Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

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Regional Director

VWP Individual Permit Number: 19-2036
Effective Date: Month DD, YYYY
Expiration Date: Month DD, YYYY

VIRGINIA WATER PROTECTION PERMIT ISSUED PURSUANT TO THE STATE WATER CONTROL LAW AND SECTION 401 OF THE CLEAN WATER ACT

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

Project Name: Wegmans Distribution Center

Permittee: Wegmans Food Markets, Inc.

Address: Attn: Douglas Viets
1500 Brooks Avenue, P.O. Box 30844
Rochester, NY 14603-0844

Activity Location: The project is located south of Ashcake Road (Route 657), northwest of Sliding Hill Road (Route 656), and east of Egypt Road (Route 741) in Hanover County, Virginia.

Activity Description: The permittee proposes to construct a regional grocery distribution center that will (a) serve existing retail locations, (b) relieve transportation burdens from existing supply centers, and (c) provide a base of support to serve future retail locations in the mid-Atlantic region on an approximately 219.6 acre parcel known as "Wegmans Distribution Center." Permitted activities shall be conducted as described in the Joint Permit Application dated

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November 2019, received on December 2, 2019, and supplemental materials, revisions and clarifications received through October 8, 2020.

Authorized Surface Water Impacts:
This permit authorizes surface water impacts as identified in Table 1 below. Authorized surface water impacts shall be as depicted on the impacts map entitled "Wegmans Distribution Center, Hanover County, Virginia, Wetlands and Waters Impacts Map" dated September 8, 2020, last revised on September 24, 2020, and received October 7, 2020, and drawn by Timmons Group.

Table 1.

Impact Type	Surface Water Type	DEQ-Authorized Impact	
		Acres	Linear Feet
Permanent	Palustrine Forested Wetland (PFO)	12.99	N/A
	Palustrine Emergent Wetland (PEM)	0.23	N/A
	Jurisdictional Ditch	0.14	N/A
	Subtotal	13.36	N/A
Secondary	PFO	1.44	N/A
	Jurisdictional Ditch	0.02	N/A
	Subtotal	1.46	N/A
Temporary	PEM	0.03	N/A
	Subtotal	0.03	N/A
	Total	**14.85**	**N/A**

Approved Compensation:

The permittee shall compensate for the authorized surface water impacts through the following:

1. Compensation for permanent wetland fill and secondary impacts shall be provided through the purchase of 29.41 wetland credits from a DEQ approved mitigation bank, in-lieu fee fund, or a combination thereof that is authorized and approved by DEQ to sell credits in the area in which the impacts will occur and has credits available (as released by DEQ).

2. The credit sale shall be in accordance with the approved Mitigation Banking Instrument for the mitigation bank. Purchase of required mitigation credits shall occur first through the purchase of available released credits followed by the purchase of advance credits.

The permitted activity shall be in accordance with this Permit Cover Page, Part I - Special Conditions, and Part II - General Conditions.

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Kyle Ivar Winter, P.E. Deputy Regional Director Date

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Part I – Special Conditions

A. Authorized Activities

1. This permit authorizes the total impact to 14.85 acres of surface waters, consisting of 13.36 acres of permanent fill impacts, 1.46 acres of secondary impacts, and 0.03 acre of temporary impacts.

    a. Permanent fill impacts consist of 12.99 acres of palustrine forested wetland, 0.23 acre of palustrine emergent wetland, and 0.14 acre of jurisdictional ditch.
    b. Secondary impacts, due to diversion of surface water, are to 1.44 acre of palustrine forested wetland and 0.02 acre of jurisdictional ditch.
    c. Temporary impacts consist of 0.03 acre of palustrine emergent wetland.
    d. Authorized surface water impacts described under this condition shall be as depicted on the impacts map entitled "Wegmans Distribution Center, Hanover County, Virginia, Wetlands and Waters Impacts Map" dated September 8, 2020, last revised on September 24, 2020, and received October 7, 2020, and drawn by Timmons Group.

2. The permittee shall conduct authorized activities as described in the Joint Permit Application dated November 2019, received on December 2, 2019, and supplemental materials, revisions and clarifications received through October 8, 2020. Any changes to the authorized activities or impacts map that affect permitted areas shall be submitted to DEQ immediately upon determination that changes are necessary, and DEQ approval shall be required prior to implementing the changes.

3. The permittee shall notify the DEQ of any changes in authorized impacts to surface waters or any changes to the design or type of construction activities in surface waters authorized by this permit. DEQ approval shall be required prior to implementing the changes. Any additional impacts, modifications, or changes shall be subject to individual permit review and/or modification of this permit.

B. Permit Term

1. This permit is valid for fifteen (15) years from the date of issuance. The permit term, including any granted extensions, shall not exceed 15 years. A new permit may be necessary for the continuance of the authorized activities, or any permit requirement that has not been completed, including compensation provisions.

