complete the installation of stabilization measures as soon as practicable, but no later than seven (7) calendar days after stabilization has been initiated.<sup>43</sup></li> </ul> |

<sup>36</sup> VIDPNR may determine, based on an inspection carried out under Part 4.8 and corrective actions required under Part 5.3, that the level of sediment discharge on the site makes it necessary to require a faster schedule for completing stabilization. For instance, if sediment discharges from an area of exposed soil that is required to be stabilized are compromising the performance of existing stormwater controls, VIDPNR may require stabilization to correct this problem.

<sup>37</sup> Limiting disturbances to five (5) acres or less at any one time means that at no time during the project do the cumulative earth disturbances exceed five (5) acres. The following examples would qualify as limiting disturbances at any one time to five (5) acres or less:

1. The total area of disturbance for a project is five (5) acres or less.
2. The total area of disturbance for a project will exceed five (5) acres, but the operator ensures that no more than five (5) acres will be disturbed at any one time through implementation of stabilization measures. In this way, site stabilization can be used to "free up" land that can be disturbed without exceeding the five (5)-acre cap to qualify for the 14-day stabilization deadline. For instance, if an operator completes stabilization of two (2) acres of land on a five (5)-acre disturbance, then two (2) additional acres could be disturbed while still qualifying for the longer 14-day stabilization deadline.

<sup>38</sup> The following are examples of activities that would constitute the immediate initiation of stabilization:

1. Prepping the soil for vegetative or non-vegetative stabilization as long as seeding, planting, and/or installation of non-vegetative stabilization products takes place as soon as practicable, but no later than one (1) calendar day of completing soil preparation;
2. Applying mulch or other non-vegetative product to the exposed area;
3. Seeding or planting the exposed area;
4. Starting any of the activities in # 1 – 3 on a portion of the entire area that will be stabilized; and
5. Finalizing arrangements to have stabilization product fully installed in compliance with the deadlines for completing stabilization.

<sup>39</sup> The requirement to initiate stabilization immediately is triggered as soon as you know that construction work on a portion of the site is temporarily ceased and will not resume for 14 or more days, or as soon as you know that construction work is permanently ceased. In the context of this provision, "immediately" means as soon as practicable, but no later than the end of the next business day, following the day when the construction activities have temporarily or permanently ceased.

**b. Exceptions:**

- i. Unforeseen circumstances.** Operators that are affected by unforeseen circumstances<sup>44</sup> that delay the initiation and/or completion of vegetative stabilization:
  - (a) Immediately initiate and, within 14 calendar days, complete the installation of temporary non-vegetative stabilization measures to prevent erosion;
  - (b) Complete all soil conditioning, seeding, watering or irrigation installation, mulching, and other required activities related to the planting and initial establishment of vegetation as soon as conditions or circumstances allow it on your site; and
  - (c) Document in the SWPPP the circumstances that prevent you from meeting the deadlines in Part 2.2.14a and the schedule you will follow for initiating and completing stabilization.
- ii. Discharges to a sediment- or nutrient-impaired water or to a water that is identified by VIDPNR as Class A for antidegradation purposes.** Complete stabilization as soon as practicable, but no later than seven (7) calendar days after stabilization has been initiated.

**c. Final Stabilization Criteria** (for any areas not covered by permanent structures):

- i.** Establish uniform, perennial vegetation (*i.e., evenly distributed, without large bare areas*) to provide 70 percent or more of the vegetative cover native to local undisturbed areas; and/or
- ii.** Implement permanent non-vegetative stabilization measures<sup>45</sup> to provide effective cover of any areas of exposed soil.
- iii. Exceptions:**
  - (a) **Disturbed areas on agricultural land that are restored to their preconstruction agricultural use.** The Part 2.2.14c final stabilization criteria do not apply.
  - (b) **Areas that need to remain disturbed.** In limited circumstances, stabilization may not be required if the intended function of a specific area of the site necessitates that it remain disturbed, and only the minimum area needed remains disturbed (*e.g., dirt access roads, utility pole pads, areas being used for storage of vehicles, equipment, materials*).

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<sup>40</sup> If vegetative stabilization measures are being implemented, stabilization is considered "installed" when all activities necessary to seed or plant the area are completed, including the application of any non-vegetative protective cover (*e.g., mulch, erosion control blanket*), if applicable. If non-vegetative stabilization measures are being implemented, stabilization is considered "installed" when all such measures are implemented or applied.

<sup>41</sup> See footnote 38.

<sup>42</sup> See footnote 39.

<sup>43</sup> See footnote 40.

<sup>44</sup> Examples include problems with the supply of seed stock or with the availability of specialized equipment and unsuitability of soil conditions due to excessive precipitation and/or flooding.

<sup>45</sup> Examples of permanent non-vegetative stabilization measures include riprap, gravel, gabions, and geotextiles.

## **2.3 POLLUTION PREVENTION REQUIREMENTS<sup>46</sup>**

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

### **2.3.1 For equipment and vehicle fueling and maintenance:**

- a.** Provide an effective means of eliminating the discharge of spilled or leaked chemicals, including fuels and oils, from these activities;<sup>47</sup>
- b.** If applicable, comply with the Spill Prevention Control and Countermeasures (SPCC) requirements in 40 CFR part 112 and Section 311 of the CWA;
- c.** Ensure adequate supplies are available at all times to handle spills, leaks, and disposal of used liquids;
- d.** Use drip pans and absorbents under or around leaky vehicles;
- e.** Dispose of or recycle oil and oily wastes in accordance with other Federal or Territorial requirements; and
- f.** Clean up spills or contaminated surfaces immediately, using dry clean up measures (do not clean contaminated surfaces by hosing the area down), and eliminate the source of the spill to prevent a discharge or a continuation of an ongoing discharge.

### **2.3.2 For equipment and vehicle washing:**

- a.** Provide an effective means of minimizing the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other types of wash waters;<sup>48</sup>
- b.** Ensure there is no discharge of soaps, solvents, or detergents in equipment and vehicle wash water; and
- c.** For storage of soaps, detergents, or solvents, provide either (1) cover (e.g., *plastic sheeting, temporary roofs*) to minimize the exposure of these detergents to precipitation and to stormwater, or (2) a similarly effective means designed to minimize the discharge of pollutants from these areas.

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<sup>46</sup> Under this permit, you are not required to minimize exposure for any products or materials where the exposure to precipitation and to stormwater will not result in a discharge of pollutants, or where exposure of a specific material or product poses little risk of stormwater contamination (such as final products and materials intended for outdoor use).

<sup>47</sup> Examples of effective means include:

- Locating activities away from receiving waters, storm drain inlets, and constructed or natural site drainage feature so that stormwater coming into contact with these activities cannot reach waters of the United States Virgin Islands;
- Providing secondary containment (e.g., *spill berms, dikes, spill containment pallets*) and cover where appropriate; and
- Having a spill kit available on site and ensuring personnel are available to respond expeditiously in the event of a leak or spill.

<sup>48</sup> Examples of effective means include locating activities away from receiving waters and storm drain inlets or constructed or natural site drainage features and directing wash waters to a sediment basin or sediment trap, using filtration devices, such as filter bags or sand filters, or using other similarly effective controls.

**2.3.3 For storage, handling, and disposal of building products, materials, and wastes:<sup>49</sup>**

- a.** *For building materials and building products,<sup>50</sup> provide either (1) cover (e.g., plastic sheeting, temporary roofs) to minimize the exposure of these products to precipitation and to stormwater, or (2) a similarly effective means designed to minimize the discharge of pollutants from these areas.*

Exception: Minimization of exposure is not required in cases where the exposure to precipitation and to stormwater will not result in a discharge of pollutants, or where exposure of a specific material or product poses little risk of stormwater contamination (such as final products and materials intended for outdoor use).

- b.** *For pesticides, herbicides, insecticides, fertilizers, and landscape materials:*
- i.** *In storage areas, provide either (1) cover (e.g., plastic sheeting, temporary roofs) to minimize the exposure of these chemicals to precipitation and to stormwater, or (2) a similarly effective means designed to minimize the discharge of pollutants from these areas; and*
  - ii.** *Comply with all application and disposal requirements included on the registered pesticide, herbicide, insecticide, and fertilizer label (see also Part 2.3.5).*
- c.** *For diesel fuel, oil, hydraulic fluids, other petroleum products, and other chemicals:*  
The following requirements apply to the storage and handling of chemicals on your site. If you are already implementing controls as part of an SPCC or other spill prevention plan that meet or exceed the requirements of this Part, you may continue to do so and be considered in compliance with these provisions provided you reference the applicable parts of the SPCC or other plans in your SWPPP as required in Part 7.2.6b.viii.
- i.** *If any chemical container has a storage capacity of less than 55 gallons:*
    - (a)** *The containers must be water-tight, and must be kept closed, sealed, and secured when not being actively used;*
    - (b)** *If stored outside, use a spill containment pallet or similar device to capture small leaks or spills; and*
    - (c)** *Have a spill kit available on site that is in good working condition (i.e., not damaged, expired, or used up) and ensure personnel are available to respond immediately in the event of a leak or spill.*
  - ii.** *If any chemical container has a storage capacity of 55 gallons or more:*
    - (a)** *The containers must be water-tight, and must be kept closed, sealed, and secured when not being actively used;*
    - (b)** *Store containers a minimum of 50 feet from receiving waters, constructed or natural site drainage features, and storm drain inlets. If infeasible due to site constraints, store containers as far away from these features as the site*

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<sup>49</sup> Compliance with the requirements of this permit does not relieve compliance requirements with respect to Federal or Territorial laws and regulations governing the storage, handling, and disposal of solid, hazardous, or toxic wastes and materials.

<sup>50</sup> Examples of building materials and building products typically present at construction sites include asphalt sealants, copper flashing, roofing materials, adhesives, concrete admixtures, and gravel and mulch stockpiles.

permits. If site constraints prevent you from storing containers 50 feet away from receiving waters or the other features identified, you must document in your SWPPP the specific reasons why the 50-foot setback is infeasible, and how you will store containers as far away as the site permits;

- (c) Provide either (1) cover (e.g., temporary roofs) to minimize the exposure of these containers to precipitation and to stormwater, or (2) secondary containment (e.g., curbing, spill berms, dikes, spill containment pallets, double-wall, above-ground storage tank); and
  - (d) Have a spill kit available on site that is in good working condition (i.e., not damaged, expired, or used up) and ensure personnel are available to respond immediately in the event of a leak or spill. Additional secondary containment measures are listed at 40 CFR § 112.7(c)(1).
- iii. Clean up spills immediately, using dry clean-up methods where possible, and dispose of used materials properly. You are prohibited from hosing the area down to clean surfaces or spills. Eliminate the source of the spill to prevent a discharge or a furtherance of an ongoing discharge.
- d. *For hazardous or toxic wastes:*<sup>51</sup>
- i. Separate hazardous or toxic waste from construction and domestic waste;
  - ii. Store waste in sealed containers, constructed of suitable materials to prevent leakage and corrosion, and labeled in accordance with applicable Resource Conservation and Recovery Act (RCRA) requirements and all other applicable Federal or Territorial requirements;
  - iii. Store all outside containers within appropriately-sized secondary containment (e.g., *spill berms, dikes, spill containment pallets*) to prevent spills from being discharged, or provide a similarly effective means designed to prevent the discharge of pollutants from these areas (e.g., *storing chemicals in a covered area, having a spill kit available on site*);
  - iv. Dispose of hazardous or toxic waste in accordance with the manufacturer's recommended method of disposal and in compliance with Federal and Territorial requirements;
  - v. Clean up spills immediately, using dry clean-up methods, and dispose of used materials properly. You are prohibited from hosing the area down to clean surfaces or spills. Eliminate the source of the spill to prevent a discharge or a furtherance of an ongoing discharge; and
  - vi. Follow all other Federal and Territorial requirements regarding hazardous or toxic waste.
- e. *For construction and domestic wastes:*<sup>52</sup>

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<sup>51</sup> Examples of hazardous or toxic waste that may be present at construction sites include paints, caulks, sealants, fluorescent light ballasts, solvents, petroleum-based products, wood preservatives, additives, curing compounds, and acids.

<sup>52</sup> Examples of construction and domestic wastes include packaging materials, scrap construction materials, masonry products, timber, pipe and electrical cuttings, plastics, styrofoam, concrete, demolition debris; and other trash or discarded materials.

- i. Provide waste containers (e.g., *dumpster, trash receptacle*) of sufficient size and number to contain construction and domestic wastes;
  - (a) For waste containers with lids, keep waste container lids closed when not in use, and close lids at the end of the business day and during storm events. For waste containers without lids, provide either (1) cover (e.g., *a tarp, plastic sheeting, temporary roof*) to minimize exposure of wastes to precipitation, or (2) a similarly effective means designed to minimize the discharge of pollutants (e.g., *secondary containment*);
  - (b) On business days, clean up and dispose of waste in designated waste containers; and
  - (c) Clean up immediately if containers overflow, and if there is litter elsewhere on the site from escaped trash.
- ii. Waste containers are not required for the waste remnant or unused portions of construction materials or final products that are covered by the exception in Part 2.2.3a provided that:
  - (a) These wastes are stored separately from other construction or domestic wastes addressed by Part 2.3.3e.i (i.e., wastes not covered by the exception in Part 2.3.3a). If the wastes are mixed, they must be stored in waste containers as required in Part 2.3.3e.i; and
  - (b) These wastes are stored in designated areas of the site, the wastes are described in the SWPPP (see Part 7.2.6b.ix), and identified in the site plan (see Part 7.2.4i).
- f. For sanitary waste, position portable toilets so they are secure and will not be tipped or knocked over, and are located away from receiving waters, storm drain inlets, and constructed or natural site drainage features.

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

- a. Direct wash water into a leak-proof container or leak-proof and lined pit designed so no overflows can occur due to inadequate sizing or precipitation;
- b. Handle washout or cleanout wastes as follows:
  - i. For liquid wastes:
    - (a) Do not dump liquid wastes or allow them to enter into constructed or natural site drainage features, storm inlets, or receiving waters;
    - (b) Do not allow liquid wastes to be disposed of through infiltration or to otherwise be disposed of on the ground;
    - (c) Comply with applicable Territorial requirements for disposal
  - ii. Remove and dispose of hardened concrete waste consistent with your handling of other construction wastes in Part 2.3.3e; and
- c. Locate any washout or cleanout activities as far away as possible from receiving waters, constructed or natural site drainage features, and storm drain inlets, and, to the extent feasible, designate areas to be used for these activities and conduct such activities only in these areas.

### **2.3.5 For the application of fertilizers:**

- a. Apply at a rate and in amounts consistent with manufacturer's specifications, or document in the SWPPP departures from the manufacturer specifications where appropriate in accordance with Part 7.2.6b.x;
- b. Apply at the appropriate time of year for your location, and preferably timed to coincide as closely as possible to the period of maximum vegetation uptake and growth;
- c. Avoid applying before heavy rains that could cause excess nutrients to be discharged;
- d. Never apply to constructed or natural site drainage features; and
- e. Follow all other Federal and Territorial requirements regarding fertilizer application.

### **2.3.6 Emergency Spill Notification Requirements**

Discharges of toxic or hazardous substances from a spill or other release are prohibited, consistent with Part 1.3.5. Where a leak, spill, or other release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR part 110, 40 CFR part 117, or 40 CFR part 302 occurs during a 24-hour period, you must notify VIDPNR at (340) 774-3320 for sites located on St. Thomas and St. John or (340) 773-1082 for sites located on St. Croix and the National Response Center (NRC) at (800) 424-8802 as soon as you have knowledge of the release. You must also, within seven (7) calendar days of knowledge of the release, provide a description of the release, the circumstances leading to the release, and the date of the release.

## **2.4 CONSTRUCTION DEWATERING REQUIREMENTS**

Comply with the following requirements to minimize the discharge of pollutants from dewatering<sup>53</sup> operations.

- 2.4.1** Route dewatering water through a sediment control (e.g., sediment trap or basin, pumped water filter bag) designed to prevent discharges with visual turbidity;<sup>54</sup>
- 2.4.2** Do not discharge visible floating solids or foam;
- 2.4.3** The discharge must not cause the formation of a visible sheen on the water surface, or visible oily deposits on the bottom or shoreline of the receiving water. Use an oil-water separator or suitable filtration device (such as a cartridge filter) designed to remove oil, grease, or other products if dewatering water is found to or expected to contain these materials;
- 2.4.4** To the extent feasible, use well-vegetated (e.g., grassy or wooded), upland areas of the site to infiltrate dewatering water before discharge.<sup>55</sup> You are prohibited from using receiving waters as part of the treatment area;

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<sup>53</sup> "Dewatering" is defined in Appendix A as "the act of draining accumulated stormwater and/or ground water from building foundations, vaults, and trenches, or other similar points of accumulation."

<sup>54</sup> For the purposes of this permit, visual turbidity is present where there is a sediment plume in the discharge or the discharge appears cloudy, or opaque, or has a visible contrast that can be identified by an observer.

<sup>55</sup> See footnote 19.

- 2.4.5** To prevent dewatering-related erosion and related sediment discharges:
- a.** Use stable, erosion-resistant surfaces (e.g., well-vegetated grassy areas, clean filter stone, geotextile underlayment) to discharge from dewatering controls;
  - b.** Do not place dewatering controls, such as pumped water filter bags, on steep slopes (as defined in Appendix A); and
  - c.** At all points where dewatering water is discharged, comply with the buffer requirements of Part 2.2.1 and the velocity dissipation requirements of Part 2.2.11.
- 2.4.6** For backwash water, either haul it away for disposal or return it to the beginning of the treatment process;
- 2.4.7** Replace and clean the filter media used in dewatering devices when the pressure differential equals or exceeds the manufacturer's specifications; and
- 2.4.8** Comply with dewatering-specific inspection requirements in Part 4.

### **3 WATER QUALITY-BASED EFFLUENT LIMITATIONS**

#### **3.1 GENERAL EFFLUENT LIMITATION TO MEET APPLICABLE WATER QUALITY STANDARDS**

Discharges must be controlled as necessary to meet applicable water quality standards.

In the absence of information demonstrating otherwise, VIDPNR expects that compliance with the conditions in this permit will result in stormwater discharges being controlled as necessary to meet applicable water quality standards. If at any time you become aware, or VIDPNR determines, that discharges are not being controlled as necessary to meet applicable water quality standards, you must take corrective action as required in Parts 5.1 and 5.2, and document the corrective actions as required in Part 5.4.

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

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

#### **3.2 WATER QUALITY-BASED CONDITIONS FOR SITES DISCHARGING TO CERTAIN IMPAIRED AND HIGH QUALITY RECEIVING WATERS**

For any portion of the site that discharges to a sediment or nutrient-impaired water or to a water that is identified by VIDPNR as Class A for antidegradation purposes,<sup>56</sup> you must

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<sup>56</sup> Refer to Appendix A for definitions of "impaired water" and "Class A" waters. See Appendix E for a list of Class A waters.

comply with the inspection frequency specified in Part 4.3 and you must comply with the stabilization deadline specified in Part 2.2.14b.ii.<sup>57</sup>

If you discharge to a water that is impaired for a parameter other than a sediment-related parameter or nutrients, VIDPNR will inform you if any additional controls are necessary for your discharge to be controlled as necessary to meet water quality standards. These controls might include those necessary for your discharge to be consistent with the assumptions of any available wasteload allocation in any applicable TMDL. In addition, VIDPNR may require you to apply for and obtain coverage under an individual VIDPNR permit.

In addition, on a case-by-case basis, VIDPNR may notify operators of new sites or operators of existing sites with increased discharges that additional analyses, stormwater controls, and/or other measures are necessary to comply with the applicable antidegradation requirements, or notify you that an individual permit application is necessary.

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

- a. Implement controls<sup>58</sup> to minimize the exposure of PCB-containing building materials, including paint, caulk, and pre-1980 fluorescent lighting fixtures, to precipitation and to stormwater; and
- b. Ensure that disposal of such materials is performed in compliance with applicable Federal and Territorial laws.

### **3.3 TURBIDITY BENCHMARK MONITORING FOR SITES DISCHARGING DEWATERING WATER TO PROTECT THE WATER QUALITY OF SURFACE WATERS**

For sites discharging dewatering water to surface waters, you are required to comply with the benchmark monitoring requirements in this Part and document the procedures you will use at your site in your SWPPP pursuant to Part 7.2.8. A summary of these requirements is included in Table 1.

VIDPNR notes that the benchmark threshold is not an effluent limitation, rather it is an indicator that the dewatering controls may not be working to protect water quality, which the operator must investigate and correct as appropriate. A benchmark exceedance is not a permit violation. However, if a benchmark exceedance triggers corrective action in Part 5.1.5a, failure to conduct any required action is a permit violation.

Where there are multiple operators associated with the same site, the operators may coordinate with one another to carry out the monitoring requirements of this Part in order to avoid duplicating efforts. Such coordinating arrangements must be described in the SWPPP consistent with Part 7.2.8. Regardless of how the operators divide the

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<sup>57</sup> If you qualify for any of the reduced inspection frequencies in Part 4.4, you may conduct inspections in accordance with Part 4.4 for any portion of your site that discharges to a sensitive water.

<sup>58</sup> Examples of controls to minimize exposure of PCBs to precipitation and stormwater include separating work areas from non-work areas and selecting appropriate personal protective equipment and tools, constructing a containment area so that all dust or debris generated by the work remains within the protected area, and using tools that minimize dust and heat (<212°F). For additional information, refer to Part III Summary of Permit Changes in VI CGP Fact Sheet.

responsibilities for monitoring and reporting, each operator remains responsible for compliance with these requirements.<sup>59</sup>

### 3.3.1 Turbidity monitoring requirements<sup>60</sup>

- a. **Sampling frequency.** You must collect at least one turbidity sample from your dewatering discharge each day a discharge occurs.
- b. **Sampling location.** Samples must be taken at all points where dewatering water is discharged. Samples must be taken after the dewatering water has been treated by installed treatment devices pursuant to Parts 2.4.1 and 2.4.3 and prior to its discharge off site into a receiving water, constructed or natural site drainage feature, or storm drain inlet.
- c. **Representative samples.** Samples taken must be representative of the dewatering discharge for any given day as required in Appendix G (standard permit conditions), Part G.10.2.
- d. **Test methods.** Samples must be measured using a turbidity meter that reports results in nephelometric turbidity units (NTUs) and conforms with a Part 136-approved method (e.g., methods 180.1 and 2130). You are required to use the meter, and conduct a calibration verification prior to each day's use, consistent with the manufacturer's instructions.

### 3.3.2 Turbidity benchmark

- a. The benchmark threshold for turbidity for this permit is 1 NTU for dewatering discharges to marine and coastal waters where coral reef systems are located and the effective turbidity water quality criterion is 1 NTU under 12 V.I.C. §186-4(b);
- b. The benchmark threshold for turbidity for this permit is 3 NTU for dewatering discharges to marine and coastal waters where coral reef ecosystems are not located and the effective turbidity water quality criterion is 3 NTU under 12 V.I.C. §186-4(b);
- c. The benchmark threshold for turbidity for this permit is 50 NTU for dewatering discharges to all other surface waters not subject to Part 3.3.2a or b.

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<sup>59</sup> For instance, if Operator A relies on Operator B to meet the Part 3.3.1 turbidity monitoring requirements, the Part 3.3.4 reporting and recordkeeping requirements, and the Part 5.2.2 corrective action provisions when applicable, Operator A does not have to duplicate these same functions if Operator B is implementing them for both operators to be in compliance with the permit. However, Operator A remains responsible for complying with these permit requirements if Operator B fails to take actions that were necessary for Operator A to comply with the permit. See also footnote 76. VIDPNR notes that both Operator A and B are required to submit turbidity monitoring reports as required under Part 3.3.4, however, Operator A's report does not need to include the data collected by Operator B as long as Operator B submits the required data and Operator A's report indicates that it is relying on Operator B to report the data. See Part 3.3.4a.

<sup>60</sup> Operators may find it useful to consult EPA's *Monitoring and Inspection Guide for Construction Dewatering*, available at <https://www.epa.gov/npdes/construction-general-permit-resources-tools-and-templates>, which provides guidelines on how to correctly monitor for turbidity, determine if the weekly average exceeds the benchmark, and, if so, how to proceed with corrective action.

**3.3.3 Comparison of turbidity samples to benchmark.** Compare the weekly average<sup>61</sup> of your turbidity monitoring results to the applicable benchmark pursuant to Part 3.3.2.

- a. If the weekly average of your turbidity monitoring results exceeds the benchmark, you are required to conduct follow-up corrective action in accordance with Part 5.2.2 and document any corrective action taken in your corrective action log in accordance with Part 5.4.
- b. For averaging purposes, a "monitoring week" starts with a Monday and ends on Sunday. Once a new monitoring week starts, you will need to calculate a new average for that week of turbidity monitoring results.<sup>62</sup> A weekly average may consist of one or more turbidity monitoring results.
- c. Although you are not required to collect and analyze more than one turbidity sample per day from your dewatering discharge, if you do collect and analyze more than one sample on any given day, you must include any additional results in the calculation of your weekly average (i.e., add all individual results for that monitoring week and divide by the total number of samples).<sup>63</sup>
- d. If you are conducting turbidity monitoring for more than one dewatering discharge point, you must calculate a weekly average turbidity value for each discharge point and compare each to the turbidity benchmark.

**3.3.4 Reporting and recordkeeping.**

- a. You must submit reports of your weekly average turbidity data to VIDPNR no later than 30 days following the end of each monitoring quarter. If there are monitoring weeks in which there was no dewatering discharge, or if there is a monitoring quarter with no dewatering discharge, indicate this in your turbidity monitoring report. If another operator associated with your same site is conducting turbidity monitoring on your behalf pursuant to Part 3.3, indicate this in your turbidity monitoring report.
- b. For the purposes of this permit, the following monitoring quarters and reporting deadlines apply:

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<sup>61</sup> A "weekly average" is defined as the sum of all of the turbidity samples taken during a "monitoring week" divided by the number of samples measured during that week. Average values should be calculated to the nearest whole number.

<sup>62</sup> For example, if turbidity samples from your dewatering discharge in week 1 result in values of 30 NTU on Tuesday, 40 NTU on Wednesday, and 45 NTU on Thursday, your weekly average turbidity value would be 38.33 NTU  $((30+40+45) \div 3 = 38 \text{ NTU})$ . If in week 2, your turbidity samples resulted in values of 45 NTU on Monday, 30 NTU on Tuesday, 25 NTU on Wednesday, and 15 NTU on Thursday, you would calculate a new average for that week, which would yield an average turbidity value of 28.75 NTU  $((45+30+25+15) \div 4 = 29 \text{ NTU})$ . By comparison, if your samples on consecutive days from Friday to Monday were 60 NTU, 45 NTU, 40 NTU, and 43 NTU, respectively, and there are no other dewatering discharges for the remainder of the week, you would calculate one weekly average for the Friday to Sunday to be 48 NTU  $((60+45+40) \div 3 = 48 \text{ NTU})$ , and a separate weekly average for the one Monday to be 43 NTU  $(43 \div 1 = 43 \text{ NTU})$ .

<sup>63</sup> For example, if during a monitoring week you take two turbidity samples on Tuesday with a value of 30 NTU and 35 NTU, three samples on Wednesday with a value of 40 NTU, 45 NTU, and 48 NTU, and one sample on Thursday with a value of 45 NTU, your weekly average turbidity value for this week would be 41 NTU  $((30+35+40+45+48+45) \div 6 = 41 \text{ NTU})$ .

**Table 3. Monitoring Quarters and Deadlines for Reporting Turbidity Benchmark Monitoring Data.**

| Monitoring Quarter # | Months                  | Reporting Deadline (no later than 30 days after end of the monitoring quarter) |
|----------------------|-------------------------|--------------------------------------------------------------------------------|
| 1                    | January 1 – March 31    | April 30                                                                       |
| 2                    | April 1 – June 30       | July 30                                                                        |
| 3                    | July 1 – September 30   | October 30                                                                     |
| 4                    | October 1 – December 31 | January 30                                                                     |

- c. Until VIDPNR provides notice that electronic submission is required, you must submit your quarterly turbidity data to VIDPNR at the addresses listed in Part 1.4.2. You must complete the form in Appendix K.
- d. For each day in which you are required to monitor, you must record the monitoring information required by Appendix G, Parts G.10.2 and G.10.3 and retain all such information for a period of at least three years from the date this permit expires or from the date your authorization is terminated.

**Table 4. Summary of Turbidity Benchmark Monitoring Requirements.**

| Applicability                                            | Sampling Requirement                                                                                                                                                                    | Turbidity Benchmark                                                                                                 | Corrective Action                                                                                                                                                                                   | Reporting                                                                                                                                                                                     |
|----------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Sites discharging dewatering water to any surface water. | Collect at least one turbidity sample per day, from each discharge point, on any day there is a dewatering discharge.<br><br>Use turbidity sampling procedures specified in Part 3.3.1. | Compare the weekly average of your turbidity monitoring results to the applicable benchmark pursuant to Part 3.3.2. | If the weekly average of turbidity monitoring results exceeds the applicable benchmark pursuant to Part 3.3.2., you are required to take follow-up corrective action in accordance with Part 5.2.2. | Report all weekly average turbidity monitoring results on a quarterly basis using the paper monitoring form in Appendix K no later than 30 days following the end of each monitoring quarter. |

## 4 INSPECTION REQUIREMENTS

### 4.1 PERSON(S) RESPONSIBLE FOR CONDUCTING SITE AND DEWATERING INSPECTIONS

The person(s) inspecting your site may be a person on your staff or a third party you hire to conduct such inspections. You are responsible for ensuring that any person conducting inspections pursuant to this Part is a “qualified person.” A qualified person is someone who has completed the training required by Part 6.3.

### 4.2 FREQUENCY OF INSPECTIONS.<sup>64</sup>

At a minimum, you must conduct a site inspection in accordance with the schedule listed below, unless you are subject to the Part 4.3 site inspection frequency for

<sup>64</sup> Inspections are only required during the site's normal working hours.

discharges to sediment or nutrient-impaired or high quality waters, or qualify for a Part 4.4 reduction in the inspection frequency:

**4.2.1** At least once every seven (7) calendar days; or

**4.2.2** Once every 14 calendar days *and* within 24 hours<sup>65</sup> of the occurrence of:

A storm event that produces 0.25 inches or more of rain within a 24-hour period.

- i. If a storm event produces 0.25 inches or more of rain within a 24-hour period (including when there are multiple, smaller storms that alone produce less than 0.25 inches but together produce 0.25 inches or more in 24 hours), you are required to conduct one inspection within 24 hours of when 0.25 inches of rain or more has fallen.
  - ii. If a storm event produces 0.25 inches or more of rain within a 24-hour period on the first day of a storm and continues to produce 0.25 inches or more of rain on subsequent days, you must conduct an inspection within 24 hours of the first day of the storm and within 24 hours after the last day of the storm that produces 0.25 inches or more of rain (i.e., only two inspections would be required for such a storm event).<sup>66</sup>
- 4.2.3** To determine whether a storm event meets the threshold in Part 4.2.2:
- You must either keep a properly maintained rain gauge on your site or obtain the storm event information from a weather station that is representative of your location. For any 24-hour period during which there is 0.25 inches or more of rainfall, you must record the total rainfall measured for that day in accordance with Part 4.7.1c.

**4.3 INCREASE IN INSPECTION FREQUENCY FOR CERTAIN SITES.**

The increased inspection frequencies established in this Part take the place of the Part 4.2 inspection frequencies for the portion of the site affected.

**4.3.1 For any portion of the site that discharges to a sediment or nutrient-impaired water or to a water that is identified by VIDPNR as Class A for antidegradation purposes (see Part 3.2),** you must conduct an once every seven (7) calendar days *and* within 24 hours of the occurrence of a storm event that produces 0.25 inches or more of rain within a 24-hour period.

Refer to Part 4.2.3a for the requirements to determine if a storm event produces enough rain to trigger the inspection requirement.

**4.3.2 For sites discharging dewatering water,** you must conduct an inspection in accordance with Part 4.6.3 during the discharge once per day on which the discharge occurs. The

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<sup>65</sup> For the purposes of the inspection requirements in this Part, conducting an inspection “within 24 hours” means that once the conditions in Parts 4.2.2 are met you have 24 hours from that time to conduct an inspection. For clarification, the 24 hours is counted as a continuous passage of time, and not counted by business hours (e.g., 3 business days of 8 hours each). When the 24-hour inspection time frame occurs entirely outside of normal working hours, you must conduct an inspection by no later than the end of the next business day.

<sup>66</sup> For example, if 0.30 inches of rain falls on Day 1, 0.25 inches of rain falls on Day 2, and 0.10 inches of rain fall on Day 3, you would be required to conduct a first inspection within 24 hours of the Day 1 rainfall and a second inspection within 24 hours of the Day 2 rainfall, but a third inspection would not be required within 24 hours of the Day 3 rainfall.

Part 4.2 inspection frequency still applies to all other portions of the site, unless the site is affected by either the increased frequency in Part 4.3.1 or the reduced frequency in Part 4.4.

#### **4.4 REDUCTIONS IN INSPECTION FREQUENCY**

##### **4.4.1 Stabilized areas.**

- a.** You may reduce the frequency of inspections to twice per month for the first month, no more than 14 calendar days apart, then once per month until permit coverage is terminated consistent with Part 8 in any area of your site where the stabilization steps in Part 2.2.14a have been completed. If construction activity resumes in this portion of the site at a later date, the inspection frequency immediately increases to that required in Parts 4.2 and 4.3, as applicable. You must document the beginning and ending dates of this period in your SWPPP.
- b. Exception.** For "linear construction sites" (as defined in Appendix A) where disturbed portions have undergone final stabilization at the same time active construction continues on others, you may reduce the frequency of inspections to twice per month for the first month, no more than 14 calendar days apart, in any area of your site where the stabilization steps in Part 2.2.14a have been completed. After the first month, inspect once more within 24 hours of the occurrence of a storm event that produces 0.25 inches of rain or more within a 24-hour period. If there are no issues or evidence of stabilization problems, you may suspend further inspections. If "wash-out" of stabilization materials and/or sediment is observed, following re-stabilization, inspections must resume at the inspection frequency required in Part 4.4.1a. Inspections must continue until final stabilization is visually confirmed following a storm event that produces 0.25 inches of rain or more within a 24-hour period.

