CURRENT REVISION

This is the first version of the Instructional and Informational Memorandum (IIM).

EFFECTIVE DATE

This IIM is effective once the National Pollutant Discharge Elimination System (NPDES) Coordinator Position is established and filled in the Construction District.

1.0 PROGRAM PURPOSE AND NEED

This IIM applies to all VDOT regulated land disturbing projects that are covered under the Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Discharges of Stormwater from Construction Activities (Construction General Permit - CGP) or occur within its service area as defined by VDOT’s VPDES Individual Permit for Discharges of Stormwater from its Municipal Sewer (MS); outlines the policy and
guidelines for these VDOT projects that are performed either by its internal workforce or contracted to external entities, including those developed/constructed under the Design-Build (DB) process and the Capital Outlay Program; and outlines compliance requirements, VDOT’s oversight responsibilities, reporting procedures, and enforcement efforts.

Nothing in this IIM shall be construed as eliminating or changing:

- The established procedures for Erosion & Sediment Control (ESC) and Stormwater (SWM) Plan development, approval, and modification.
- The requirements for the project team to complete and certify the C-107 Part I form.
- The requirements in EM-COMP-05-16-2016, which outlines the established policy, procedures, and responsibilities, relating to the Environmental Compliance Assistance Program (ECAP).

2.0 PROGRAM ADMINISTRATION

2.1 Roles and Responsibilities

**NPDES Coordinator** – The NPDES Coordinator shall serve as the single point of contact for all projects regarding environmental compliance. All concerns or questions can be communicated to the NPDES Coordinator regardless of implication across multiple environmental areas. The intent is to eliminate confusion and streamline project oversight reviews. It will be the responsibility of the NPDES Coordinator to communicate with other functional areas such as Environmental Compliance Assistance Program (ECAP) to minimize the need for project personnel to discern the difference.

The NPDES Coordinator will operate on the authority and as the district representative of the CGP signatory, the State L&D Engineer. The NPDES Coordinator will coordinate with the District Environmental Manager (DEM) regarding the DEM’s assignment of an Environmental Compliance Inspector (ECI) to projects consistent with the ECI Assignment guidelines (see EM-COMP-05-16-2016).

The NPDES Coordinator, also known as a Dual Combined Administrator, will be certified by the Virginia Department of Environmental Quality (DEQ) as a Combined Administrator in both Erosion & Sediment Control and Stormwater Management.

**NPDES Coordinator Designee** – If a designee is assigned by the NPDES Coordinator, the individual will have the same responsibilities and credentials as the NPDES Coordinator while on site performing project evaluations.
To provide consistency to a project, any designee shall remain the same individual throughout the project, unless the Area Construction Engineer (ACE) and Construction Manager (CM) have been previously notified by the NPDES Coordinator.

3.0 PRE-CONSTRUCTION MEETING

The NPDES Coordinator or their designee will coordinate with any assigned ECI in advance of and shall attend all pre-construction meetings to ensure project team is aware of the requirements of the CGP. The assigned ECI will also attend and communicate requirements of any water quality permit and/or other environmental commitments.

Material to be covered by the NPDES Coordinator or their designee will be dependent on the specific project, but general topics to be covered could include:

- Identification of NPDES Coordinator or designee
- Discussion on limits of disturbance and avoidance areas
- Utilization of off-site support areas
- Requirements for documentation and recordkeeping including grading logs
- Stormwater Best Management Practice (BMP) Installation
- Requirements for modifications of the SWPPP (ESC, SWM, and Pollution Prevention (P2) Plans) and the approval process
- Project close-out and termination requirements, including final stabilization and BMP acceptance

Any concerns of the contractor regarding CGP requirements, including ESC Plan should be communicated at the time of the pre-construction meeting.

4.0 EVALUATION OF PROJECT IMPLEMENTATION

The NPDES Coordinator or designee will periodically evaluate NPDES compliance for all applicable projects, as defined above, through an independent documentation review and/or field inspection. The evaluation will be two-pronged in its scope. The designee will evaluate the project to 1) determine if the project has, or should have, self-identified and self-corrected deficiencies (herein referred to as project-identified deficiencies) and 2) confirm deficiencies previously noted by the Coordinator or designee have been corrected (herein referred to as Coordinator-identified deficiencies).