2. The permittee shall notify DEQ in writing at least 120 calendar days prior to the expiration of this permit if reissuance will be requested.

C. Standard Project Conditions

1. The activities authorized by this permit shall be executed in such a manner that any impacts to beneficial uses are minimized. As defined in § 62.1-44.3 of the Code, "beneficial use" means both instream and offstream uses. Instream beneficial uses include, but are not limited to, the protection of fish and wildlife habitat, maintenance of waste assimilation, recreation, navigation, and cultural and aesthetic values. The preservation of instream flows for purposes of the protection of

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navigation, maintenance of waste assimilation capacity, the protection of fish and wildlife resources and habitat, recreation, cultural and aesthetic values is an instream beneficial use of Virginia's waters. Offstream beneficial uses include, but are not limited to, domestic (including public water supply), agricultural uses, electric power generation, commercial, and industrial uses.

2. No activity shall substantially disrupt the movement of aquatic life indigenous to the water body, including those species which normally migrate through the area, unless the primary purpose of the activity is to impound water.

3. Flows downstream of the project area shall be maintained to protect all uses.

4. No activity shall cause more than minimal adverse effect on navigation, and no activity shall block more than half of the width of the stream at any given time.

5. The activity shall not impede the passage of normal or expected high flows, and any associated structure shall withstand expected high flows.

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

7. All excavation, dredging, or filling in surface waters shall be accomplished in a manner that minimizes bottom disturbance and turbidity.

8. All in-stream activities shall be conducted during low-flow conditions whenever practicable.

9. Erosion and sedimentation controls shall be designed in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992. These controls shall be placed prior to clearing and grading and maintained in good working order to minimize impacts to state waters. These controls shall remain in place until the area is stabilized and shall then be removed.

10. All construction, construction access, and demolition activities associated with this project shall be accomplished in a manner that minimizes construction materials or waste materials from entering surface waters, unless authorized by this permit. Wet, excess, or waste concrete shall be prohibited from entering surface waters.

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

12. Measures shall be employed at all times to prevent and contain spills of fuels, lubricants, or other pollutants into surface waters.

13. Machinery or heavy equipment in temporarily impacted wetlands shall be placed on mats or geotextile fabric, or other suitable means shall be implemented, to minimize soil disturbance to the maximum extent practical. Mats, fabrics, or other measures shall be removed as soon as the work is complete in the temporarily impacted wetland.

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14. Stream channel restoration activities shall be conducted in the dry or during low flow conditions. When site conditions prohibit access from the streambank or upon prior authorization from the Department of Environmental Quality, heavy equipment may be authorized for use within the stream channel. The equipment shall be stationed on cobble bars.

15. Temporary disturbances to wetlands, stream channels, and/or stream banks during project construction activities shall be avoided and minimized to the maximum extent practicable.

16. All temporarily disturbed wetland areas shall be restored to preconstruction conditions within 30 calendar days of completing work in the areas, which shall include re-establishing pre-construction contours, and planting or seeding with appropriate wetland vegetation according to cover type (emergent, scrub/shrub, or forested), except for invasive species identified on DCR's Virginia Invasive Plant Species List. The permittee shall take all appropriate measures to promote and maintain the revegetation of temporarily disturbed surface waters through the second year post-disturbance.

17. All temporarily impacted streams and stream banks shall be restored to their original elevations and contours within 30 calendar days following the construction at that stream segment, and the banks shall be seeded or planted with the same vegetative cover type originally present along the banks, including supplemental erosion control grasses if necessary but not including invasive species identified on DCR's Virginia Invasive Plant Species List. The permittee shall take all appropriate measures to promote and maintain the revegetation of temporarily disturbed surface waters through the second year post-disturbance.

18. All materials (including fill, construction debris, excavated materials, and woody materials, that are temporarily placed in wetlands, in stream channels, or on stream banks) shall be placed on mats or geotextile fabric, shall be immediately stabilized to prevent the material or leachate from entering surface waters, and shall be entirely removed within 30 calendar days following completion of that construction activity. After removal, disturbed areas shall be returned to original contours, shall be stabilized, and shall be restored to the original vegetated state within 30 calendar days. The permittee shall take all appropriate measures to promote and maintain the revegetation of temporarily disturbed surface waters through the second year post-disturbance.

19. Temporary in-stream construction features such as cofferdams shall be made of non-erodible materials.

20. Virginia Water Quality Standards shall not be violated in any surface waters as a result of the project activities.

21. All non-impacted surface waters that are within the project or right-of-way limits, and that are within fifty feet of any project activities, shall be clearly flagged or demarcated for the life of the construction activity within that area. The permittee shall notify all contractors and subcontractors that *no activities are to occur in these marked areas*.