#### **4.5 AREAS THAT MUST BE INSPECTED**

During your site inspection, you must at a minimum inspect the following areas of your site:

- 4.5.1** All areas that have been cleared, graded, or excavated and that have not yet completed stabilization consistent with Part 2.2.14a;
- 4.5.2** All stormwater controls, including pollution prevention controls, installed at the site to comply with this permit;<sup>67</sup>
- 4.5.3** Material, waste, borrow, and equipment storage and maintenance areas that are covered by this permit;
- 4.5.4** All areas where stormwater typically flows within the site, including constructed or natural site drainage features designed to divert, convey, and/or treat stormwater;
- 4.5.5** All areas where construction dewatering is taking place, including controls to treat the dewatering discharge and any channelized flow of water to and from those controls;
- 4.5.6** All points of discharge from the site; and
- 4.5.7** All locations where stabilization measures have been implemented.

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<sup>67</sup> This includes the requirement to inspect for sediment that has been tracked out from the site onto paved roads, sidewalks, or other paved areas consistent with Part 2.2.4.

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

#### **4.6 REQUIREMENTS FOR INSPECTIONS**

##### **4.6.1** During each site inspection, you must at a minimum:

- a.** Check whether all stormwater controls (*i.e., erosion and sediment controls and pollution prevention controls*) are properly installed, appear to be operational, and are working as intended to minimize pollutant discharges.
- b.** Check for the presence of conditions that could lead to spills, leaks, or other accumulations of pollutants on the site.
- c.** Identify any locations where new or modified stormwater controls are necessary to meet the requirements of Parts 2 and/or 3.
- d.** Check for signs of visible erosion and sedimentation (*i.e., sediment deposits*) that have occurred and are attributable to your discharge at points of discharge and, if applicable, on the banks of any receiving waters flowing within or immediately adjacent to the site;
- e.** Check for signs of sediment deposition that are visible from your site and attributable to your discharge (e.g., sand bars with no vegetation growing on top in receiving waters or in other constructed or natural site drainage features, or the buildup of sediment deposits on nearby streets, curbs, or open conveyance channels).
- f.** Identify any incidents of noncompliance observed.

##### **4.6.2** If a discharge is occurring during your inspection:

- a.** Identify all discharge points at the site; and
- b.** Observe and document the visual quality of the discharge, and take note of the characteristics of the stormwater discharge, including color; odor; floating, settled, or suspended solids; foam; oil sheen; and other indicators of stormwater pollutants. Check also for signs of these same pollutant characteristics that are visible from your site and attributable to your discharge in receiving waters or in other constructed or natural site drainage features.

##### **4.6.3** For dewatering inspections conducted pursuant to Parts 4.3.2, record the following in a report within 24 hours of completing the inspection:

- a.** The inspection date;
- b.** Names and titles of personnel making the inspection;
- c.** Approximate times that the dewatering discharge began and ended on the day of inspection;<sup>68</sup>
- d.** Estimates of the rate (in gallons per day) of discharge on the day of inspection;
- e.** Whether or not any of the following indications of pollutant discharge were observed at the point of discharge to any receiving waters flowing through or immediately

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<sup>68</sup> If the dewatering discharge is a continuous discharge that continues after normal business hours, indicate that the discharge is continuous.

adjacent to the site and/or to constructed or natural site drainage features or storm drain inlets;<sup>69</sup>

- i. a sediment plume, suspended solids, unusual color, presence of odor, decreased clarity, or presence of foam; and/or
  - ii. a visible sheen on the water surface or visible oily deposits on the bottom or shoreline of the receiving water; and
- f. Photographs of (1) the dewatering water prior to treatment by a dewatering control(s) and the final discharge after treatment; (2) the dewatering control(s); and (3) the point of discharge to any receiving waters flowing through or immediately adjacent to the site and/or to constructed or natural site drainage features, storm drain inlets, and other conveyances to receiving waters.

You must also comply with the Part 4.7.2, 4.7.3, and 4.7.4 requirements for signing the reports, keeping them available on site, and retaining copies.

**4.6.4** Based on the results of your inspection:

- a. Complete any necessary maintenance repairs or replacements under Part 2.1.4 or under Part 5, whichever applies; and
- b. Modify your SWPPP site map in accordance with Part 7.4.1 to reflect changes to your stormwater controls that are no longer accurately reflected on the current site map.

**4.7 INSPECTION REPORT**

**4.7.1** You must complete an inspection report within 24 hours of completing any site inspection. Each inspection report (except for dewatering inspection reports, which are covered in Part 4.6.3) must include the following:

- a. The inspection date;
- b. Names and titles of personnel making the inspection;
- c. A summary of your inspection findings, covering at a minimum the observations you made in accordance with Part 4.6, including any problems found during your inspection that make it necessary to perform routine maintenance pursuant to Part 2.1.4b or corrective action pursuant to Part 5. Include also any documentation as to why the corrective action procedures under Part 5 are unnecessary to fix a problem that repeatedly occurs as described in Part 2.1.4b;
- d. If you are inspecting your site at the frequency specified in Part 4.2.2, Part 4.3, or Part 4.4.1b, and you conducted an inspection because of a storm event that produced rainfall measuring 0.25 inches or more within a 24-hour period, you must include the applicable rain gauge or weather station readings that triggered the inspection; and
- e. If you determined that it is unsafe to inspect a portion of your site, you must describe the reason you found it to be unsafe and specify the locations to which this condition applies.

**4.7.2 Signature Requirements.** Each inspection report must be signed by the operator's signatory in accordance with Appendix G, Part G.11 of this permit.

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<sup>69</sup> If the operator observes any of these indicators of pollutant discharge, corrective action is required consistent with Parts 5.1.5b and 5.2.2.

**4.7.3 Record Keeping Requirements.** You must keep a copy of all inspection reports at the site or at an easily accessible location, so that it can be made immediately available at the time of an on-site inspection or upon request by VIDPNR.<sup>70</sup>

**4.7.4 Report Retention Requirements.** You must retain all inspection reports completed for this Part for at least three (3) years from the date that your permit coverage expires or is terminated.

#### **4.8 INSPECTIONS BY VIDPNR**

You must allow VIDPNR, or an authorized representative of VIDPNR, to conduct the following activities at reasonable times. To the extent that you are utilizing shared controls, that are not on site, to comply with this permit, you must make arrangements for VIDPNR to have access at all reasonable times to those areas where the shared controls are located.

**4.8.1 Site Entry.** Enter onto all areas of the site, including any construction support activity areas covered by this permit, any off-site areas where shared controls are utilized to comply with this permit, discharge locations, adjoining waterbodies, and locations where records are kept under the conditions of this permit;

**4.8.2 Record Access.** Access and copy any records that must be kept under the conditions of this permit;

**4.8.3 Site Inspection.** Inspect your construction site, including any construction support activity areas covered by this permit (see Part 1.2.1c), any stormwater controls installed and maintained at the site, and any off-site shared controls utilized to comply with this permit; and

**4.8.4 Sampling.** Sample or monitor for the purpose of ensuring compliance.

### **5 CORRECTIVE ACTIONS**

#### **5.1 CONDITIONS TRIGGERING CORRECTIVE ACTION.**

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

**5.1.1** A stormwater control needs a significant repair or a new or replacement control is needed, or, in accordance with Part 2.1.4d, you find it necessary to repeatedly (i.e., three (3) or more times) conduct the same routine maintenance fix to the same control at the same location (unless you document in your inspection report under Part 4.7.1c that the specific reoccurrence of this same problem should still be addressed as a routine maintenance fix under Part 2.1.4); or

**5.1.2** A stormwater control necessary to comply with the requirements of this permit was never installed, or was installed incorrectly; or

**5.1.3** Your discharges are not meeting applicable water quality standards;

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<sup>70</sup> Inspection reports may be prepared, signed, and kept electronically, rather than in paper form, if the records are: (a) in a format that can be read in a similar manner as a paper record; (b) legally dependable with no less evidentiary value than their paper equivalent; and (c) immediately accessible to the inspector during an inspection to the same extent as a paper copy stored at the site would be, if the records were stored in paper form. For additional guidance on the proper practices to follow for the electronic retention of inspection report records, refer to the Fact Sheet discussion related to Part 4.7.3.

- 5.1.4** A prohibited discharge has occurred (see Part 1.3); or
- 5.1.5** During discharge from site dewatering activities:
- a.** The weekly average of your turbidity monitoring results exceeds the applicable benchmark pursuant to Part 3.3.2d); or
  - b.** You observe or you are informed by VIDPNR of the presence of the conditions specified in Part 4.6.3e.

**5.2 CORRECTIVE ACTION DEADLINES**

- 5.2.1** If responding to any of the Part 5.1.1, 5.1.2, 5.1.3, or 5.1.4 triggering conditions, you must:
- a.** Immediately take all reasonable steps to address the condition, including cleaning up any contaminated surfaces so the material will not discharge in subsequent storm events; and
  - b.** When the problem does not require a new or replacement control or significant repair, the corrective action must be completed by the close of the next business day; or
  - c.** When the problem requires a new or replacement control or significant repair, install the new or modified control and make it operational, or complete the repair, by no later than seven (7) calendar days from the time of discovery. If it is infeasible to complete the installation or repair within seven (7) calendar days, you must document in your records why it is infeasible to complete the installation or repair within the 7-day timeframe and document your schedule for installing the stormwater control(s) and making it operational as soon as feasible after the 7-day timeframe. Where these actions result in changes to any of the stormwater controls or procedures documented in your SWPPP, you must modify your SWPPP accordingly within seven (7) calendar days of completing this work.
- 5.2.2** If responding to either of the Part 5.1.5 triggering conditions related to site dewatering activities, you must:
- a.** Immediately take all reasonable steps to minimize or prevent the discharge of pollutants until you can implement a solution, including shutting off the dewatering discharge as soon as possible depending on the severity of the condition<sup>71</sup> taking safety considerations into account;
  - b.** Determine whether the dewatering controls are operating effectively and whether they are causing the conditions; and
  - c.** Make any necessary adjustments, repairs, or replacements to the dewatering controls to lower the turbidity levels below the benchmark or remove the visible plume or sheen.

When you have completed these steps and made any changes deemed necessary, you may resume discharging from your dewatering activities.

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<sup>71</sup> For instance, if the weekly average of your turbidity monitoring results or a single sample is extremely high (e.g., a single turbidity sample results in 355 NTUs or higher), you should take action to safely shut off the discharge so that you can evaluate the cause of the high turbidity. Note: A single turbidity sample of 355 NTUs or higher means that the weekly average turbidity value will exceed 50 NTU regardless of the turbidity values the other days during the week.

### **5.3 CORRECTIVE ACTION REQUIRED BY VIDPNR**

You must comply with any corrective actions required by VIDPNR as a result of permit violations found during an inspection carried out under Part 4.8.

### **5.4 CORRECTIVE ACTION LOG**

**5.4.1** For each corrective action taken in accordance with this Part, you must record the following in a corrective action log:

- a.** Within 24 hours of identifying the corrective action condition, document the specific condition and the date and time it was identified.
- b.** Within 24 hours of completing the corrective action (in accordance with the deadlines in Part 5.2), document the actions taken to address the condition, including whether any SWPPP modifications are required.

**5.4.2 Signature Requirements.** Each entry into the corrective action log, consisting of the information required by both Parts 5.4.1a and 5.4.1b, must be signed by the operator's signatory in accordance with Appendix G, Part G.11.2 of this permit.

**5.4.3 Record Keeping Requirements.** You must keep a copy of the corrective action log at the site or at an easily accessible location, so that it can be made immediately available at the time of an on-site inspection or upon request by VIDPNR.<sup>72</sup>

**5.4.4 Record Retention Requirements.** You must retain the corrective action log for at least three (3) years from the date that your permit coverage expires or is terminated.

## **6 STORMWATER TEAM FORMATION/STAFF TRAINING REQUIREMENTS**

### **6.1 STORMWATER TEAM**

Each operator, or group of multiple operators, must assemble a "stormwater team" that will be responsible for carrying out activities necessary to comply with this permit. The stormwater team must include the following people:

- a.** Personnel who are responsible for the design, installation, maintenance, and/or repair of stormwater controls (including pollution prevention controls);
- b.** Personnel responsible for the application and storage of treatment chemicals (if applicable);
- c.** Personnel who are responsible for conducting inspections as required in Part 4.1; and
- d.** Personnel who are responsible for taking corrective actions as required in Part 5.

Members of the stormwater team must be identified in the SWPPP pursuant to Part 7.2.2.

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<sup>72</sup> The corrective action log may be prepared, signed, and kept electronically, rather than in paper form, if the records are: (a) in a format that can be read in a similar manner as a paper record; (b) legally dependable with no less evidentiary value than their paper equivalent; and (c) immediately accessible to the inspector during an inspection to the same extent as a paper copy stored at the site would be, if the records were stored in paper form. For additional guidance on the proper practices to follow for the electronic retention of corrective action log records, refer to the Fact Sheet discussion related to Part 4.7.3.

## **6.2 GENERAL TRAINING REQUIREMENTS FOR STORMWATER TEAM MEMBERS**

Prior to the commencement of construction activities, you must ensure that all persons<sup>73</sup> assigned to the stormwater team understand the requirements of this permit and their specific responsibilities with respect to those requirements, including the following related to the scope of their job duties:

- a.** The permit requirements and deadlines associated with installation, maintenance, and removal of stormwater controls, as well as site stabilization;
- b.** The location of all stormwater controls on the site required by this permit and how they are to be maintained;
- c.** The proper procedures to follow with respect to the permit's pollution prevention requirements; and
- d.** When and how to conduct inspections, record applicable findings, and take corrective actions. Specific training requirements for persons conducting site inspections are included in Part 6.3.

You are responsible for ensuring that all activities on the site comply with the requirements of this permit. You are not required to provide or document formal training for subcontractors or other outside service providers (unless the subcontractors or outside service providers are responsible for conducting the inspections required in Part 4, in which case you must provide such documentation consistent with Part 7.2.2), but you must ensure that such personnel understand any requirements of this permit that may be affected by the work they are subcontracted to perform.

## **6.3 TRAINING REQUIREMENTS FOR PERSONS CONDUCTING INSPECTIONS**

To be considered a qualified person under Part 4.1 for conducting inspections under Part 4, you must, at a minimum, either:

- a.** Have completed the EPA construction inspection course developed for this permit and have passed the exam; or
- b.** Hold a current valid construction inspection certification or license from a program that, at a minimum, covers the following:<sup>74</sup>
  - i.** Principles and practices of erosion and sediment control and pollution prevention practices at construction sites;
  - ii.** Proper installation and maintenance of erosion and sediment controls and pollution prevention practices used at construction sites; and
  - iii.** Performance of inspections, including the proper completion of required reports and documentation, consistent with the requirements of Part 4.

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<sup>73</sup> If the person requiring training is a new employee who starts after you commence construction activities, you must ensure that this person has the proper understanding as required above prior to assuming particular responsibilities related to compliance with this permit. For emergency-related projects, the requirement to train personnel prior to commencement of construction activities does not apply, however, such personnel must have the required training prior to NOI submission.

<sup>74</sup> If one of the following topics (e.g., installation and maintenance of pollution prevention practices) is not covered by the non-EPA training program, you may consider supplementing the training with the analogous module of the EPA course (e.g., Module 4) that covers the missing topic.

#### **6.4 STORMWATER TEAM'S ACCESS TO PERMIT DOCUMENTS**

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

### **7 STORMWATER POLLUTION PREVENTION PLAN (SWPPP)**

#### **7.1 GENERAL REQUIREMENTS**

All operators associated with a construction site under this permit must develop a SWPPP consistent with the requirements in Part 7 prior to their submittal of the NOI.<sup>75, 76, 77</sup> The SWPPP must be kept up-to-date throughout coverage under this permit.

If a SWPPP was prepared under a previous version of this permit, the operator must review and update the SWPPP to ensure that this permit's requirements are addressed prior to submitting an NOI for coverage under this permit.

#### **7.2 SWPPP CONTENTS**

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

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

**7.2.2 Stormwater Team.** Identify the personnel (by name and position) that you have made part of the stormwater team pursuant to Part 6.1, as well as their individual responsibilities, including which members are responsible for conducting inspections.

Include verification that each member of the stormwater team has received the training required by Part 6.2. Include documentation that members of the stormwater team responsible for conducting inspections pursuant to Part 4 have received the training required by Part 6.3. If personnel on your team elect to complete the EPA inspector training program pursuant to Part 6.3a, you must include copies of the certificate showing that the relevant personnel have completed the training and passed the exam. If personnel on your team elect to complete a non-EPA inspector training program pursuant to Part 6.3b, you must include documentation showing that these persons have successfully completed the program and their certification or license is still current. You

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<sup>75</sup> The SWPPP does not establish the effluent limits and/or other permit terms and conditions that apply to your site's discharges; these limits, terms, and conditions are established in this permit.

<sup>76</sup> Where there are multiple operators associated with the same site, they may develop a group SWPPP instead of multiple individual SWPPPs. Regardless of whether there is a group SWPPP or multiple individual SWPPPs, each operator is responsible for compliance with the permit's terms and conditions. In other words, if Operator A relies on Operator B to satisfy its permit obligations, Operator A does not have to duplicate those permit-related functions if Operator B is implementing them such that both operators are in compliance with the permit. However, Operator A remains responsible for permit compliance if Operator B fails to take actions necessary for Operator A to comply with the permit. In addition, all operators must ensure, either directly or through coordination with other operators, that their activities do not cause a violation or compromise any other operators' controls and/or any shared controls.

<sup>77</sup> There are a number of commercially available products to assist operators in developing the SWPPP, as well as companies that can be hired to help develop a site-specific SWPPP. The permit does not state which are recommended, nor does VIDPNR endorse any specific products or vendors. Where operators choose to rely on these products or services, the choice of which ones to use to comply with the requirements of this Part is a decision for the operator alone.

must also confirm that the non-EPA inspector training program satisfies the minimum elements for such programs in Part 6.3b.

**7.2.3 Nature of Construction Activities.** Include the following:

- a. A description of the nature of your construction activities, including the age or dates of past renovations for structures that are undergoing demolition;
- b. The size of the property (in acres or length in miles if a linear construction site);
- c. The total area expected to be disturbed by the construction activities (to the nearest quarter acre or nearest quarter mile if a linear construction site);
- d. A description of any on-site and off-site construction support activity areas covered by this permit (see Part 1.2.1c);
- e. The maximum area expected to be disturbed at any one time, including on-site and off-site construction support activity areas;
- f. A description and projected schedule for the following:<sup>78</sup>
  - i. Commencement of construction activities in each portion of the site, including clearing and grubbing, mass grading, demolition activities, site preparation (i.e., excavating, cutting and filling), final grading, and creation of soil and vegetation stockpiles requiring stabilization;
  - ii. Temporary or permanent cessation of construction activities in each portion of the site;
  - iii. Temporary or final stabilization of exposed areas for each portion of the site; and
  - iv. Removal of temporary stormwater controls and construction equipment or vehicles, and the cessation of construction-related pollutant-generating activities.
- g. A list and description of all pollutant-generating activities<sup>79</sup> on the site. For each pollutant-generating activity, include an inventory of pollutants or pollutant constituents (e.g., *sediment, fertilizers, pesticides, paints, caulks, sealants, fluorescent light ballasts, contaminated substrates, solvents, fuels*) associated with that activity, which could be discharged in stormwater from your construction site. You must take into account where potential spills and leaks could occur that contribute pollutants to stormwater discharges, and any known hazardous or toxic substances, such as PCBs and asbestos, that will be disturbed or removed during construction;
- h. Business days and hours for the project;
- i. If you are conducting construction activities in response to a public emergency (see Part 1.4), a description of the cause of the public emergency (e.g., *mud slides, earthquake, extreme flooding conditions, widespread disruption in essential public services*), information substantiating its occurrence (e.g., *Territorial disaster*

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<sup>78</sup> If plans change due to unforeseen circumstances or for other reasons, the requirement to describe the sequence and estimated dates of construction activities is not meant to “lock in” the operator to meeting these dates. When departures from initial projections are necessary, this should be documented in the SWPPP itself, or in associated records, as appropriate.

<sup>79</sup> Examples of pollutant-generating activities include paving operations; concrete, paint, and stucco washout and waste disposal; solid waste storage and disposal; and dewatering activities.

*declaration or similar declaration*), and a description of the construction necessary to reestablish affected public services.

**7.2.4 Site Map.** Include a legible map, or series of maps, showing the following features of the site:

- a.** Boundaries of the property;
- b.** Locations where construction activities will occur, including:
  - i.** Locations where earth-disturbing activities will occur (note any phasing), including any demolition activities;
  - ii.** Approximate slopes before and after major grading activities (note any steep slopes (as defined in Appendix A));
  - iii.** Locations where sediment, soil, or other construction materials will be stockpiled;
  - iv.** Any receiving water crossings;
  - v.** Designated points where vehicles will exit onto paved roads;
  - vi.** Locations of structures and other impervious surfaces upon completion of construction; and
  - vii.** Locations of on-site and off-site construction support activity areas covered by this permit (see Part 1.2.1c).
- c.** Locations of any receiving waters within the site and all receiving waters within one mile downstream of the site's discharge point(s). Also identify if any of these receiving waters are listed as impaired or are identified by VIDPNR as Class A waters;
- d.** Any areas of Federally listed or locally-listed critical habitat within the action area of the site as defined in Appendix A;
- e.** Type and extent of pre-construction cover on the site (e.g., vegetative cover, forest, pasture, pavement, structures);
- f.** Drainage patterns of stormwater and authorized non-stormwater before and after major grading activities;
- g.** Stormwater and authorized non-stormwater discharge locations, including:
  - i.** Locations where stormwater and/or authorized non-stormwater will be discharged to storm drain inlets, including a notation of whether the inlet conveys stormwater to a sediment basin, sediment trap, or similarly effective control;<sup>80</sup>
  - ii.** Locations where stormwater or authorized non-stormwater will be discharged directly to receiving waters (i.e., not via a storm drain inlet); and
  - iii.** Locations where turbidity benchmark monitoring will take place to comply with Part 3.3, if applicable to your site.
- h.** Locations of all potential pollutant-generating activities identified in Part 7.2.3g;
- i.** Designated areas where construction wastes that are covered by the exception in Part 2.3.3e.ii because they are not pollutant-generating will be stored;

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<sup>80</sup> The requirement to show storm drain inlets in the immediate vicinity of the site on your site map only applies to those inlets that are easily identifiable from your site or from a publicly accessible area immediately adjacent to your site.

- j. Locations of stormwater controls, including natural buffer areas and any shared controls utilized to comply with this permit; and
- k. Locations where polymers, flocculants, or other treatment chemicals will be used and stored.

**7.2.5 Non-Stormwater Discharges.** Identify all authorized non-stormwater discharges in Part 1.2.2 that will or may occur.

**7.2.6 Description of Stormwater Controls.**

- a. For each of the Part 2.2 erosion and sediment control requirements, Part 2.3 pollution prevention requirements, and Part 2.4 construction dewatering requirements, as applicable to your site, you must include the following:
  - i. A description of the specific control(s) to be implemented to meet these requirements;
  - ii. The design specifications for controls described in Part 7.2.6a.i (including references to any manufacturer specifications and/or erosion and sediment control manuals/ordinances relied upon);<sup>81</sup>
  - iii. Routine stormwater control maintenance specifications; and
  - iv. The projected schedule for stormwater control installation/implementation.
- b. You must also include any of the following additional information as applicable.
  - i. **Natural buffers and/or equivalent sediment controls** (see Part 2.2.1 and Appendix F). You must include the following:
    - (a) The compliance alternative to be implemented;
    - (b) If complying with alternative 2, the width of natural buffer retained;
    - (c) If complying with alternative 2 or 3, the erosion and sediment control(s) you will use to achieve an equivalent sediment reduction, and any information you relied upon to demonstrate the equivalency;
    - (d) If complying with alternative 3, a description of why it is infeasible for you to provide and maintain an undisturbed natural buffer of any size;
    - (e) For “linear construction sites” where it is infeasible to implement compliance alternative 1, 2, or 3, a rationale for this determination, and a description of any buffer width retained and/or supplemental erosion and sediment controls installed; and
    - (f) A description of any disturbances that are exempt under Part 2.2.1 that occur within 50 feet of a receiving water.
  - ii. **Perimeter controls for a “linear construction site”** (see Part 2.2.3d). For areas where perimeter controls are not feasible, include documentation to support this determination and a description of the other practices that will be implemented

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<sup>81</sup> Design specifications may be found in manufacturer specifications and/or in applicable erosion and sediment control manuals or ordinances. Any departures from such specifications must reflect good engineering practice and must be explained in the SWPPP.

to minimize discharges of pollutants in stormwater associated with construction activities.

Note: Routine maintenance specifications for perimeter controls documented in the SWPPP must include the Part 2.2.3c.i requirement that sediment be removed before it has accumulated to one-half of the above-ground height of any perimeter control.

- iii. **Sediment track-out controls** (see Parts 2.2.4b and 2.2.4c). Document the specific stabilization techniques and/or controls that will be implemented to remove sediment prior to vehicle exit.
- iv. **Inlet protection measures** (see Part 2.2.10a). Where inlet protection measures are not required because the storm drain inlets to which your site discharges are conveyed to a sediment basin, sediment trap, or similarly effective control, include a short description of the control that receives the stormwater flow from the site.
- v. **Sediment basins** (see Part 2.2.12). In circumstances where it is infeasible to utilize outlet structures that withdraw water from the surface, include documentation to support this determination, including the specific conditions or time periods when this exception will apply.
- vi. **Treatment chemicals** (see Part 2.2.13), you must include the following:
  - (a) A listing of the soil types that are expected to be exposed during construction in areas of the project that will drain to chemical treatment systems. Also include a listing of soil types expected to be found in fill material to be used in these same areas, to the extent you have this information prior to construction;
  - (b) A listing of all treatment chemicals to be used at the site and why the selection of these chemicals is suited to the soil characteristics of your site;
  - (c) If you have been authorized by VIDPNR to use cationic treatment chemicals for sediment control, include the specific controls and implementation procedures designed to ensure that your use of cationic treatment chemicals will not lead to a discharge that does not meet water quality standards;
  - (d) The dosage of all treatment chemicals to be used at the site or the methodology to be used to determine dosage;
  - (e) Information from any applicable Safety Data Sheet (SDS);
  - (f) Schematic drawings of any chemically enhanced stormwater controls or chemical treatment systems to be used for application of the treatment chemicals;
  - (g) A description of how chemicals will be stored consistent with Part 2.2.13c;
  - (h) References to applicable Territorial requirements affecting the use of treatment chemicals, and copies of applicable manufacturer's specifications regarding the use of your specific treatment chemicals and/or chemical treatment systems; and

- (i) A description of the training that personnel who handle and apply chemicals have received prior to permit coverage, or will receive prior to use of the treatment chemicals at your site.

**vii. Stabilization measures** (see Part 2.2.14). You must include the following:

- (a) The specific vegetative and/or non-vegetative practices that will be used;
- (b) The stabilization deadline that will be met in accordance with Part 2.2.14;
- (c) If complying with deadlines for sites affected by unforeseen circumstances that delay the initiation and/or completion of vegetative stabilization, document the circumstances and the schedule for initiating and completing stabilization.

**viii. Spill prevention and response procedures** (see Parts 1.3.5, 2.3.3c, 2.3.3d, and 2.3.6). You must include the following:

- (a) Procedures for expeditiously stopping, containing, and cleaning up spills, leaks, and other releases. Identify the name or position of the employee(s) responsible for detection and response of spills or leaks; and
- (b) Procedures for notification of appropriate facility personnel, emergency response agencies, and regulatory agencies where a leak, spill, or other release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity consistent with Part 2.3.6 and established under either 40 CFR part 110, 40 CFR part 117, or 40 CFR part 302, occurs during a 24-hour period. Contact information must be in locations that are readily accessible and available to all employees.

You may also reference the existence of SPCC plans developed for the construction activity under Section 311 of the CWA, or spill control programs otherwise required by an TPDES permit for the construction activity, provided that you keep a copy of that other plan on site.<sup>82</sup>

**ix. Waste management procedures** (see Part 2.3.3). Describe the procedures you will follow for handling, storing, and disposing of all wastes generated at your site consistent with all applicable Federal and Territorial requirements, including clearing and demolition debris, sediment removed from the site, construction and domestic waste, hazardous or toxic waste, and sanitary waste.

You must also include the following additional information:

- (a) If site constraints prevent you from storing chemical containers 50 feet away from receiving waters or the other site drainage features as required in Part 2.3.3c.ii(b), document in your SWPPP the specific reasons why the 50-foot setback is not feasible, and how you will store containers as far away as the site permits; and

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<sup>82</sup> Even if you already have an SPCC or other spill prevention plan in existence, your plans will only be considered adequate if they meet all of the requirements of this Part, either as part of your existing plan or supplemented as part of the SWPPP.

- (b) If there are construction wastes that are subject to the exception in Part 2.3.3e.ii, describe the specific wastes that will be stored on your site.

- x. **Application of fertilizers** (see Part 2.3.5). Document any departures from the manufacturer specifications where appropriate.

**7.2.7 Procedures for Inspection, Maintenance, and Corrective Action.** Describe the procedures you will follow for maintaining your stormwater controls, conducting site inspections, and, where necessary, taking corrective actions, in accordance with Part 2.1.4, Part 4, and Part 5 of this permit, accordingly. Also include:

- a. The inspection schedule you will follow, which is based on whether your site is subject to Part 4.2 or Part 4.3, or whether your site qualifies for any of the reduced inspection frequencies in Part 4.4;
- b. If you will be conducting inspections in accordance with the inspection schedule in Part 4.2.2, Part 4.3, or Part 4.4.1b, the location of the rain gauge or the address of the weather station you will be using to obtain rainfall data;
- c. Any maintenance or inspection checklists or other forms that will be used.

**7.2.8 Procedures for Turbidity Benchmark Monitoring from Dewatering Discharges (if applicable).** If you are required to comply with the Part 3.3 turbidity benchmark monitoring requirements, describe the procedures you will follow to collect and evaluate samples, report results to VIDPNR and keep records of monitoring information, and take corrective action when necessary. Include the specific type of turbidity meter you will use for monitoring, as well as any manuals or manufacturer instructions on how to operate and calibrate the meter. Describe any coordinating arrangement you may have with any other permitted operators on the same site with respect to compliance with the turbidity monitoring requirements, including which parties are tasked with specific responsibilities.

**7.2.9 Compliance with Other Requirements.**

- a. **Threatened and Endangered Species Protection.** Include documentation required in the ESA worksheet in Appendix C, supporting your eligibility with regard to the protection of threatened and endangered species and designated critical habitat.
- b. **Historic Properties.** Include documentation required in Appendix D supporting your eligibility with regard to the protection of historic properties.
- c. **Safe Drinking Water Act Underground Injection Control (UIC) Requirements for Certain Subsurface Stormwater Controls.** If you are using any of the following stormwater controls at your site, document any contact you have had with VIDPNR and your file shall be reviewed by the EPA Regional Office responsible for implementing the requirements for underground injection wells in the Safe Drinking Water Act and EPA's implementing regulations at 40 CFR § 144 -147. Such controls would generally be considered Class V UIC wells:
  - i. Infiltration trenches (if stormwater is directed to any bored, drilled, driven shaft or dug hole that is deeper than its widest surface dimension, or has a subsurface fluid distribution system);

- ii. Commercially manufactured pre-cast or pre-built proprietary subsurface detention vaults, chambers, or other devices designed to capture and infiltrate stormwater flow; and
- iii. Drywells, seepage pits, or improved sinkholes (if stormwater is directed to any bored, drilled, driven shaft or dug hole that is deeper than its widest surface dimension, or has a subsurface fluid distribution system).

**7.2.10 SWPPP Certification.** Your signatory must sign and date your SWPPP in accordance with Appendix G, Part G.11.

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

- a. A copy of your NOI submitted to VIDPNR along with any correspondence exchanged between you and VIDPNR related to coverage under this permit;
- b. A copy of the coverage letter you receive from VIDPNR assigning your TPDES ID (i.e., *permit tracking number*);
- c. A copy of this permit (an electronic copy easily available to the stormwater team is also acceptable).

### **7.3 ON-SITE AVAILABILITY OF YOUR SWPPP**

You must keep a current copy of your SWPPP at the site or at an easily accessible location so that it can be made available at the time of an on-site inspection or upon request by VIDPNR or EPA; the operator of a storm sewer system receiving discharges from the site; or representatives of the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS).<sup>83</sup>

VIDPNR may provide access to portions of your SWPPP to a member of the public upon request. Confidential Business Information (CBI) will be withheld from the public, but may not be withheld from VIDPNR, USFWS, or NMFS.<sup>84</sup>

If an on-site location is unavailable to keep the SWPPP when no personnel are present, notice of the plan's location must be posted near the main entrance of your construction site.

### **7.4 SWPPP MODIFICATIONS**

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

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<sup>83</sup> The SWPPP may be prepared, signed, and kept electronically, rather than in paper form, if the records are: (a) in a format that can be read in a similar manner as a paper record; (b) legally dependable with no less evidentiary value than their paper equivalent; and (c) immediately accessible to the inspector during an inspection to the same extent as a paper copy stored at the site would be, if the records were stored in paper form. For additional guidance on the proper practices to follow for the electronic retention of the SWPPP, refer to the Fact Sheet discussion related to Part 4.7.3.

<sup>84</sup> Information covered by a claim of confidentiality will be disclosed by VIDPNR only to the extent of, and by means of, the procedures set forth in 40 CFR part 2, Subpart B. In general, submitted information protected by a business confidentiality claim may be disclosed to other employees, officers, or authorized representatives of the United States concerned with implementing the CWA. The authorized representatives, including employees of other executive branch agencies, may review CBI during the course of reviewing draft regulations.

