



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY VALLEY REGIONAL OFFICE

P.O. Box 3000, Harrisonburg, Virginia 22801  
(540) 574-7800 Fax (540) 574-7878

Located at 4411 Early Road, Harrisonburg, VA  
[www.deq.virginia.gov](http://www.deq.virginia.gov)

Matthew J. Strickler  
Secretary of Natural Resources

David K. Paylor  
Director

Amy Thatcher Owens  
Regional Director

### EXECUTIVE COMPLIANCE AGREEMENT UNIVERSITY OF VIRGINIA FOR Municipal Separate Storm Sewer System Registration No. VAR040073

This is an Executive Compliance Agreement (Agreement) between the University of Virginia (UVA) and the Virginia Department of Environmental Quality (DEQ) pursuant to the Director's authority, as set forth in §§ 10.1-1185, -1192, and § 62.1-44.15 of the Code of Virginia (Va. Code), to administer and enforce the State Water Control Law and regulations.

UVA is a state agency established pursuant to Va. Code § 23.1, is authorized to operate a state-supported institution of higher education, is the owner and operator of a municipal separate storm sewer system (MS4), and is subject to MS4 General Permit Registration No. VAR040073 (Permit).

1. On July 16, 2018, DEQ received a report from UVA of a fish kill in an in-stream stormwater pond (South Pond) that drains to an unnamed tributary to Moores Creek.
2. On July 17, 2018, UVA submitted documentation that, on July 9, 2018, between 1,000 to 1,900 gallons of a propylene glycol solution was dumped into the floor drains of the Pinn Hall Mechanical Room by UVA Facilities Management staff. The propylene glycol solution was used as part of UVA's maintenance program for Pinn Hall. The documentation indicated that UVA staff performing the maintenance work was not aware that the floor drains discharged to the storm sewer system and into the South Pond. UVA staff noticed a strong odor and discolored water in the South Pond on July 11, 2018, but did not notify UVA Environmental Resources staff of the strong odor and dead fish in the South Pond until July 16, 2018.

3. On July 17, 2018, DEQ staff observed in excess of 100 dead fish in the South Pond, and observed a milky white substance within the South Pond. Below the outfall of the South Pond, DEQ observed a milky white discharge into the unnamed tributary to Moores Creek. Dissolved oxygen measurements taken by DEQ staff within the South Pond and downstream of the South Pond were less than 1 mg/L.

Va. Code §62.1-44.5.A states in part that: "Except in compliance with a certificate or permit issued by the Board or other entity authorized by the Board to issue a certificate or permit pursuant to this chapter, it shall be unlawful for any person to: Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; Otherwise alter the physical, chemical, or biological properties of state waters and make them detrimental to the public health, or to animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, or for recreation, or for other uses..."

9 VAC 25-31-50.A states that: "Except in compliance with a VPDES permit, or another permit, issued by the board or other entity authorized by the board, it shall be unlawful for any person to: 1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; 2. Otherwise alter the physical, chemical, or biological properties of such state waters and make them detrimental to the public health or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses..."

Va. Code §62.1-44.5.B states: "Any person in violation of the provisions of subsection A who discharges or causes or allows (i) a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substances into or upon state waters or (ii) a discharge that may reasonably be expected to enter state waters shall, upon learning of the discharge, promptly notify, but in no case later than 24 hours, the Board, the Director of the Department of Environmental Quality, or the coordinator of emergency services appointed pursuant to § 44.146.19 for the political subdivision reasonable expected to be affected by the discharge. Written notice to the Director of the Department of Environmental Quality shall follow initial notice within the time frame specified by the federal Clean Water Act."

Section III G of the Permit states in part that: "Any operator of a small MS4 who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance or 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 that occurs during a 24-hour period into or upon surface waters; or who discharges or causes or allows a discharge that may reasonably be expected to enter surface waters shall notify the department of the discharge immediately upon discovery of the discharge, but in no case later than within 24 hours after said

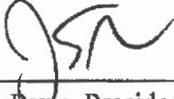
discovery.”

9 VAC 25-260-50, as referenced in 9 VAC-260-140, sets the numerical criteria for the instantaneous level of dissolved oxygen at a minimum of 4 mg/L for the classification of waters that includes Moores Creek and its tributaries.

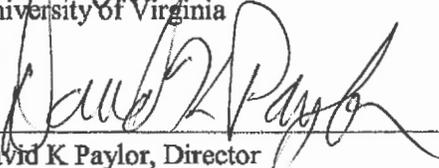
4. On July 19, 2018, UVA reported that a bottom drain on the South Pond was opened by UVA staff and an additional unknown quantity of water containing propylene glycol and sediment was discharged to the unnamed tributary of Moores Creek.
5. On August 7, 2018, DEQ issued Notice of Violation (NOV) No. 2018-VRO-0014 to UVA for the violations described in paragraphs 2 through 4 above.
6. On August 17, 2018, UVA submitted to DEQ a Corrective Action Report detailing the circumstances leading up to the discharge, the remedial and preventive actions taken since, as well as future corrective actions proposed by UVA.
7. On August 21, 2018, DEQ staff met with representatives of UVA to discuss the NOV. Representatives of UVA provided an update on the implementation of remedial actions contained in the Corrective Action Report, and reviewed the planned schedule for completion of outstanding preventive corrective actions.

Accordingly, UVA and DEQ have agreed upon a schedule for corrective actions which is included in this Agreement as Appendix A.

This Agreement shall become effective upon the date of its execution by the Director of the Department of Environmental Quality or his designee. UVA agrees to be bound by any compliance dates in this Agreement that may predate its effective date.

  
\_\_\_\_\_  
James E. Ryan, President  
University of Virginia

11/30/18  
Date

  
\_\_\_\_\_  
David K. Paylor, Director  
Department of Environmental Quality

8/21/18  
Date

**APPENDIX A  
SCHEDULE OF COMPLIANCE**

University of Virginia agrees to:

1. **Within 12 months of the effective date of this Agreement**, UVA shall complete construction of a permanent design solution for Pinn Hall floor drains to connect to the sanitary sewer system.
2. **Within 12 months of the effect date of this Agreement**, UVA shall:
  - a. Evaluate all UVA buildings with sumps that discharge to UVA's MS4;
  - b. Document additional buildings with interior floor drains connected to storm sumps; and
  - c. Document measures implemented to prevent illicit discharges within the buildings identified in Item 2b.
3. Submit quarterly progress reports to DEQ, with the first report being due **January 10, 2019**. Subsequent Progress Reports will be due April 10, July 10, and October 10. The quarterly progress reports shall contain:
  - a. A summary of all work completed since the previous progress report in accordance with this Agreement;
  - b. A projection of the work to be completed during the upcoming quarterly period in accordance with this Agreement; and
  - c. A statement regarding any anticipated problems in complying with this Agreement.
4. DEQ Contact:

Correspondence required by this Agreement shall be submitted to:

Tamara Ambler  
Enforcement Specialist Senior  
VA DEQ –VRO  
4411 Early Road; Mailing P.O. Box 3000  
Harrisonburg, VA 22980  
540-574-7896  
540-574-7878  
[tamara.ambler@dcq.virginia.gov](mailto:tamara.ambler@dcq.virginia.gov)