22. All required notifications and submittals shall include project name and permit number and be submitted electronically to pro.vwpcompliance@deq.virginia.gov or mailed to the DEQ office

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stated below, to the attention of the VWP project manager, unless directed in writing by DEQ subsequent to the issuance of this permit:

Department of Environmental Quality- Piedmont Regional Office,
4949-A Cox Road
Glen Allen, Virginia 23060
Via email: PRO.VWPCompliance@deq.virginia.gov

23. All reports required by this permit and other information requested by DEQ shall be signed by the permittee or a person acting in the permittee's behalf, with the authority to bind the permittee. A person is a duly authorized representative only if *both* criteria below are met. If a representative authorization is no longer valid because of a change in responsibility for the overall operation of the facility, a new authorization shall be immediately submitted to DEQ.

    a. The authorization is made in writing by the permittee.

    b. 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, superintendent, or position of equivalent responsibility. A duly authorized representative may thus be either a named individual or any individual occupying a named position.

24. All submittals shall contain the following signed certification statement:

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

25. Any fish kills or spills of fuels or oils shall be reported to DEQ immediately upon discovery at 804-527-5020. If DEQ cannot be reached, the spill or fish kill shall be reported to the Virginia Department of Emergency Management (VDEM) at 1-800-468-8892 or the National Response Center (NRC) at 1-800-424-8802. Any spill of oil as defined in § 62.1-44.34:14 of the Code of Virginia that is less than 25 gallons and that reaches, or that is expected to reach, land only is not reportable, if recorded per § 62.1-44.34:19.2 of the Code of Virginia and if properly cleaned up.

26. DEQ shall be notified in writing within **24 hours or as soon as possible on the next business day** when potential environmentally threatening conditions are encountered which require debris removal or involve potentially toxic substances. Measures to remove the obstruction, material, or toxic substance or to change the location of any structure are prohibited until approved by DEQ.

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D. Installation of Utilities

1. All utility line work in surface waters shall be performed in a manner that minimizes disturbance in each area. Temporarily disturbed surface waters shall be restored in accordance with Part I.C.15, C.16, and C.17, unless otherwise authorized by this permit.

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

3. The trench for a utility line cannot be constructed in a manner that drains wetlands (e.g., backfilling with extensive gravel layers creating a French drain effect).

E. Road Crossings

1. Access roads authorized by this permit shall be constructed to minimize the adverse effects on surface waters to the maximum extent practicable and to follow as near as possible pre-construction contours and elevations.

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

3. All surface waters temporarily affected by a road crossing shall be restored to their original elevations immediately following the removal of that particular temporary crossing. Temporary access roads shall be removed entirely following activity completion.

F. Stormwater Management Facilities

1. The outfall and overflow structure shall be constructed and maintained to prevent downstream sediment deposition, erosion, or scour that may be associated with normal flow and any expected storm flows. Construction shall include the use of an appropriately sized riprap outlet protection apron at the outfall site.

2. Maintenance excavation shall follow the stormwater management plan approved by the Virginia Stormwater Management Program Authority, and shall not exceed the original contours or designated maintenance areas of the facility.

3. Draining of a stormwater management facility shall be performed by a method that prevents downstream sediment deposition, erosion, or scour.

G. Project Construction Monitoring and Submittals (Impact Sites)

1. The permittee shall submit written notification at least **ten (10) calendar days** prior to the initiation of land disturbance or construction activities in permitted areas. The notification shall include preconstruction photographs, projected schedule for initiating and completing work at each permitted impact area.

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

2. Site inspections shall be conducted **once every calendar month** and recorded on the *Monthly VWP Permit Inspection Checklist* (*Attachment 2)* by the permittee or the permittee's qualified designee during active construction within authorized surface water impact areas. Monthly inspections shall be conducted in the following areas: all authorized permanent and temporary impact areas; all avoided surface waters, including wetlands, stream channels, and open water; surface water areas within 50 feet of any land disturbing activity; and all on-site areas designated for permanent preservation. The *Monthly VWP Permit Inspection Checklist* (*Attachment 2)* shall be completed in its entirety for each monthly inspection and shall be kept on-site and made available for review by DEQ staff upon request during normal business hours.

3. The *VWP Permit Construction Status Update Form* (*Attachment 1)* enclosed with this permit shall be completed in June and December of every year for the duration of this permit. The *VWP Permit Construction Status Update Form* (*Attachment 1)* shall include reference to the VWP permit authorization number and one of the following statements for each authorized surface water impact location:

   a. Construction activities not yet started;

   b. Construction activities started;

   c. Construction activities started but are currently inactive, or;

   d. Construction activities complete.

4. The *VWP Permit Construction Status Update Form* (*Attachment 1)* shall be submitted and must be received by DEQ no later than January 10 and July 10 of every year.

