**Financial Assurance/Closure Templates**

**Template #1**

**Closure Plan - Permanent Facility Closure**

**VPDES Permit Number: Click or tap here to enter text.**

**Facility Name: Click or tap here to enter text.**

**Closure Plan Contractor (Full Name): Click or tap here to enter text.**

Address: Click or tap here to enter text.

Telephone Number: Click or tap here to enter text.

**Third Party Implementer (Full Name): Click or tap here to enter text.**

Address: Click or tap here to enter text.

Telephone Number: Click or tap here to enter text.

This closure plan consists of the cessation of the discharge of pollutants to state waters, followed by physical closure of the above referenced facility in accordance with the facility closure plan prepared in accordance with [9VAC25-790-120](http://leg1.state.va.us/cgi-bin/legp504.exe?000+reg+9VAC25-790-120) E 3 and approved by the department.

The undersigned Closure Plan Contractor hereby agrees to stand by for the duration of the current VPDES permit term Click or tap here to enter text. *(specify dates*) to perform physical closure of the privately owned sewerage system located at Click or tap here to enter text. *(facility name)* in accordance with the technical outline provided below. The Closure Plan Contractor shall act under the direction of the undersigned Third Party Implementer. The Closure Plan Contractor further agrees to perform the designated work in accordance with the physical closure cost estimate attached to this agreement.

The cessation of the discharge of pollutants to State waters shall be effected through the termination of all residencies connected to the facility. The process of residential termination shall be administered by the Third Party Implementer. In the interim, the Third Party Implementer shall also administer the operation of the facility for up to 24 months by a (licensed) contract operator as designated in a separate agreement attached to the closure plan. Upon completion of residential termination, the Third Party Implementer shall instruct the Closure Plan Contractor to carry out physical closure of the facility according to the following (or included by attachment) technical outline:Click or tap here to enter text.

Authorized Signature for Third Party Implementer: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print Name: Click or tap here to enter text.Title: Click or tap here to enter text.

Authorized Signature for Closure Plan Contractor: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print Name: Click or tap here to enter text.Title: Click or tap here to enter text.

**Template #2**

**Closure Plan - 24 Month Contract Operation**

**VPDES Permit Number: Click or tap here to enter text.**

**Facility Name: Click or tap here to enter text.**

**Facility Contractor Operator (Full Name): Click or tap here to enter text.**

Address: Click or tap here to enter text.

Telephone Number: Click or tap here to enter text.

**Third Party Implementer (Full Name): Click or tap here to enter text.**

Address: Click or tap here to enter text.

Telephone Number: Click or tap here to enter text.

This closure plan stipulates contract operation of the facility for a period of up to 24 months after initial implementation of the closure plan, regardless of the date of initial implementation. Contract operation shall be by the undersigned Facility Contract Operator.

The Facility Contract Operator hereby agrees to stand by for the duration of the current VPDES permit term term Click or tap here to enter text. *(specify dates*) to perform contract operation of the privately owned sewerage system located at Click or tap here to enter text. *(facility name)* for a period of up to 24 months. The Facility Contract Operator hereby stipulates that (he/she) possesses all licenses and/or qualifications necessary or required to operate the facility in question.

Upon implementation of the closure plan and at the direction of the undersigned Third Party Implementer, the Facility Contract Operator shall operate the facility for up to 24 months in accordance with the terms and conditions of the applicable VPDES permit for the facility. The Facility Contract Operator stipulates that the current permit holder and the person or legal entity contracted to standby to operate the facility (i.e. the Facility Contract Operator) under the closure plan are not the same person or legal entity. The Facility Contract Operator further stipulates that the following cost estimate in the amount of Click or tap here to enter text. *($)* is sufficient to pay for comprehensive operation of the facility for up to 24 months in conjunction with all of the previously discussed requirements. Upon assuming the duties at the abandoned sewerage treatment plant, the Facility Contract Operator will be paid for his/her operating services from the available funds in the financial assurance mechanism on file with the Virginia Department of Environmental Quality for this permit.

The State Water Control Board and Virginia Department of Environmental Quality (DEQ) adopted 9VAC 25-650-60 to implement the requirements of Va. Code §§ 62.1-44.15 and 62.1-44.18.3. Specifically, 9VAC25-650-60.C.4 states that, “ . . . The contract shall also specify that the contract operator shall assume, without exception, all responsibilities and liabilities associated with the facility's discharge to state waters and with the owner's or operator's VPDES permit in the event the closure plan is implemented.” The Virginia Department of Environmental Quality (DEQ) has implemented guidance to further interpret and understand the extent of contractor liability under the regulation at *Amended Implementation Guidance for Financial Capability Regulation, 9 VAC25-650,* Guidance Memo No. 18-2002 (April 17, 2018). DEQ’s guidance states:

D. Contract Operation: . . . Contract operation must be by a named private company or other entity licensed to operate wastewater treatment facilities in Virginia and licensed to operate the specific type of facility to which the plan applies. A signed contract, executed by the contract operator, contingent only upon approval of the closure plan by DEQ, must be submitted as part of the plan, together with a copy of the required operator’s license. *Furthermore, the contract must specify that upon direction by DEQ or a third party named in the plan, the contactor shall: 1. operate the facility for the term specified in the contract (at least two years); and 2. operate the facility in accordance with the terms and conditions of the VPDES permit, as required by the Law (i.e. Section 62.1-44.5 of the Law indicates that it is illegal to discharge except in compliance with the conditions of a permit issued by the Board). [Note: The Law does not allow this liability to be contractually eliminated although operators may indemnify themselves from it through contractual terms.)* The entity named as the contract operator must be an independent third party (e.g. not owned by or a subsidiary of the permittee). *Id*. at p. 8 (emphasis added).

DEQ further interprets the regulation and its guidance to reflect that the contract operator is not responsible for non-compliance that occurs prior to the implementation of the closure plan. The contract may limit the liability of the contract operator to the amount of the permittee’s financial assurance.

Authorized Signature for Third Party Implementer: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print Name: Click or tap here to enter text.Title: Click or tap here to enter text.

Authorized Signature for Closure Plan Contractor: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print Name: Click or tap here to enter text.Title: Click or tap here to enter text.

 **Template #3**

**Closure Plan – Third Party Implementation Agreement**

**Date: Click or tap here to enter text.**

**VPDES Permit Number: Click or tap here to enter text.**

**Facility Name: Click or tap here to enter text.**

**Permit Holder: Click or tap here to enter text.**

Address: Click or tap here to enter text.

Telephone Number: Click or tap here to enter text.

**Third Party Implementer (Full Name): Click or tap here to enter text.**

Address: Click or tap here to enter text.

Telephone Number: Click or tap here to enter text.

Terms: The undersigned Permit Holder hereby engages the undersigned Third Party Implementer to stand by for the duration of the current VPDES permit term Click or tap here to enter text. *(specify dates)* to implement and administer all components of the attached closure plan in accordance with its requirements in the event that the State Water Control Board determines that the facility has ceased operation.

Authorized Signature for Third Party Implementer: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print Name: Click or tap here to enter text.Title: Click or tap here to enter text.

Authorized Signature for VPDES Permit Holder: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print Name: Click or tap here to enter text.Title: Click or tap here to enter text.