- a. Whenever new operators become active in construction activities on your site, or you make changes to your construction plans, stormwater controls, or other activities at your site that are no longer accurately reflected in your SWPPP. This includes changes made in response to corrective actions triggered under Part 5. You do not need to modify your SWPPP if the estimated dates in Part 7.2.3f change during the course of construction;
  - b. To reflect areas on your site map where operational control has been transferred (and the date of transfer) since initiating permit coverage;
  - c. If inspections or investigations by VIDPNR or EPA determine that SWPPP modifications are necessary for compliance with this permit;
  - d. Where VIDPNR determines it is necessary to install and/or implement additional controls at your site in order to meet the requirements of this permit, the following must be included in your SWPPP:
    - i. A copy of any correspondence describing such measures and requirements; and
    - ii. A description of the controls that will be used to meet such requirements.
  - e. To reflect any revisions to applicable Federal, Territorial, or local requirements that affect the stormwater controls implemented at the site; and
  - f. If applicable, if a change in chemical treatment systems or chemically enhanced stormwater control is made, including use of a different treatment chemical, different dosage rate, or different area of application.
- 7.4.2** You must maintain records showing the dates of all SWPPP modifications. The records must include the name of the person authorizing each change (see Part 7.2.10 above) and a brief summary of all changes.
- 7.4.3** All modifications made to the SWPPP consistent with Part 7.4 must be authorized by a person identified in Appendix G, Part G.11.b.
- 7.4.4** Upon determining that a modification to your SWPPP is required, if there are multiple operators covered under this permit, you must immediately notify any operators who may be impacted by the change to the SWPPP.

## **8 HOW TO TERMINATE COVERAGE**

Until you terminate coverage under this permit, you must comply with all conditions and effluent limitations in the permit. To terminate permit coverage, you must submit to VIDPNR a complete and accurate Notice of Termination (NOT), which certifies that you have met the requirements for terminating in Part 8.

### **8.1 MINIMUM INFORMATION REQUIRED IN NOT**

- 8.1.1** TPDES ID (i.e., *permit tracking number*) provided by VIDPNR when you received coverage under this permit;
- 8.1.2** **Termination Basis.** Basis for submission of the NOT (see Part 8.2);
- 8.1.3** **Contact Information.** Operator contact information;
- 8.1.4** **Site Name and Address.** Name of site and address (or a description of location if no street address is available); and
- 8.1.5** **Signature and Certification.** NOT certification.

## **8.2 CONDITIONS FOR TERMINATING VI CGP COVERAGE**

You may terminate VI CGP coverage only if one or more of the conditions in Parts 8.2.1, 8.2.2, or 8.2.3 has occurred. Until your termination is effective consistent with Part 8.5, you must continue to comply with the conditions of this permit.

**8.2.1 Completion of Construction Activities.** You have completed all construction activities at your site and, if applicable, construction support activities covered by this permit (see Part 1.2.1c), and you have met all of the following requirements:

- a.** For any areas that (1) were disturbed during construction, (2) are not covered by permanent structures, and (3) over which you had control during the construction activities, you have met the requirements for final vegetative or non-vegetative stabilization in Part 2.2.14c.

To document that you have met these stabilization requirements, you must take either ground or aerial photographs that show your site's compliance with the Part 2.2.14 stabilization requirements and submit them with your NOT. If any portion of your site is covered by one of the exceptions in Part 2.2.14c.iii, indicate which exception applies and include a supplementary explanation with your photographs that provides the necessary context for why this portion of the site is in compliance with the final stabilization criteria even though it appears to be unstabilized. You are not required to take photographs of every distinct part of your site that is being stabilized, however, the conditions of the site portrayed in any photographs that are submitted must be substantially similar<sup>85</sup> to those of the areas that are not photographed. You must also comply with the following related to these photographs:

- i.** Take photographs both before and after the site has met the final stabilization criteria in Part 2.2.14c;
  - ii.** All photographs must be clear and in focus, and in the original format and resolution; and
  - iii.** Include the date each photograph was taken, and a brief description of the area of the site captured by the photograph (e.g., photo shows application of seed and erosion control mats to remaining exposed surfaces on northeast corner of site).
- b.** You have removed and properly disposed of all construction materials, waste and waste handling devices, and have removed all equipment and vehicles that were used during construction, unless intended for long-term use following your termination of permit coverage;
- c.** You have removed all stormwater controls that were installed and maintained during construction, except those that are intended for long-term use following your termination of permit coverage or those that are biodegradable (as defined in Appendix A); and
- d.** You have removed all potential pollutants and pollutant-generating activities associated with construction, unless needed for long-term use following your termination of permit coverage; or

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<sup>85</sup> Stabilization conditions that are substantially similar would include areas that are using the same type of stabilization measures and that have similar slopes, soils, and topography, and have achieved the same level of stabilization.

**8.2.2 Transfer of Site Control / Change of Operator.** You have transferred control of all areas of the site for which you are responsible under this permit to another operator, and that operator has submitted an NOI and obtained coverage under this permit; or

**8.2.3 Transfer to Alternate Permit.** Coverage under an individual or alternative general TPDES permit has been obtained.

**8.3 HOW TO SUBMIT YOUR NOT**

- a. Until [placeholder for date in 2024 that is 1 year beyond GP reissuance], you must complete the paper NOT form in Appendix I, and sign in accordance with Appendix G, Part 11.
- b. Effective [placeholder for date in 2024 that is 1 year beyond GP reissuance], you must use VIDPNR's NOT system (accessible at [placeholder for website address]) to prepare and submit your NOT electronically. However, if the VIDPNR grants you a waiver to use a paper NOT form, and you elect to use it, you must complete and submit the NOT form found in Appendix I.
- c. If pursuant to 8.3a or 8.3b, you are submitting a paper NOT form, you must submit the form to one of the following VIDPNR offices, corresponding with the island on which the construction activity covered is located.

**ST. CROIX**

Virgin Islands Department of Planning and Natural Resources  
Water Pollution Control Program  
ATTN: TPDES Program  
45 Estate Mars Hill  
Frederiksted, VI 00840

**ST. THOMAS & ST. JOHN**

Virgin Islands Department of Planning and Natural Resources  
Water Pollution Control Program  
ATTN: TPDES Program  
4611 Tutu Park Mall, Suite 300  
St. Thomas, VI 00802

**8.4 DEADLINE FOR SUBMITTING THE NOT**

You must submit an NOT within 30 calendar days after any one of the conditions in Part 8.2 occurs.

**8.5 EFFECTIVE DATE OF TERMINATION OF COVERAGE**

Your authorization to discharge under this permit terminates at midnight of the date of the NOT approval letter sent to you by VIDPNR (after NOT processing).

## Appendix A - Definitions and Acronyms

### 1. Definitions

"Action Area" – all areas to be affected directly or indirectly by the Territorial and/or federal action and not merely the immediate area involved in the action. See 50 CFR §402. For the purposes of this permit and for application of the Threatened and Endangered Species protection eligibility requirements, the following areas are included in the definition of action area:

- The areas on the construction site where stormwater discharges originate and flow toward the point of discharge into the receiving waters. This includes:
  - areas on the construction site where excavation, site development, or other ground disturbance activities occur, and
  - areas where stormwater controls will be constructed and operated, including any areas where stormwater flows to and from the stormwater controls.
- The areas in the vicinity of the construction site where stormwater discharges flow from the construction site to one or more points of discharge into receiving waters. (Example: Where stormwater flows into an off-site ditch, swale, or gully that leads to receiving waters.)
- The extent of the receiving water potentially affected by stormwater discharges from your construction site through alteration of water chemistry, turbidity, temperature, or bank structure (i.e., erosive flow), regardless of whether the construction site is adjacent to the receiving water.

"Agricultural Land" - cropland, grassland, rangeland, pasture, and other agricultural land, on which agricultural and forest-related products or livestock are produced and resource concerns may be addressed. Agricultural lands include cropped woodland, marshes, incidental areas included in the agricultural operation, and other types of agricultural land used for the production of livestock.

"Antidegradation Policy" or "Antidegradation Requirements" - the water quality standards regulation that requires VIDPNR to establish a three-tiered antidegradation program as described in 12 V.I.R.R. §186.

"Bank" (e.g., stream bank or river bank) – the rising ground bordering the channel of a water of the U.S.

"Biodegradable" – capable of decomposing under ambient soil conditions into naturally occurring materials over a period of time (e.g., one year).

"Bluff" – a steep headland, promontory, riverbank, or cliff.

"Borrow Areas" – the areas where materials are dug for use as fill, either onsite or off-site.

"Business day" – for the purposes of this permit, a business day is a calendar day on which construction activities will take place.

"Bypass" – the intentional diversion of waste streams from any portion of a treatment facility. See 40 CFR §122.41(m)(1)(i) and 12 V.I.R.R. §184-2.

"Cationic Treatment Chemical" – polymers, flocculants, or other chemicals that contain an overall positive charge. Among other things, they are used to reduce turbidity in stormwater discharges by chemically bonding to the overall negative charge of suspended silts and other

soil materials and causing them to bind together and settle out. Common examples of cationic treatment chemicals are chitosan and cationic PAM.

"Class A Waters" – for antidegradation purposes, pursuant to 12 V.I.R.R. 186, those waters identified as having unique characteristics to be preserved to support the maintenance and propagation of desirable species of wildlife and aquatic life, primary contact recreation, and use as a potable water source for those waters being used currently or that could be used in the future as potable water sources.

"Commencement of Construction Activities" – the initial disturbance of soils (or 'breaking ground') associated with clearing, grading, or excavating activities or other construction-related activities (e.g., grubbing; stockpiling of fill material; placement of raw materials at the site).

Commissioner – means the Commissioner of the Department of Planning and Natural Resources, or his designee.

"Common Plan of Development or Sale" – A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one common plan. The "common plan" of development or sale is broadly defined as any announcement or piece of documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on a specific plot.

"Construction Activities" – earth-disturbing activities, such as the clearing, grading, and excavation of land, and other construction-related activities (e.g., grubbing; stockpiling of fill material; placement of raw materials at the site) that could lead to the generation of pollutants. Some of the types of pollutants that are typically found at construction sites are:

- sediment;
- nutrients;
- heavy metals;
- pesticides and herbicides;
- oil and grease;
- bacteria and viruses;
- trash, debris, and solids;
- treatment polymers; and
- any other toxic chemicals.

"Construction and Development Effluent Limitations and New Source Performance Standards" (C&D Rule) – as published in 40 CFR §450, the regulation requiring effluent limitations guidelines (ELGs) and new source performance standards (NSPS) for controlling the discharge of pollutants from construction sites.

"Construction Site" or "Site" – the land or water area where construction activities will occur and where stormwater controls will be installed and maintained. The construction site includes construction support activities, which may be located at a different part of the property from where the primary construction activity will take place, or on a different piece of property altogether.

"Construction Support Activity" – a construction-related activity that specifically supports the construction activity and involves earth disturbance or pollutant-generating activities of its own

and can include activities associated with concrete or asphalt batch plants, equipment staging yards, materials storage areas, excavated material disposal areas, and borrow areas.

"Construction Waste" – discarded material (such as packaging materials; scrap construction materials; masonry products; timber, steel, pipe, and electrical cuttings; plastics; and styrofoam).

"Conveyance Channel" – a temporary or permanent waterway designed and installed to safely convey stormwater flow within and out of a construction site.

"Critical Habitat" – as defined in the USVI Indigenous and Endangered Species Act (IESA) of 1990 and the Endangered Species Act at 16 U.S.C. 1531 for a threatened or endangered species, (i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of section 4 of the Endangered Species Act, on which are found those physical or biological features essential to the conservation of the species and which may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed in accordance with the provisions of section 4 of the Endangered Species Act, upon a determination by the Secretary that such areas are essential for the conservation of the species. See also "Endangered Species" and "Threatened Species".

"CWA" – the Clean Water Act or the Federal Water Pollution Control Act, 33 U.S.C. section 1251 et seq.

Department – the Department of Planning and Natural Resources.

"Dewatering" – the act of draining accumulated stormwater and/or ground water from building foundations, vaults, and trenches, or other similar points of accumulation. Examples can include, but are not limited to:

- Surface area dewatering: water pumped from disturbed surface areas (e.g., trenches, sumps, excavation pits, or other excavations associated with construction where sediment-laden ground water or surface water/storm inflow must be removed) or from sediment basins or similar impoundments for maintenance or decommissioning purposes.
- Ground water dewatering: water discharged from well development, well pump tests, or pumping of ground water from a construction area. Common methods of ground water dewatering from a construction area include sumps and wells, generally described as follows:
  - Sumps: lowers ground water levels near the construction area. Dewatering using sumps consists of pumping ground water out of a lower collection point(s) typically gravity-fed by local ground water.
  - Wells: drilled wells, including bored/augured, driven, or jetted, which use vacuum or pumping to lower the ground water at greater depths than sumps. The two most common types of wells used for dewatering ground water are:
    - Wellpoints: small-diameter shallow wells which are connected via a header pipe. A pump creates a vacuum in the header pipe.
    - Deep Wells: larger-diameter holes, drilled relatively deep (typically greater than 10 feet), pumped by submersible electric pumps.

"Dewatering Water" – as used in this permit, water discharged from dewatering operations.

"Discharge" – when used without qualification, means the "discharge of a pollutant."

"Discharge of a Pollutant" – any addition of any "pollutant" or combination of pollutants to "waters of the United States" from any "point source," or any addition of any pollutant or combination of pollutants to the waters of the "contiguous zone" or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation. This includes additions of pollutants into waters of the United States Virgin Islands

from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. See 40 CFR §122.2 and 12 V.I.R.R. §184-2.

“Discharge Point” – for the purposes of this permit, the location where collected and concentrated stormwater flows or dewatering water are discharged from the construction site.

“Discharge-Related Activity” – activities that cause, contribute to, or result in stormwater and allowable non-stormwater point source discharges, and measures such as the siting, construction, and operation of stormwater controls to control, reduce, or prevent pollutants from being discharged.

“Discharge to an Impaired Water” – for the purposes of this permit, a discharge to an impaired water occurs if the first water of the USVI to which you discharge is identified by VIDPNR pursuant to Section 303(d) of the Clean Water Act as not meeting an applicable water quality standard and (1) requires development of a total maximum daily load (TMDL) (pursuant to section 303(d) of the CWA; or (2) is addressed by an VIDPNR-approved or established TMDL; or (3) is not in either of the above categories but the waterbody is covered by a pollution control program that meets the requirements of 40 CFR §130.7(b)(1). For discharges that enter a storm sewer system prior to discharge, the water of the USVI to which you discharge is the first water of the USVI that receives the stormwater discharge from the storm sewer system.

“Domestic Waste” – for the purposes of this permit, typical household trash, garbage or rubbish items generated by construction activities.

“Drainageway” – an open linear depression, whether constructed or natural, that functions for the collection and drainage of surface water.

“Earth-Disturbing Activity” – actions taken to alter the existing vegetation and/or underlying soil of a site, such as clearing, grading, site preparation (e.g., excavating, grubbing, cutting, and filling), soil compaction, and movement and stockpiling of top soils.

“Earth-Disturbing Activities Conducted Prior to Active Mining Activities” – Consists of two classes of earth-disturbing (i.e., clearing, grading and excavation) activities:

- a. activities performed for purposes of mine site preparation, including: cutting new rights of way (except when related to access road construction); providing access to a mine site for vehicles and equipment (except when related to access road construction); other earth disturbances associated with site preparation activities on any areas where active mining activities have not yet commenced (e.g., for heap leach pads, waste rock facilities, tailings impoundments, wastewater treatment plants); and

- b. construction of staging areas to prepare for erecting structures such as to house project personnel and equipment, mill buildings, etc., and construction of access roads.

Note: only earth-disturbing activities associated with the construction of staging areas and the construction of access roads conducted prior to active mining (see (b) above) are considered to be “construction” and therefore stormwater discharges from these activities are eligible for coverage under this permit. See Part 1.2.1.b. The activities described in (a) above are not considered to be “construction” and therefore stormwater discharges associated with this activity are not eligible for coverage under this permit.

“Effective Operating Condition” – for the purposes of this permit, a stormwater control is kept in effective operating condition if it has been implemented and maintained in such a manner that it is working as designed to minimize pollutant discharges.

“Effluent Limitations” – for the purposes of this permit, any of the Part 2 or Part 3 requirements.

"Effluent Limitations Guideline" (ELG) – defined in 40 CFR § 122.2 as a regulation published by the Administrator under section 304(b) of the CWA to adopt or revise effluent limitations.

"Eligible" – for the purposes of this permit, refers to stormwater and allowable non-stormwater discharges that are authorized for coverage under this general permit.

"Emergency-Related Project" – a project initiated in response to a public emergency (e.g., mud slides, earthquake, extreme flooding conditions, disruption in essential public services), for which the related work requires immediate authorization to avoid imminent endangerment to human health or the environment, or to reestablish essential public services.

"Endangered Species" – as defined in the Endangered Species Act at 16 U.S.C. 1531 as any species which is in danger of extinction throughout all or a significant portion of its range other than a species of the Class Insecta determined by the Secretary to constitute a pest whose protection under the provisions of this Act would present an overwhelming and overriding risk to man; or as defined in the USVI Indigenous and Endangered Species Act (IESA) of 1990 as any species of animal life or plants which have been listed by the Federal or Territorial governments as "endangered". See also "Critical Habitat" and "Threatened Species".

"Excursion" – a measured value that exceeds a specified limit.

"Existing Site" – a site where construction activities commenced prior to <INSERT PERMIT EFFECTIVE DATE>.

"Exit Points" – any points of egress from the construction site to be used by vehicles and equipment during construction activities.

"Exposed Soils" – for the purposes of this permit, soils that as a result of earth-disturbing activities are left open to the elements.

"Federal Facility" – any buildings, installations, structures, land, public works, equipment, aircraft, vessels, and other vehicles and property, owned by, or constructed or manufactured for the purpose of leasing to, the Federal government.

"Federal Operator" – an entity that meets the definition of "Operator" in this permit and is either any department, agency or instrumentality of the executive, legislative, and judicial branches of the Federal government of the United States, or another entity, such as a private contractor, performing construction activity for any such department, agency, or instrumentality.

"Final Stabilization" – on areas not covered by permanent structures, either (1) uniform, perennial vegetation (e.g., *evenly distributed, without large bare areas*) has been established, and/or (2) permanent non-vegetative stabilization measures (e.g., riprap, gravel, gabions, and geotextiles) have been implemented to provide effective cover for exposed portions of the site

"General Contractor" – for the purposes of this permit, the primary individual or company solely accountable to perform a contract. The general contractor typically supervises activities, coordinates the use of subcontractors, and is authorized to direct workers at a site to carry out activities required by the permit.

"Hazardous Substances" or "Hazardous or Toxic Waste" – for the purposes of this permit, any liquid, solid, or contained gas that contain properties that are dangerous or potentially harmful to human health or the environment. See also 40 CFR §261.2.

"Historic Property" – as defined in the National Historic Preservation Act regulations, means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian Tribe or Native Hawaiian organization and that meet the National Register criteria.

"Impaired Water" – a water identified by VIDPNR or EPA as not meeting an applicable water quality standard and (1) requires development of a TMDL (pursuant to section 303(d) of the CWA; or (2) is addressed by a VIDPNR-approved or established TMDL; or (3) is not in either of the above categories but the waterbody is covered by a pollution control program that meets the requirements of 40 CFR §130.7(b)(1).

"Impervious Surface" – for the purpose of this permit, any land surface with a low or no capacity for soil infiltration including, but not limited to, pavement, sidewalks, parking areas and driveways, packed gravel or soil, or rooftops.

"Infeasible" – for the purpose of this permit, infeasible means not technologically possible or not economically practicable and achievable in light of best industry practices.

"Install" or "Installation" – when used in connection with stormwater controls, to connect or set in position stormwater controls to make them operational.

"Jar test" – a test designed to simulate full-scale coagulation/flocculation/sedimentation water treatment processes by taking into account the possible conditions.

"Landward" – positioned or located away from a waterbody, and towards the land.

"Large Construction Activity" – defined at 40 CFR §122.26(b)(14)(x) and incorporated here by reference. Large construction activity includes clearing, grading, and excavating resulting in a land disturbance that will disturb equal to or greater than five acres of land or will disturb less than five acres of total land area but is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than five acres. Large construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the site.

"Linear Construction Site" – includes the construction of roads, bridges, conduits, substructures, pipelines, sewer lines, towers, poles, cables, wires, connectors, switching, regulating and transforming equipment and associated ancillary facilities in a long, narrow area.

"Minimize" – to reduce and/or eliminate to the extent achievable using stormwater controls that are technologically available and economically practicable and achievable in light of best industry practices.

"Mining Activity" – for the purposes of this permit, includes mining-related construction activities defined at 40 CFR §122.26(b)(14)(x) and §122.26(b)(15)(i), and active mining activities defined at 40 CFR §122.26(b)(14)(iii). Both of these sub categories of activities include earth-disturbing activities, with the latter also including such activities as: extraction, removal or recovery, and beneficiation of mined material from the earth; removal of overburden and waste rock to expose mineable material; and site reclamation and closure activities.

"Mining Operations" – for the purposes of this permit, mining operations are grouped into two distinct categories, with distinct effluent limits and requirements applicable to each: 1) earth-disturbing activities conducted prior to active mining activities; and 2) active mining activities, which includes reclamation.

"Municipal Separate Storm Sewer System" or "MS4" – defined at 12 V.I.R.R. §184-2 as all separate storm sewers that are defined as "large" or "medium" or "small" municipal separate storm sewer systems pursuant to 40 CFR §122.26(b)(8) as a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):

1. Owned and operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special

districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian Tribe or an authorized Indian Tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States;

2. Designed or used for collecting or conveying stormwater;
3. Which is not a combined sewer; and
4. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR §122.2.

"Native Topsoil" – the uppermost layer of naturally occurring soil for a particular area, and is often rich in organic matter, biological activity, and nutrients.

"Natural Buffer" – for the purposes of this permit, an area of undisturbed natural cover surrounding waters of the USVI within which construction activities are restricted. Natural cover includes the vegetation, exposed rock, or barren ground that exists prior to commencement of earth-disturbing activities.

"Natural Vegetation" – vegetation that occurs spontaneously without regular management, maintenance, or species introductions or removals, and that generally has a strong component of native species.

"New Operator of a Permitted Site" – an operator that through transfer of ownership and/or operation replaces the operator of an already permitted construction site that is either a "new site" or an "existing site".

"New Site" – a site where construction activities commenced on or after **<INSERT PERMIT EFFECTIVE DATE>**.

"New Source" – for the purposes of this permit, a construction project that commenced construction activities after February 1, 2010.

"New Source Performance Standards (NSPS)" – for the purposes of this permit, NSPS are technology-based standards that apply to construction sites that are new sources under 40 CFR §450.24.

"Non-Stormwater Discharges" – discharges that do not originate from storm events. They can include, but are not limited to, discharges of process water, air conditioner condensate, non-contact cooling water, vehicle wash water, sanitary wastes, concrete washout water, paint wash water, irrigation water, or pipe testing water.

"Non-Turbid" – a discharge that is free from visual turbidity.

"Notice of Intent" (NOI) – the form (electronic or paper) required for authorization of coverage under the VI Construction General Permit.

"Notice of Termination" (NOT) – the form (electronic or paper) required for terminating coverage under the VI Construction General Permit.

"NPDES eReporting Tool" (NeT) – EPA's online system for submitting electronic Construction General Permit forms.

"Operational" – for the purposes of this permit, stormwater controls are made "operational" when they have been installed and implemented, are functioning as designed, and are properly maintained.

"Operator" – for the purposes of this permit and in the context of stormwater discharges associated with construction activity, any party associated with a construction project that meets either of the following two criteria:

1. The party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications (e.g., *in most cases this is the owner of the site*); or
2. The party has day-to-day operational control of those activities at a project that are necessary to ensure compliance with the permit conditions (e.g., *they are authorized to direct workers at a site to carry out activities required by the permit; in most cases this is the general contractor of the project*).

This definition is provided to inform permittees of VIDPNR's interpretation of how the regulatory definitions of "owner or operator" and "facility or activity" are applied to discharges of stormwater associated with construction activity. Subcontractors generally are not considered operators for the purposes of this permit.

"Ordinary High Water Mark" – the line on the shore established by fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, and/or the presence of litter and debris.

"Permitting Authority" – for the purposes of this permit, VIDPNR. However, in cases where a stormwater control is determined to fall under the requirements of the UIC Program, EPA will be considered the permitting authority. See Section 7.2.9.c.

"Point(s) of Discharge" – see "Discharge Point."

"Point Source" – for the purposes of this permit, any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

"Pollutant" – defined at 12 V.I.R.R. § 184-2 and 40 CFR § 122.2. A partial listing from this definition includes: dredged spoil, solid waste, sewage, garbage, sewage sludge, chemical wastes, biological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial or municipal waste.

"Pollution Prevention Controls" – stormwater controls designed to reduce or eliminate the addition of pollutants to construction site discharges through analysis of pollutant sources, implementation of proper handling/disposal practices, employee education, and other actions.

"Polymers" – for the purposes of this permit, coagulants and flocculants used to control erosion on soil or to enhance the sediment removal capabilities of sediment traps or basins. Common construction site polymers include polyacrylamide (PAM), chitosan, alum, polyaluminum chloride, and gypsum.

"Prohibited Discharges" – discharges that are not allowed under this permit, including:

1. Wastewater from washout of concrete;
2. Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials;
3. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance;
4. Soaps or solvents used in vehicle and equipment washing;
5. Toxic or hazardous substances from a spill or other release; and
6. Waste, garbage, floatable debris, construction debris, and sanitary waste.

"Provisionally Covered Under this Permit" – for the purposes of this permit, VIDPNR provides temporary coverage under this permit for emergency-related projects prior to receipt of a complete and accurate NOI. Discharges from earth-disturbing activities associated with the emergency-related projects are subject to the terms and conditions of the permit during the period of temporary coverage.

"Qualified Person" – a person knowledgeable in the principles and practice of erosion and sediment controls and pollution prevention, who possesses the appropriate skills and training to assess conditions at the construction site that could impact stormwater quality, and the appropriate skills and training to assess the effectiveness of any stormwater controls selected and installed to meet the requirements of this permit.

"Receiving Water" – a "Water of the United States Virgin Islands" as defined in 12 V.I.R.R. §184-2 into which the regulated stormwater discharges.

"Run-On" – sources of stormwater that drain from land located upslope or upstream from the regulated site in question.

"Sediment-Related parameter" – for the purposes of this permit, a pollutant parameter that is closely related to sediment such as turbidity, total suspended solids (TSS), total suspended sediment, transparency, sedimentation, and siltation.

"Shared Control" - for the purposes of this permit, a stormwater control, such as a sediment basin or pond, used by two or more operators that is installed and maintained for the purpose of minimizing and controlling pollutant discharges from a construction site with multiple operators associated with a common plan of development or sale. Any operators that are contributing stormwater from their construction activities to a shared control are considered to rely upon a shared control.

"Small Construction Activity" – defined at 12 V.I.R.R. §184-2 and 40 CFR §122.26(b)(15) and incorporated here by reference. A small construction activity includes clearing, grading, and excavating resulting in a land disturbance that will disturb equal to or greater than one (1) acre and less than five (5) acres of land or will disturb less than one (1) acre of total land area but is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than one (1) acre and less than five (5) acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the site.

"Small Residential Lot" – for the purpose of this permit, a lot being developed for residential purposes that will disturb less than 1 acre of land, but is part of a larger residential project that will ultimately disturb greater than or equal to 1 acre.

"Spill" – for the purpose of this permit, the release of a hazardous or toxic substance from its container or containment.

"Stabilization" – the use of vegetative and/or non-vegetative cover to prevent erosion and sediment loss in areas exposed through the construction process.

"Steep Slopes" – steep slopes are defined as those that are 15 percent or greater in grade.

"Storm Sewer System" – a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) designed or used for collecting or conveying stormwater.

"Stormwater" – stormwater runoff and surface runoff and drainage.

"Stormwater Control" - refers to any best management practice or other method (including narrative effluent limitations) used to prevent or reduce the discharge of pollutants to waters of the United States Virgin Islands.

"Stormwater Discharge Associated with Construction Activity" – as used in this permit, a discharge of pollutants in stormwater to waters of the United States Virgin Islands from areas where earth-disturbing activities (e.g., clearing, grubbing, grading, or excavation) occur, or where construction materials or equipment storage or maintenance (e.g., fill piles, borrow area, concrete truck chute washdown, fueling), or other industrial stormwater directly related to the construction process (e.g., concrete or asphalt batch plants), are located.

"Stormwater Inlet" – a structure placed below grade to conduct water used to collect stormwater runoff for conveyance purposes.

"Stormwater Team" – the group of individuals responsible for oversight of the development and modifications of the SWPPP, and oversight of compliance with the permit requirements. The individuals on the "Stormwater Team" must be identified in the SWPPP.

"Storm Event" – a precipitation event that results in a measurable amount of precipitation.

"Storm Sewer" – a system of pipes (separate from sanitary sewers) that carries stormwater runoff from buildings and land surfaces.

"Subcontractor" – for the purposes of this permit, an individual or company that takes a portion of a contract from the general contractor or from another subcontractor.

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

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

"Territorial Pollutant Discharge Elimination System" or "TPDES" means the territorial system of water pollution control established by 12 V.I.C., Chapter 7, Act No. 1979, as amended. See 12 V.I.R.R. §184-2.

"Territory" means the Territory of the United States Virgin Islands. See 12 V.I.R.R. §184-2.

"Threatened Species" – as defined in the USVI Indigenous and Endangered Species Act (IESA) of 1990 for any species of animal life or plants which have been listed by the Federal or Territorial governments as "threatened"; or as defined in the Endangered Species Act at 16 U.S.C. 1531 for any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. See also "Critical Habitat" and "Endangered Species".

"Total Maximum Daily Load" or "TMDL" – the sum of the individual wasteload allocations (WLAs) for point sources and load allocations (LAs) for nonpoint sources and natural background. If receiving water has only one point source discharger, the TMDL is the sum of that point source WLA plus the LAs for any nonpoint sources of pollution and natural background sources, tributaries, or adjacent segments. TMDLs can be expressed in terms of mass per time, toxicity, or other appropriate measure.

"Toxic Waste" – see "Hazardous Substances."

"Treatment Chemicals" – polymers, flocculants, or other chemicals used to reduce turbidity in stormwater.

"Turbidity" – a condition of water quality characterized by the presence of suspended solids and/or organic material.

"Uncontaminated Discharge" – in the context of authorized non-stormwater discharges, a discharge that meets applicable water quality standards.

"Upland" – the dry land area above and 'landward' of the ordinary high water mark.

"Upset" – Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond your reasonable control. 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. See 40 CFR §122.41(n)(1) and 12 V.I.R.R. §184-2.

"Visual Turbidity" – for the purposes of this permit, visual turbidity is present when there is a sediment plume in the discharge or the discharge appears cloudy, opaque, or has a visible contrast that can be visually identified by an observer.

"Water-Dependent Structures" – structures or facilities that are required to be located directly adjacent to a waterbody or wetland, such as a marina, pier, boat ramp, etc.

"Water Quality Standards" – defined in 12 V.I.R.R. §184-2 as any water quality standards adopted and effective under United States Virgin Islands or Federal laws applicable to waters of the United States Virgin Islands, including the beneficial use or uses of a water body, the numeric and narrative water quality criteria that are necessary to protect the use or uses of that particular water body, and an antidegradation policy.

"Waters of the United States Virgin Islands" – see definition at 12 V.I.R.R. §184-2.

"Wetland" – those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. On-site evaluations are typically required to confirm the presence and boundaries of wetlands.

## **2. Acronyms**

CBI – Confidential Business Information

CFR – Code of Federal Regulations

CWA – Clean Water Act

EPA – United States Environmental Protection Agency

ESA – Endangered Species Act

MS4 – Municipal Separate Storm Sewer System

NeT – NPDES eReporting Tool

NTU - Nephelometric turbidity units

NHPA – National Historic Preservation Act

NMFS – United States National Marine Fisheries Service

NOI – Notice of Intent

NOT – Notice of Termination

NRC – National Response Center

NRCS – National Resources Conservation Service

PAM – Polyacrylamide

VI CGP – Virgin Islands Construction General Permit

VIDPNR – Virgin Islands Department of Planning and Natural Resources

POTW – Publicly Owned Treatment Works

RUSLE – Revised Universal Soil Loss Equation

SDS – Safety Data Sheet

TPDES – Territorial Pollutant Discharge Elimination System

SPCC – Spill Prevention Control and Countermeasure

SWPPP – Stormwater Pollution Prevention Plan

TPDES – Territorial Pollutant Discharge Elimination System

TMDL – Total Maximum Daily Load

TSS – Total Suspended Solids

UIC – Underground Injection Control

USDA – United States Department of Agriculture

USFWS – United States Fish and Wildlife Service

USGS – United States Geological Survey

VIDPNR – Virgin Islands Department of Planning and Natural Resources

WQS – Water Quality Standard

## Appendix B - Small Construction Waivers and Instructions

These waivers are only available to stormwater discharges associated with small construction activities (i.e., 1-5 acres). As the operator of a small construction activity, you may be able to qualify for a waiver in lieu of needing to obtain coverage under this general permit based on: (A) a low rainfall erosivity factor, (B) a TMDL analysis, or (C) an equivalent analysis that determines allocations for small construction sites are not needed. Each operator, otherwise needing permit coverage, must notify VIDPNR of its intention for a waiver. It is the responsibility of those individuals wishing to obtain a waiver from coverage under this general permit to submit a complete and accurate waiver certification as described below. Where the operator changes or another is added during the construction project, the new operator must also submit a waiver certification to be waived.

### B.1 Rainfall Erosivity Waiver

Under this scenario the small construction project's rainfall erosivity factor calculation ("R" in the Revised Universal Soil Loss Equation) is less than five (5) during the period of construction activity. The operator must certify to VIDPNR that construction activity will occur only when the rainfall erosivity factor is less than five. The period of construction activity begins at initial earth disturbance and ends with final stabilization. Where vegetation will be used for final stabilization, the date of installation of a stabilization practice that will provide interim non-vegetative stabilization can be used for the end of the construction period, provided the operator commits (as a condition of waiver eligibility) to periodically inspect and properly maintain the area until the criteria for final stabilization as defined in the VI CGP have been met. If use of this interim stabilization eligibility condition was relied on to qualify for the waiver, signature on the waiver with its certification statement constitutes acceptance of and commitment to complete the final stabilization process. The operator must submit a waiver certification to V prior to commencing construction activities.