5. The permittee shall notify DEQ within 24 hours of discovering impacts to surface waters including wetlands, stream channels, and open water that are not authorized by this permit. The notification shall include photographs, estimated acreage and/or linear footage of impacts, and a description of the impacts.

6. The permittee shall submit written notification of completion within 30 calendar days after the completion of all activities in all permitted impact areas authorized under this permit.

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H. Compensatory Mitigation

1. As compensation for permanent wetland and jurisdictional ditch impacts, the permittee shall purchase 29.41 wetland mitigation credits. All compensatory mitigation credits shall be purchased from a DEQ approved mitigation bank, an approved in-lieu fee (ILF) program, or a combination thereof as specified below in Part H.2. The bank or program must be authorized and approved by DEQ to sell credits in the area in which the impacts will occur and have credits available (as released by DEQ). Any credit sale shall be in accordance with the approved Mitigation Banking Instrument or ILF Program Instrument. Purchase of required mitigation credits shall occur first through the purchase of available released credits followed by the purchase of advance credits. Multiple banks may be used to fulfill compensation requirements.

2. To fulfill mitigation requirements of this permit, the permittee shall first purchase available mitigation bank released credits. The permittee shall then fulfill its remaining credit obligation through the purchase of released mitigation credits from an ILF program. The permittee shall then fulfill its remaining credit obligation through the purchase of advance mitigation credits from an ILF program.

3. Documentation of the purchase of 29.41 wetland mitigation credits shall be submitted to and received by DEQ prior to initiating work in the impact areas authorized by this permit.

I. Project Wetland Monitoring and Submittals (Remaining Wetlands)

1. Pre-Construction Tasks

    a. The permittee shall conduct photographic documentation of pre-construction conditions in the remaining wetland areas adjacent to permitted Impact Areas 8A/8B, and Impact Areas 12 through 17. Photographic documentation shall be conducted by the following method:

    Photographs shall be taken at a height of approximately five to six feet and from fixed-point stations, preferably at the same location as that of each planned monitoring well. Photographs shall be taken in each of the four cardinal directions (north, east, south, and west). Permanent markers shall be established to ensure that the same locations on the site are used for future monitoring events. Each photograph taken shall be labeled with the permit number, the name of the project site, the photo station number, the photograph orientation, the date and time of the photograph, the name of the person taking the photograph, and a brief description of the photograph subject. This information shall be provided as a separate attachment to each photograph, if necessary.

2. Pre-Construction Submittals

    a. No later than 60 days prior to the start of construction activities on-site, the permittee shall submit a final wetland monitoring plan for the remaining wetland areas adjacent to permitted Impact Areas 8A/8B, and Impact Areas 12 through 17, which shall include, at a minimum, the following information:

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(1) The goals and objectives of the wetland monitoring plan, including but not limited to classification of the existing wetlands and how the monitoring will adequately demonstrate that the remaining wetland areas will be unimpacted during and after construction of the project;

(2) A success criteria monitoring plan including:

i. The monitoring design and methodologies being used to evaluate the success of the remaining wetlands on-site;

ii. the monitoring and reporting schedule;

iii. the proposed success criteria for the remaining wetland areas;

iv. drawing(s) depicting the location of photo-monitoring stations, monitoring wells, soil sampling points (as appropriate), vegetation sampling points, and reference wetlands (if available);

v. wetland delineation confirmation, data sheets, and maps for existing wetland areas on the compensation site, and any collectible information on reference wetlands adjacent to or near the compensation site;

vi. corrective action and/or contingency plan to address secondary impacts, deficiencies, or unexpected events;

b. DEQ shall have 30 calendar days to review the plan and provide comments to the permittee.

3. Monitoring for Success Criteria During and After Project Construction

a. Success monitoring of the remaining wetland areas shall begin at the first complete growing season (monitoring year one) following the start of project construction activities; shall be conducted on the frequency stipulated in the approved final wetland monitoring plan; and shall continue for the time specified in the approved final wetland monitoring plan.

b. If all success criteria have not been met by November 30th of the last monitoring year specified in the approved final wetland monitoring plan, or if visual observations conclude that the remaining wetland areas have not met the overall goals, corrective actions shall be implemented in accordance with the DEQ-approved corrective action plan. The permittee shall be solely responsible for ensuring that all necessary corrective actions are implemented so that the wetland monitoring plan meets the success criteria, as detailed in the approved final wetland monitoring plan.

c. Photographic documentation during success monitoring shall be conducted in accordance with the final wetland monitoring plan approved by DEQ.