Compliance with the CGP and VDOT’s Annual ESC and SWM Standards and Specifications (and all parts thereof) is expected throughout the duration of the project.
Compliance with the CGP solely resides with the project by implementing and maintaining a compliant Stormwater Pollution Prevention Plan (SWPPP) including the ESC Plan. As such, an emphasis will be placed on project-identified deficiencies, and what the project has done to correct those deficiencies. If it is evident to the NPDES Coordinator or designee that the project has or should have identified the need for corrective action, the NPDES Coordinator or their designee will initiate enforcement efforts as specified in Section 7.0.

Note: Nothing in this IIM shall be construed as eliminating the requirements for the project team to complete and certify the C-107 Part I form.

The NPDES Coordinator or designee will make independent routine inspections of all applicable projects as noted above. The NPDES Coordinator or designee will coordinate on-site with the CM or designee to take corrective actions and report issues back to the NPDES Coordinator, as applicable. If issues are noted during the inspection, the Coordinator will initiate enforcement efforts as specified in Section 7.0.

The Coordinator and their designee will utilize a cloud-based database that is provided by VDOT Central Office and is accessible in the field using mobile devices.

The scope and extent of the evaluation will be determined by the NPDES Coordinator or their designee. The evaluation could be a cursory review of field conditions, a fully encompassing inspection following the C-107 Part I form, or an administrative review following Part II. The NPDES Coordinator or their designee will communicate the level of evaluation that will be performed when arriving on-site.

The requirement to complete and certify the C-107 Part II form remains with the VDOT ACE or their designee. Note: see the notes section of the form for detailed instructions on completing and certifying the form. While the ACE maintains responsibilities, the NPDES Coordinator or their designee will perform a minimum of 10 percent of these inspections on behalf of the ACE. The NPDES Coordinator or their designee will communicate with the ACE in these instances to eliminate duplicative effort. All C-107 Part II form forms completed by the ACE or NPDES Coordinator or their designee will be utilized to satisfy the periodic compliance inspection requirement in VDOT’s Municipal Separate Storm Sewer System (MS4) Individual Permit.

5.0 PROJECT CLOSE-OUT AND ACCEPTANCE

In accordance with the latest version of IIM-LD-195, SWM BMPs shall be periodically inspected during their construction/installation by a member of the project team that is DEQ certified as a SWM Inspector. BMP Inspection forms specific to the BMP type(s) should be used to document the construction/installation process.
The NPDES Coordinator or their designee will help facilitate BMP acceptance at project close-out which allows the ACE or designee to certify the BMP is constructed per plans. It is recommended that BMPs be reviewed jointly by the VDOT ACE, CM, NPDES Coordinator or their designee, the VDOT District Hydraulics Engineer and the VDOT Maintenance Division prior to final project acceptance to allow the contractor to perform corrective actions, if required.

6.0 REGULATORY (DEQ/EPA) COORDINATION AND REPORTING

6.1 Regulatory Inspections

During any oversight inspections of VDOT land-disturbing activities by DEQ, EPA, or other regulatory agencies, compliance with VDOT’s Annual ESC and SWM Standards and Specifications (and all parts thereof) will be expected.

VDOT Central Office will maintain and share a distribution list of NPDES Coordinators with DEQ staff for their use and reference. All DEQ inspection reports will be sent to the ACE or designee and the NPDES Coordinator who will in turn provide to the DEM, where findings could affect the ECAP. If ECAP is implicated in the DEQ report, it will be responsibility of the NPDES Coordinator to communicate with and incorporate input from the ECI within the DEQ established timeframe. It will be the responsibility of the Project Manager to implement the necessary corrective action to address all deficiencies noted in the DEQ report.

Failure to address any deficiencies to the satisfaction of DEQ within the allowable timeframe shall initiate enforcement procedures as specified in Section 7.0.

6.2 Regulatory Communication and Reporting

All regulatory correspondence for which VDOT is the permittee under the CGP, VDOT will be responsible for communication with DEQ for CGP related matters. External entities including contractors shall not contact or report to DEQ without prior consent and approval from VDOT.