*Note: The rainfall erosivity factor "R" is determined in accordance with Chapter 2 of Agriculture Handbook Number 703, Predicting Soil Erosion by Water: A Guide to Conservation Planning With the Revised Universal Soil Loss Equation (RUSLE), pages 21–64, dated January 1997; United States Department of Agriculture (USDA), Agricultural Research Service.*

EPA has developed an online rainfall erosivity calculator to help small construction sites determine potential eligibility for the rainfall erosivity waiver. You can access the calculator from EPA's website at: <https://www.epa.gov/npdes/rainfall-erosivity-factor-calculator-small-construction-sites>. The R factor can easily be calculated by using the construction site latitude/longitude or address and estimated start and end dates of construction. This calculator may also be useful in determining the time periods during which construction activity could be waived from permit coverage. You may find that moving your construction activity by a few weeks or expediting site stabilization will allow you to qualify for the waiver. Use this online calculator or the Construction Rainfall Erosivity Waiver Fact Sheet (<https://www.epa.gov/sites/production/files/2015-10/documents/fact3-1.pdf>) to assist in determining the R Factor for your small construction site.

*Note: The EPA R calculator website references Appendix C from the 2022 EPA CGP. USVI applicants should disregard this reference and instead refer to Appendix B of the VI CGP (this appendix).*

If you are the operator of the construction activity and eligible for a waiver based on low erosivity potential, you can submit a rainfall erosivity waiver and provide the following information on the waiver certification form in order to be waived from permitting requirements:

1. Name, address and telephone number of the construction site operator(s);
2. Name (or other identifier), address, county or similar governmental subdivision, and latitude/longitude of the construction project or site;
3. Estimated construction start and completion (i.e., final stabilization) dates, and total acreage (to the nearest quarter acre) to be disturbed;
4. The rainfall erosivity factor calculation that applies to the active construction phase at your project site; and
5. A statement, signed and dated by an authorized representative as provided in Appendix G, Subsection G.11, which certifies that the construction activity will take place during a period when the value of the rainfall erosivity factor is less than five.

Paper copies of the form must be sent to one of the addresses listed in Part B.4 of this section.

*Note: If the R factor is five or greater, you do not qualify for the rainfall erosivity waiver, and must obtain coverage under a TPDES permit (e.g., the VI CGP), unless you qualify for the Water Quality Waiver as described in section B below.*

If your small construction project continues beyond the projected completion date given on the waiver certification, you must recalculate the rainfall erosivity factor for the new project duration. If the R factor is below five (5), you must update all applicable information on the waiver certification and retain a copy of the revised waiver as part of your records. The new waiver certification must be submitted prior to the projected completion date listed on the original waiver form to assure your exemption from permitting requirements is uninterrupted. If the new R factor is five (5) or above, you must obtain TPDES permit coverage.

## **B.2 TMDL Waiver**

This waiver is available if VIDPNR has established or approved a TMDL that addresses the pollutant(s) of concern for the impaired water and has determined that controls on stormwater discharges from small construction activity are not needed to protect water quality. The pollutant(s) of concern include sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any waterbody that will receive a discharge from the construction activity. Information on TMDLs that have been established or approved by VIDPNR is available from EPA online at <https://www.epa.gov/tmdl/us-virgin-islands-impaired-waters-list> and by contacting VIDPNR at the phone number or address given in Part B.4 of this section.

If you are the operator of the construction activity and eligible for a waiver based on compliance with a VIDPNR-established or approved TMDL, you must provide the following information in order to be waived from permitting requirements:

1. Name, address and telephone number of the construction site operator(s);
2. Name (or other identifier), address, county or similar governmental subdivision, and latitude/longitude of the construction project or site;
3. Estimated construction start and completion (i.e., final stabilization) dates, and total acreage (to the nearest quarter acre) to be disturbed;
4. The name of the waterbody(s) that would be receiving stormwater discharges from your construction project;
5. The name and approval date of the TMDL;

6. A statement, signed and dated by an authorized representative as provided in Appendix G, Subsection G.11, that certifies that the construction activity will take place and that the stormwater discharges will occur, within the drainage area addressed by the TMDL.

### **B.3 Equivalent Analysis Waiver**

This waiver is available for discharges to non-impaired waters only. The operator can develop an equivalent analysis that determines allocations for his/her small construction site for the pollutant(s) of concern or determines that such allocations are not needed to protect water quality. This waiver requires a small construction operator to develop an equivalent analysis based on existing in-stream concentrations, expected growth in pollutant concentrations from all sources, and a margin of safety.

If you are a construction operator who wants to use this waiver, you must develop your equivalent analysis and provide the following information to be waived from permitting requirements:

1. Name, address and telephone number of the construction site operator(s);
2. Name (or other identifier), address, county or similar governmental subdivision, and latitude/longitude of the construction project or site;
3. Estimated construction start and completion (i.e., final stabilization) dates, and total acreage (to the nearest quarter acre) to be disturbed;
4. The name of the waterbody(s) that would be receiving stormwater discharges from your construction project;
5. Your equivalent analysis;
6. A statement, signed and dated by an authorized representative as provided in Appendix G, Subsection G.11, that certifies that the construction activity will take place and that the stormwater discharges will occur, within the drainage area addressed by the equivalent analysis.

### **B.4 Waiver Deadlines and Submissions**

1. Waiver certifications must be submitted prior to commencement of construction activities.
2. If you submit a TMDL or equivalent analysis waiver request, you are not waived until VIDPNR approves your request. As such, you may not commence construction activities until receipt of approval from VIDPNR.
3. Late Notifications: Operators are not prohibited from submitting waiver certifications after initiating clearing, grading, excavation activities, or other construction activities. VIDPNR reserves the right to take enforcement for any unpermitted discharges that occur between the time construction commenced and waiver authorization is granted.

Submittal of a waiver certification is an optional alternative to obtaining permit coverage for discharges of stormwater associated with small construction activity, provided you qualify for the waiver. Any discharge of stormwater associated with small construction activity not covered by either a permit or a waiver may be considered an unpermitted discharge under the Clean Water Act. As mentioned above, VIDPNR reserves the right to take enforcement for any unpermitted discharges that occur between the time construction commenced and either discharge authorization is granted or a complete and accurate waiver certification is submitted. VIDPNR may notify any operator covered by a waiver that they must obtain TPDES permit coverage. VIDPNR may notify any operator who has been in non-compliance with a waiver that they may no longer use the waiver for future projects. Any member of the public may petition

VIDPNR to take action under this provision by submitting written notice along with supporting justification.

Complete and accurate Rainfall Erosivity, TMDL or equivalent analysis waiver requests must be sent to one of the following VIDPNR addresses, corresponding with the island on which the construction activity covered is located:

**ST. CROIX:**

Virgin Islands Department of Planning and Natural Resources  
Water Pollution Control Program  
ATTN: TPDES Program  
45 Estate Mars Hill  
Frederiksted, VI 00840  
Phone: (340) 773-1082

**ST. THOMAS & ST. JOHN:**

Virgin Islands Department of Planning and Natural Resources  
Water Pollution Control Program  
ATTN: TPDES Program  
4611 Tutu Park Mall, Suite 300  
St. Thomas, VI 00802  
Phone: (340) 774-3320

## Appendix C - Eligibility Worksheet Relating to Threatened and Endangered Species Protection

### C.1 Introduction

This appendix provides a printable worksheet that can be helpful in selecting and documenting your eligibility criteria with respect to the protection of locally listed endangered species and locally designated "critical habitat" under the Virgin Islands' Indigenous and Endangered Species Act (IESA) of 1990 [hereinafter "locally-listed species and designated critical habitat(s)"] or Federally listed threatened or endangered species and Federally designated "critical habitat" under the Endangered Species Act (ESA) [hereinafter "ESA-listed species and designated critical habitat(s)"] from discharges and discharge-related activities authorized under this permit. This is important because Section 9 of the ESA prohibits all persons and agencies from "taking" threatened and endangered species (16 U.S.C. § 1532(19)).

While coordination between you and the VIDPNR Division of Fish and Wildlife (F&W) or the U.S. Fish and Wildlife Service (USFWS) and/or the National Marine Fisheries Service (NMFS) (together, referred to as the "Services") may not be required in all cases, VIDPNR encourages you to coordinate with either or both F&W and the Services, to document that coordination, and to do so early in the planning process prior to submitting your NOI.

### C.2 Certifying ESA Eligibility Criterion for the VI CGP

To be eligible for coverage under the VI CGP, you must certify that you meet one of the criteria listed in this worksheet (Section C.5), which is then submitted with your NOI for coverage under this permit. If you do not meet one of the eligibility criteria outlined in the worksheet below, you are not eligible for coverage under this permit. These criteria ensure that coverage is available only for discharges and discharge-related activities that (1) avoid or eliminate any short- or long-term adverse effects to locally- and ESA-listed species and designated critical habitat(s), or (2) may result in any short- or long-term adverse effects that result in incidental take addressed under the incidental take statement of a biological opinion or permit for take issued under Section 10 of the ESA.

As part of your determination of eligibility, VIDPNR has developed a worksheet that assists operators in arriving at the correct criterion. The following requirements apply to the completion of the worksheet depending on how you are submitting your NOI for permit coverage:

1. Until VIDPNR provides notice that electronic submission is required, you must complete the worksheet in section C.4 of this appendix to provide all information as required on your NOI that supports the eligibility criterion you qualify under per Part 1.1.5 of the permit. **You must submit the worksheet with your NOI. If you do not submit the worksheet with your NOI, your NOI will be considered incomplete.**
2. If VIDPNR provides notice that electronic submission is required, you must **complete your eligibility criteria selection outlined in the Endangered Species Protection section of the electronic NOI** and provide all information as required on your NOI that supports the eligibility criterion you qualify under per Part 1.1.5 of the permit. The printable worksheet in this appendix may be helpful to you in preparing to submit your NOI, but you do not have to use it.

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### **C.3 What to Expect Once You Submit Your NOI**

After you submit your NOI and before your NOI is authorized, VIDPNR may notify you if any additional controls are necessary to ensure your discharges are not likely to result in any short- or long-term adverse effects on locally- and/or ESA-listed species and critical habitat.

F&W and the Services have the opportunity to advise VIDPNR whether the agency believes the planned discharges meet the selected eligibility criterion; whether the eligibility criterion could be met with additional conditions; or whether the eligibility criterion is not met. With respect to IESA and ESA issues, VIDPNR recognizes F&W the Services' expertise and will carefully consider their conclusion(s) in identifying eligibility for authorization, either with or without additional conditions. In the event VIDPNR has placed a hold on your NOI based on F&W, NMFS, or USFWS' recommendation, VIDPNR will notify you as to whether your discharges are authorized or whether an individual permit will be required.

### **C.4 Worksheet Instructions**

Follow the instructions within the worksheet below to determine which criterion you are eligible for coverage under this permit. Check only 1 criterion, answer the required questions, and include the required information.

Please keep the following in mind as you complete the worksheet:

- The worksheet requires that you answer questions in a sequential order so that you can select the correct eligibility criterion. The worksheet does not go through each criterion alphabetically, but rather is organized in a way that allows you to eliminate those criteria that do not apply to your site. For instance, Step 1 of the worksheet requires you to determine whether criterion B, E, or F applies first, in that order, before proceeding to determining whether criterion A applies in Step 2.
- You must consider locally-listed species and/or designated critical habitat under the jurisdiction of F&W and ESA-listed species and/or designated critical habitat(s) under the jurisdiction of both USFWS and NMFS and select the criterion that best applies to your site. You must comply with any applicable terms, conditions, or other requirements developed in the process of meeting one of the eligibility criteria in this section to remain eligible for coverage under this permit.
- When evaluating the potential effects of your activities, you must consider effects to listed species or critical habitats within the "action area" of your construction activity, as identified by the USFWS IPaC and/or the NOAA website resources on page C-10 through C-11 of this appendix. Please Note: *NMFS' jurisdiction includes ESA-listed marine and estuarine species that spawn in inland rivers.* The definition of "action area," which is contained in Appendix A, is repeated below for convenience.

“Action Area” – all areas to be affected directly or indirectly by the Territorial and/or Federal action and not merely the immediate area involved in the action. See 50 CFR part 402. For the purposes of this permit and for application of the Threatened and Endangered Species protection eligibility requirements, the following areas are included in the definition of action area:

- The **areas on the construction site** where stormwater discharges originate and flow toward the point of discharge into the receiving waters. This includes:
  - areas on the construction site where excavation, site development, or other ground disturbance activities occur, and
  - areas where stormwater controls will be constructed and operated, including any areas where stormwater flows to and from the stormwater controls.
- The areas **in the vicinity of the construction site** where stormwater discharges flow from the construction site to one or more points of discharge into receiving waters. (Example: Where stormwater flows into an off-site ditch, swale, or gully that leads to receiving waters.)
- **The extent of the receiving water** potentially affected by stormwater discharges from your construction site through alteration of water chemistry, turbidity, temperature, or bank structure (i.e., erosive flow), regardless of whether the construction site is adjacent to the receiving water.

**C.5 Worksheet****Step 1 – Determine if You Meet the Eligibility Requirements of Criterion B, E, or F****Instructions**

- First determine whether you are eligible under Criterion B by reviewing the eligibility requirements below.
- If you determine that your facility does not meet Criterion B (e.g., due to difference in action area described, lack of analysis of appropriate effects, new listings or designation of critical habitat), proceed to check if you meet the requirements for Criterion E or F.

**Criterion B Eligibility Requirements**

**If your discharges and discharge-related activities were already addressed in another operator's valid certification of eligibility under the current 2023 VI CGP that included your action area** (e.g., a general contractor or developer may have completed and filed an NOI for the entire action area with the necessary ESA certifications (Criterion A, C, D, E, or F)), you may be eligible under Criterion B. In order to be eligible for coverage, you must confirm that **all** three of the following are true (**check all that apply**):

- ☐ I have confirmed that the other operator's certification of eligibility accounted for my action area and that the eligibility certification was valid.
- ☐ There has been no lapse of TPDES permit coverage in the other operator's certification.
- ☐ I will comply with all measures that formed the basis of the other operator's valid certification of eligibility.

**Instructions**

- **If all three of the above are true, you may check Criterion B below and answer questions B1-B5, and if applicable, B6-B7.** 
- **If any of the above are not true** (for example, if there are any listed species in your action area that were not addressed in the other operator's certification, you are not eligible under Criterion B), **you may not select Criterion B and must proceed to check if you meet the requirements for Criterion E or F.** 

- ☐ **B Eligibility requirements met by another operator under the 2023 VI CGP.** The construction site's discharges and discharge-related activities were already addressed in another operator's valid certification of eligibility for your "action area" under eligibility Criterion A, C, D, E, or F of the 2023 VI CGP and you have confirmed that no additional locally-listed species and/or designated critical habitat under the jurisdiction of F&W or ESA-listed species and/or

designated critical habitat under the jurisdiction of USFWS and/or NMFS not considered in that certification may be present or located in the "action area." To certify your eligibility under this criterion, there must be no lapse of TPDES permit coverage in the other VI CGP operator's certification. By certifying eligibility under this criterion, you agree to comply with any conditions upon which the other VI CGP operator's certification was based. You must include below the TPDES ID from the other 2023 VI CGP operator's notification of authorization under this permit and list any measures that you must comply with). If your certification is based on another 2023 VI CGP operator's certification under Criterion C, you must provide VIDPNR with the relevant supporting information required of existing dischargers in Criterion C.

**B1.** Provide the TPDES ID from the other VI CGP operator's NOI authorized under this permit:

\_\_\_\_\_

**B2.** Identify the eligibility criterion of the other VI CGP operator's NOI? (check only one)

☐ A ☐ C ☐ D ☐ E ☐ F

**B3.** Provide the authorization date of the other VI CGP operator's NOI (MM/DD/YYYY):

\_\_\_ / \_\_\_ / \_\_\_\_\_

By certifying eligibility under Criterion B, you must comply with any terms and conditions imposed under the eligibility requirements of the criterion for which the other operator has established eligibility (either Criterion A, C, D, E, or F) to ensure that your discharges and discharge-related activities are protective of listed species and/or critical habitat. *Note: If you are unable to meet these eligibility requirements, then you may either establish eligibility under one of the other criteria, or you may consider applying to VIDPNR for an individual permit.*

**B4.** List any measures that formed the basis of the other operator's valid certification of eligibility that you will comply with (or enter "N/A" if none exist):

**B5.** Check to confirm you have provided documentation in your SWPPP supporting your eligibility under Criterion B, including any of the terms and conditions, as well as the other operator's basis for establishing eligibility. Yes ☐

**If your certification is based on another operator's certification under Criterion C, you must provide the following:**

**B6.** What locally- and/or ESA-listed species and/or designated habitat are located in your "action area"? (attached separate sheet if necessary)

**B7.** What is the distance between your site and the listed species or designated critical habitat (in miles)? \_\_\_\_\_

#### Instructions

- If you selected Criterion B above and answered questions B1-B5, and if applicable, B6-B7, **you are done with this worksheet. You must submit this worksheet with your NOI.**
- If you are not eligible under Criterion B, proceed to check if you meet the requirements for Criterion E or F.



#### Criterion E Eligibility Requirements

If consultation under ESA section 7 has concluded, you may be eligible for coverage under Criterion E. In order to be eligible for coverage under Criterion E, **you must confirm that both of the following are true (check all that apply):**

- ☐ A consultation between a Federal agency and USFWS and/or the NMFS under section 7 of the ESA has concluded. Consultations can be either formal or informal, and would have occurred only as a result of a separate Federal action (e.g., during application for an individual wastewater discharge permit or the issuance of a wetlands dredge and fill permit), and the consultation must have addressed the effects of your construction activity's discharges and discharge-related activities on all ESA-listed threatened or endangered species and all designated critical habitat under the jurisdiction of each Service, as appropriate, in your action area. The result of this consultation must be either:
- i. A biological opinion currently in effect that determined that the action in question (taking into account the effects of your facility's discharges and discharge-related activities) is likely to adversely affect, but is not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat. The biological opinion must have included the effects of your facility's discharges<sup>1</sup> and discharge-related activities on all the listed species and designated

<sup>1</sup> Effects of discharge include, but are not limited to, the analysis of the hydrological, chemical, and biological effects of the discharge on listed species, their prey, and their habitat, as well as critical habitat, where designated. For example, the effects analysis would have evaluated whether the various pollutants in the discharge (e.g., TSS, metals) would adversely

critical habitat in your action area under the jurisdiction of each Service, as appropriate. To be eligible under (i), any reasonable and prudent measures specified in the incidental take statement must be implemented;

- ii. Written concurrence (e.g., letter of concurrence) from the applicable Service(s) with a determination that your facility's discharges and discharge-related activities are not likely to adversely affect ESA-listed species and/or designated critical habitat. The concurrence letter must have included the effects of your facility's discharges and discharge-related activities on all the ESA-listed species and/or designated critical habitat on your species list(s) acquired from USFWS and/or NMFS as part of this worksheet.

☐ The consultation does not warrant reinitiation under 50 CFR §402.16; or, if reinitiation of consultation is required (e.g., due to a new species listing, critical habitat designation, or new information), the Federal action agency has reinitiated the consultation and the result of the consultation is consistent with the statements above. Include any reinitiation documentation from the Services or consulting Federal agency with your NOI.

### Instructions



➤ **If both of the above are true, you may check Criterion E below and answer questions E1-E6.**

- For more information on section 7 consultation, see 50 CFR part 402. If you receive a "jeopardy opinion," you may continue to work with USFWS and/or NMFS and your permitting authority to modify your project so that it will not jeopardize listed species or designated critical habitat.
- Note that most consultations are accomplished through informal consultation. When conducting informal ESA section 7 consultation as a non-Federal representative, you must follow the procedures found in 50 CFR Part 402 of the ESA regulations. You must notify F&W and the Services of your intention and agreement to conduct consultation as a non-Federal representative.
- Consultation may also occur in the context of another Federal action at the construction site (e.g., where ESA section 7 consultation was performed for issuance of a wetlands dredge and fill permit for the project or where a NEPA review is performed for the project that incorporates a section 7 consultation).
- Any terms and conditions developed through consultations to protect listed species and critical habitat must be incorporated into the SWPPP. As noted above, a Federal operator may, if they wish, initiate consultation with the Services at Step Four. Non-Federal operators may seek technical assistance from the Services at Step 5.
- Whether ESA section 7 consultation must be performed with either F&W and/or USFWS, or NMFS, or both Services depends on the listed species that may be affected by the operator's stormwater discharges. In general, NMFS has jurisdiction over marine, estuarine, and anadromous species. Operators should also be aware that while formal section 7 consultation provides protection from incidental takings liability, informal consultation does not.
- While this criterion requires consultation under Section 7 of the ESA, VIDPNR will also require F&W review of locally-listed species or locally-designated critical habitat before final ESA review approval is granted.

➤ **If not, proceed to check if you meet the requirements for Criterion F.**



affect listed species through exposure to the pollutants, or to their prey or habitat. Effects that look only at short-term effects unrelated to the stormwater discharge effects to listed species are not sufficient for these purposes.

☐ **E ESA Section 7 consultation has successfully concluded.** Consultation between a Federal Agency and the USFWS and/or NMFS under section 7 of the ESA has concluded. The consultation must have addressed the effects of the construction site's discharges and discharge-related activities on ESA-listed species and/or designated critical habitat under the jurisdiction of USFWS and/or NMFS. To certify eligibility under this criterion, **Indicate the result of the consultation:**

☐ Biological opinion and/or conference opinion and incidental take statement currently in effect currently in effect from USFWS and/or NMFS that concludes that the action in question (taking into account the effects of your site's discharges and discharge-related activities) is not likely to jeopardize the continued existence of ESA-listed species, nor the destruction or adverse modification of critical habitat;

**Or**

☐ Written concurrence from USFWS and/or NMFS with a finding that the site's discharges and discharge-related activities are not likely to adversely affect ESA-listed species and/or designated critical habitat.

**E1.** Identify the Federal action agency or agencies involved:

**E2.** Identify the Service(s) field or regional offices providing the consultation:

**E3.** Identify any tracking numbers associated with the consultation (e.g., IPaC number, ECO number):

**E4.** What is the date the consultation was completed? (MM/DD/YYYY) \_\_ \_\_ / \_\_ \_\_ / \_\_ \_\_ \_\_ \_\_

**E5.** Check to confirm that correspondence with USFWS and/or NMFS documenting the Biological Opinion, conference opinion (IPaC or ECO tracking number) or concurrence is attached. Yes ☐

**E6.** Check to confirm you have provided documentation in your SWPPP supporting your eligibility under Criterion E, including copies of the correspondence between yourself and the Services. Yes ☐

**Instructions**

- If you selected Criterion E above and answered questions E1-E6, you are done with this worksheet. You must submit this worksheet with your NOI. 
- If you are not eligible under Criterion E, proceed to check if you meet the requirements for Criterion F. 

**Criterion F Eligibility Requirements**

If your construction activities are the subject of a permit under ESA section 10, and this authorization addresses the effects of your site's discharges and discharge-related activities on ESA-listed species and designated critical habitat in your action area, you may be eligible for coverage under Criterion F. In order to be eligible for coverage under Criterion F, **you must confirm that the following is true:**

- ☐ A permit or permits issued under section 10 of the ESA specifically address the effects of your facility's discharges and discharge-related activities (if applicable) on all ESA-listed species and designated critical habitat in your action area.

Note: You must follow USFWS and/or NMFS procedures when applying for an ESA section 10 permit (see 50 CFR § 17.22(b)(1) for USFWS and § 222.22 for NMFS). Application instructions for section 10 permits can be obtained from <http://www.fws.gov> and <http://www.nmfs.noaa.gov> or by contacting the appropriate Service office. While this criterion requires consultation under ESA section 10, VIDPNR will also require F&W review of locally-listed species or locally-designated critical habitat before final ESA review approval is granted.

**Instructions**

- If the above is true, you may check Criterion F below and answer questions F1-F6. 
- If you are not eligible under criterion F, proceed to Step 2. 

☐ **F Issuance of section 10 permit.** Potential take is authorized through the issuance of a permit under section 10 of the ESA by the USFWS and/or NMFS, and this authorization addresses the effects of the site's discharges and discharge-related activities on ESA-listed species and designated critical habitat. You must include copies of the correspondence between yourself and the participating agencies in your SWPPP and your NOI.

**F1.** Which Service provided the section 10 permit? (check all that apply)

USFWS ☐ NMFS ☐

**F2.** Identify the field or regional offices providing the permit(s):

**F3.** Identify any tracking numbers associated with the consultation (e.g., IPaC number, ECO number):

**F4.** What is the date the permit(s) was granted? (MM/DD/YYYY) \_\_\_\_ / \_\_\_\_ / \_\_\_\_  
(2<sup>nd</sup> permit date, if applicable: \_\_\_\_ / \_\_\_\_ / \_\_\_\_)

**F5.** Check to confirm that correspondence with USFWS and/or NMFS and a copy of the section 10 permit or relevant tracking number(s) (IPaC and/or ECO number) is attached. Yes ☐

**F6.** Check to confirm you have provided documentation in your SWPPP supporting your eligibility under Criterion F, including a copy of the section 10 permit and copies of the correspondence between yourself and the Services. Yes ☐

#### Instructions

- **If you selected Criterion F above and answered questions F1-F6, you are done with this worksheet. You must submit this worksheet with your NOI.**
- If you are not eligible under Criterion F, proceed to Step 2.



## Step 2 – Determine if Listed Threatened or Endangered Species or their Designated Critical Habitat(s) are Likely to Occur in your Site's Action Area

#### Instructions

- **First, determine the extent of your action area.** You must determine whether species listed as either threatened or endangered, or their critical habitat(s) are located in your site's action area (i.e., all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action, including areas beyond the footprint of the site that are likely to be affected by stormwater discharges, discharge-related activities, and authorized non-stormwater discharges).

You must consider the following in determining the action area for your site, and **confirm that all the following are true:**

- ☐ In determining my "action area", I have considered that discharges of pollutants from the project site can expand the action area well beyond the footprint of my site and the discharge point(s). I have taken into account the controls I will be implementing to minimize pollutants and the receiving waterbody characteristics (e.g., perennial, intermittent, ephemeral) in determining the extent of physical, chemical, and/or biotic effects of the

discharges. I confirm that all receiving waterbodies that could receive pollutants from my site are included in my action area.

☐ In determining my "action area", I have considered that discharge-related activities must also be accounted for in determining my action area. I understand that discharge-related activities are any activities that cause, contribute to, or result in stormwater and authorized non-stormwater point source discharges, and measures such as the siting, construction, timing,<sup>2</sup> and operation of stormwater controls to control, reduce, or prevent pollutants from being discharged. I understand that any new or modified stormwater controls that will have noise or other similar effects, and any disturbances associated with construction of controls, are part of my action area.

If you have any questions about determining the extent of your action area, you may contact VIDPNR, F&W, or the Services for assistance.

### **Instructions**

- **Next, you must identify, to the best of your ability, any species listed as either threatened or endangered, or their critical habitat(s), that are located in your site's action area (see definitions of these terms in Appendix A).** Contact F&W to obtain lists of locally-listed species and locally-designated critical habitat. You must follow the instructions on the <https://www.epa.gov/npdes/construction-general-permit-threatened-and-endangered-species> to obtain lists of any ESA-protected species and/or critical habitat that are expected to exist in your county, township, or the receiving water for your discharge.
- If locally- and/or ESA-protected resources occur within your action area, keep a copy of the species and critical habitat list(s) from F&W and/or the Service(s) with your SWPPP and use the list(s) to complete your NOI. For USFWS species, attach to this worksheet the full printout from your IPaC query/Official Species List. You can include the map from your IPaC query. For NMFS species, attach to this worksheet the full printout of the report from your query of the mapping resource you used (either the National or Greater Atlantic Region Mapper). The printed report from NMFS mappers will include a map of your query.

<sup>2</sup> Timing considerations could be related to, for example, a time of the year where a migratory bird species is present in the action area and the operator might want to consider that in terms of their construction sequencing; there are other times of the year where this consideration might not be relevant.

**Instructions**

- **After completing Step 2 above, if there are no listed species and no critical habitat areas in your action area, you may be eligible for criterion A.**

**Criterion A Eligibility Requirements**

In order to be eligible for coverage under criterion A, you must confirm that all the following are true (**check all that apply**):

- ☐ I confirm that I have used the species location resources of F&W, NMFS, and USFWS to identify any locally- or ESA-listed species within my action area.
- ☐ I have confirmed there to be no locally- or ESA-listed species and no critical habitat in my action area.

**Instructions**

- **If all of the above are true, you may check criterion A below and answer questions A1-A5.** 
- **If any of the above is not true, you may not select criterion A and must proceed to Step 3** to determine if you can become eligible under criterion C.

Note: For existing dischargers that have previously obtained coverage under criterion A, you must verify whether locally- or ESA-protected species and/or critical habitat are expected to exist in your action area, as described above. Please note that if you now find that your action area overlaps with locally- or ESA-protected species or critical habitat, you must proceed to Step 3.

- ☐ **A No locally- or ESA-listed species and/or designated critical habitat present in action area.** You certify that locally- or ESA-listed species and designated critical habitat(s) under the jurisdiction of the F&W, USFWS, or NMFS are not likely to occur in your site's "action area" as defined in Appendix A of this permit. *Please Note: NMFS' jurisdiction includes ESA-listed marine and estuarine species that spawn in inland rivers.*

**A1. USFWS and F&W information sources used:**

Note: If your Official Species List from USFWS or F&W indicated no species or critical habitat were present in your action area, include the full consultation tracking code at the top of your Official Species List in your NOI in the basis statement for Criterion A. If an Official Species List was not available on IPaC, list the contact date and name of the Service staff with whom you corresponded to verify no USFWS species or critical habitat were present in your action area.

**A2.** NMFS information sources used:

**A3.** I confirm that aerial image(s) of the site is attached. Yes ☐

**A4.** I confirm that a printout of the species' list(s) showing no listed species or critical habitat in my action area is attached. Yes ☐

**A5.** Check to confirm you have provided documentation in your SWPPP supporting your eligibility under Criterion A. For USFWS species, include the full printout from your IPaC query/Official Species List. You can include the map from your IPaC query. For NMFS species, include the full printout from the appropriate NMFS website resources on page X with the correct Region selected. Yes ☐

**Instructions**

➤ **If you selected Criterion A above and answered questions A1-A5, you are done with this worksheet. You must submit this worksheet with your NOI.**



➤ **If listed species and/or critical habitat may exist in your action area, you must do one or more of the following:**



- **Conduct visual inspections.** This method may be particularly suitable for construction sites that are smaller in size or located in non-natural settings such as highly urbanized areas or industrial parks where there is little or no natural habitat, or for construction activities that discharge directly into municipal stormwater collection systems.
- **Conduct a formal biological survey.** In some cases, particularly for larger construction sites with extensive stormwater discharges, biological surveys may be an appropriate way to assess whether species are located in the action area and whether there are likely to be short- or long-term adverse effects to such species. Biological surveys are frequently performed by environmental consulting firms.
- **If required, conduct an environmental assessment under the National Environmental Policy Act (NEPA).** Some construction activities might require review under NEPA for specific reasons, such as Federal funding or other Federal involvement in the project. Note: Coverage under the VI CGP does not trigger such a review for individual projects/sites. VIDPNR has complied with NEPA in the issuance of the VI CGP.

**and**

- **Follow the instructions in Steps 3 – 5 below, as applicable.** Note that many but not all measures imposed to protect listed species under these steps will also protect critical habitat. Thus, meeting the eligibility requirements of the VI CGP may require measures to protect critical habitat that are separate from those to protect listed species.

### Step 3 – Assess if the Construction Activity’s Discharges or Discharge-Related Activities Are Likely to Result in Short- or Long-Term Adverse Effects to Listed Threatened or Endangered Species or Designated Critical Habitat

#### Instructions

- If in Step 2 you identified that listed species and/or designated critical habitat could exist in your action area, **you must next assess whether your discharges or discharge-related activities are likely to result in short- or long-term adverse effects to locally- or ESA-listed threatened or endangered species or designated critical habitat.**

Potential short- or long-term adverse effects from discharges and discharge-related activities include:

- **Hydrological.** Stormwater discharges may cause siltation, sedimentation, or induce other changes in receiving waters such as temperature, salinity, or pH. These effects will vary with the amount of stormwater discharged and the volume and condition of the receiving water. Where a stormwater discharge constitutes a minute portion of the total volume of the receiving water, adverse hydrological effects are less likely. Construction activity itself may also alter drainage patterns on a site where construction occurs that can impact listed species or critical habitat.
- **Habitat.** Excavation, site development, grading, and other surface disturbance activities from construction activities, including the installation or placement of stormwater controls, may result in adverse effects to listed species or their habitat. Stormwater may drain or inundate listed species habitat.
- **Toxicity.** In some cases, pollutants in construction stormwater may have toxic effects on listed species. For example: Stormwater discharges from construction on or adjacent to agricultural property may contain pesticides. Stormwater discharges from projects involving pavement and roofing could include tar and asphalt.

The scope of effects to consider will vary with each site. If you are having difficulty determining whether your project is likely to result in short- or long-term adverse effects to listed species or critical habitat, or F&W or one of the Services has already raised concerns to you, you should contact the appropriate F&W or Services office for assistance.

#### Instructions

- **If any short- or long-term adverse effects to listed threatened or endangered species or their critical habitat are not likely, then you may check Criterion C below and answer questions C1-C8.** 
- **If any short- or long-term adverse effects to listed threatened or endangered species or their critical habitat are likely, you must follow Step 4 below.** You may still be eligible for Criterion C if you are able to install and implement appropriate measures to avoid the likelihood of adverse effects. 

**Criterion C Eligibility Requirements**

☐ **C Discharges not likely to result in any short- or long-term adverse effects to locally- or ESA-listed species and/or designated critical habitat.** Locally-listed species and/or designated critical habitat under the jurisdiction of F&W or ESA-listed species and/or designated critical habitat(s) under the jurisdiction of the USFWS and/or NMFS are likely to occur in or near your site's "action area," and you certify to VIDPNR that your site's discharges and discharge-related activities are not likely to result in any short- or long-term adverse effects to locally- or ESA-listed threatened or endangered species and/or designated critical habitat. This certification may include consideration of any stormwater controls and/or management practices you will adopt to ensure that your discharges and discharge-related activities are not likely to result in any short- or long-term adverse effects to listed species and/or designated critical habitat. To certify your eligibility under this criterion, you must indicate below 1) the listed species and/or designated habitat located in your "action area" using the process outlined in this Appendix; 2) the distance between the site and the listed species and/or designated critical habitat in the action area (in miles); and 3) a rationale describing specifically how short- or long-term adverse effects to listed species will be avoided from the discharges and discharge-related activities. You must also include a copy of your site map from your SWPPP showing the upland and in-water extent of your "action area" with your NOI.