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d. Hydrology monitoring shall be conducted in accordance with the final wetland monitoring plan approved by DEQ.

e. Wetland vegetation monitoring shall be conducted in accordance with the final wetland monitoring plan approved by DEQ.

f. Monitoring for the presence of hydric soils or soils under hydric conditions shall be conducted in accordance with the final wetland monitoring plan approved by DEQ.

g. At the completion of each monitoring year, a calculation of the acreage of each wetland type shall be made and shall be based upon that monitoring year's soils data, vegetation data, and hydrology data (if required). The acreage calculation shall be shown on the most recent version of the wetland monitoring site plan sheet(s) and shall be submitted with that year's monitoring report.

h. Within 60 calendar days of the completion of the entire monitoring cycle, including any time extensions for corrective action, a wetland boundary survey shall be conducted by a licensed land surveyor or a licensed professional engineer, and shall be based upon the results of monitoring data for soils, vegetation, and hydrology. A calculation shall be made of the total acreage of each wetland type. The boundary and acreage per wetland type shall be shown on the most recent version of the wetland monitoring site plan sheet(s).

4. Submittals for Success Criteria Monitoring

a. Wetland monitoring reports shall be submitted by December 31st of the years in which a monitoring report is required, including the final monitoring year, as identified in the approved final wetland monitoring plan. The reports shall include the following, at a minimum:

(1) A general description of the wetland monitoring site including a site location map identifying photo-monitoring stations, vegetative and soil monitoring stations, monitoring wells (if applicable), and wetland zones;

(2) Summary of activities completed during the monitoring year;

(3) Description of monitoring methods;

(4) An analysis of all hydrology information, including monitoring well data, precipitation data, and gauging data from streams, or other open water areas, as detailed in the approved final wetland monitoring plan;

(5) Evaluation of hydric soils or soils under hydric conditions;

(6) An analysis of all vegetative community information, including woody and herbaceous species, set forth in the approved final wetland monitoring plan;

(7) Properly labeled photographs as detailed in Part I.I.1.a;

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(8) Comparison of site conditions from the previous monitoring year and/or reference site;

(9) The acreage calculation, shown on the most recent version of the monitoring site design plan sheet(s);

(10) If the success criteria outlined in the approved final monitoring plan are not met, the permittee shall submit a detailed plan to quantify and compensate for the net loss of wetland acreage and function with the final monitoring year report. Compensation shall meet the requirements of 9 VAC 25-210-116 and Va. Code §62.1-44.15:23. The plan shall be implemented as approved by DEQ.

b. *For final monitoring year only*, the report shall include all items in Part I.I.4.a and the most recent version of the wetland monitoring site plan sheet(s) depicting the final wetland boundary and area calculations, as detailed in Part I.I.3.h.

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Part II – General Conditions

A. Duty to Comply

The permittee shall comply with all conditions and limitations of the VWP permit. Nothing in this chapter shall be construed to relieve the permittee of the duty to comply with all applicable federal and state statutes, regulations, toxic standards, and prohibitions. Any VWP permit violation or noncompliance is a violation of the Clean Water Act and State Water Control Law and is grounds for enforcement action, VWP permit termination, VWP permit revocation, VWP permit modification, or denial of an application for a VWP permit extension or reissuance.

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

B. Duty to Cease or Confine Activity

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

C. Duty to Mitigate

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

D. VWP Permit Actions

A VWP permit may be modified in whole or in part, revoked and reissued, extended, transferred, or terminated in accordance with 9 VAC 25-210-180.

1. During the drafting and authorization of a permit modification, only those conditions to be modified shall be addressed with preparing a draft modified permit. VWP permit terms and conditions of the existing permit shall remain in full force and effect during the modification of the permit.

2. This VWP permit may be modified upon the request of the permittee or upon board initiative when any of the following developments occur:

    a. When new information becomes available about the project or activity covered by the VWP permit, including project additions or alterations, that was not available at VWP permit issuance and would have justified the application of different VWP permit conditions at the time of VWP permit issuance;

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b. When a change is made in the promulgated standards or regulations on which the VWP permit was based;

c. When changes occur that are subject to "reopener clauses" in the VWP permit; or

d. When developments applicable to surface water withdrawals as specified in 9VAC25-210-380 occur.

3. When this VWP permit authorizes surface water withdrawals, it may be modified when any of the following developments occur:

   a. When the board determines that minimum instream flow levels resulting directly from the permittee's withdrawal of surface water are detrimental to the instream beneficial use, existing at the time of permit issuance, and the withdrawal of surface water should be subject to further net limitations or when an area is declared a surface water management area pursuant to §§ 62.1-242 through 62.1-253 of the Code of Virginia, during the term of the VWP permit.

   b. Significant changes to the location of the surface water withdrawal system are proposed such that the Department of Environmental Quality determines a new review is warranted due to the potential effect of the surface water withdrawal to existing beneficial uses of the new location.

   c. Changes to the permitted project or the surface water withdrawal, including increasing the storage capacity for the surface water withdrawal, that propose an increase in the maximum permitted withdrawal volumes or rate of withdrawal or that cause more than a minimal change to the instream flow requirements with potential to result in a detrimental effect to existing beneficial uses.

   d. A revision to the purpose of the surface water withdrawal that proposes to include a new use or uses that were not identified in the permit application or a modification of the existing authorized use or uses such that the use description in the permit application and permit is no longer applicable. Examples of uses include, but are not limited to agricultural irrigation, golf course irrigation, public water supply, manufacturing, and electricity generation.