For any deficiency identified by DEQ that requires corrective action, the contractor shall provide the CM and the NPDES Coordinator a corrective action plan to address all deficiencies identified. The plan shall be provided within 3 business days of receiving the DEQ report, which will allow VDOT sufficient time to review, comment, and request any additional information, while allowing the contractor sufficient time to perform the corrective action.
The NPDES Coordinator and State L&D Engineer, in consultation with the DCE, will determine if self-reporting to DEQ is required under the CGP unless the contractor is obligated to report a spill or dumping occurrence in accordance with Section 107.16(b)1 of the 2016 Road and Bridge Specifications.

7.0 ENFORCEMENT EFFORTS

Every evaluation that is performed by the NPDES Coordinator or designee will receive a color-coded compliance description. In general, the color coding signifies where the ownership for CGP compliance lies and who grades the project’s attention to project-deficiencies.

ACE’s and DCE’s still have the authority to shut down a project as they normally would at their own discretion as they have in the past without a coordinated consensus as described in this IIM.

The color coding will dictate the level of internal and external communication that is required as well as enforcement efforts that may be necessary. Each color category is described in the following table.
<table>
<thead>
<tr>
<th>GREEN</th>
<th>YELLO</th>
<th>ORANGE</th>
<th>RED</th>
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</thead>
<tbody>
<tr>
<td><strong>Proactive, Project Team Engaged</strong></td>
<td><strong>District Leadership Engaged</strong></td>
<td><strong>VDOT Central Office Divisional Leadership Engaged</strong></td>
<td><strong>VDOT Executive Leadership Engaged</strong></td>
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<tr>
<td><strong>Status:</strong> The project is implementing a compliant SWPPP by self-identifying and self-correcting deficiencies (project-identified deficiencies) and the project is correcting deficiencies noted by the NPDES Coordinator, designee (Coordinator-identified deficiencies), or regulatory agency within allowable timeframes.</td>
<td><strong>Status:</strong> The project has failed to self-identify and/or failed to maintain deficiencies that were apparent* to the NPDES Coordinator or the project has failed to performed the necessary corrective action that was identified by the NPDES Coordinator or the project has a self-reporting incident that is not considered non-compliant (i.e. had a sediment discharge as a result of an improperly implemented ESC Plan).</td>
<td><strong>Status:</strong> A previous yellow scoring has not been addressed during the second follow-up or the project has a self-reporting incident that is considered non-compliant (i.e. had a sediment discharge as a result of an improperly implemented ESC Plan).</td>
<td><strong>Status:</strong> The project has received a Notice of Violation or Warning Letters that has been issued by a regulatory agency or systematic non-compliant findings or egregious non-compliant findings are documented.</td>
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<td>In accordance with C-107 Part I, the corrective action deadline should be as soon as practical and prior to the next anticipated measurable storm event but no later than seven days after the date of the evaluation that identified the deficiency, unless the NPDES Coordinator has specified an alternative timeframe.</td>
<td>*If the NPDES Coordinator notes a deficiency that appears to have been present prior to the last self-inspection, the Coordinator will estimate the extent of time that deficiency appears to have been present. For example, if a silt fence has a tear and vegetation is growing up through the tear, the Coordinator will assume it has been present for longer than seven days, and the deficiency will automatically be rated “yellow.”</td>
<td><strong>Communication Level:</strong> The NPDES Coordinator will notify the same individuals as identified in yellow in addition to the State L&amp;D and Construction Engineers.</td>
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<td><strong>Communication Level:</strong> routine correspondence between project team, NPDES Coordinator, and designee, as needed.</td>
<td><strong>Communication Level:</strong> The NPDES Coordinator will notify the CM, the ACE, DCE, and DPDE of the project’s status. The DCE and DPDE will communicate to the District Administrator following District protocols.</td>
<td>The NPDES Coordinator and State L&amp;D Engineer will determine if self-reporting to DEQ is required under the CGP.</td>
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<tr>
<td><strong>Enforcement Efforts:</strong> N/A</td>
<td><strong>Enforcement Efforts:</strong> The NPDES Coordinator will evaluate the need for increased oversight inspections.</td>
<td><strong>Enforcement Efforts:</strong> The District Administrator will consider possible shut down of the project: either grading activities or all project activities in consultation with the State L&amp;D and Construction Engineers and the Environmental Division Director.</td>
<td><strong>Enforcement Efforts:</strong> The project will be shut down in some capacity: either grading activities or all project activities as determined by the District Administrator in consultation with the State L&amp;D and Construction Engineers and Environmental Division Director.</td>
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