**C1.** I confirm that both locally-listed and ESA-listed species and designated critical habitat under the jurisdiction of F&W and the Services were considered in my evaluation. Yes ☐

**C2.** Provide the F&W information resources and expertise used to arrive at this criterion selection:

**C3.** Provide the Services information resources and expertise used to arrive at this criterion selection:

**C4.** What locally- or ESA-listed species and/or designated critical habitat are located in your "action area?" (or attach a printout of the species' list(s))

**C5.** What is the distance between your site and the locally- and/or ESA-listed species and/or designated critical habitat within the action area (in miles, state "on site" if the locally- and/or ESA-listed species and/or designated critical habitat is within the area to be disturbed)?

**C6.** Provide the rationale describing specifically how any short- or long-term adverse effects to locally- and ESA-listed species will be avoided from the discharge and discharge-related activities.

**C7.** I confirm that a site map from my SWPPP showing the upland and in-water extent of my "action area" is attached. Yes ☐

**C8.** Check to confirm you have provided documentation in your SWPPP supporting your eligibility under Criterion C. Yes ☐

#### Instructions

- If you selected Criterion C above and answered questions C1-C8, you are done with this worksheet. You must submit this worksheet with your NOI.
- If not, please proceed to step 4.



## Step 4 - Determine if Measures Can Be Implemented to Avoid Adverse Effects

### Instructions

If you make a preliminary decision in Step 3 that short- or long-term adverse effects from your construction activity's discharges or discharge-related activities are likely to occur, you can still receive coverage under eligibility Criterion C of the VI CGP if appropriate measures are undertaken to avoid or eliminate the likelihood of short- or long-term adverse effects prior to applying for VI CGP coverage.

These measures may involve relatively simple changes to construction activities such as re-routing a stormwater discharge to bypass an area where species are located, relocating stormwater controls, or by modifying the "footprint" of the construction activity. If you are unable to ascertain which measures to implement to avoid the likelihood of short- or long-term adverse effects, you must coordinate with F&W, USFWS, and/or NMFS, in which case you would not be eligible for coverage under eligibility Criterion C, but may instead be eligible for coverage under eligibility criterion D (described in more detail in Step 5).

- **If you are able to install and implement appropriate measures to avoid the likelihood of short- or long-term adverse effects, then you may go back and check eligibility Criterion C above and answer questions C1-C8 above, and C9-C10 below.** The measures you adopt to avoid or eliminate short- or long-term adverse effects must be implemented for the duration of the construction project and your coverage under the VI CGP. 
- **If you cannot ascertain which measures to implement to avoid the likelihood of adverse effects,** you must follow the procedures in Step 5. 

**C9.** I confirm that I have or will install and implement appropriate measures to avoid the likelihood of any short- or long-term adverse effects to locally- and ESA-listed threatened or endangered species or their critical habitat. Yes ☐

**C10.** Provide a description of the measures installed/to be installed and implemented to avoid likelihood of any short- or long-term adverse effects.

### Instructions

- **If you selected Criterion C above and answered questions C1-C10, you are done with this worksheet. You must submit this worksheet with your NOI.** 
- If you are not eligible for Criterion C, please proceed to step 5. 

## Step 5 - Determine if the Eligibility Requirements of Criterion D Can Be Met

### Instructions

- If in Step 4 you cannot ascertain which measures to implement to avoid the likelihood of short- or long-term adverse effects, you must contact USFWS and/or NMFS. You may still be eligible for VI CGP coverage if likely adverse effects can be addressed through meeting criterion D.
- If you meet the requirements of criterion D, **then you may check criterion D below and answer questions D1-D5.** 

### Criterion D Eligibility Requirements

☐ **D** **Coordination with USFWS and/or NMFS has successfully concluded.** Coordination between you and the USFWS and/or NMFS has concluded. The coordination must have addressed the effects of your site's discharges and discharge-related activities on ESA-listed species and/or designated critical habitat under the jurisdiction of USFWS and/or NMFS, and resulted in a written confirmation from USFWS and/or NMFS that the effects of your site's discharges and discharge-related activities are not likely to result in short- or long-term adverse effects for ESA-listed species and/or designated critical habitat in your action area. By certifying eligibility under this criterion, you agree to comply with any conditions you must meet for your site's discharges and discharge-related activities to not likely result in any short- or long-term adverse effects. You must include copies of the correspondence with the participating agencies in your SWPPP and your NOI.

**D1.** Which Service participated in coordination? (check all that apply) USFWS ☐ NMFS ☐

**D2.** Identify the field and/or regional office(s) that provided the coordination?

**D3.** What is the date the coordination concluded? (MM/DD/YYYY) \_\_\_\_ / \_\_\_\_ / \_\_\_\_

**D4.** Check to confirm that correspondence with USFWS and/or NMFS documenting concurrence is attached. Yes ☐

**D5.** Check to confirm you have provided documentation in your SWPPP supporting your eligibility under Criterion D, including copies of the correspondence between yourself and the Services. Yes ☐

***Instructions***

- If you selected Criterion D above and answered questions D1-D5, you are done with this worksheet. You must submit this worksheet with your NOI.



## Appendix D – Historic Property Screening Process

### Background

Section 106 of the National Historic Preservation Act (NHPA) requires Federal agencies to take into account the effects of Federal “undertakings”, such as the issuance of this permit, on historic properties that are either listed on, or eligible for listing on, the National Register of Historic Places.

Historic properties include, but are not limited to, historic roadways, earthen embankments, earthen features, historic structures, cemeteries, sacred sites, unmarked human burial sites, ossuaries, objects, artifacts, and areas of value in archaeology, history, architecture, engineering, and culture of the Virgin Islands. Historic properties also include submerged sites, shipwrecks, and other underwater cultural features.

#### Key Terms

**Historic property**- prehistoric or historic districts, sites, buildings, structures, or objects that are included in or eligible for inclusion in the National Register of Historic Places, including artifacts, records, and remains that are related to and located within such properties

**SHPO** – The State Historic Preservation Officer for a particular State or Territory

The term Federal “undertaking” is defined in the NHPA regulations to include a project, activity, or program of a Federal agency including those carried out by or on behalf of a Federal agency, those carried out with Federal financial assistance, and those requiring a Federal permit, license or approval. See 36 CFR §800.16(y). Historic properties are defined in the NHPA regulations to include prehistoric or historic districts, sites, buildings, structures, or objects that are included in, or are eligible for inclusion in, the National Register of Historic Places. This term includes artifacts, records, and remains that are related to and located within such properties. See 36 CFR §800.16(1)

Sites that are either listed on, or eligible for listing on, the Virgin Islands Register of Historic Places are also protected under the Antiquities and Cultural Properties Act of 1998 (Title 29, Chapter 17, of the Virgin Islands Code, which established a Historic Preservation Commission that regulates all of the development in any of the defined Historic Districts. Their consultation would also be required if the proposed undertaking had the potential to directly or indirectly impact any structure, feature, property, or building residing within the boundaries of the Historic Districts.

To address any issues relating to historic properties in connection with the issuance of this permit, VIDPNR developed the screening process in this appendix that enables construction operators to appropriately consider the potential impacts, if any, of their installation of stormwater controls on historic properties and to determine whether actions can be taken, if applicable, to mitigate any such impacts. Although the coverages of individual construction sites under this permit do not constitute separate Federal undertakings, the screening process in this appendix provides an appropriate site-specific means of addressing historic property issues in connection with VIDPNR's issuance of the permit.

### Instructions for All Construction Operators

You are required to follow the screening process in this appendix to determine if your installation of stormwater controls on your site has the potential to cause effects to historic properties, and whether or not you need to contact your SHPO representative for further information. **You may not submit your NOI until you have completed this screening process.** The following four steps describe how applicants can meet the historic property requirements under this permit:

Step 1      *Are you installing any stormwater controls that require subsurface earth disturbance?*<sup>1</sup>

The first step of the screening process is to determine if you will install stormwater controls that cause subsurface earth disturbance. The installation of the following types of stormwater controls require subsurface earth disturbance:<sup>2</sup>

- Dikes
- Berms
- Catch Basins
- Ponds
- Ditches
- Trenches
- Culverts
- Channels
- Perimeter Drains
- Swales

If you are not installing one of the above stormwater controls or another type of control that requires subsurface earth disturbance, then you may indicate this on your NOI, and no further screening is necessary. During the 14-day waiting period after submitting your NOI, the SHPO representative may request that VIDPNR hold up authorization based on concerns about potential adverse effects to historic properties. VIDPNR will evaluate any such request and notify you if any additional controls to address adverse effects to historic properties are necessary.

Step 2      *Have prior professional cultural resource surveys or other evaluations determined that historic properties do not exist, or have prior disturbances precluded the existence of historic properties?*

If you are installing a stormwater control that requires subsurface earth disturbance, you must next determine if no historic properties exist on your site based on prior professional cultural resource surveys or other evaluations, or if the existence of historic properties has been precluded because of prior earth disturbances.

If prior to your project it has already been determined that no historic properties exist at your site based on available information, including information that may be provided by your SHPO representative, then you may indicate this on your NOI, and no further screening steps are necessary. Similarly, if prior earth disturbances have eliminated the possibility that historic properties exist on your site, you may indicate this on your NOI, and no further screening steps are necessary. After submitting your NOI, and during the 14-day waiting period, the SHPO representative may request that VIDPNR hold up authorization based on concerns about potential adverse effects to historic properties. VIDPNR will evaluate any such request and notify you if any additional measures to address adverse effects to historic properties are necessary.

If neither of these circumstances exists for your project, you must proceed to Step 3.

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<sup>1</sup> You are only required to consider earth-disturbing activities related to the installation of stormwater controls in the NHPA screening process. You are not required to consider other earth-disturbing activities at the site. If you are installing one of the above stormwater controls or another type of control that requires subsurface earth disturbance, your stormwater controls have the potential to have an effect on historic properties. If this is the case, then you must proceed to Step 2.

<sup>2</sup> This list is not intended to be exhaustive. Other stormwater controls that are not on this list may involve earth-disturbing activities and must also be examined for the potential to affect historic properties.

Step 3      *If you are installing any stormwater controls that require subsurface earth disturbance, you must determine if these activities will have an effect on historic properties.*

If your answer to the question in Step 2 is "no", then you must assess whether your earth-disturbing activities related to the installation of stormwater controls will have an effect on historic properties. This assessment may be based on historical sources, knowledge of the area, an assessment of the types of earth-disturbing activities you are engaging in, considerations of any controls and/or management practices you will adopt to ensure that your stormwater control-related earth-disturbing activities will not have an effect on historic properties, and any other relevant factors. If you determine based on this assessment that earth disturbances related to the installation of your stormwater controls will have no effect on historic properties, you may indicate this on your NOI, and document the basis for your determination in your SWPPP, and no further screening steps are necessary. After submitting your NOI, and during the 14-day waiting period, the SHPO representative may request that VIDPNR hold up authorization based on concerns about potential adverse effects to historic properties. VIDPNR will evaluate any such request and notify you if any further processes are necessary including any additional measures to address adverse effects to historic properties are necessary.

If none of the circumstances in Steps 1 - 3 exist for your project, you must proceed to Step 4.

Step 4:      *If you are installing any stormwater controls that require subsurface earth disturbance and you have not satisfied the conditions in Steps 1 - 3, you must contact and consult with the appropriate historic preservation authorities.*

Where you are installing stormwater controls that require subsurface earth disturbance, and you cannot determine in Step 3 that these activities will have no effect on historic properties, then you must contact the SHPO representative to request their views as to the likelihood that historic properties are potentially present on your site and may be impacted by the installation of these controls.

*Note: Addresses for SHPOs may be found at <https://ncshpo.org/directory/us-virgin-islands/>*

You must submit the following minimum information in order to properly initiate your request for information:

1. Project name (i.e., the name or title most commonly associated with your project);
2. A narrative description of the project;
3. Name, address, phone and fax number, and email address (if available) of the operator;
4. Most recent U.S. Geological Survey (USGS) map section (7.5 minute quadrangle) showing actual project location and boundaries clearly indicated; and
5. Sections of the SWPPP site map (see Part 7.2.4) that show locations where stormwater controls that will cause subsurface earth disturbance will be installed (see Step 1).

Without submitting this minimum information, you will not have been considered to have properly initiated your request. You will need to provide the SHPO representative **a minimum of 15 calendar days** after they receive these materials to respond to your request for information about your project.

If you do not receive a response within 15 calendar days after receipt by the SHPO representative of your request, then you may indicate this on your NOI, and no further screening steps are necessary. Or, if the SHPO representative responds to your request with an indication that no historic properties will be affected by the installation of stormwater controls at your site, then you may indicate this on your NOI, and no further screening steps are necessary. After

submitting your NOI, and during the 14-day waiting period, the SHPO representative may request that VIDPNR hold up authorization based on concerns about potential adverse effects to historic properties. VIDPNR will evaluate any such request and notify you if any further processes are necessary including any additional measures to address adverse effects to historic properties are necessary.

If within 15 calendar days of receipt of your request the SHPO representative responds with a request for additional information or for further consultation regarding appropriate measures for treatment or mitigation of effects on historic properties caused by the installation of stormwater controls on your site, you must comply with this request and proceed to Step 5.

Step 5: Consultation with applicable consulting parties.

If, following your discussions with the appropriate historic preservation authorities in Step 4, the SHPO representative, or any other consulting party requests additional information or further consultation, you must respond with such information or consult to determine impacts to historic properties that may be caused by the installation of stormwater controls on your site and appropriate measures for treatment or mitigation of such impacts. If as a result of your discussions with the SHPO representative, or any other consulting party, you enter into, and comply with, a written agreement regarding treatment and/or mitigation of impacts on your site, then you may indicate this on your NOI, and no further screening steps are necessary.

If, however, agreement on an appropriate treatment or mitigation plan cannot be reached between you and the SHPO representative, or any other consulting party within 30 days of your response to the SHPO representative, or any other consulting party's request for additional information or further consultation, you may submit your NOI, but you must indicate that you have not negotiated measures to avoid or mitigate such effects. You must also include in your SWPPP the following documentation:

1. Copies of any written correspondence between you and the SHPO representative, or any other consulting party; and
2. A description of any significant remaining disagreements as to mitigation measures between you and the SHPO representative, or any other consulting party.

After submitting your NOI, and during the 14-day waiting period, the SHPO representative, or any other consulting party may request that VIDPNR place a hold on authorization based upon concerns regarding potential adverse effects to historic properties. VIDPNR, in coordination with the SHPO, will evaluate any such request and notify you if any further processes are necessary including any additional measures to address adverse effects to historic properties are necessary.

**Appendix E – List of Class A Waters**

VIDPNR's VI CGP has special requirements for discharges to waters designated as Class A for antidegradation purposes under 12 V.I.R.R. §186-7. See Parts 1.1.6, 1.3.6, 2.2.14b.ii, 3.2, 3.3, and 4.3.1.

The list below is provided as a resource for operators who must determine whether they discharge to a Class A water. Only Class A waters specifically identified by VIDPNR are identified in the table below. VIDPNR evaluates the existing and protected quality of the receiving water on a pollutant-by-pollutant basis and determines whether water quality is better than the applicable criteria that would be affected by a new discharge or an increase in an existing discharge of the pollutant. In instances where water quality is better, VIDPNR may choose to allow lower water quality, where lower water quality is determined to be necessary to support important social and economic development. Permittees are not required to identify those waters which are evaluated on an individual basis.

| <b>Island</b> | <b>Water Class</b> | <b>Water Area Covered</b>           |
|---------------|--------------------|-------------------------------------|
| St. Croix     | Class A            | Natural Barrier Reef at Buck Island |
| St. John      | Class A            | Under Water Trail at Trunk Bay      |
| St. Thomas    | Class A            | None                                |

**Appendix F – Buffer Requirements.**

The purpose of this appendix is to assist you in complying with the requirements in Part 2.2.1 of the permit regarding the establishment of natural buffers and/or equivalent sediment controls. This appendix is organized as follows:

F.1 SITES THAT ARE REQUIRED TO PROVIDE AND MAINTAIN NATURAL BUFFERS AND/OR EQUIVALENT EROSION AND SEDIMENT CONTROLS ..... 2

F.2 COMPLIANCE ALTERNATIVES AND EXCEPTIONS..... 3

    F.2.1 Compliance Alternatives ..... 3

    F.2.2 Exceptions to the Compliance Alternatives ..... 3

    F.2.3 Requirements for Providing and Maintaining Natural Buffers ..... 4

    F.2.4 Guidance for Providing the Equivalent Sediment Reduction as a 50-foot Buffer ..... 8

F.3 SMALL RESIDENTIAL LOT COMPLIANCE ALTERNATIVES..... 13

    F.3.1 Small Residential Lot Compliance Alternative Eligibility ..... 13

    F.3.2 Small Residential Lot Compliance Alternatives..... 13

**F.1 SITES THAT ARE REQUIRED TO PROVIDE AND MAINTAIN NATURAL BUFFERS AND/OR EQUIVALENT EROSION AND SEDIMENT CONTROLS**

The requirement in Part 2.2.1 to provide and maintain natural buffers and/or equivalent erosion and sediment controls applies for any discharges to waters of the United States Virgin Islands located within 50 feet of your site's earth disturbances. If the receiving water is not located within 50 feet of earth-disturbing activities, Part 2.2.1 does not apply. See Figure F – 1.

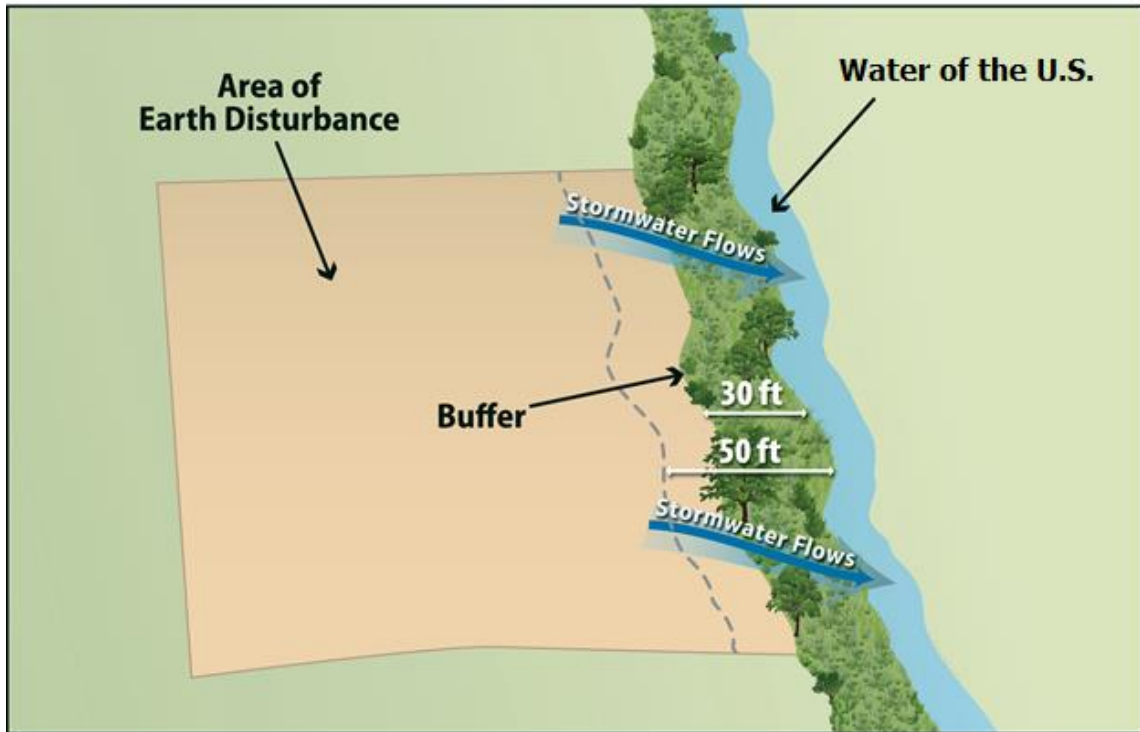


Figure F-1 Example of earth-disturbing activities within 50 feet of a water of the U.S. Virgin Islands

## **F.2 COMPLIANCE ALTERNATIVES AND EXCEPTIONS**

### **F.2.1 Compliance Alternatives**

If Part 2.2.1 applies to your site, you have three compliance alternatives from which you can choose, unless you qualify for any of the exceptions (see below and Part 2.2.1.a):

1. Provide and maintain a 50-foot undisturbed natural buffer; or
2. Provide and maintain an undisturbed natural buffer that is less than 50 feet and is supplemented by erosion and sediment controls that achieve the sediment load reduction equivalent to a 50-foot undisturbed natural buffer; or
3. If infeasible to provide and maintain an undisturbed natural buffer of any size, implement erosion and sediment controls to achieve the sediment load reduction equivalent to a 50-foot undisturbed natural buffer.

The compliance alternative selected must be maintained throughout the duration of permit coverage.

See Part F.2.2 below for exceptions to the compliance alternatives.

See Part F.2.3 for requirements applicable to providing and maintaining natural buffers under compliance alternatives 1 and 2 above.

See Part F.2.4 for requirements applicable to providing erosion and sediment controls that achieve the sediment load reduction equivalent to a 50-foot undisturbed natural buffer under compliance alternatives 2 and 3 above.

### **F.2.2 Exceptions to the Compliance Alternatives**

The following exceptions apply to the requirement to implement one of the Part 2.2.1.a compliance alternatives (see also Part 2.2.1.b):

- The following disturbances are exempt from the requirements Part 2.2.1 and this Appendix<sup>1</sup>:
  - Construction approved under a CWA Section 404 permit; or
  - Construction of a water-dependent structure or water access areas (e.g., pier, boat ramp, trail).
- If there is no discharge of stormwater to waters of the United States Virgin Islands through the area between the disturbed portions of the site and any waters of the United States Virgin Islands located within 50 feet of your site, you are not required to comply with the requirements in Part 2.2.1 and this Appendix. This includes situations where you have implemented controls measures, such as a berm or other barrier, that will prevent such discharges.
- Where no natural buffer exists due to preexisting development disturbances (e.g., structures, impervious surfaces) that occurred prior to the initiation of planning for the current development of the site, you are not required to comply with the requirements in Part 2.2.1 and this Appendix.

Where some natural buffer exists but portions of the area within 50 feet of the receiving water are occupied by preexisting development disturbances, you are

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<sup>1</sup> This exemption does not apply, however, to disturbances within 50 feet of a receiving water that are adjacent to the disturbances listed here (i.e., construction permitted under CWA Section 404, or construction of a water-dependent structure or water access area) and that are covered by this permit.

required to comply with the requirements in Part 2.2.1 and this Appendix. For the purposes of calculating the sediment load reduction for either compliance alternative 2 or 3, you are not expected to compensate for the reduction in buffer function that would have resulted from the area covered by these preexisting disturbances. Clarity about how to implement the compliance alternatives for these situations is provided in F.2.3 and F.2.4 below.

If during your project, you will disturb any portion of these preexisting disturbances, the area removed will be deducted from the area treated as a "natural buffer."

- For "linear construction sites" (see Appendix A), you are not required to comply with this requirement if site constraints (*e.g., limited right-of-way*) make it infeasible to implement one of the Part 2.2.1.a compliance alternatives, provided that, to the extent feasible, you limit disturbances within 50 feet of any waters of the United States Virgin Islands and/or you provide supplemental erosion and sediment controls to treat stormwater discharges from earth disturbances within 50 feet of the receiving water. You must also document in your SWPPP your rationale for why it is infeasible for you to implement one of the Part 2.2.1.a compliance alternatives, and describe any buffer width retained and supplemental erosion and sediment controls installed.
- For "small residential lot" construction (*i.e., a lot being developed for residential purposes that will disturb less than 1 acre of land, but is part of a larger residential project that will ultimately disturb greater than or equal to 1 acre*), you have the option of complying with one of the "small residential lot" compliance alternatives in Part F.3 of this appendix.

Note that you must document in your SWPPP if any disturbances related to any of the above exceptions occurs within the buffer area on your site.

### **F.2.3 Requirements for Providing and Maintaining Natural Buffers**

This part of the appendix applies to you if you choose compliance alternative 1 (50-foot buffer), compliance alternative 2 (a buffer of < 50 feet supplemented by additional erosion and sediment controls that achieve the equivalent sediment load reduction as the 50-foot buffer), or if you are providing a buffer in compliance with one of the "small residential lot" compliance alternatives in Part F.3.

#### **Buffer Width Measurement**

Where you are retaining a buffer of any size, the buffer should be measured perpendicularly from any of the following points, whichever is further landward from the water:

1. The ordinary high water mark of the water body, defined as the line on the shore established by fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, and/or the presence of litter and debris; or
2. The edge of the stream or river bank, bluff, or cliff, whichever is applicable.

Refer to Figures F – 2 and F - 3. You may find that specifically measuring these points is challenging if the flow path of the receiving water changes frequently, thereby causing the measurement line for the buffer to fluctuate continuously along the path of the waterbody. Where this is the case, VIDPNR suggests that rather than measuring each change or deviation along the water's edge, it may be easier to select regular intervals

from which to conduct your measurement. For instance, you may elect to conduct your buffer measurement every 5 to 10 feet along the length of the water.

Additionally, note that if earth-disturbing activities will take place on both sides of a receiving water that flows through your site, to the extent that you are establishing a buffer around this water, it must be established on both sides. For example, if you choose compliance alternative 1, and your project calls for disturbances on both sides of a small stream, you would need to retain the full 50 feet of buffer on both sides of the water. However, if your construction activities will only occur on one side of the stream, you would only need to retain the 50-foot buffer on the side of the stream where the earth-disturbance will occur.

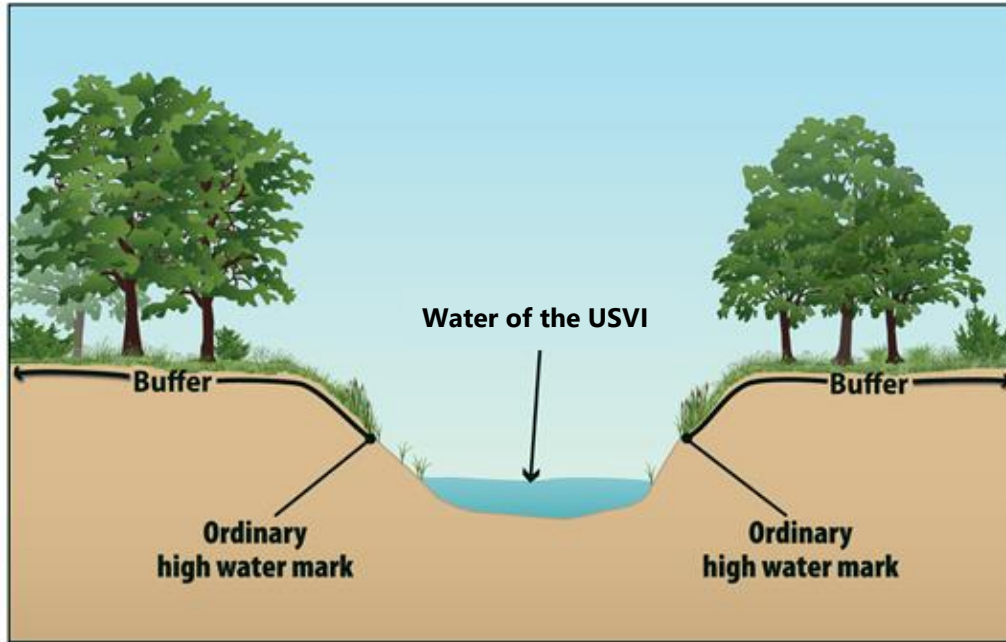


**Figure F-2 Buffer measurement from the ordinary high water mark of the water body, as indicated by a clear natural line impressed on the bank, shelving, changes in the character of the soil, destruction of terrestrial vegetation, and/or the presence of litter/debris.**

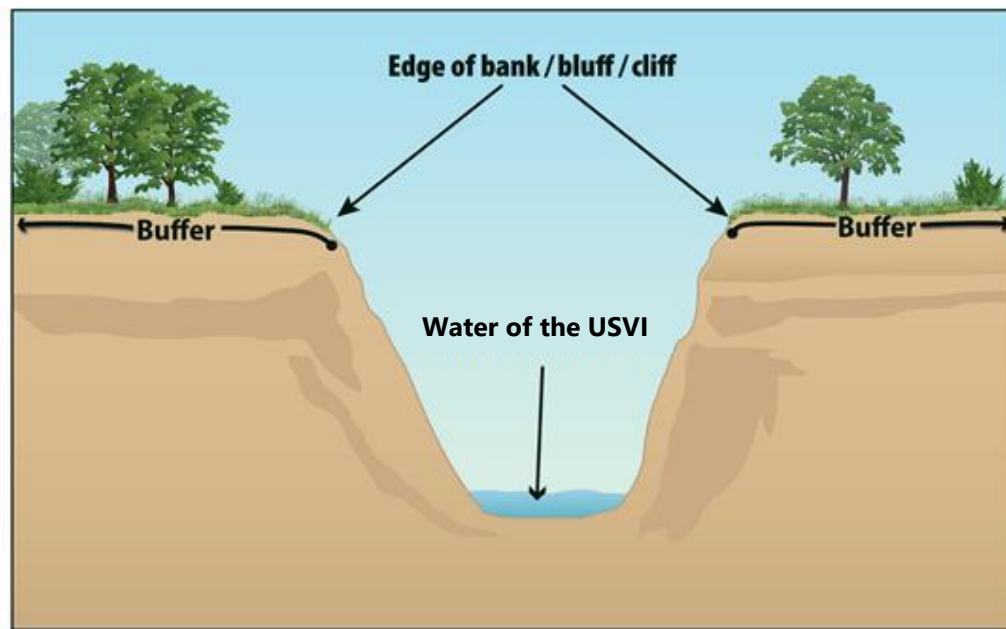


**Figure F-3 Buffer measurement from the edge of the bank, bluff, or cliff, whichever is applicable.**

#### **Limits to Disturbance Within the Buffer**

You are considered to be in compliance with the requirement to provide and maintain a natural buffer if you retain and protect from construction activities the natural buffer that existed prior to the commencement of construction. If the buffer area contains no vegetation prior to the commencement of construction (e.g., sand or rocky surface), you are not required to plant vegetation. As noted above, any preexisting structures or

impervious surfaces may occur in the natural buffer provided you retain and protect from disturbance the buffer areas outside of the preexisting disturbance.

To ensure that the water quality protection benefits of the buffer are retained during construction, you are prohibited from conducting any earth-disturbing activities within the buffer during permit coverage. In furtherance of this requirement, **prior to commencing earth-disturbing activities on your site, you must delineate, and clearly mark off, with flags, tape, or a similar marking device, the buffer area on your site.** The purpose of this requirement is to make the buffer area clearly visible to the people working on your site so that unintended disturbances are avoided.

While you are not required to enhance the quality of the vegetation that already exists within the buffer, you are encouraged to do so where such improvements will enhance the water quality protection benefits of the buffer. (Note that any disturbances within the buffer related to buffer enhancement are permitted and do not constitute construction disturbances.) For instance, you may want to target plantings where limited vegetation exists, or replace existing vegetation where invasive or noxious plant species (see <http://plants.usda.gov/java/noxiousDriver>) have taken over. In the case of invasive or noxious species, you may want to remove and replace them with a diversity of native trees, shrubs, and herbaceous plants that are well-adapted to the climatic, soil, and hydrologic conditions on the site. You are also encouraged to limit the removal of naturally deposited leaf litter, woody debris, and other biomass, as this material contributes to the ability of the buffer to retain water and filter pollutants.

If a portion of the buffer area adjacent to the receiving water is owned by another party and is not under your control, you are only required to retain and protect from construction activities the portion of the buffer area that is under your control. For example, if you comply with compliance alternative 1 (provide and maintain a 50-foot buffer), but 10 feet of land immediately adjacent to the receiving water is owned by a different party than the land on which your construction activities are taking place and you do not have control over that land, you must only retain and protect from construction activities the 40-foot buffer area that occurs adjacent to the property on which your construction activities are taking place. VIDPNR would consider you to be in compliance with this requirement regardless of the activities that are taking place in the 10-foot area that is owned by a different party than the land on which your construction activities are taking place that you have no control over.

### **Discharges to the Buffer**

**You must ensure that all discharges from the area of earth disturbance to the natural buffer are first treated by the site's erosion and sediment controls** (for example, you must comply with the Part 2.2.3 requirement to install sediment controls along any perimeter areas of the site that will receive pollutant discharges), **and if necessary to prevent erosion caused by stormwater flows within the buffer, you must use velocity dissipation devices.** The purpose of this requirement is to decrease the rate of stormwater flow and encourage infiltration so that the pollutant filtering functions of the buffer will be achieved. To comply with this requirement, construction operators typically will use devices that physically dissipate stormwater flows so that the discharge entering the buffer is spread out and slowed down.

### **SWPPP Documentation**

You are required to document in your SWPPP the natural buffer width that is retained. For example, if you are complying with alternative 1, you must specify in your SWPPP that you are providing a 50-foot buffer. Or, if you will be complying with alternative 2, you must document the reduced width of the buffer you will be retaining (and you must also

describe the erosion and sediment controls you will use to achieve an equivalent sediment reduction, as required in Part F.2.4 below). Note that you must also show any buffers on your site map in your SWPPP consistent with Part 7.2.4.j. Additionally, if any disturbances related to the exceptions in Part F.2.2 occur within the buffer area, you must document this in the SWPPP.

#### **F.2.4 Guidance for Providing the Equivalent Sediment Reduction as a 50-foot Buffer**

This part of the appendix applies to you if you choose compliance alternative 2 (provide and maintain a buffer that is less than 50 feet that is supplemented by erosion and sediment controls that achieve the sediment load reduction equivalent to a 50-foot buffer) or compliance alternative 3 (implement erosion and sediment controls to achieve the sediment load reduction equivalent to a 50-foot buffer).

##### **Determine Whether it is Feasible to Provide a Reduced Buffer**

VIDPNR recognizes that there will be a number of situations in which it will be infeasible to provide and maintain a buffer of any width. While some of these situations may exempt you from the buffer requirement entirely (see F.2.2), if you do not qualify for one of these exemptions, there still may be conditions or circumstances at your site that make it infeasible to provide a natural buffer. For example, there may be sites where a significant portion of the property on which the earth-disturbing activities will occur is located within the buffer area, thereby precluding the retention of natural buffer areas.