4. When the permittee has submitted a timely and complete application for reissuance of an existing VWP individual permit, but through no fault of the permittee, the board does not reissue or reissue with conditions a VWP individual permit or the board does not provide notice of its tentative decision to deny the application before an existing VWP individual permit expires, the conditions of the expiring VWP individual permit shall be administratively continued in full force and effect until the effective date of a reissued permit or the date on which the board denies the application. Timely application shall be a minimum of 180 days for an individual permit or a minimum of 270 days for an individual permit for a surface water withdrawal, unless otherwise specified in the existing permit.

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5. Any permittee desiring to continue a previously permitted activity after the expiration date of this VWP permit shall apply for and obtain a new permit or, if applicable, shall request an extension in accordance with 9VAC25-210-180. Any permittee with an effective VWP permit for an activity that is expected to continue after the expiration date of the VWP permit, without any change in the activity authorized by the VWP permit other than as may be allowed under 9VAC25-210-180, shall submit written notification requesting an extension. The permittee must file the request 90 days prior to the expiration date of the VWP permit. VWP permit modifications shall not be used to extend the term of a VWP permit beyond 15 years from the date of original issuance. When a permit term, other than that of an Emergency Virginia Water Protection Permit, is less than 15 years, an extension of the permit terms and conditions may be granted in accordance with 9VAC25-210-180. Emergency Virginia Water Protection Permits shall not exceed a duration of one year or shall expire upon the issuance of a regular Virginia Water Protection Permit, whichever comes first.

6. This VWP permit may be transferred to a new permittee only by modification to reflect the transfer, by revoking and reissuing the permit, or by automatic transfer. Automatic transfer to a new permittee shall occur if the current permittee: a) Notifies the board of the proposed transfer of the permit and provides a written agreement between the current and proposed permittees containing the date of transfer of VWP permit responsibility, authorization, and liability to the new permittee; and b) the board does not within 15 days notify the existing permittee of its intent to modify the VWP permit.

7. After notice and opportunity for a formal hearing pursuant to § 62.1-44.15:02 of the Code of Virginia, a VWP permit can be terminated for cause. Reasons for termination for cause are as follows:

   a. Noncompliance by the permittee with any condition of the VWP permit;

   b. The permittee's failure in the application or during the VWP permit process to disclose fully all relevant facts or the permittee's misrepresentation of any relevant facts at any time;

   c. The permittee's violation of a special or judicial order;

   d. A determination by the board that the permitted activity endangers human health or the environment and can be regulated to acceptable levels by VWP permit modification or termination;

   e. A change in any condition that requires either a temporary or permanent reduction or elimination of any activity controlled by the VWP permit; and

   f. A determination that the permitted activity has ceased and that the compensation for unavoidable adverse impacts has been successfully completed.

8. The board may terminate this permit without cause when the permittee is no longer a legal entity due to death, dissolution, or when a company is no longer authorized to conduct business in the

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Commonwealth. The termination shall be effective 30 days after notice of the proposed termination is sent to the last known address of the permittee or registered agent, unless the permittee objects within that time. If the permittee does object during that period, the board shall follow the applicable procedures for termination under § 62.1-44.15:25 of the Code of Virginia and 9VAC25-230.

9. This VWP permit may be terminated by consent, as initiated by the permittee. The permittee shall submit a request for termination by consent within 30 days of completing or canceling all permitted activities and all required compensatory mitigation requirements. When submitted for project completion, the request for termination by consent shall constitute a notice of project completion. The director may accept this termination on behalf of the board. The permittee shall submit the following information:

   a. Name, mailing address, and telephone number;

   b. Name and location of the activity;

   c. The VWP permit number; and

   d. One of the following certifications:

      i. For project completion: "I certify under penalty of law that all activities and any required compensatory mitigation authorized by a VWP permit have been completed. I understand that by submitting this notice of termination that I am no longer authorized to perform activities in surface waters in accordance with the VWP permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit, unless otherwise excluded from obtaining a permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP permit."

