

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45

Part I
Definitions, Purpose, and Applicability

4VAC50-60-10. Definitions.

The following words and terms used in this chapter have the following meanings unless the context clearly indicates otherwise.

"Act" means the Virginia Stormwater Management Act, Article 1.1 (§ 10.1-603.1 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia.

"Administrator" means the Administrator of the United States Environmental Protection Agency or an authorized representative.

"Applicable standards and limitations" means all state, interstate, and federal standards and limitations to which a discharge or a related activity is subject under the Clean Water Act (CWA) (33 USC § 1251 et seq.) and the Act, including effluent limitations, water quality standards, standards of performance, toxic effluent standards or prohibitions, best management practices, and standards for sewage sludge use or disposal under §§ 301, 302, 303, 304, 306, 307, 308, 403 and 405 of CWA.

"Approval authority" means the Virginia Soil and Water Conservation Board or its designee.

"Approved program" or "approved state" means a state or interstate program that has been approved or authorized by EPA under 40 CFR Part 123 (2000).

"Average monthly discharge limitation" means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

"Average weekly discharge limitation" means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

"Best management practice " or "BMP" means schedules of activities, prohibitions of practices, including both structural and nonstructural practices, maintenance procedures, and other management practices to prevent or reduce the pollution of surface waters and groundwater systems from the impacts of land-disturbing activities.

"Board" means the Virginia Soil and Water Conservation Board.

"Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

"Channel" means a natural or manmade waterway

"Chesapeake Bay Preservation Act Land-Disturbing Activity" means a land-disturbing activity including clearing, grading, or excavation that results in a land disturbance equal to or greater than 2,500 square feet and less than one acre in all areas of jurisdictions designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulations adopted pursuant to the Chesapeake Bay Preservation Act.

"Chesapeake Bay watershed" means all land areas draining to the following Virginia river basins: Potomac River Basin, James River Basin, Rappahannock River Basin, Chesapeake Bay and its small coastal basins, and York River Basin.

46 "Common plan of development or sale" means a contiguous area where separate
47 and distinct construction activities may be taking place at different times on different
48 schedules.

49 "Comprehensive stormwater management plan" means a plan, which may be
50 integrated with other land use plans or regulations, that specifies how the water quality
51 components, quantity components, or both of stormwater are to be managed on the
52 basis of an entire watershed or a portion thereof. The plan may also provide for the
53 remediation of erosion, flooding, and water quality and quantity problems caused by
54 prior development.

55 "Construction activity" means any clearing, grading or excavation associated with
56 large construction activity or associated with small construction activity.

57 "Contiguous zone" means the entire zone established by the United States under
58 Article 24 of the Convention on the Territorial Sea and the Contiguous Zone (37 FR
59 11906 June 15, 1972).

60 "Continuous discharge" means a discharge which occurs without interruption
61 throughout the operating hours of the facility, except for infrequent shutdowns for
62 maintenance, process changes, or other similar activities.

63 "Control measure" means any BMP, stormwater facility, or other method used to
64 minimize the discharge of pollutants to state waters.

65 "Co-operator" means an operator of a VSMP permit that is only responsible for
66 permit conditions relating to the discharge for which it is the operator.

67 "Clean Water Act" or "CWA" means the federal Clean Water Act (33 USC § 1251 et
68 seq.), formerly referred to as the Federal Water Pollution Control Act or Federal Water
69 Pollution Control Act Amendments of 1972, Public Law 92-500, as amended by Public
70 Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law 97-117, or any
71 subsequent revisions thereto.

72 "CWA and regulations" means the Clean Water Act (CWA) and applicable
73 regulations published in the Code of Federal Regulations promulgated thereunder. For
74 the purposes of this chapter, it includes state program requirements.

75 "Daily discharge" means the discharge of a pollutant measured during a calendar
76 day or any 24-hour period that reasonably represents the calendar day for purposes of
77 sampling. For pollutants with limitations expressed in units of mass, the daily discharge
78 is calculated as the total mass of the pollutant discharged over the day. For pollutants
79 with limitations expressed in other units of measurement, the daily discharge is
80 calculated as the average measurement of the pollutant over the day.

81 "Department" means the Department of Conservation and Recreation.

82 "Development" means land disturbance and the resulting landform associated with
83 the construction of residential, commercial, industrial, institutional, recreation,
84 transportation, or utility facilities or structures or the clearing of land for nonagricultural or
85 nonsilvicultural purposes. The regulation of discharges from development, for purposes
86 of these regulations, does not include the exemptions found in 4VAC50-60-300.

87 "Direct discharge" means the discharge of a pollutant.

88 "Director" means the Director of the Department of Conservation and Recreation or
89 his designee.