Therefore, you should choose compliance alternative 2 if it is feasible for you to retain some natural buffer on your site. (Note: For any buffer width retained, you are required to comply with the requirements in Part F.2.3, above, concerning the retention of vegetation and restricting earth disturbances.) Similarly, if you determine that it is infeasible to provide a natural buffer of any size during construction, you should choose alternative 3.

##### **Design Controls That Provide Equivalent Sediment Reduction as 50-foot Buffer**

You must next determine what additional controls must be implemented on your site that, alone or in combination with any retained natural buffer, achieve a reduction in sediment equivalent to that achieved by a 50-foot buffer.

Note that if only a portion of the natural buffer is less than 50 feet, you are only required to implement erosion and sediment controls that achieve the sediment load reduction equivalent to the 50-foot buffer for discharges through that area. You would not be required to provide additional treatment of stormwater discharges that flow through 50 feet or more of natural buffer. See Figure F-4.

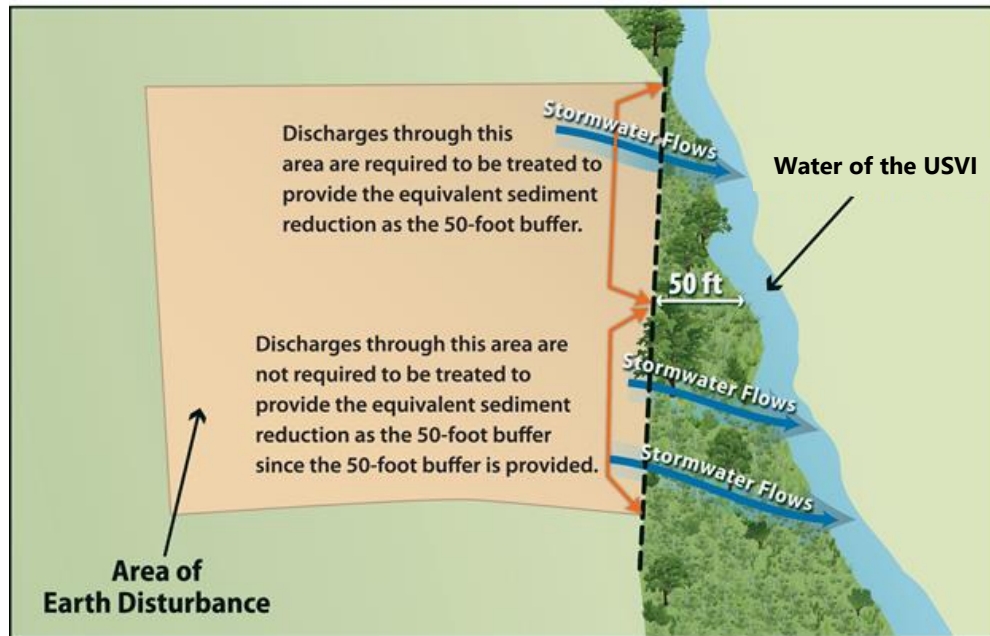


**Figure F-4 Example of how to comply with the requirement to provide the equivalent sediment reduction when only a portion of your earth-disturbances discharge to a buffer of less than 50-feet.**

Steps to help you meet compliance alternative 2 and 3 requirements are provided below.

#### **Step 1 - Estimate the Sediment Reduction from the 50-foot Buffer**

In order to design controls that match the sediment removal efficiency of a 50-foot buffer, you first need to know what this efficiency is for your site. The sediment removal efficiencies of natural buffers vary according to a number of site-specific factors, including precipitation, soil type, land cover, slope length, width, steepness, and the types of erosion and sediment controls used to reduce the discharge of sediment prior to the buffer. VIDPNR has simplified this calculation by developing a buffer performance table covering a range of vegetation and soil types for the areas covered by the VI CGP. See Attachment 1 of this Appendix, Table F-4. Note: buffer performance values in Table F4 represent the percent of sediment captured through the use of perimeter controls (e.g., silt fences) and 50-foot buffers at disturbed sites of fixed proportions and slopes.<sup>2</sup>

<sup>2</sup> VIDPNR used the following when developing the buffer performance table:

- The sediment removal efficiencies are based on the U.S. Department of Agriculture's RUSLE2 ("Revised Universal Soil Loss Equation 2") model for slope profiles using a 100-foot long denuded slope.
- Sediment removal was defined as the annual sediment delivered at the downstream end of the 50-foot natural buffer (tons/yr/acre) divided by the annual yield from denuded area (tons/yr/acre).
- As perimeter controls are also required by the VI CGP, sediment removal is in part a function of the reduction due to a perimeter control (i.e., silt fence) located between the disturbed portion of the site and the upstream edge of the natural buffer and flow traveling through a 50-foot buffer of undisturbed natural vegetation.

Using Table F-4 (see Attachment 1 of this Appendix), you can determine the sediment removal efficiency of a 50-foot buffer for your geographic area by matching the vegetative cover type that best describes your buffer area and the type of soils that predominate at your site. For example, if your buffer vegetation corresponds most closely with that of tall fescue grass, and the soil type at your site is best typified as sand, your site's sediment removal efficiency would be 88 percent.

In this step, you should choose the vegetation type in the table that most closely matches the vegetation that would exist naturally in the buffer area on your site regardless of the condition of the buffer. However, because you are not required to plant any additional vegetation in the buffer area, in determining what controls are necessary to meet this sediment removal equivalency in Step 2 below, you will be able to take credit for this area as a fully vegetated "natural buffer."

Similarly, if a portion of the buffer area adjacent to the receiving water is owned by another party and is not under your control, you can treat the area of land not under your control as having the equivalent vegetative cover and soil type that predominates on the portion of the property on which your construction activities are occurring.

*For example, if your earth-disturbances occur within 50 feet of a receiving water, but the 10 feet of land immediately adjacent to the receiving water is owned by a different party than the land on which your construction activities are taking place and you do not have control over that land, you can treat the 10 foot area adjacent to the stream as having the equivalent soil and vegetation type that predominates in the 40 foot area under your control. You would then make the same assumption in Step 2 for purposes of determining the equivalent sediment removal.*

Alternatively, you may do your own calculation of the effectiveness of the 50-foot buffer based upon your site-specific conditions, and may use this number as your sediment removal equivalency standard to meet instead of using Table F-4. This calculation must be documented in your SWPPP.

### **Step 2 - Design Controls That Match the Sediment Removal Efficiency of the 50-foot Buffer**

Once you determine the estimated sediment removal efficiency of a 50-foot buffer for your site in Step 1, you must next select stormwater controls that will provide an equivalent sediment load reduction. These controls can include the installation of a single control, such as a sediment pond or additional perimeter controls, or a combination of stormwater controls. Whichever control(s) you select, you must demonstrate in your SWPPP that the controls will provide at a minimum the same sediment removal capabilities as a 50-foot natural buffer (Step 1). You may take credit for the removal efficiencies of your required perimeter controls in your calculation of equivalency, because these were included in calculating the buffer removal efficiencies

- 
- It was assumed that construction sites have a relatively uniform slope without topographic features that accelerate the concentration for erosive flows.
  - It was assumed that vegetation has been removed from the disturbed portion of the site and a combination of cuts and fills have resulted in a smooth soil surface with limited retention of near-surface root mass.

To represent the influence of soil, VIDPNR used EPA's analyzed 11 general soil texture classifications in its evaluation of buffer performance. To represent different types of buffer vegetation, VIDPNR used EPA's additional evaluation of 4 or more common vegetative types. For each vegetation type evaluated, VIDPNR considered only permanent, non-grazed, and non-harvested vegetation, on the assumption that a natural buffer adjacent to the receiving water will typically be undisturbed. VIDPNR also evaluated slope steepness and found that sediment removal efficiencies present in Table F-4 are achievable for slopes that are less than nine percent.

in Table F-4. (Note: You are reminded that the controls must be kept in effective operating condition until you complete final stabilization on the disturbed portions of the site discharging to the receiving water)

To make the determination that your controls and/or buffer area achieve an equivalent sediment load reduction as a 50-foot buffer, you should use a model or other type of calculation. As mentioned above, there are a variety of models available that can be used to support your calculation, including USDA's RUSLE-series programs and the WEPP erosion model, SEDCAD, SEDIMOT, or other models. A couple of examples are provided in Attachment 3 to help illustrate how this determination could be made.

If you retain a buffer of less than 50 feet, you may take credit for the removal that will occur from the reduced buffer and only need to provide additional controls to make up the difference between the removal efficiency of a 50 foot buffer and the removal efficiency of the narrower buffer. For example, if you retain a 30 foot buffer, you can account for the sediment removal provided by the 30 foot buffer retained, and you will only need to design controls to make up for the additional removal provided by the 20 feet of buffer that is not being provided. To do this, you would plug the width of the buffer that is retained into RUSLE or another model, along with other stormwater controls that will together achieve a sediment reduction equivalent to a natural 50-foot buffer.

As described in Step 1 above, you can take credit for the area you retained as a "natural buffer" as being fully vegetated, regardless of the condition of the buffer area.

*For example, if your earth-disturbances occur 30 feet from a receiving water, but the 10 feet of land immediately adjacent to the receiving water is owned by a different party than the land on which your construction activities are taking place and you do not have control over that land, you can treat the 10-foot area as a natural buffer, regardless of the activities that are taking place in the area. Therefore, you can assume (for purposes of your equivalency calculation) that your site is providing the sediment removal equivalent of a 30-foot buffer, and you will only need to design controls to make up for the additional removal provided by the 20-foot of buffer that is not being provided.*

### **Step 3 - Document How Site-Specific Controls Will Achieve the Sediment Removal Efficiency of the 50-foot Buffer**

In Steps 1 and 2, you determined both the expected sediment removal efficiency of a 50-foot buffer at your site, and you used this number as a performance standard to design controls to be installed at your site, which alone or in combination with any retained natural buffer, achieves the expected sediment removal efficiency of a 50-foot buffer at your site. The final step is to document in your SWPPP the information you relied on to calculate the equivalent sediment reduction as an undisturbed natural buffer.

VIDPNR will consider your documentation to be sufficient if it generally meets the following:

- For Step 1, refer to the table in Attachment 1 that you used to derive your estimated 50-foot buffer sediment removal efficiency performance. Include information about the buffer vegetation and soil type that predominate at your site, which you used to select the sediment load reduction value in Table F-4. Or, if you conducted a site-specific calculation for sediment removal efficiency, provide the specific removal efficiency, and the information you relied on to make your site-specific calculation.

- For Step 2, (1) Specify the model you used to estimate sediment load reductions from your site; and (2) the results of calculations showing how your controls will meet or exceed the sediment removal efficiency from Step 1.

If you choose compliance alternative 3, you must also include in your SWPPP a description of why it is infeasible for you to provide and maintain an undisturbed natural buffer of any size.

### F.3 SMALL RESIDENTIAL LOT COMPLIANCE ALTERNATIVES

VIDPNR has developed two additional compliance alternatives applicable only to “small residential lots” that are unable to provide and maintain a 50 foot buffer.

A **small residential lot** (see Appendix A) is a lot or grouping of lots being developed for residential purposes that will disturb less than 1 acre of land, but that is part of a larger residential project that will ultimately disturb greater than or equal to 1 acre.

The following steps describe how a small residential lot operator would achieve compliance with one these 2 alternatives.

#### F.3.1 Small Residential Lot Compliance Alternative Eligibility

In order to be eligible for the small residential lot compliance alternatives, the following conditions must be met:

- a. The lot or grouping of lots meets the definition of “small residential lot”; and
- b. The operator must follow the guidance for providing and maintaining a natural buffer in Part F.2.3 of this Appendix, including:
  - i. Ensure that all discharges from the area of earth disturbance to the natural buffer are first treated by the site’s erosion and sediment controls, and use velocity dissipation devices if necessary to prevent erosion caused by stormwater within the buffer;
  - ii. Document in the SWPPP the natural buffer width retained on the property, and show the buffer boundary on your site plan; and
  - iii. Delineate, and clearly mark off, with flags, tape, or other similar marking device, all natural buffer areas.

#### F.3.2 Small Residential Lot Compliance Alternatives

You must next choose from one of two small residential lot compliance alternatives and implement the stormwater control practices associated with that alternative.

*Note: The compliance alternatives provided below are not mandatory. Operators of small residential lots can alternatively choose to comply with the any of the options that are available to other sites in Part 2.2.1.a and F.2.1 of this Appendix.*

##### Small Residential Lot Compliance Alternative 1

Alternative 1 is a straightforward tiered-technology approach that specifies the controls that a small residential lot must implement based on the buffer width retained. To meet the requirements of small residential lot compliance alternative 1, you must implement the controls specified in Table F–1 based on the buffer width to be retained. See footnote 3, below, for a description of the controls you must implement.

*For example, if you are an operator of a small residential lot that will be retaining a 35-foot buffer and you choose Small Residential Lot Compliance Alternative 1, you must implement double perimeter controls between earth disturbances and the receiving water*

In addition to implementing the applicable control, you must also document in your SWPPP how you will comply with small residential lot compliance alternative 1.

**Table F-1 Alternative 1 Requirements<sup>3</sup>**

| <b>Retain 50-foot Buffer</b> | <b>Retain &lt;50 and &gt;30 foot Buffer</b> | <b>Retain ≤ 30 foot Buffer</b>                         |
|------------------------------|---------------------------------------------|--------------------------------------------------------|
| No Additional Requirements   | Double Perimeter Controls                   | Double Perimeter Controls and 7-Day Site Stabilization |

**Small Residential Lot Compliance Alternative 2**

Alternative 2 specifies the controls that a builder of a small residential lot must implement based on both the buffer width retained and the site's sediment discharge risk. By incorporating the sediment risk, this approach may result in the implementation of controls that are more appropriate for the site's specific conditions.

**Step 1 – Determine Your Site's Sediment Risk Level**

To meet the requirements of Alternative 2, you must first determine your site's sediment discharge "risk level" based on the site's slope, location, and soil type. To help you to determine your site's sediment risk level, VIDPNR developed Table F-2 below for different slope conditions. You should select the row that most closely corresponds to your site's average slope.

After you determine which row applies to your site, you must then use the row to determine the "risk level" (e.g., "low", "moderate", or "high") that corresponds to your site's location and predominant soil type.<sup>4</sup>

*For example, based on Table F-2, a site located with a 4 percent average slope and predominately sandy clay loam soils would fall into the "moderate" risk level.*

**<sup>3</sup> Description of Additional Controls Applicable to Small Residential Lot Compliance Alternatives 1 and 2:**

- **No Additional Requirements:** If you implement a buffer of 50 feet or greater, then you are not subject to any additional requirements. Note that you are required to install perimeter controls between the disturbed portions of your site and the buffer in accordance with Part 2.2.3.
- **Double Perimeter Control:** In addition to the reduced buffer width retained on your site, you must provide a double row of perimeter controls between the disturbed portion of your site and the receiving water spaced a minimum of 5 feet apart.
- **Double Perimeter Control and 7-Day Site Stabilization:** In addition to the reduced buffer width retained on your site and the perimeter control implemented in accordance with Part 2.2.3, you must provide a double row of perimeter controls between the disturbed portion of your site and the receiving water spaced a minimum of 5 feet apart, and you are required to complete the stabilization activities specified in Parts 2.2.14 within 7 calendar days of the temporary or permanent cessation of earth-disturbing activities.

<sup>4</sup> One source for determining your site's predominant soil type is the USDA's Web Soil Survey located at <http://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx>.

**Table F-2 Risk Levels for Sites Depending on Slope and Soil Type in the United States Virgin Islands**

| <b>Soil Type</b><br><br><b>Average Slope</b> |             |                                         |             |                                                              |                                                    |
|----------------------------------------------|-------------|-----------------------------------------|-------------|--------------------------------------------------------------|----------------------------------------------------|
|                                              | <b>Clay</b> | <b>Silty Clay Loam<br/>or Clay-Loam</b> | <b>Sand</b> | <b>Sandy Clay<br/>Loam, Loamy<br/>Sand or Silty<br/>Clay</b> | <b>Loam, Silt,<br/>Sandy Loam<br/>or Silt Loam</b> |
| <b>≤ 3 %</b>                                 | Low         | Moderate                                | Low         | Moderate                                                     | Moderate                                           |
| <b>&gt; 3 % and ≤ 6</b>                      | Moderate    | Moderate                                | Moderate    | Moderate                                                     | High                                               |
| <b>&gt; 6 % and ≤ 9</b>                      | Moderate    | Moderate                                | Moderate    | Moderate                                                     | High                                               |
| <b>&gt; 9 % and ≤ 15</b>                     | Moderate    | High                                    | Moderate    | High                                                         | High                                               |
| <b>&gt; 15 %</b>                             | High        | High                                    | High        | High                                                         | High                                               |

**Step 2 – Determine Which Additional Controls Apply**

Once you determine your site's "risk level", you must next determine the additional controls you need to implement on your site, based on the width of buffer you plan to retain. Table F-3 specifies the requirements that apply based on the "risk level" and buffer width retained. See footnote 3, above, for a description of the additional controls that are required.

*For example, if you are the operator of a small residential lot that falls into the "moderate" risk level, and you decide to retain a 20-foot buffer, using Table F-3 you would determine that you need to implement double perimeter controls to achieve compliance with small residential lot compliance alternative 2.*

You must also document in your SWPPP your compliance with small residential lot compliance alternative 2.

**Table F-3. Alternative 2 Requirements<sup>2</sup>**

| <b>Risk Level Based<br/>on Estimated Soil<br/>Erosion</b> | <b>Retain <math>\geq</math> 50'<br/>Buffer</b> | <b>Retain <math>&lt;</math>50' and<br/><math>&gt;</math>30' Buffer</b> | <b>Retain <math>\leq</math>30' and<br/><math>&gt;</math>10' Buffer</b> | <b>Retain <math>\leq</math> 10'<br/>Buffer</b>                     |
|-----------------------------------------------------------|------------------------------------------------|------------------------------------------------------------------------|------------------------------------------------------------------------|--------------------------------------------------------------------|
| <b>Low Risk</b>                                           | No Additional<br>Requirements                  | No Additional<br>Requirements                                          | Double<br>Perimeter<br>Control                                         | Double<br>Perimeter<br>Control                                     |
| <b>Moderate Risk</b>                                      | No Additional<br>Requirements                  | Double<br>Perimeter<br>Control                                         | Double<br>Perimeter<br>Control                                         | Double<br>Perimeter<br>Control and 7-<br>Day Site<br>Stabilization |
| <b>High Risk</b>                                          | No Additional<br>Requirements                  | Double<br>Perimeter<br>Control                                         | Double<br>Perimeter<br>Control and 7-<br>Day Site<br>Stabilization     | Double<br>Perimeter<br>Control and 7-<br>Day Site<br>Stabilization |

**ATTACHMENT 1**Sediment Removal Efficiency Table<sup>5</sup>

VIDPNR recognizes that very high removal efficiencies, even where theoretically achievable by a 50-foot buffer, may be very difficult to achieve in practice using alternative controls. Therefore in the table below, VIDPNR has limited the removal efficiencies to a maximum of 90%.

Efficiencies that were calculated at greater than 90% are shown as 90%, and this is the minimum percent removal that must be achieved by alternative controls.

**Table F-4 Estimated 50-foot Buffer Performance in Virgin Islands\***

| Type of Buffer Vegetation**                              | Clay | Silty Clay<br>Loam or<br>Clay-Loam | Sand | Sandy Clay<br>Loam,<br>Loamy Sand<br>or Silty Clay | Loam, Silt,<br>Sandy Loam<br>or Silt Loam |
|----------------------------------------------------------|------|------------------------------------|------|----------------------------------------------------|-------------------------------------------|
| <b>Bahiagrass (Permanent cover)</b>                      | 85   | 90                                 | 90   | 90                                                 | 90                                        |
| <b>Warm-season Grass (i.e., Switchgrass, Lemongrass)</b> | 86   | 90                                 | 90   | 90                                                 | 90                                        |
| <b>Dense Grass</b>                                       | 85   | 90                                 | 90   | 90                                                 | 90                                        |
| <b>Tall Fescue Grass</b>                                 | 85   | 90                                 | 88   | 90                                                 | 89                                        |
| <b>Medium-density Weeds</b>                              | 75   | 77                                 | 71   | 78                                                 | 63                                        |

\* Applicable for sites with less than nine percent slope

\*\* Characterization focuses on the under-story vegetation

<sup>5</sup> The buffer performances were calculated based on a denuded slope upgradient of a 50-foot buffer and a perimeter controls, as perimeter controls are a standard requirement (see Part 2.2.3).

**ATTACHMENT 2**Using the Sediment Removal Efficiency Table – Questions and Answers

- *What if my specific buffer vegetation is not represented in Table F-4?* Table F-4 provides a wide range of factors affecting buffer performance; however, there are likely instances where the specific buffer vegetation type on your site is not listed. If you do not see a description of the type of vegetation present at your site, you should choose the vegetation type that most closely matches the vegetation type on your site. You can contact UVI Cooperative Extension Service Office (<https://uvi.oudeve.com/community/cooperative-extension-service/index.html>) for assistance in determining the vegetation type in Table E-4 that most closely matches your site-specific vegetation.
- *What if there is high variability in local soils?* VIDPNR recognizes that there may be a number of different soil type(s) on any given construction site. General soil information can be obtained from USDA soil survey reports (<http://websoilsurvey.nrcs.usda.gov>) or from individual site assessments performed by a certified soil expert. Table E-4 presents eleven generic soil texture classes, grouping individual textures where VIDPNR has determined that performance is similar. If your site contains different soil texture classes, you should use the soil type that best approximates the predominant soil type at your site.
- *What if my site slope is greater than 9 percent after final grade is reached?* As indicated in the buffer performance table, the estimated sediment removal efficiencies are associated with disturbed slopes of up to 9 percent grade. Where your graded site has an average slope of greater than 9 percent, you should calculate a site-specific buffer performance.
- *How do I calculate my own estimates for sediment reduction at my specific site?* If you determine that it is necessary to calculate your own sediment removal efficiency using site-specific conditions (e.g., slopes at your site are greater than 9 percent), you can use a range of available models that are available to facilitate this calculation, including USDA's RUSLE-series programs and the WEPP erosion model, SEDCAD, SEDIMOT, or other equivalent models.
- *What is my estimated buffer performance if my site location is not represented by Table F-4?* If your site is located in an area not represented by Table F-4, you may either choose the best representation or conduct a site-specific calculation of the buffer performance.
- *What if only a portion of my site drains to the buffer area?* If only a portion of your site drains to a receiving water, where that water is within 50 feet of your earth disturbances, you are only required to meet the equivalency requirement for the stormwater flows corresponding to those portions of the site. See Example 2 below for an example of how this is expected to work.

### ATTACHMENT 3

#### Examples of How to Use the Sediment Removal Efficiency Table

##### *Example: 7.5 acre site located in the United States Virgin Islands*

The operator of a 7.5-acre construction site in the Virgin Islands has determined that it is infeasible to establish a buffer of any size on the site, and is now required to select and install controls that will achieve an equivalent sediment load reduction as that estimated in Table E-4 for their site conditions. The first step is to identify what percentage of eroded sediment is estimated to be retained from a 50-foot buffer. For this example, it is assumed that the site has a relatively uniform gentle slope (3 percent), and if the site's buffer vegetation is best typified by dense grass and the underlying soil is of a type best described as loamy sand, the 50-foot buffer is projected to capture 90 percent of eroded sediment from the construction site.

The second step is to determine what sediment controls can be selected and installed in combination with the perimeter controls already required to be implemented at the site (see Part 2.2.3), which will achieve the 90 percent sediment removal efficiency from Table F-4. For this example, using the RUSLE2 profile model, it was determined that installing a pair of shallow-sloped diversion ditches to convey runoff to a well-designed and maintained sediment basin provides 99 percent sediment removal. Because the estimated sediment reduction is greater than the required 90 percent that a 50-foot buffer provides, the operator will have met the buffer requirements. See Figure F-5. The operator could also choose a different set of controls, as long as they achieve at least a 90 percent sediment removal efficiency.

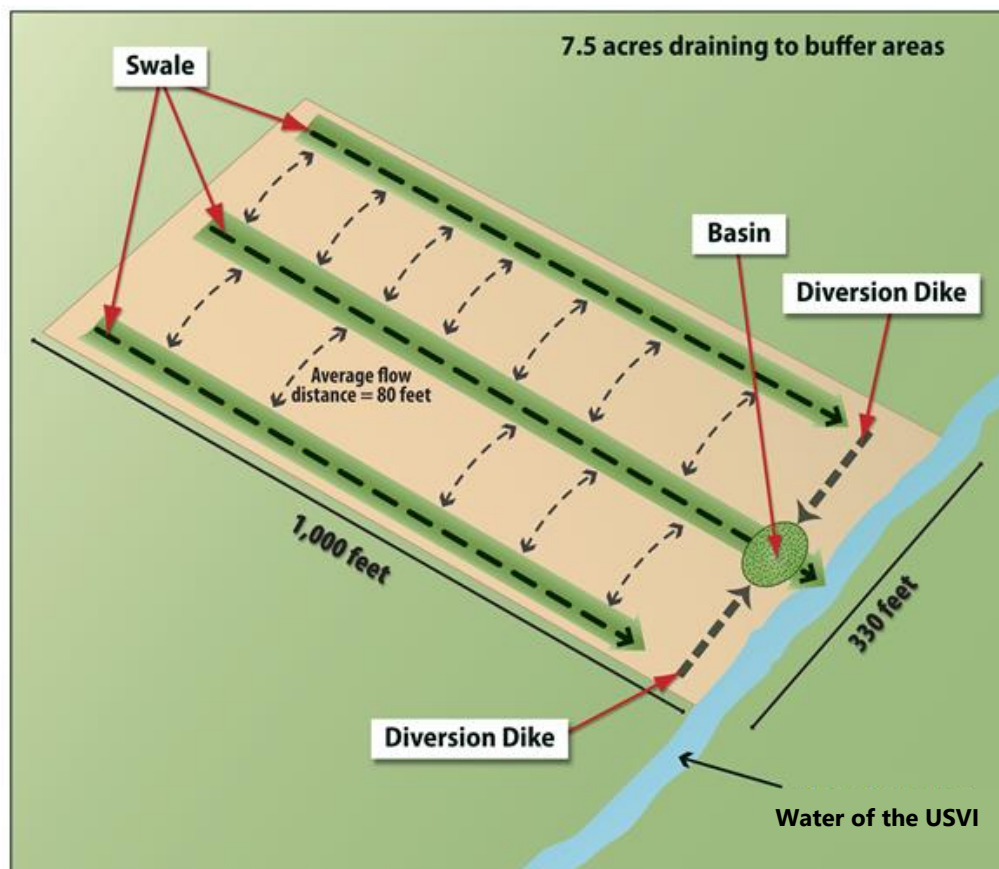


**Figure F-5 Equivalent Sediment Load Reduction at a 7.5 ac Site in USVI.**

## **Appendix G - Standard Permit Conditions**

Standard permit conditions in Appendix G are consistent with the general permit provisions required under 40 CFR 122.41 and 12 V.I.R.R. §184-51.

### **G.1 Duty To Comply.**

You must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act (CWA) or 12 V.I.C. §181 et seq. and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

**G.1.1** You must comply with 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, even if the permit has not yet been modified to incorporate the requirement.

**G.1.2** You must comply with such other terms, provisions, requirements, or conditions as may be necessary to meet the requirements of 12 V.I.C. §181 et seq., 12 V.I.C. §184, or the CWA.

**G.1.3** Penalties for Violations of Permit Conditions: EPA and other federal agencies are required to adjust their maximum and minimum statutory civil penalty amounts through rulemaking by January 15 each year to account for inflation. EPA's annual rulemaking adjustments, codified in 40 C.F.R. § 19.4, are mandated by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended through the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (28 U.S.C. § 2461 note). As such, the civil penalty amounts below may change in the future due to inflation. See 40 C.F.R. § 19.4 for the most up-to-date civil penalty amounts.

**G.1.4** If you fail or refuse to comply with an interim or final requirement in a TPDES permit, such noncompliance shall constitute a violation of the permit for which the Commissioner may modify, revoke and reissue, or terminate the permit or take direct enforcement action pursuant to law. When, at any time during or prior to a period for compliance, the permittee states or otherwise lets it be known, or the Commissioner on reasonable cause determines, that the permittee will not make the requisite efforts to achieve compliance with an interim or final requirement, the Commissioner may modify, revoke and reissue, or terminate the permit without waiting for expiration of the period for compliance with such requirement.

### **G.1.5 Penalties.**

#### **G.1.5.1 Criminal Penalties.**

- a. The Act (12 V.I.C. §181 et seq.) provides that any person who knowingly or negligently violates any provision of the Act, any rule or regulation promulgated hereunder, any order of the Commissioner or any permit or permit condition or limitation implementing any such sections in a permit issued under the Act, or any requirement imposed in a pretreatment program or in any other permit issued by the Commissioner pursuant to the requirements of this chapter, upon conviction shall be punished by a fine of not less than \$5,000 nor more than \$75,000 per day of violation, or by imprisonment for not more than 3 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than \$100,000 per day of violation, or by imprisonment of not more than 6 years, or by both imprisonment and fine.

- b. The Act (12 V.I.C. §181 et seq.) provides that any person who knowingly or negligently introduces into a sewer system or into a publicly owned treatment works, any pollutant or hazardous substance that the person knew, or reasonably should have known could cause personal injury or property damage or who introduces into such treatment works a pollutant or hazardous substance, other than in compliance with all applicable laws, permits or requirements which causes the treatment works to violate any effluent limitation or condition in a permit issued to the treatment works, upon conviction shall be punished by a fine of not less than \$5,000 nor more than \$75,000 per day of violation, or by imprisonment for not more than 3 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than \$100,000 per day of violation, or by imprisonment of not more than 6 years, or by both imprisonment and fine..
- c. *Knowing Endangerment.* The CWA provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act and who knows at that time that he or she is placing another person in imminent danger of death or serious bodily injury shall upon conviction be subject to a fine of not more than \$250,000 or by imprisonment of not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than \$500,000 or by imprisonment of not more than 30 years, or both. An organization, as defined in section 309(c)(3)(B)(iii) of the Act, shall, upon conviction of violating the imminent danger provision be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions.
- d. *False Statement.* The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both. The CWA further provides that 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 monitoring reports or 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.

G.1.5.2 *Civil Penalties.* The Act (12 V.I.C. §181 et seq.) provides any person who violates any provision of the Act, or of any permit, or limitation implementing any section of a permit, any permit filing requirement, any duty to allow or to perform an inspection or to allow the entry upon the premises of authorized persons, or any monitoring requirement, or any requirement imposed in a pretreatment program, rule, regulation, standard or order issued or promulgated hereunder, shall be subject to a civil penalty not to exceed \$50,000 per day of such violation.

G.1.5.3 *Administrative Penalties.* The CWA provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to an administrative penalty, as follows:

- a. *Class I Penalty.* Not to exceed the maximum amounts authorized by Section 309(g)(2)(A) of the Act and the Federal Civil Penalties Inflation Adjustment Act of

1990 as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (28 U.S.C. § 2461 note), and codified at 40 CFR § 19.4.

- b. *Class II Penalty.* Not to exceed the maximum amounts authorized by Section 309(g)(2)(B) of the Act and the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (28 U.S.C. § 2461 note), and codified at 40 CFR § 19.4.

**G.1.5.3 Violations.** Whenever, on the basis of any information available to him, the Commissioner has reason to believe that a violation of any provision of 12 V.I.C. § 181 et seq., of these regulations, of any order of the Commissioner, any water quality standards, effluent limitations, or TPDES permit condition has occurred, the Commissioner may cause a written complaint and order for corrective action to be served upon the alleged violator(s) pursuant to 12 V.I.C. § 188(a)(1).

- a. Within 15 days after the date such complaint and order is served, any person or persons named therein may request in writing a hearing before the Commissioner pursuant to 12 V.I.C. § 188(b). Such request shall not act as a stay of enforcement of the Commissioner's order unless so ordered and directed by the Commissioner or by a court. On the basis of such hearing, the Commissioner shall continue such order in effect, revoke it, or modify it.
- b. In lieu of such order, the Commissioner may require that the alleged violator appear at a time and place specified in the notice and answer the charges specified in the complaint. The notice shall be delivered to the alleged violator or violators not less than 10 days before the time set for the hearing pursuant to 12 V.I.C. § 188.

## **G.2 Duty to Reapply.**

If you wish to continue an activity regulated by this permit after the expiration date of this permit, you must apply for and obtain authorization as required by the new permit once VIDPNR issues it.

## **G.3 Need to Halt or Reduce Activity Not a Defense.**

It shall not be a defense for you 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.

## **G.4 Duty to Mitigate.**

You must 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.

## **G.5 Proper Operation and Maintenance.**

You must at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by you to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by you only when the operation is necessary to achieve compliance with the conditions of this permit.

**G.6 Permit Actions.**

After notice and opportunity for a hearing, this permit may be modified, revoked and reissued, or terminated for cause. Your filing of a request for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

**G.7 Property Rights.**

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

**G.8 Duty to Provide Information.**

**G.8.1** You must furnish to the Commissioner, employees of VIDPNR, or an authorized representative (including an authorized contractor acting as a representative of the Administrator), within a reasonable time, any information that the Commissioner may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. You must also furnish to the Commissioner or an authorized representative upon request, copies of records required to be kept by this permit.

**G.8.2** Every permittee under this subchapter shall file such other information at such times and in such form as the Department may reasonably require to achieve the purposes of 12 V.I.C. §181 et seq. or the CWA.

**G.9 Inspection and Entry.**

You must allow the Commissioner, employees of VIDPNR, or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon presentation of credentials and other documents as may be required by law, to:

**G.9.1** Enter upon your premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit or Territorial law;

**G.9.2** Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

**G.9.3** Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

**G.9.4** Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the CWA or 12 V.I.C. §181 et seq., any substances or parameters at any location.

**G.10 Monitoring and Records.**

**G.10.1** Samples and measurements taken for the purpose of monitoring must be representative of the volume and nature of the monitored activity.

**G.10.2** You must retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three years from the date the permit expires or the date the permittee's authorization is terminated. This period of retention shall be extended during the course of any unresolved litigation or other proceedings regarding the discharge of pollutants by the permittee or at any time when requested by the Department or Regional Administrator..