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

      iii. For events beyond permittee control, the permittee shall provide a detailed explanation of the events, to be approved by DEQ, and the following certification statement: "I certify under penalty of law that the activities or the required compensatory mitigation authorized by this VWP permit have changed as the result of events beyond my control (see attached). I understand that by submitting this notice of termination that I am no longer authorized to perform activities in surface waters in accordance with the VWP permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit,

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unless otherwise excluded from obtaining a permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP permit, nor does it allow me to resume the permitted activities without reapplication and issuance of another permit.

E. Inspection and Entry

Upon presentation of credentials, the permittee shall allow the board or any duly authorized agent of the board, at reasonable times and under reasonable circumstances, to conduct the actions listed in this section. For the purpose of this section, the time for inspection shall be deemed reasonable during regular business hours. Nothing contained herein shall make an inspection time unreasonable during an emergency.

1. Enter upon any permittee's property, public or private, and have access to, inspect and copy any records that must be kept as part of the VWP permit conditions;

2. Inspect any facilities, operations or practices (including monitoring and control equipment) regulated or required under the VWP permit; and

3. Sample or monitor any substance, parameter, or activity for the purpose of ensuring compliance with the conditions of the VWP permit or as otherwise authorized by law.

F. Duty to Provide Information

The board may request (i) such plans, specifications, and other pertinent information as may be necessary to determine the effect of an applicant's discharge on the quality of state waters or (ii) such other information as may be necessary to accomplish the purposes of this chapter. Any owner, permittee, or person applying for a VWP permit or general permit coverage shall provide the information requested by the board.

G. Monitoring and Records Requirements

1. Monitoring of parameters, other than pollutants, shall be conducted according to approved analytical methods as specified in the VWP permit. Analysis of pollutants will be conducted according to 40 CFR Part 136 (2017), Guidelines Establishing Test Procedures for the Analysis of Pollutants.

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

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

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4. Records of monitoring information shall include:

   a. The date, exact place and time of sampling or measurements;

   b. The name of the individuals who performed the sampling or measurements;

   c. The date and time the analyses were performed;

   d. The name of the individuals who performed the analyses;

   e. The analytical techniques or methods supporting the information such as observations, readings, calculations and bench data used;

   f. The results of such analyses; and

   g. Chain of custody documentation.

H. Property rights

The issuance of a VWP permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize injury to private property or any invasion of personal rights or any infringement of federal, state or local laws or regulations.

I. Reopener

This VWP permit may be reopened for the purpose of modifying the conditions of the VWP permit to meet new regulatory standards duly adopted by the board. Cause for reopening VWP permits includes, but is not limited to when the circumstances on which the previous VWP permit was based have materially and substantially changed, or special studies conducted by the board or the permittee show material and substantial change, since the time the VWP permit was issued and thereby constitute cause for VWP permit modification or revocation and reissuance.

J. Compliance with State and Federal Law

As to the permitted activity(ies), compliance with a VWP permit constitutes compliance with the VWP permit requirements of the Law and regulations. .

K. Severability

The provisions of this VWP permit are severable.

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L. Oil and Hazardous Substance Liability

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

M. Unauthorized Discharge of Pollutants

Except in compliance with a VWP permit, unless the activity is otherwise exempted or excluded, no person shall dredge, fill, or discharge any pollutant into, or adjacent to surface waters; withdraw surface water; otherwise alter the physical, chemical, or biological properties of state waters regulated under this chapter and make them detrimental to the public health, to animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, for recreation, or for other uses; excavate in wetlands; or on or after October 1, 2001, conduct the following activities in a wetland:

1. New activities to cause draining that significantly alters or degrades existing wetland acreage or functions;

2. Filling or dumping;

3. Permanent flooding or impounding; or

4. New activities that cause significant alteration or degradation of existing wetland acreage or functions.

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Attachment 1: VWP PERMIT CONSTRUCTION STATUS UPDATE FORM

Attached to VWP INDIVIDUAL PERMIT NUMBER 19-2036

[DATE], Individual Permit Coverage

Date (check one):

☐ June____, _____

☐ December _____, _____

VWP Individual Permit Number: 19-2036

Project Name and Location: Wegmans Distribution Center, located south of Ashcake Road (Route 657), northwest of Sliding Hill Road (Route 656), and east of Egypt Road (Route 741) in Hanover County, Virginia.

Status within each authorized surface water impact location, as identified on "Wegmans Distribution Center, Hanover County, Virginia, Wetlands and Waters Impacts Map" dated September 8, 2020, last revised on September 24, 2020, and received October 7, 2020, and drawn by Timmons Group: (check one of the following status options for each impact number/location. Attach additional sheet(s) if needed.)

Authorized impact number	Construction activities not started	Construction activities started	Construction activities started but currently not active	Does this impact involve culvert(s)[1]?	Construction activities complete[2]

[1] Provide spot elevations of the stream bottom within the thalweg at the beginning and end of the pipe or culvert, extending to a minimum of 10 feet beyond the limits of the impact, with completion of all culvert installations.