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

- 91 "Discharge of a pollutant" means:
- 92 1. Any addition of any pollutant or combination of pollutants to state waters from
93 any point source; or
- 94 2. Any addition of any pollutant or combination of pollutants to the waters of the
95 contiguous zone or the ocean from any point source other than a vessel or other
96 floating craft which is being used as a means of transportation.
- 97 This definition includes additions of pollutants into surface waters from: surface
98 runoff that is collected or channeled by man; discharges through pipes, sewers, or other
99 conveyances owned by a state, municipality, or other person that do not lead to a
100 treatment works; and discharges through pipes, sewers, or other conveyances, leading
101 into privately owned treatment works. This term does not include an addition of
102 pollutants by any indirect discharger.
- 103 "Discharge Monitoring Report" or "DMR" means the form supplied by the
104 department, or an equivalent form developed by the operator and approved by the
105 board, for the reporting of self-monitoring results by operators.
- 106 "Draft permit" means a document indicating the board's tentative decision to issue or
107 deny, modify, revoke and reissue, terminate, or reissue a permit. A notice of intent to
108 terminate a permit, and a notice of intent to deny a permit are types of draft permits. A
109 denial of a request for modification, revocation and reissuance, or termination is not a
110 draft permit. A proposed permit is not a draft permit.
- 111 "Drainage area" means a land area, water area, or both from which runoff flows to a
112 common point.
- 113 "Effluent limitation" means any restriction imposed by the board on quantities,
114 discharge rates, and concentrations of pollutants which are discharged from point
115 sources into surface waters, the waters of the contiguous zone, or the ocean.
- 116 "Effluent limitations guidelines" means a regulation published by the administrator
117 under § 304(b) of the CWA to adopt or revise effluent limitations.
- 118 "Environmental Protection Agency " or "EPA" means the United States
119 Environmental Protection Agency.
- 120 "Existing permit" means for the purposes of this chapter a permit issued by the
121 permit-issuing authority and currently held by a permit applicant.
- 122 "Existing source" means any source that is not a new source or a new discharger.
- 123 "Facilities or equipment" means buildings, structures, process or production
124 equipment or machinery that form a permanent part of a new source and that will be
125 used in its operation, if these facilities or equipment are of such value as to represent a
126 substantial commitment to construct. It excludes facilities or equipment used in
127 connection with feasibility, engineering, and design studies regarding the new source or
128 water pollution treatment for the new source.
- 129 "Facility or activity" means any VSMP point source or treatment works treating
130 domestic sewage or any other facility or activity (including land or appurtenances
131 thereto) that is subject to regulation under the VSMP.
- 132 "Flood fringe" means the portion of the floodplain outside the floodway that is usually
133 covered with water from the 100-year storm event. This includes, but is not limited to, the
134 flood fringe designated by the Federal Emergency Management Agency.

135 "Flooding" means a volume of water that is too great to be confined within the banks
136 or walls of the stream, water body or conveyance system and that overflows onto
137 adjacent lands, thereby causing or threatening damage.

138 "Floodplain" means the area adjacent to a channel, river, stream, or other water body
139 that is susceptible to being inundated by water normally associated with the 100-year
140 storm event. This includes, but is not limited to, the floodplain designated by the Federal
141 Emergency Management Agency.

142 "Flood-prone area" means the component of a natural or restored stormwater
143 conveyance system that is outside the main channel. Flood-prone areas may include,
144 but are not limited to, the floodplain, the floodway, the flood fringe, wetlands, riparian
145 buffers or other areas adjacent to the main channel.

146 "Floodway" means the channel of a river or other watercourse and the adjacent land
147 areas, usually associated with flowing water, that must be reserved in order to discharge
148 the 100-year storm event without cumulatively increasing the water surface elevation
149 more than one foot . This includes, but is not limited to, the floodway designated by the
150 Federal Emergency Management Agency.

151 "General permit" means a VSMP permit authorizing a category of discharges under
152 the CWA and the Act within a geographical area of the Commonwealth of Virginia.

153 "Hazardous substance" means any substance designated under the Code of Virginia
154 or 40 CFR Part 116 (2000) pursuant to § 311 of the CWA.

155 "Hydrologic Unit Code" or "HUC" means a watershed unit established in the most
156 recent version of Virginia's 6th Order National Watershed Boundary Dataset.

157 "Illicit discharge" means any discharge to a municipal separate storm sewer that is
158 not composed entirely of stormwater, except discharges pursuant to a VPDES or VSMP
159 permit (other than the VSMP permit for discharges from the municipal separate storm
160 sewer), discharges resulting from fire fighting activities, and discharges identified by and
161 in compliance with 4VAC50-60-1220 C 2.