**G.10.3** Records of monitoring information must include:

G.10.3.1 The date, exact place, and time of sampling or measurements;

G.10.3.2 The individual(s) who performed the sampling or measurements;

G.10.3.3 The date(s) analyses were performed

G.10.3.4 The individual(s) who performed the analyses;

G.10.3.5 The analytical techniques or methods used; and

G.10.3.6 The results of such analyses.

**G.10.4** Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in the permit.

**G.10.5** The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both.

**G.10.6** Any discharge authorized by a TPDES permit may be subject to such monitoring requirements as may be reasonably required by the Department, including the installation, use, and maintenance of monitoring equipment or methods (including, where appropriate, biological monitoring methods).

## **G.11 Signatory Requirements.**

**G.11.1** All applications, including NOIs and NOTs, must be signed as follows:

G.11.1.1 For a corporation: By a responsible corporate officer. For the purpose of this subsection, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

Note: VIDPNR does not require specific assignments or delegations of authority to responsible corporate officers identified in section G.11.1.1(i). VIDPNR will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the Commissioner to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions under section G.11.1.1(ii) of this section rather than to specific individuals.

G.11.1.2 For a partnership or sole proprietorship: By a general partner or the proprietor, respectively; or

G.11.1.3 For a municipality, Territory, federal, or other public agency: By either a principal executive officer or ranking elected official. For purposes of this subsection, a principal

executive officer of a federal agency includes (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrator of EPA).

**G.11.2** Your SWPPP (including changes to your SWPPP inspection reports), corrective action log, turbidity monitoring report, site inspection and dewatering inspection reports, and any other compliance documentation required under this permit, must be signed by a person described in Appendix G, Subsection G.11.1 above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

G.11.2.1 The authorization is made in writing by a person described in Appendix G, Subsection G.11.1;

G.11.2.2 The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and

G.11.2.3 The signed and dated written authorization is included in the SWPPP. A copy must be submitted to VIDPNR, if requested.

**G.11.3** Changes to Authorization. If an authorization under this permit is no longer accurate because a different operator has responsibility for the overall operation of the construction site, a new NOI must be submitted to VIDPNR. See Table 1 in Part 1.4.3 of the permit. However, if the only change that is occurring is a change in contact information or a change in the facility's address, the operator need only make a modification to the existing NOI submitted for authorization.

**G.11.4** Any person signing documents in accordance with Appendix G, Subsections G.11.1 or G.11.2 above must include the following certification:

"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 gathered and evaluated the information contained therein. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information contained is, to the best of my knowledge and belief, true, accurate, and complete. I have no personal knowledge that the information submitted is other than 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 violations."

**G.11.5** For persons signing NOIs electronically, in addition to meeting other applicable requirements in Appendix G, Subsection G.11, such signatures must meet the same signature, authentication, and identity-proofing standards set forth at 40 CFR § 3.2000(b) for electronic reports (including robust second-factor authentication).

**G.11.6** The CWA provides that 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 monitoring reports or reports of compliance or non-compliance 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.

**G.12 Reporting Requirements.**

**G.12.1** Planned changes. You must give notice to VIDPNR as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

G.12.1.1 The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b); or

G.12.1.2 The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under 12 V.I.R.R. §184-52(a)(1).

**G.12.2** Anticipated noncompliance. You must give advance notice to the Commissioner of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

**G.12.3** Transfers. This permit is not transferable to any person except after notice to the Commissioner. Where a facility wants to change the name of the permittee, the original permittee (the first owner or operators) must submit a Notice of Termination pursuant to Part 8. The new owner or operator must submit a Notice of Intent in accordance with Part 1.4 and Table 1. See also requirements in Appendix G, Subsections G.11.1 and G.11.2.

**G.12.4** Monitoring reports. Monitoring results must be reported at the intervals specified elsewhere in this permit.

G.12.4.1 Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by VIDNPR for reporting results of monitoring of sludge use or disposal practices.

G.12.4.2 If you monitor any pollutant more frequently than required by the permit using test procedures approved under 40 CFR Part 136 or, in the case of sludge use or disposal, approved under 40 CFR 136 unless otherwise specified in 40 CFR Part 503, or as specified in the permit, the results of this monitoring must be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by VIDPNR.

G.12.4.3 Every permittee under this subchapter shall file such other information at such times and in such form as VIDPNR may reasonably require to achieve the purposes of 12 V.I.C. §181 et seq. or the CWA.

**G.12.5** Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit must be submitted no later than 14 days following each schedule date.

**G.12.6** Twenty-four hour reporting. In addition to reports required elsewhere in this permit:

G.12.6.1 You must report any noncompliance which may endanger health or the environment directly to the VIDPNR (see contacts at <https://dpr.vi.gov/contact/>). Any information must be provided orally within 24 hours from the time you become aware of the circumstances. A written submission must also be provided within five days of the time you become aware of the circumstances. The written submission must contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, 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 reoccurrence of the noncompliance.

G.12.6.2 The following shall be included as information which must be reported within 24 hours under this paragraph.

- a. Any unanticipated bypass which exceeds any effluent limitation in the permit. (See 40 CFR 122.41(m)(3)(ii)); and
- b. Any upset which exceeds any effluent limitation in the permit
- c. Violation of a maximum daily discharge limit for any numeric effluent limitation. (See 40 CFR 122.44(g).)

G.12.6.3 The Commissioner may waive the written report on a case-by-case basis for reports under Appendix G, Subsection G.12.6.2 if the oral report has been received within 24 hours.

**G.12.7** Other noncompliance. You must report all instances of noncompliance not reported under Appendix G, Subsections G.12.4, G.12.5, and G.12.6, at the time monitoring reports are submitted. The reports must contain the information listed in Appendix G, Subsection G.12.6.

**G.12.8** Other information. Where you become aware that you failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Permitting Authority, you must promptly submit such facts or information.

### **G.13 Bypass.**

#### **G.13.1** Definitions.

G.13.1.1 Bypass means the intentional diversion of waste streams from any portion of a treatment facility. See Appendix A.

G.13.1.2 Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which 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. See 40 CFR 122.41(m)(1)(ii).

**G.13.2** Bypass not exceeding limitations. You may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Appendix G, Subsections G.13.3 and G.13.4.

#### **G.13.3** Notice.

G.13.3.1 Anticipated bypass. If you know in advance of the need for a bypass, you must submit prior notice, if possible at least ten days before the date of the bypass.

G.13.3.2 Unanticipated bypass. You must submit notice of an unanticipated bypass as required in Appendix G, Subsection G.12.6 (24-hour notice).

**G.13.4** Prohibition of bypass. See 40 CFR 122.41(m)(4).

G.13.4.1 Bypass is prohibited, and the Commissioner may take enforcement action against you for bypass, unless:

- a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable

engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

c. You submitted notices as required under Appendix G, Subsection G.13.3.

G.13.4.2 The Commissioner may approve an anticipated bypass, after considering its adverse effects, if the Commissioner determines that it will meet the three conditions listed above in Appendix G, Subsection G.13.4.1.

#### **G.14 Upset.**

**G.14.1** Definition. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond your reasonable control. 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. See Appendix A.

**G.14.2** 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 Appendix G, Subsection G.14.3 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.

**G.14.3** Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

G.14.3.1 An upset occurred and that you can identify the cause(s) of the upset;

G.14.3.2 The permitted facility was at the time being properly operated; and

G.14.3.3 You submitted notice of the upset as required in Appendix G, Subsection G.12.6.2.b (24 hour notice).

G.14.3.4 You complied with any remedial measures required under Appendix G, Subsection G.4.

**G.14.4** Burden of proof. In any enforcement proceeding, you, as the one seeking to establish the occurrence of an upset, have the burden of proof.

#### **G.15 Retention of Records.**

Copies of the SWPPP and all documentation required by this permit, including records of all data used to complete the NOI to be covered by this permit, must be retained for at least three years from the date that permit coverage expires or is terminated. This period may be extended by request of VIDPNR at any time.

#### **G.16 Reopener Clause.**

**G.16.1** Procedures for modification or revocation. Permit modification or revocation will be conducted according to 40 CFR §122.62, §122.63, §122.64 and §124.5.

**G.16.2** Water quality protection. If there is evidence indicating that the stormwater discharges authorized by this permit cause, have the reasonable potential to cause or contribute to an excursion above any applicable water quality standard, you may be required to obtain an individual permit, or the permit may be modified to include different limitations and/or requirements.

**G.16.3** Timing of permit modification. VIDPNR may elect to modify the permit prior to its expiration (rather than waiting for the new permit cycle) to comply with any new

statutory or regulatory requirements, such as for effluent limitation guidelines that may be promulgated in the course of the current permit cycle.

**G.17 Severability.**

Invalidation of a portion of this permit does not necessarily render the whole permit invalid. VIDPNR's intent is that the permit is to remain in effect to the extent possible; in the event that any part of this permit is invalidated, VIDPNR will advise the regulated community as to the effect of such invalidation.

**G.18 Territorial Laws.**

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 any applicable Territorial law or regulation under authority preserved by section 510 of the CWA. The issuance of this permit does not preempt any duty to obtain territorial assent required by law for the discharge.

## **Appendix H - Notice of Intent (NOI) Form and Instructions**

Until [placeholder for date in 2024 that is 1 year beyond GP reissuance], Part 1.4.2a requires you to complete the following paper NOI form and submit to the appropriate VIDPNR office address listed in the form instructions.

Effective [placeholder for date in 2024 that is 1 year beyond GP reissuance], Part 1.4.2b requires you to use VIDPNR's NOI system (accessible at [placeholder for website address]) to prepare and submit your NOI electronically. However, if the VIDPNR grants you a waiver to use a paper NOI form, and you elect to use it, you must complete the following form and submit to the appropriate VIDPNR office address listed in the form instructions.



**U.S. Virgin Islands Department of Planning & Natural Resources**  
Notice of Intent for the 2023 TPDES Virgin Islands Construction General Permit

Submission of this Notice of Intent (NOI) constitutes notice that the operator identified in Section III of this form requests authorization to discharge pursuant to the TPDES Virgin Islands Construction General Permit (VI CGP) permit number identified in Section II of this form. Submission of this NOI also constitutes notice that the operator identified in Section III of this form meets the eligibility requirements of Part 1.1 of the VI CGP for the project identified in Section IV of this form. Permit coverage is required prior to commencement of construction activity until you are eligible to terminate coverage as detailed in Part 8 of the VI CGP. To obtain authorization, you must submit a complete and accurate NOI form. Discharges are not authorized if your NOI is incomplete or inaccurate or if you were never eligible for permit coverage. Refer to the instructions at the end of this form.

**SECTION I. PERMIT AND FEE INFORMATION**

|               |                                                                                                                                              |                                                                                                                                 |
|---------------|----------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|
| <b>Permit</b> | <b>TPDES ID (VIDPNR Use Only)</b>                                                                                                            | Have you paid the TPDES application fee and included proof of payment? <input type="checkbox"/> Yes <input type="checkbox"/> No |
|               | If you are submitting a change to an NOI previously submitted for coverage under the 2023 VI CGP, indicate the assigned TPDES ID (if known): |                                                                                                                                 |

**SECTION II. OPERATOR INFORMATION**

|                             |                                                                                                                                                                                   |                |           |
|-----------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-----------|
| <b>Operator Information</b> | Operator Name                                                                                                                                                                     |                |           |
|                             | Are you requesting coverage under this NOI as a "Federal Operator" or for a "Federal Facility" as defined in Appendix A? <input type="checkbox"/> Yes <input type="checkbox"/> No |                |           |
|                             | Mailing Address                                                                                                                                                                   |                |           |
|                             | Street                                                                                                                                                                            |                |           |
|                             | City                                                                                                                                                                              | Estate         | ZIP Code  |
|                             | County or Similar Government Division                                                                                                                                             |                |           |
|                             | Operator Point of Contact Information:                                                                                                                                            |                |           |
|                             | First Name                                                                                                                                                                        | Middle Initial | Last Name |
|                             | Title                                                                                                                                                                             |                |           |
|                             | Phone Number                                                                                                                                                                      | Email Address  |           |

|                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                               |                                                |
|----------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------|------------------------------------------------|
| NOI Preparer                                 | Complete if NOI was prepared by someone other than the certifier:                                                                                                                                                                                                                                                                                                                                                                |                                                               |                                                |
|                                              | First Name                                                                                                                                                                                                                                                                                                                                                                                                                       | Middle Initial                                                | Last Name                                      |
|                                              | Organization                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                               |                                                |
|                                              | Phone number                                                                                                                                                                                                                                                                                                                                                                                                                     | Email address                                                 |                                                |
| <b>SECTION III. PROJECT/SITE INFORMATION</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                               |                                                |
| Project/Site Address                         | Project/Site Name                                                                                                                                                                                                                                                                                                                                                                                                                |                                                               |                                                |
|                                              | Street/Location                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                               |                                                |
|                                              | City                                                                                                                                                                                                                                                                                                                                                                                                                             | Estate                                                        | ZIP Code                                       |
|                                              | County or Similar Government Division:                                                                                                                                                                                                                                                                                                                                                                                           |                                                               |                                                |
|                                              | For the project/site you are seeking permit coverage, provide the following information:                                                                                                                                                                                                                                                                                                                                         |                                                               |                                                |
|                                              | Latitude (in decimal degrees to four decimal places):<br>° N                                                                                                                                                                                                                                                                                                                                                                     | Longitude (in decimal degrees to four decimal places):<br>° W |                                                |
|                                              | Latitude/Longitude Data Source: <input type="checkbox"/> Map <input type="checkbox"/> GPS <input type="checkbox"/> Other (Specify):                                                                                                                                                                                                                                                                                              |                                                               |                                                |
|                                              | Horizontal Reference Datum: <input type="checkbox"/> NAD 27 <input type="checkbox"/> NAD 83 <input type="checkbox"/> WGS 84                                                                                                                                                                                                                                                                                                      |                                                               |                                                |
| Project Information                          | Estimated Project Start Date (MM/DD/YYYY)                                                                                                                                                                                                                                                                                                                                                                                        |                                                               | Estimated Project Completion Date (MM/DD/YYYY) |
|                                              | Estimated Area to be Disturbed (to the nearest quarter acre):                                                                                                                                                                                                                                                                                                                                                                    |                                                               |                                                |
|                                              | <div> <input type="checkbox"/> Single-Family Residential <input type="checkbox"/> Multi-Family Residential <input type="checkbox"/> Commercial </div> <div> Type of Construction Site (check all that apply): <input type="checkbox"/> Industrial <input type="checkbox"/> Institutional <input type="checkbox"/> Highway or Road </div> <div> <input type="checkbox"/> Utility <input type="checkbox"/> Other (Specify): </div> |                                                               |                                                |
|                                              | Was the pre-development land use used for agriculture (see Appendix A for definition of "agricultural land")? <input type="checkbox"/> Yes <input type="checkbox"/> No                                                                                                                                                                                                                                                           |                                                               |                                                |
|                                              | Have earth-disturbing activities commenced on your project/site? <input type="checkbox"/> Yes <input type="checkbox"/> No                                                                                                                                                                                                                                                                                                        |                                                               |                                                |
|                                              | If yes, is your project an "emergency-related project" (see Appendix A)? <input type="checkbox"/> Yes <input type="checkbox"/> No                                                                                                                                                                                                                                                                                                |                                                               |                                                |

|                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                     |                                                                                                                          |
|------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|
| Project Information                      | Have stormwater discharges from your project/site been covered previously under a TPDES permit? <input type="checkbox"/> Yes <input type="checkbox"/> No                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                     |                                                                                                                          |
|                                          | If yes, provide the TPDES ID (if you had coverage under VIDPNR's 2012 CGP) or the TPDES permit number (if you had coverage under a TPDES individual permit): _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                     |                                                                                                                          |
|                                          | Are there other operators that are covered under this permit for the same project site? <input type="checkbox"/> Yes <input type="checkbox"/> No                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                     |                                                                                                                          |
|                                          | If yes, provide the TPDES ID number for all other operators at the site who have coverage under this permit: _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                     |                                                                                                                          |
| Project Information                      | Will there be demolition of any structure built or renovated before January 1, 1980? <input type="checkbox"/> Yes <input type="checkbox"/> No                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                     |                                                                                                                          |
|                                          | If yes, do any of the structures being demolished have at least 10,000 square feet of floor space? <input type="checkbox"/> Yes <input type="checkbox"/> No                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                     |                                                                                                                          |
| Project Information                      | Will you be discharging dewatering water from your site? <input type="checkbox"/> Yes <input type="checkbox"/> No                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                     |                                                                                                                          |
|                                          | If yes, will you be discharging dewatering water from a current or former Federal or Territorial remediation site? <input type="checkbox"/> Yes <input type="checkbox"/> No                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                     |                                                                                                                          |
| <b>SECTION IV. DISCHARGE INFORMATION</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                     |                                                                                                                          |
| Project Information                      | By indicating "Yes," I confirm that I understand that the VI CGP only authorizes the allowable stormwater discharges in Part 1.2.1 and the allowable non-stormwater discharges listed in Part 1.2.2. Any discharges not expressly authorized in this permit cannot become authorized or shielded from liability under CWA section 402(k) by disclosure to EPA, Territorial, or local authorities after issuance of this permit via any means, including the Notice of Intent (NOI) to be covered by the permit, the Stormwater Pollution Prevention Plan (SWPPP), during an inspection, etc. If any discharges requiring TPDES permit coverage other than the allowable stormwater and non-stormwater discharges listed in Parts 1.2.1 and 1.2.2 will be discharged, they must be covered under another TPDES permit. <input type="checkbox"/> Yes |                                                                                                                                                                                     |                                                                                                                          |
|                                          | Does your project/site discharge stormwater into a Municipal Separate Storm Sewer System (MS4)? <input type="checkbox"/> Yes <input type="checkbox"/> No                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                     |                                                                                                                          |
|                                          | Are there any waters of the U.S.V.I. within 50 feet of your project's earth disturbances? <input type="checkbox"/> Yes <input type="checkbox"/> No                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                     |                                                                                                                          |
| Receiving Waters Information             | <b>For each point of discharge, provide the following receiving water information. (Attach a separate list if necessary)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                     |                                                                                                                          |
|                                          | <b>Point of Discharge ID</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <b>Provide the name of the first water of the U.S. that receives stormwater directly from the point of discharge and/or from the MS4 that the point of discharge discharges to:</b> | <b>If the receiving water is impaired (on the CWA 303(d) list), list the pollutants that are causing the impairment:</b> |
|                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                     | <b>If a TMDL been completed for this receiving waterbody, providing the following information:</b>                       |
|                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                     | <b>TMDL Name and ID:</b>                                                                                                 |
|                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                     | <b>Pollutant(s) for which there is a TMDL:</b>                                                                           |
|                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                     | <b>TMDL Name and ID:</b>                                                                                                 |
|                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                     | <b>Pollutant(s) for which there is a TMDL:</b>                                                                           |

| For each point of discharge, provide the following receiving water information. (Attach a separate list if necessary)                                                                                              |                                                                                                                                                                                  |                                                                                                                   |                                                                                             |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|
| Point of Discharge ID                                                                                                                                                                                              | Provide the name of the first water of the U.S.V.I. that receives stormwater directly from the point of discharge and/or from the MS4 that the point of discharge discharges to: | If the receiving water is impaired (on the CWA 303(d) list), list the pollutants that are causing the impairment: | If a TMDL been completed for this receiving waterbody, providing the following information: |
| Receiving Waters Information                                                                                                                                                                                       |                                                                                                                                                                                  |                                                                                                                   | TMDL Name and ID:                                                                           |
|                                                                                                                                                                                                                    |                                                                                                                                                                                  |                                                                                                                   | Pollutant(s) for which there is a TMDL:                                                     |
|                                                                                                                                                                                                                    |                                                                                                                                                                                  |                                                                                                                   | TMDL Name and ID:                                                                           |
|                                                                                                                                                                                                                    |                                                                                                                                                                                  |                                                                                                                   | Pollutant(s) for which there is a TMDL:                                                     |
|                                                                                                                                                                                                                    |                                                                                                                                                                                  |                                                                                                                   | TMDL Name and ID:                                                                           |
|                                                                                                                                                                                                                    |                                                                                                                                                                                  |                                                                                                                   | Pollutant(s) for which there is a TMDL:                                                     |
|                                                                                                                                                                                                                    |                                                                                                                                                                                  |                                                                                                                   | TMDL Name and ID:                                                                           |
|                                                                                                                                                                                                                    |                                                                                                                                                                                  |                                                                                                                   | Pollutant(s) for which there is a TMDL:                                                     |
|                                                                                                                                                                                                                    |                                                                                                                                                                                  |                                                                                                                   | TMDL Name and ID:                                                                           |
|                                                                                                                                                                                                                    |                                                                                                                                                                                  |                                                                                                                   | Pollutant(s) for which there is a TMDL:                                                     |
| Are any of the waters of the U.S.V.I. to which you discharge designated by VIDPNR under its antidegradation policy as a Class A water ? (See Appendix E). <input type="checkbox"/> Yes <input type="checkbox"/> No |                                                                                                                                                                                  |                                                                                                                   |                                                                                             |
| If yes, name(s) of receiving water(s) and the island (St. Croix, St. John, or St. Thomas):                                                                                                                         |                                                                                                                                                                                  |                                                                                                                   |                                                                                             |

| SECTION V. CHEMICAL TREATMENT INFORMATION                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                |                                                          |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|----------------------------------------------------------|
| Chemical Treatment                                                                                                                                                                                                                                                                                                                                  | Will you use polymers, flocculants, or other treatment chemicals at your construction site?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|                                                                                                                                                                                                                                                                                                                                                     | If yes, will you use cationic treatment chemicals at your construction site*?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|                                                                                                                                                                                                                                                                                                                                                     | If yes, have you been authorized to use cationic treatment chemicals by VIDPNR in advance of filing your NOI*?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|                                                                                                                                                                                                                                                                                                                                                     | If you have been authorized to use cationic treatment chemicals by VIDPNR, attach a copy of your authorization letter and include documentation of the appropriate controls and implementation procedures designed to ensure that your use of cationic treatment chemicals will not lead to a violation of water quality standards.                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                |                                                          |
| Please indicate the treatment chemicals that you will use:                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                |                                                          |
| * Note: You are ineligible for coverage under this permit unless you notify VIDPNR in advance and VIDPNR authorizes coverage under this permit after you have included appropriate controls and implementation procedures designed to ensure that your use of cationic treatment chemicals will not lead to a violation of water quality standards. |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                |                                                          |
| SECTION VI. STORMWATER POLLUTION PREVENTION PLAN (SWPPP) AND PERSONNEL TRAINING INFORMATION                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                |                                                          |
| SWPPP                                                                                                                                                                                                                                                                                                                                               | Has the SWPPP been prepared and is it included with the filing of this NOI, as required?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|                                                                                                                                                                                                                                                                                                                                                     | By indicating "Yes," I confirm that all required personnel, including those conducting inspections at your site, will meet the training requirements in Part 6 of this permit.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                | <input type="checkbox"/> Yes                             |
| SWPPP Contact Information                                                                                                                                                                                                                                                                                                                           | First Name                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Middle Initial | Last Name                                                |
|                                                                                                                                                                                                                                                                                                                                                     | Professional Title                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                |                                                          |
|                                                                                                                                                                                                                                                                                                                                                     | Phone number                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Email address  |                                                          |
| SECTION VII. ENDANGERED SPECIES PROTECTION                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                |                                                          |
| Endangered Species Protection                                                                                                                                                                                                                                                                                                                       | In accordance with Part 1.1.5, if the VIDPNR grants you a waiver from electronic reporting, you must complete the worksheet in Appendix C to select your eligibility criteria with respect to the protection of Federally listed threatened or endangered species and Federally designated "critical habitat" under the Endangered Species Act (ESA) [hereinafter "ESA-listed species and designated critical habitat(s)"] from discharges and discharge-related activities authorized under this permit.                                                                                                                                                                                                                                                                                                        |                |                                                          |
|                                                                                                                                                                                                                                                                                                                                                     | <p><b>You must submit the eligibility worksheet relating to threatened and endangered species (Appendix C) and all required supporting documentation with this NOI. If you do not submit the worksheet and the required supporting documentation with your NOI, your NOI will be considered incomplete.</b> After you submit your NOI and before your NOI is authorized, VIDPNR may notify you if any additional controls are necessary to ensure your discharges are not likely to result in any short- or long-term adverse effects on locally- and/or ESA-listed species and critical habitat.</p> <p>By indicating "Yes," I confirm that you have included the completed worksheet from Appendix C and all required supporting information for your criterion selection with the submission of this NOI.</p> |                |                                                          |
|                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                | <input type="checkbox"/> Yes                             |

**SECTION IX. HISTORIC PRESERVATION**

|                       |                                                                                                                                                                                                                                        |                              |                             |
|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|-----------------------------|
| Historic Preservation | Are you installing any stormwater controls as described in Appendix D that require subsurface earth disturbance? (Appendix D, Step 1)                                                                                                  | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
|                       | If yes, have prior surveys or evaluations conducted on the site have already determined historic properties do not exist, or that prior disturbances have precluded the existence of historic properties? (Appendix D, Step 2)         | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
|                       | If no, have you determined that your installation of subsurface earth-disturbing stormwater controls will have no effect on historic properties? (Appendix D, Step 3)                                                                  | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
|                       | If no, did the SHPO representative respond to you within the 15 calendar days to indicate whether the subsurface earth disturbances caused by the installation of stormwater controls affect historic properties? (Appendix D, Step 4) | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
|                       | If yes, describe the nature of their response:                                                                                                                                                                                         |                              |                             |
|                       | <input type="checkbox"/> Written indication that no historic properties will be affected by the installation of stormwater controls.                                                                                                   |                              |                             |
|                       | <input type="checkbox"/> Written indication that adverse effects to historic properties from the installation of stormwater controls can be mitigated by agreed upon actions.                                                          |                              |                             |
|                       | <input type="checkbox"/> No agreement has been reached regarding measures to mitigate effects to historic properties from the installation of stormwater controls.                                                                     |                              |                             |
|                       | <input type="checkbox"/> Other (Specify):                                                                                                                                                                                              |                              |                             |

**SECTION X. CERTIFICATION INFORMATION**

|                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                |                   |
|---------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-------------------|
| Certification Information | 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 gathered and evaluated 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 have no personal knowledge that the information submitted is other than 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 violations. |                |                   |
|                           | First Name                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Middle Initial | Last Name         |
|                           | Title                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                |                   |
|                           | Signature                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                | Date (MM/DD/YYYY) |
|                           | Email Address                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                |                   |

## Instructions for Completing

### Notice of Intent for the 2023 TPDES Construction General Permit

#### General Instructions

##### Who Must File an NOI Form?

Under the provisions of the Clean Water Act, as amended (33 U.S.C. 1251 et. seq.; the Act), and the Virgin Islands Water Pollution Control Act, 12 V.I. CODE ANN. §184 (1998 & Supp. 2004) et. Seq., Federal and Territorial law prohibit stormwater discharges from certain construction activities to waters of the U.S.V.I. unless that discharge is covered under a Territorial Pollutant Discharge Elimination System (TPDES) permit. Operators of construction sites where one or more acres are disturbed, smaller sites that are part of a larger common plan of development or sale where there is a cumulative disturbance of at least one acre, or any other site specifically designated by VIDPNR, must obtain coverage under a TPDES general permit. For coverage under the 2023 VI CGP, each person, firm, public organization, or any other entity that meets either of the following criteria must file a Notice of Intent form: (1) they have operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or (2) they have day-to-day operational control of those activities at the project necessary to ensure compliance with the permit conditions. If you have questions about whether you need a TPDES stormwater permit, contact the VI DPNR office where your project/site is located: for St. Croix (340) 773-1082 and for St. Thomas or St. John (340) 774-3320.

See <https://dpr.vi.gov/contact/> for additional contact information.

##### Completing the Form

Obtain and read a copy of the 2023 VI CGP, viewable at <https://dpr.vi.gov/environmental-protection/water-pollution-control-program/>. To complete this form, type or print uppercase letters, in the appropriate areas only. Please place each character between the marks (abbreviate if necessary to stay within the number of characters allowed for each item). Use one space for breaks between words, but not for punctuation marks unless they are needed to clarify your response. If you have any questions on this form, telephone the appropriate DPNR office. **Please submit the original document with signature in ink - do not send a photocopied signature.**

##### Section I. Permit and Fee Information

VIDPNR will assign a TPDES permit number (do not write in the grey area); however, if you are submitting a change to a previously submitted paper NOI form, provide the TPDES permit number of the permit under which you are applying for coverage, if known.

##### Section II. Operator Information

Provide the legal name of the person, firm, public organization, or any other entity that operates the project described in this NOI. Refer to Appendix A of the permit for the definition of "operator".

Indicate whether you are seeking coverage under this permit as a "Federal Operator" or "Federal Facility" as defined in Appendix A.

Also provide a point of contact, the operator's mailing address, county, telephone number, and e-mail address (to be notified via e-mail of NOI approval when available). Correspondence for the NOI will be sent to this address.

If the NOI was prepared by someone other than the certifier (for example, if the NOI was prepared by the facility SWPPP contact or a consultant for the certifier's signature), include the full name, organization, phone number, and email address of the NOI preparer.

##### Section III. Project/Site Information

Enter the official or legal name and complete street address, including city, Estate, ZIP code, and county or similar government subdivision of the project or site. If the project or site lacks a street address, indicate the general location of the site (e.g., Intersection of State Highways 61 and 34). Complete site information must be provided for permit coverage to be granted.

Provide the latitude and longitude of your facility in decimal degrees format. The latitude and longitude of your facility can be determined in several different ways, including through the use of global positioning system (GPS) receivers, U.S. Geological Survey (U.S.G.S.) topographic or quadrangle maps, and web-based siting tools, among others. For consistency, VIDPNR requests that measurements be taken from the approximate center of the construction site. For linear construction sites, the measurement should be taken midpoint of the site. If known, enter the horizontal reference datum for your latitude and longitude. The horizontal reference datum is shown on the bottom left corner of USGS topographic maps; it is also available for GPS receivers.

Indicate whether the project is in Indian country lands or located on a property of religious or cultural significance to an Indian Tribe, and if so, provide the name of the Indian Tribe associated with the area of Indian country (including name of Indian reservation, if applicable), or if not in Indian country, provide the name of the Indian Tribe associated with the property.

Enter the estimated construction start and completion dates using four digits for the year (i.e., 10/06/2023). Indicate to the nearest quarter acre the estimated area to be disturbed. Indicate the type of construction site.

Indicate whether the pre-development land use of the site was used for agriculture. Appendix A defines "agricultural land" as cropland, grassland, rangeland, pasture, and other agricultural land, on which agricultural and forest-related products or livestock are produced and resource concerns may be addressed. Agricultural lands include cropped woodland, marshes, incidental areas included in the agricultural operation, and other types of agricultural land used for the production of livestock.

Indicate whether earth-disturbing activities have already commenced on your project/site. If earth-disturbing activities have commenced on your site because stormwater discharges from the site have been previously covered under a TPDES permit, you must provide the 2012 VI CGP TPDES ID or the TPDES permit number if coverage was under an individual permit.

Indicate if demolition is occurring, and if so, if the structure has at least 10,000 square feet of floor space.

Indicate if there are other operators covered under this permit for the same project site. If there are multiple operators, provide the TPDES ID number for the other operators at the site who have coverage under this permit.

Indicate whether you will be discharging dewatering water, as defined in Appendix A, during the course of the project. If you will be discharging dewatering water, indicate whether the site from which you will be dewatering is located on a current or former Federal or Territorial remediation site. Federal remediation sites include cleanups covered by Superfund (both National Priorities List (NPL) sites and non-NPL sites), Resource Conservation and Recovery Act (RCRA) corrective actions sites, cleanups at Federal Facilities, and Federal, Territorial brownfields sites. Territorial remediation sites could include, for instance, brownfield site cleanups funded by the Territory, Territory superfund sites, and petroleum tank release sites. Operators may use online mapping resources, such as EPA's Cleanups in My Community Map, to help determine if they are located on a remediation site. The Cleanups in My Community Map is viewable at:

<https://ordspub.epa.gov/ords/cimc/f?p=cimc:map:::71>

#### **Section IV. Discharge Information**

You must confirm that you understand that the VI CGP only authorizes the allowable stormwater discharges listed in Part 1.2.1 and the allowable non-stormwater discharges listed in Part 1.2.2. Any discharges not expressly authorized under the VI CGP are not covered by the VI CGP or the permit shield provision of the CWA Section 402(k) and they cannot become authorized or shielded by disclosure to EPA, Territory, or local authorities via the NOI to be covered by the permit or by any other means (e.g., in the SWPPP or during an inspection). If any discharges requiring TPDES permit coverage other than the allowable stormwater and non-stormwater discharges listed in Parts 1.2.1 and 1.2.2 will be discharged, they must either be eliminated or covered under another TPDES permit.

Indicate whether discharges from the site will enter into a municipal separate storm sewer system (MS4), as defined in Appendix A.

Also, indicate whether any waters of the U.S.V.I. exist within 50 feet from your site. Note that if "yes", you are required to comply with the requirement in Part 2.2.1 of the permit to provide natural buffers or equivalent erosion and sediment controls.

For each unique point of discharge you list, you must specify the name of the first water of the U.S.V.I. that receives stormwater directly from the point of discharge and/or from the MS4 that the point of discharge discharges to. You must specify whether any waters of the U.S.V.I. that you discharge to are listed as "impaired" as defined in Appendix A, and the pollutants for which the water is impaired. You must identify any Total Maximum Daily Loads (TMDL) that have been completed for any of the waters of the U.S.V.I. that you discharge to. Operators may find it useful to use EPA's Discharge Mapping Tool to determine whether the water of the U.S.V.I. is impaired, the pollutant causing the impairment, and whether a TMDL exists for the water body. The Discharge Mapping Tool is viewable at <https://www.epa.gov/npdes/epas-stormwater-discharge-mapping-tools>.

Indicate whether discharges from the site will enter into a water of the U.S.V.I. that is designated as a Class A water. A list of Class A waters is provided in Appendix E. If the answer

is "yes", name all waters designated as Class A to which the site will discharge.