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[2] If all construction activities and compensatory mitigation requirements are complete, the permittee completes and signs the Termination Agreement section below within 30 days of last authorized activity and/or compensation completion. A completed and signed Agreement serves as Notice of Project Completion (9VAC25-210-130 F).

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

Authorized Signature: _____

Print Name: _____

Title: _____ Phone: _____

Date: _____ Email: _____

TERMINATION AGREEMENT BY CONSENT – PROJECT COMPLETION

Permittee Name: _____

Permittee Mailing Address: _____

Permittee Phone: _____

I hereby consent to the termination of coverage for VWP Individual Permit Number 19-2036.

"I certify under penalty of law that all activities and any required compensatory mitigation authorized by a VWP permit have been completed. I understand that by submitting this notice of termination that I am no longer authorized to perform activities in surface waters in accordance with the VWP permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit, unless otherwise excluded from obtaining a permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP permit."

Permittee Signature: _____

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Impact Construction Status Table Continued (if needed)

Additional Page [#] of [#]					
Authorized impact number	**Construction activities not started**	**Construction activities started**	**Construction activities started but currently not active**	**Does this impact involve culvert(s)[1]?**	**Construction activities complete[2]**

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Attachment 2: MONTHLY VWP PERMIT INSPECTION CHECKLIST

An inspection of all permitted impact areas, avoided waters and wetlands, and permanently preserved waters, wetlands and upland areas must be conducted at least once every month during active construction activities. Maintain this record on-site and available for inspection by DEQ staff.

Project Name	**VWP Permit #**	**Inspection Date**
Wegmans Distribution Center	19-2036	
Inspector Name & Affiliation	**Phone # & Email Address**	

I certify that the information contained in this report 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.

_____ _____

Signature of Inspector Date

	In Compliance?				
PERMIT REQUIREMENT	**Yes**	**No**	**Not Applicable**	**Location, Description, Notes & Corrective Action Taken (use additional note space below if needed)**	**Date Completed**
Surface water impacts are limited to the size and locations specified by the permit. No sedimentation impacts and no impacts to upland preservation areas have occurred[1].	☐	☐	☐		
Within 50 feet of authorized activities, all remaining surface waters and mitigation (preservation) areas that are inside the project area are clearly flagged or marked to prevent unpermitted impacts.	☐	☐	☐		
Authorized temporary impact areas have been restored to original contours, stabilized, and planted or seeded with original wetland vegetation type within 30 days of completing work in each area.	☐	☐	☐		
E&S controls consistent with the Virginia ESC Handbook are present and maintained in good working order.	☐	☐	☐		
Exposed slopes/stream banks have been stabilized immediately upon completion of work in each impact area, in accordance with the Virginia ESC Handbook.	☐	☐	☐		
Heavy equipment is placed on mats/ geotextile fabric when working in temporary wetland impact areas. Equipment and materials removed immediately upon completion of work.	☐	☐	☐		
Construction activities are not substantially disrupting the movement of aquatic life.	☐	☐	☐		
New instream pipes and culverts on <5% slope have been installed to maintain low flow conditions and are countersunk at both ends as follows: ≤ 24” diameter: countersunk 3” > 24” diameter: countersunk 6” or more. Any variations were approved in advance by DEQ.	☐	☐	☐		
Time-of-year restrictions are being adhered to.	☐	☐	☐		

[1] If unauthorized impacts have occurred, you **must** email or fax a copy of this report to DEQ within 24 hours of discovery. Email: pro.vwpcompliance@deq.virginia.gov Fax: 804-527-5106.

	In Compliance?				
PERMIT REQUIREMENT	**Yes**	**No**	**Not Applicable**	**Location, Description, Notes & Corrective Action Taken (use additional note space below if needed)**	**Date Completed**
For stream channelization or relocation, work in surface waters is being performed in the dry, with all flows diverted until the new channel is stabilized.	☐	☐	☐		
Water quality monitoring is being conducted during permanent stream relocations.	☐	☐	☐		
Streams and wetlands are free from any sheen or discoloration that may indicate a spill of oil, lubricants, concrete or other pollutants.[2]	☐	☐	☐		

Inspection Notes

[2] Any fish kills or spills of fuels or oils shall be reported to DEQ immediately upon discovery at 804-527-5020. If DEQ cannot be reached, the spill or fish kill shall be reported to the Virginia Department of Emergency Management (VDEM) at 1-800-468-8892 or the National Response Center (NRC) at 1-800-424-8802. Any spill of oil as defined in § 62.1-44.34:14 of the Code of Virginia that is less than 25 gallons and that reaches, or that is expected to reach, land only is not reportable, if recorded per § 62.1-44.34:19.2 of the Code of Virginia and if properly cleaned up.