#### **Section V. Chemical Treatment Information**

Indicate whether the site will use polymers, flocculants, or other treatment chemicals. Indicate whether the site will employ cationic treatment chemicals. If the answer is "yes" to either question, indicate which chemical(s) you will use. Note that you are not eligible for coverage under this permit to use cationic treatment chemicals unless you notify VIDPNR in advance and VIDPNR authorizes coverage under this permit after you have included appropriate controls and implementation procedures designed to ensure that your use of cationic treatment chemicals will not lead to a violation of water quality standards. If you have been authorized to use cationic treatment chemicals by VIDPNR, attach a copy of your authorization letter and include documentation of the appropriate controls and implementation procedures designed to ensure that your use of cationic treatment chemicals will not lead to a violation of water quality standards. Examples of cationic treatment chemicals include, but are not limited to, cationic polyacrylamide (C-PAM), PolyDADMAC (POLY DIALLYL DIMETHYL AMMONIUM CHLORIDE), and chitosan.

#### **Section VI. Stormwater Pollution Prevention Plan (SWPPP) and Personnel Training Information**

All sites eligible for coverage under this permit are required to prepare a SWPPP in accordance with Part 7 and submit the completed SWPPP for review with the filing of the NOI in accordance with Part 1.4.1. Indicate whether the SWPPP has been completed and is included with the NOI filing.

Confirm that all required personnel, including those conducting inspections at your site, will meet the training requirements in Part 6 of this permit.

Indicate the street, city, Estate, and ZIP code where the SWPPP can be found. Indicate the contact information (name, organization, phone, and email) for the person who developed the SWPPP for this project.

#### **Section VII. Endangered Species Information**

Confirm that you have included the completed worksheet from Appendix C and all required supporting information for your criterion selection with the submission of this NOI.

#### **Section IX. Historic Preservation**

Use the instructions in Appendix D to complete the questions on the NOI form regarding historic preservation.

#### **Section X. Certification Information**

The NOI must be signed as follows:

(a) *For a corporation:* By a responsible corporate officer. For the purpose of this Section, a responsible corporate officer means:

(i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary

systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

Note: VIDPNR does not require specific assignments or delegations of authority to responsible corporate officers identified in paragraph (a)(i) of this section. VIDNPR will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the Commissioner to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions under paragraph (a)(ii) of this section rather than to specific individuals.

(b) *For a partnership or sole proprietorship:* By a general partner or the proprietor, respectively; or

(c) *For a municipality, State, Federal, or other public agency:* By either a principal executive officer or ranking elected official. For purposes of this Part, a principal executive officer of a Federal agency includes (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrator of EPA).

Include the name and title of the person signing the form and the date of signing. An unsigned or undated NOI form will not be considered eligible for permit coverage.

#### **Modifying Your NOI**

If you have been granted a waiver from VIDPNR from electronic reporting, and if after submitting your NOI you need to correct or update any fields on this NOI form, you may do so by indicating changes on this same form.

#### **Submitting Your Form**

Submit your NOI form by mail to one of the following addresses, corresponding with the island on which your project/site is located.

##### **ST. CROIX**

Virgin Islands Department of Planning and Natural Resources  
Water Pollution Control Program  
ATTN: TPDES Program  
45 Estate Mars Hill  
Frederiksted, VI 00840

##### **ST. THOMAS & ST. JOHN**

Virgin Islands Department of Planning and Natural Resources  
Water Pollution Control Program  
ATTN: TPDES Program  
4611 Tutu Park Mall, Suite 300  
St. Thomas, VI 00802

## **Appendix I - Notice of Termination (NOT) Form and Instructions**

Until [placeholder for date in 2024 that is 1 year beyond GP reissuance], Part 8.3a requires you to complete your NOT using the following paper NOT form and submit to the appropriate VIDPNR office address listed in the form instructions.

Effective [placeholder for date in 2024 that is 1 year beyond GP reissuance], Part 8.3b requires you to use VIDPNR's NOT system (accessible at [placeholder for website address]) to prepare and submit your NOT electronically. However, if the VIDPNR grants you a waiver to use a paper NOT form, and you elect to use it, you must complete and submit the following form.



## U.S. Virgin Islands Department of Planning & Natural Resources

### Notice of Termination for the 2023 TPDES Virgin Islands Construction General Permit

Submission of this Notice of Termination constitutes notice that the operator identified in Section III of this form is no longer authorized discharge pursuant to the TPDES Virgin Islands Construction General Permit (VI CGP) from the site identified in Section IV of this form. All necessary information must be included on this form. Refer to the instructions at the end of this form.

#### SECTION I. PERMIT INFORMATION

|        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|--------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Permit | TPDES ID                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|        | <p><input type="checkbox"/> You have completed all construction activities at your site, and you have met all other requirements in Part 8.2.1.</p> <p>Check this box to confirm that you have attached photographs as required by Part 8.2.1.a that document your compliance with the permit's final stabilization requirements.</p> <p>Include the date each photograph was taken, and a brief description of the area of the site captured by the photograph (e.g., photo shows application of seed and erosion control mats to remaining exposed surfaces on northeast corner of site).</p> <p><input type="checkbox"/></p> <p>If any portion of your site is covered by one of the Part 2.2.14c.iii exceptions to the final stabilization criteria, indicate which exception applies and include a supplementary explanation with your photographs that provides the necessary context for why this portion of the site is in compliance even though it appears to be unstabilized.</p> <p><input type="checkbox"/> Another operator has assumed control over all areas of the site and that operator has submitted an NOI and obtained coverage under the VI CGP.</p> <p><input type="checkbox"/> You have obtained coverage under an individual permit or another general TPDES permit addressing stormwater discharges from the construction site.</p> |

#### SECTION II. OPERATOR INFORMATION

|                      |                                       |               |          |
|----------------------|---------------------------------------|---------------|----------|
| Operator Information | Operator Name                         |               |          |
|                      | Mailing Address                       |               |          |
|                      | Street                                |               |          |
|                      | City                                  | Estate        | ZIP Code |
|                      | County or Similar Government Division |               |          |
|                      | Phone Number                          | Email Address |          |

**SECTION III. PROJECT/SITE INFORMATION**

|                      |                                        |        |          |
|----------------------|----------------------------------------|--------|----------|
| Project/Site Address | Project/Site Name                      |        |          |
|                      | Street/Location                        |        |          |
|                      | City                                   | Estate | ZIP Code |
|                      | County or Similar Government Division: |        |          |

**SECTION IV. CERTIFICATION INFORMATION**

|                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                |                   |
|---------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-------------------|
| Certification Information | 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 gathered and evaluated 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 violations. |                |                   |
|                           | First Name                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Middle Initial | Last Name         |
|                           | Title                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                |                   |
|                           | Signature                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                | Date (MM/DD/YYYY) |
|                           | Email Address                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                |                   |

## Instructions for Completing

### Notice of Termination for the 2023 TPDES Virgin Islands Construction General Permit

#### General Instructions

##### Who May File an NOT Form?

Permittees who are presently covered under the VIDPNR-issued 2023 Virgin Islands Construction General Permit (VI CGP) for Stormwater Discharges Associated with Construction Activity may submit an NOT form when: (1) earth-disturbing activities at the site are completed and the conditions in Parts 8.2.1.a through 8.2.1.b are met; or (2) the permittee has transferred all areas under its control to another operator, and that operator has submitted and obtained coverage under this permit; or (3) the permittee has obtained coverage under a different TPDES permit for the same discharges.

##### Completing the Form

Type or print, using uppercase letters, in the appropriate areas only. Please place each character between the marks. Abbreviate if necessary to stay within the number of characters allowed for each item. Use only one space for breaks between words, but not for punctuation marks unless they are needed to clarify your response. If you have any questions about this form, telephone the appropriate VIDPNR office. **Please submit original document with signature in ink - do not send a photocopied signature.**

##### Section I. Permit Information

Enter the existing TPDES ID assigned to the project. If you do not know the TPDES ID number, contact the VIDPNR office where your project/site is located: for St. Croix (340) 773-10821 and for St. Thomas or St. John (340) 774-3320.

See <https://dpmr.vi.gov/contact/> for additional contact information.

Indicate your reason for submitting this Notice of Termination by checking the appropriate box. Check only one. If you selected the first box, confirm that you have attached photographs as required by Part 8.2.1.a. All submitted photographs must: (1) be taken both before and after the site has met the final stabilization criteria in Part 2.2.14.c; (2) be clear and in focus, and in the original format and resolution; and (3) include the date each photograph was taken, and a brief description of the area of the site captured by the photograph (e.g., photo shows application of seed and erosion control mats to remaining exposed surfaces on northeast corner of site).

If any portion of your site is covered by one of the Part 2.2.14.c.iii final stabilization exceptions, indicate which exception applies and provide an explanation with your photographs that describes why this portion of the site is in compliance even though it may appear to be unstabilized.

##### Section II. Operator Information

Provide the legal name of the person, firm, public organization, or any other entity that operates the project described in this NOT and is covered by the TPDES ID identified in Section II. Enter the complete mailing address, telephone number, and email address of the operator.

##### Section III. Project/Site Information

Enter the official or legal name and complete street address, including city, Estate, ZIP code, and county or similar

government subdivision of the project or site. If the project or site lacks a street address, indicate the general location of the site (e.g., Intersection of State Highways 61 and 34). Complete site information must be provided for termination of permit coverage to be valid.

##### Section IV. Certification Information

The NOT, must be signed as follows:

(a) *For a corporation:* By a responsible corporate officer. For the purpose of this Part, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy-or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

Note: VIDPNR does not require specific assignments or delegations of authority to responsible corporate officers identified in paragraph (a)(i) of this section. VIDPNR will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the Commissioner to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions under paragraph (a)(ii) of this section rather than to specific individuals.

(b) *For a partnership or sole proprietorship:* By a general partner or the proprietor, respectively; or

(c) *For a municipality, Territory, Federal, or other public agency:* By either a principal executive officer or ranking elected official. For purposes of this Part, a principal executive officer of a Federal agency includes (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrator of EPA).

Include the name, title, and email address of the person signing the form and the date of signing. An unsigned or undated NOT form will not be considered valid termination of permit coverage.

##### Submitting Your NOT Form

Submit your NOT form by mail to one of the following addresses, corresponding with the island on which your project/site is located.

**ST. CROIX**

Virgin Islands Department of Planning and Natural Resources  
Water Pollution Control Program  
ATTN: TPDES Program  
45 Estate Mars Hill  
Frederiksted, VI 00840

**ST. THOMAS & ST. JOHN**

Virgin Islands Department of Planning and Natural Resources  
Water Pollution Control Program  
ATTN: TPDES Program  
4611 Tutu Park Mall, Suite 300  
St. Thomas, VI 00802

## **Appendix J - Suggested Format for Request for Chemical Treatment**

If you plan to add "cationic treatment chemicals" (as defined in Appendix A) to stormwater and/or authorized non-stormwater prior to discharge, Part 1.1.7 requires you to notify VIDPNR in advance of submitting your NOI. VIDPNR will authorize coverage under this permit after you have included appropriate controls and implementation procedures designed to ensure that your use of cationic treatment chemicals will result in discharges that meet applicable water quality standards. To notify VIDPNR, you may use the following form.



## U.S. Virgin Islands Department of Planning & Natural Resources

### Suggested Form for Notifying VIDPNR about Proposed Use of Cationic Treatment Chemicals under the 2023 TPDES Virgin Islands Construction General Permit

Under Part 1.1.9 of the 2023 VI CGP, if you plan to add "cationic treatment chemicals" (as defined in Appendix A) to stormwater and/or authorized non-stormwater prior to discharge, you may not submit your Notice of Intent (NOI) until you notify VIDPNR in advance and VIDPNR authorizes coverage under this permit after you have included appropriate controls and implementation procedures designed to ensure that your use of cationic treatment chemicals will result in discharges that meet applicable water quality standards. You may use this suggested form to notify VIDPNR about your proposed use of cationic treatment chemicals.

#### SECTION I. OPERATOR INFORMATION

|                      |                                       |               |          |
|----------------------|---------------------------------------|---------------|----------|
| Operator Information | Operator Name                         |               |          |
|                      | Mailing Address                       |               |          |
|                      | Street                                |               |          |
|                      | City                                  | Estate        | ZIP Code |
|                      | County or Similar Government Division |               |          |
|                      | Phone Number                          | Email Address |          |

#### SECTION II. PROJECT/SITE INFORMATION

|                          |                                                                                   |                |           |
|--------------------------|-----------------------------------------------------------------------------------|----------------|-----------|
| Project/Site Information | Project/Site Name                                                                 |                |           |
|                          | Project/Site Address                                                              |                |           |
|                          | Street/Location                                                                   |                |           |
|                          | City                                                                              | Estate         | ZIP Code  |
|                          | County or Similar Government Division                                             |                |           |
|                          | Site Contact Information (if different from operator)                             |                |           |
|                          | First Name                                                                        | Middle Initial | Last Name |
|                          | Phone Number                                                                      |                |           |
|                          | Receiving Waterbodies                                                             |                |           |
|                          | Name(s) of Receiving Waterbodies and island (St. Croix, St. John, or St. Thomas): |                |           |

#### SECTION III. MAP

|     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Map | <p>Attach a map that illustrates the entire site including all of the below items. Include this map in your Stormwater Pollution Prevention Plan (SWPPP).</p> <ul style="list-style-type: none"><li>- All receiving waterbodies</li><li>- All proposed location(s) of chemical treatment system(s)</li><li>- All proposed point(s) of discharge to receiving waterbodies</li><li>- All soil types within areas to be disturbed</li><li>- All areas of earth disturbance</li><li>- Sufficient indication of topography to indicate where stormwater flows</li></ul> <p>Attach a schematic drawing of the proposed treatment system(s). Include all components of the treatment train, sample points, and pipe configurations. In addition to sufficient holding capacity upstream of treatment, the system must have the capacity to hold water for testing and to re-treat water that does not meet water quality standards.</p> |
|-----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**SECTION IV. RESPONSIBLE PERSONNEL**

|                       |                                                                                                                       |                                                                                                                                                          |          |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| Responsible Personnel | Treatment System Operator or Company Name (if subcontracted out):                                                     |                                                                                                                                                          |          |
|                       | Street/Location                                                                                                       |                                                                                                                                                          |          |
|                       | City                                                                                                                  | Estate                                                                                                                                                   | ZIP Code |
|                       | Responsible Personnel                                                                                                 |                                                                                                                                                          |          |
|                       | List personnel who will be responsible for operating the chemical treatment systems and application of the chemicals. | Cite the training that the personnel have received in operation and maintenance of the treatment system(s) and use of the specific chemical(s) proposed. |          |
|                       |                                                                                                                       |                                                                                                                                                          |          |
|                       |                                                                                                                       |                                                                                                                                                          |          |
|                       |                                                                                                                       |                                                                                                                                                          |          |

**SECTION V. PROPOSED TREATMENT**

|                                                                                   |                                                    |                                                                                                                                                                                                         |
|-----------------------------------------------------------------------------------|----------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Proposed Treatment                                                                | Check proposed treatment system to be used:        | <input type="checkbox"/> Chitosan enhanced sand filtration with discharge to infiltration (ground water).                                                                                               |
|                                                                                   |                                                    | <input type="checkbox"/> Chitosan enhanced sand filtration with discharge to temporary holding ponds (batch).                                                                                           |
|                                                                                   |                                                    | <input type="checkbox"/> Chitosan enhanced sand filtration with discharge to surface waters (flow-through).                                                                                             |
|                                                                                   |                                                    | <input type="checkbox"/> Other (describe below and submit documentation that the proposed system and chemical(s) demonstrate the ability to remove turbidity and produce non-toxic effluent/discharge): |
|                                                                                   | Check proposed cationic chemical(s) to be used:    | <input type="checkbox"/> Flocclear™ (2% chitosan acetate solution).                                                                                                                                     |
|                                                                                   |                                                    | <input type="checkbox"/> StormKlear™ LiquiFloc™ (1% chitosan acetate solution).                                                                                                                         |
|                                                                                   |                                                    | <input type="checkbox"/> ChitoVan™ (1% chitosan acetate solution).                                                                                                                                      |
|                                                                                   |                                                    | <input type="checkbox"/> StormKlear™ LiquiFloc™ (3% chitosan acetate solution).                                                                                                                         |
|                                                                                   |                                                    | <input type="checkbox"/> Other (Specify):                                                                                                                                                               |
|                                                                                   | Estimated Treatment Period Start Date (MM/DD/YYYY) |                                                                                                                                                                                                         |
| Describe sampling and recordkeeping schedule. Attach additional sheets as needed: |                                                    |                                                                                                                                                                                                         |

|                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|---------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Proposed Treatment</b> | <p>Explain why you have selected this proposed treatment system and chemicals. Include an explanation of why the use of cationic treatment chemicals is necessary at the site. Reference how the soil types on your site influenced your choices. Describe or provide an illustration of how the site of the discharge will be stabilized and why the discharge location will not cause erosion of the discharge water's bank or bed (please note that a permit from the Corps and other Territorial agencies may be necessary to place rock in the water body for this stabilization). Attach as many additional sheets as needed for a full explanation. If you have a report from a chemical treatment contractor describing their recommended approach you may attach that.</p> |
|---------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

| <b>SECTION VI. CERTIFICATION INFORMATION</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                   |
|----------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|
| <b>Certification Information</b>             | <p>I have documented and hereby certify that the following information is correct and has been documented in the SWPPP for this project:</p> <ul style="list-style-type: none"> <li>• The SWPPP includes a complete site-specific description of the chemical treatment system herein proposed for use, including specifications, design, and Material Safety Data Sheets for all chemicals to be used.</li> <li>• The controls to be used on the site are compatible with the safe and effective use of cationic chemical treatment.</li> <li>• I verified through jar tests that the site soil is conducive to chemical treatment.</li> <li>• I verified that the chemical treatment system operators for this project received training.</li> <li>• I read, understand, and will follow all conditions and design criteria in the applicable use designation(s).</li> <li>• If the discharge is to Tribal waters, I notified the appropriate Tribal government of the intent to use chemical treatment on a site located within that jurisdiction.</li> <li>• I will keep the use level designation, operation and maintenance manual, and training certificate on site prior to and during use of chemical treatment.</li> <li>• A licensed engineer designed the system for this project including system sizing, pond sizing, and flow requirements.</li> <li>• I verify that the discharge will not adversely affect downstream conveyance systems or stream channels (e.g., cause erosion).</li> </ul> <p>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 gathered and evaluated 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 violations.</p> |                   |
|                                              | Authorized Official                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                   |
|                                              | First Name                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Middle Initial    |
|                                              | Last Name                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                   |
|                                              | Title                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                   |
|                                              | Signature                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Date (MM/DD/YYYY) |
|                                              | Email Address                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                   |

## Instructions for Submitting

### Suggested Form for Notifying VIDPNR about Proposed Use of Cationic Treatment Chemicals under the 2023 TPDES Virgin Islands Construction General Permit

#### Section I. Operator Information

Provide the legal name of the person, firm, public organization, or any other entity that operates the project. Refer to Appendix A of the permit for the definition of "operator." Provide the operator's mailing address, county, telephone number, and e-mail address.

#### Section II. Project/Site Information

Enter the official or legal name and complete street address, including city, Estate, ZIP code, and county or similar government subdivision of the project or site. If the project or site lacks a street address, indicate the general location of the site (e.g., Intersection of State Highways 61 and 34).

Provide site contact information, if different from the operator.

Provide the name of the receiving waterbodies to which your site/project will discharge.

#### Section III. Map

Attach a map of the entire site that includes the identified items. Attach a schematic of the proposed treatment system(s) that includes the identified items.

#### Section IV. Responsible Personnel

Provide the legal name of the treatment system operator or company and complete street address, including city, State, including city, Estate, and ZIP code.

List personnel who will be responsible for operating the chemical treatment systems and application of the chemicals. For each personnel listed, cite the training that the personnel have received in operation and maintenance of the treatment system(s) and use of the specific chemical(s) proposed.

#### Section V. Proposed Treatment

Indicate the proposed treatment system and proposed cationic chemicals to be used. Indicate the estimated treatment start and end dates. Describe the sampling and recordkeeping schedule. Explain why you have selected the proposed treatment system and chemicals.

#### Section VI. Certification Information

The form must be signed as follows:

(a) *For a corporation:* By a responsible corporate officer. For the purpose of this Section, a responsible corporate officer means:

(i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures

to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

Note: VIDPNR does not require specific assignments or delegations of authority to responsible corporate officers identified in paragraph (a)(i) of this section. VIDPNR will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the Commissioner to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions under paragraph (a)(ii) of this section rather than to specific individuals.

(b) *For a partnership or sole proprietorship:* By a general partner or the proprietor, respectively; or

(c) *For a municipality, Territory, Federal, or other public agency:* By either a principal executive officer or ranking elected official. For purposes of this Part, a principal executive officer of a Federal agency includes (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrator of EPA).

Include the name and title of the person signing the form and the date of signing.

#### Submitting Your Form

Submit this form to one of the following addresses, corresponding with the island on which your project/site is located.

##### ST. CROIX

Virgin Islands Department of Planning and Natural Resources  
Water Pollution Control Program  
ATTN: TPDES Program  
45 Estate Mars Hill  
Frederiksted, VI 00840

##### ST. THOMAS & ST. JOHN

Virgin Islands Department of Planning and Natural Resources  
Water Pollution Control Program  
ATTN: TPDES Program  
4611 Tutu Park Mall, Suite 300  
St. Thomas, VI 00802

## **Appendix K – Turbidity Monitoring Report Form and Instructions**

Until VIDPNR provides notice that electronic submission is required, Part 3.3 requires you to use prepare and submit using the following form to report your turbidity monitoring results.

**U.S. Virgin Islands Department of Planning & Natural Resources**

Turbidity Monitoring Report Form for Dewatering Discharges to Sensitive Waters Under the 2023 TPDES Virgin Islands Construction General Permit

**SECTION I. PERMIT INFORMATION**

|        |                                                                                                                                                                                                            |  |  |
|--------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|
| Permit | TPDES ID                                                                                                                                                                                                   |  |  |
|        | Does this report fulfill turbidity monitoring report obligations of other operators that are covered under this permit for the same project site? <input type="checkbox"/> Yes <input type="checkbox"/> No |  |  |
|        | If yes, provide the TPDES ID number(s) for all other such operators at the same project site: _____                                                                                                        |  |  |

**SECTION II. OPERATOR INFORMATION**

|                      |                                                                    |                |           |
|----------------------|--------------------------------------------------------------------|----------------|-----------|
| Operator Information | Operator Name                                                      |                |           |
|                      | Mailing Address                                                    |                |           |
|                      | Street                                                             |                |           |
|                      | City                                                               | Estate         | ZIP Code  |
|                      | County or Similar Government Division:                             |                |           |
|                      | Phone Number                                                       | Email Address  |           |
| Preparer             | Complete if form was prepared by someone other than the certifier: |                |           |
|                      | First Name                                                         | Middle Initial | Last Name |
|                      | Organization                                                       |                |           |
|                      | Phone Number                                                       | Email Address  |           |
|                      |                                                                    |                |           |

**SECTION III. SITE INFORMATION**

|              |                                        |        |          |
|--------------|----------------------------------------|--------|----------|
| Site Address | Site Name                              |        |          |
|              | Street/Location                        |        |          |
|              | City                                   | Estate | ZIP Code |
|              | County or Similar Government Division: |        |          |

**SECTION III. MONITORING QUARTER**

|                    |                                                           |                                                        |                                                            |                                                              |
|--------------------|-----------------------------------------------------------|--------------------------------------------------------|------------------------------------------------------------|--------------------------------------------------------------|
| Monitoring Quarter | Identify monitoring quarter (select only one):            |                                                        |                                                            |                                                              |
|                    | <input type="checkbox"/> Quarter 1 (January 1 – March 31) | <input type="checkbox"/> Quarter 2 (April 1 – June 30) | <input type="checkbox"/> Quarter 3 (July 1 – September 30) | <input type="checkbox"/> Quarter 4 (October 1 – December 31) |

**SECTION III. TURBIDITY MONITORING DATA**

|               |                                    |
|---------------|------------------------------------|
| Turbidity Mon | Discharge Point Description/ Name: |
|---------------|------------------------------------|

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                   |                                        |                                                          |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|----------------------------------------|----------------------------------------------------------|
| Was dewatering water discharged during the monitoring quarter? <input type="checkbox"/> Yes (Enter the data below) <input type="checkbox"/> No (Skip to Section VII)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                   |                                        |                                                          |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                   |                                        |                                                          |
| Specific Week within Monitoring Quarter <sup>1</sup>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Weekly Average (NTU) <sup>2</sup> | Benchmark Threshold (NTU) <sup>3</sup> | Average exceeds Benchmark? <sup>4</sup>                  |
| Week 1                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                   |                                        | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Week 2                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                   |                                        | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Week 3                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                   |                                        | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Week 4                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                   |                                        | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Week 5                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                   |                                        | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Week 6                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                   |                                        | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Week 7                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                   |                                        | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Week 8                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                   |                                        | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Week 9                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                   |                                        | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Week 10                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                   |                                        | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Week 11                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                   |                                        | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Week 12                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                   |                                        | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Week 13                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                   |                                        | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Week 14                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                   |                                        | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <p><sup>1</sup> Refer to Table K-1 to determine the specific monitoring week number for which you are reporting turbidity data for this quarter.</p> <p><sup>2</sup> Report to the nearest whole number. Enter "N/A" if no dewatering discharge occurred during any particular week.</p> <p><sup>3</sup> Refer to Part 3.3.2. Turbidity benchmarks are as follows: a. 1 NTU (marine and coastal waters where coral reef systems are located and the effective turbidity water quality criterion is 1 NTU under 12 V.I.C. §186-4(b)); b. 3 NTU (marine and coastal waters where coral reef ecosystems are not located and the effective turbidity water quality criterion is 3 NTU under 12 V.I.C. §186-4(b)); and c. 50 NTU (all other surface waters not subject to a or b).</p> <p><sup>4</sup> If "Yes," the operator must conduct follow-up corrective action pursuant to Part 5.2.2 and document any corrective action taken in the corrective action log in accordance with Part 5.4.</p> |                                   |                                        |                                                          |

## VI. CERTIFICATION INFORMATION

|                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                |                   |
|---------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-------------------|
| Certification Information | 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 gathered and evaluated 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 violations. |                |                   |
|                           | First Name                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Middle Initial | Last Name         |
|                           | Title                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                |                   |
|                           | Signature                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                | Date (MM/DD/YYYY) |
|                           | Phone Number                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Email Address  |                   |

## Instructions for Completing

### Turbidity Monitoring Report for Dewatering Discharges to Sensitive Waters Under the 2023 TPDES Virgin Islands Construction General Permit

#### General Instructions

##### Who Must Submit A Turbidity Monitoring Report to VIDPNR?

Sites covered under the Virgin Islands Construction General Permit (VI CGP or permit) that are required to monitor pursuant to Part 3.3 of the permit must submit Turbidity Monitoring Reports consistent with the reporting requirements specified in Part 3.3.4 of the permit.

##### When Must I Submit A Turbidity Monitoring Report to VIDPNR?

You must submit your report to VIDPNR no later than 30 days following the end of each monitoring quarter. Submit a form for every quarter the site is active.

| Monitoring Quarter # | Months                  | Reporting Deadline |
|----------------------|-------------------------|--------------------|
| 1                    | January 1 – March 31    | April 30           |
| 2                    | April 1 – June 30       | July 30            |
| 3                    | July 1 – September 30   | October 30         |
| 4                    | October 1 – December 31 | January 30         |

#### Completing the Form

Obtain and read a copy of the 2023 VI CGP, viewable at <https://dpmr.vi.gov/environmental-protection/water-pollution-control-program/>. To complete this form, type or print, using uppercase letters, in the appropriate areas only. Please submit the original document with signature in ink - do not send a photocopied signature. **Photocopy your form for your records before you send the completed original form to the appropriate address.**

#### Section I. Permit Information

Provide the TPDES ID (i.e., NOI tracking number) assigned to the site for which this form is being submitted. Submit the form only for sites discharging dewatering water to a sediment-impaired water or a water designated as a Class A water.

Indicate whether this report fulfills turbidity monitoring report obligations of other operators that are covered under this permit for the same project site. If the answer is yes, provide all relevant TPDES ID numbers.

#### Section II. Operator Information

Provide the legal name of the person, firm, public organization, or any other entity that is considered the operator of the site. See Part 1.1.1 and Appendix A for the definition of "operator." Provide the operator's mailing address, phone number, and e-mail. The operator information in this Section should match the operator information provided on your NOI form.

If this form was prepared by someone other than the certifier, include the name, organization, phone number, and email address of the person who prepared this form.

#### Section III. Site Information

Enter the official or legal name and complete street address, including city, Estate, ZIP code, and county or similar

government subdivision of the site. If the site lacks a street address, indicate the general location (e.g., Intersection of State Highways 61 and 34). The site information in this Section should match the site information provided on your NOI form.

#### Section IV. Monitoring Quarter

Indicate the appropriate monitoring quarter (Quarter 1, 2, 3, or 4). The monitoring quarters are specified in the table in the section titled "When Must I Submit A Turbidity Monitoring Report to VIDPNR." Select only one quarter.

#### Section V. Turbidity Monitoring Data

Provide the discharge point description/name if you are discharging dewatering water from more than one point at the site. If you are discharging from only one point at the site, leave the spaces blank.

Submit Section VI data for each dewatering discharge point. For example, if you are discharging dewatering water from two points at the site, then submit two Section VIs (one for each discharge point).

Indicate whether dewatering occurred during the monitoring quarter. If "Yes" enter the data in the data table. If "No" skip to Section VII.

For averaging purposes, a monitoring week starts with a Monday and ends on Sunday. A numerical value is assigned for each week, which is called a Week Number (e.g., 1, 2, 3 etc.). The form includes a Week Number for each week of the year. Refer to Table K-1 for the dates that correspond with each Week Number.

Next, calculate the weekly average turbidity value for the corresponding monitoring week. The weekly average is calculated by adding all of the individual turbidity results for that monitoring week and dividing by the total number of samples. The calculation for the weekly average includes only those days when dewatering discharge occurred. Days when no dewatering discharge occurred, and therefore do not have turbidity data associated with them, are not included in the calculation of the weekly average. For example, if turbidity samples from your dewatering discharge in week 1 result in values of 30 NTU on Tuesday, 40 NTU on Wednesday, and 45 NTU on Thursday, your weekly average turbidity value would be 38 NTU  $((30+40+45) \div 3 = 38 \text{ NTU})$ . If in week 2, your turbidity samples resulted in values of 45 NTU on Monday, 30 NTU on Tuesday, 25 NTU on Wednesday, and 15 NTU on Thursday, you would calculate a new average for that week, which would yield an average turbidity value of 29 NTU  $((45+30+25+15) \div 4 = 29 \text{ NTU})$ . By comparison, if your samples on consecutive days from Friday to Monday were 60 NTU, 45 NTU, 40 NTU, and 43 NTU, respectively, and there are no other dewatering discharges for the remainder of the week, you would calculate one weekly average for the Friday to Sunday to be 48 NTU  $((60+45+40) \div 3 = 48 \text{ NTU})$ , and a separate weekly average for the one Monday to be 43 NTU  $(43 \div 1 = 43 \text{ NTU})$ .

If you collect and analyze more than one turbidity sample per day from your dewatering discharge, you must include any additional results in the calculation of your weekly average. For example, if during a monitoring week you take

two turbidity samples on Tuesday with a value of 30 NTU and 35 NTU, three samples on Wednesday with a value of 40 NTU, 45 NTU, and 48 NTU, and one sample on Thursday with a value of 45 NTU, your weekly average turbidity value for this week would be 41 NTU  $((30+35+40+45+48+45) \div 6 = 41 \text{ NTU})$ .

Enter the weekly average turbidity values for the corresponding week into the table. Enter "N/A" into the table for the turbidity weekly average if no dewatering discharge occurred during the week.

The turbidity benchmark thresholds for this permit are:

- a. 1 NTU (marine and coastal waters where coral reef systems are located and the effective turbidity water quality criterion is 1 NTU under 12 V.I.C. §186-4(b));
- b. 3 NTU (marine and coastal waters where coral reef ecosystems are not located and the effective turbidity water quality criterion is 3 NTU under 12 V.I.C. §186-4(b));
- c. 50 NTU (all other surface waters not subject to a or b) in accordance with Part 3.3.2. Enter the appropriate benchmark number into the table for each corresponding week.

For each week with a value for the weekly average, select "Yes" or "No" in the table to indicate whether the weekly average value exceeds the applicable NTU benchmark. If "Yes", the operator must conduct follow-up corrective action pursuant to Part 5.2.2 and document any corrective action taken in the corrective action log in accordance with Part 5.4.

#### Section VI. Certification Information

Forms must be signed by a person described below, or by a duly authorized representative of that person.

(a) *For a corporation:* By a responsible corporate officer. For the purpose of this Section, a responsible corporate officer means:

(i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

Note: VIDPR does not require specific assignments or delegations of authority to responsible corporate officers identified in paragraph (a)(i) of this section. The Department will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the Commissioner to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions under paragraph (a)(ii) of this section rather than to specific individuals.

(b) *For a partnership or sole proprietorship:* By a general partner or the proprietor, respectively; or

(c) *For a municipality, Territory, Federal, or other public agency:* By either a principal executive officer or ranking elected official. For purposes of this Part, a principal executive officer of a Federal agency includes (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrator of EPA).

Include the name and title of the person signing the form and the date of signing.

A person is a duly authorized representative only if:

1. The authorization is made in writing by a person described above;
2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company, (A duly authorized representative may thus be either a named individual or any individual occupying a named position.) and
3. The written authorization is submitted to the Director.

An unsigned or undated form will be considered incomplete.

#### Submitting Your Form

Send your form by mail to one of the following addresses, corresponding with the island on which your project/site is located.

##### ST. CROIX

Virgin Islands Department of Planning and Natural Resources  
Water Pollution Control Program  
ATTN: TPDES Program  
45 Estate Mars Hill  
Frederiksted, VI 00840

##### ST. THOMAS & ST. JOHN

Virgin Islands Department of Planning and Natural Resources  
Water Pollution Control Program  
ATTN: TPDES Program  
4611 Tutu Park Mall, Suite 300  
St. Thomas, VI 00802

#### Revisions to a Submitted Form

If you have previously submitted a form with an error, submit a revised form with the correct information. After discovering the error, submit the revised form as soon as possible. Make a notation on the revised form where the correction was made.