162 "Impervious cover" means a manmade surface composed of material that
163 significantly impedes or prevents natural infiltration of water into soil.

164 "Incorporated place" means a city, town, township, or village that is incorporated
165 under the Code of Virginia.

166 "Indian country" means (i) all land within the limits of any Indian reservation under
167 the jurisdiction of the United States government, notwithstanding the issuance of any
168 patent, and including rights-of-way running through the reservation; (ii) all dependent
169 Indian communities with the borders of the United States whether within the originally or
170 subsequently acquired territory thereof, and whether within or without the limits of a
171 state; and (iii) all Indian allotments, the Indian titles to which have not been extinguished,
172 including rights-of-way running through the same.

173 "Indirect discharger" means a nondomestic discharger introducing "pollutants" to a
174 "publicly owned treatment works (POTW)."

175 "Inspection" means an on-site review of the project's compliance with the permit, the
176 local stormwater management program, and any applicable design criteria, or an on-site
177 review to obtain information or conduct surveys or investigations necessary in the
178 enforcement of the Act and this chapter.

179 "Interstate agency" means an agency of two or more states established by or under
180 an agreement or compact approved by Congress, or any other agency of two or more
181 states having substantial powers or duties pertaining to the control of pollution as
182 determined and approved by the administrator under the CWA and regulations.

183 "Karst area" means any land area predominantly underlain at the surface or shallow
184 subsurface by limestone, dolomite, or other soluble bedrock regardless of any obvious
185 surface karst features.

186 "Karst features" means sinkholes, sinking and losing streams, caves, large flow
187 springs, and other such landscape features found in karst areas.

188 "Land disturbance" or "land-disturbing activity" means a manmade change to the
189 land surface that potentially changes its runoff characteristics including any clearing,
190 grading, or excavation associated with a construction activity regulated pursuant to the
191 CWA, the Act, and this chapter or with a Chesapeake Bay Preservation Act land-
192 disturbing activity regulated pursuant to the Act and this chapter.

193 "Large construction activity" means construction activity including clearing, grading
194 and excavation, except operations that result in the disturbance of less than five acres of
195 total land area. Large construction activity also includes the disturbance of less than five
196 acres of total land area that is a part of a larger common plan of development or sale if
197 the larger common plan will ultimately disturb five acres or more. Large construction
198 activity does not include routine maintenance that is performed to maintain the original
199 line and grade, hydraulic capacity, or original purpose of the facility.

200 "Large municipal separate storm sewer system" means all municipal separate storm
201 sewers that are either:

202 1. Located in an incorporated place with a population of 250,000 or more as
203 determined by the 1990 decennial census by the Bureau of Census (40 CFR Part
204 122 Appendix F (2000));

205 2. Located in the counties listed in 40 CFR Part 122 Appendix H (2000), except
206 municipal separate storm sewers that are located in the incorporated places,
207 townships or towns within such counties;

208 3. Owned or operated by a municipality other than those described in subdivision
209 1 or 2 of this definition and that are designated by the board as part of the large
210 or medium municipal separate storm sewer system due to the interrelationship
211 between the discharges of the designated storm sewer and the discharges from
212 municipal separate storm sewers described under subdivision 1 or 2 of this
213 definition. In making this determination the board may consider the following
214 factors:

215 a. Physical interconnections between the municipal separate storm sewers;

216 b. The location of discharges from the designated municipal separate storm
217 sewer relative to discharges from municipal separate storm sewers described
218 in subdivision 1 of this definition;

219 c. The quantity and nature of pollutants discharged to surface waters;

220 d. The nature of the receiving surface waters; and

221 e. Other relevant factors.

222 4. The board may, upon petition, designate as a large municipal separate storm
223 sewer system, municipal separate storm sewers located within the boundaries of

224 a region defined by a stormwater management regional authority based on a
225 jurisdictional, watershed, or other appropriate basis that includes one or more of
226 the systems described in this definition.

227 "Layout" means a conceptual drawing sufficient to provide for the specified
228 stormwater management facilities required at the time of approval.

229 "Linear development project" means a land-disturbing activity that is linear in nature
230 such as, but not limited to, (i) the construction of electric and telephone utility lines, and
231 natural gas pipelines; (ii) construction of tracks, rights-of-way, bridges, communication
232 facilities and other related structures of a railroad company; (iii) highway construction
233 projects; (iv) construction of stormwater channels and stream restoration activities; and
234 (v) water and sewer lines. Private subdivision roads or streets shall not be considered
235 linear development projects.

236 "Local stormwater management program" or "local program" means the various
237 methods employed by a locality to manage the quality and quantity of runoff resulting
238 from land-disturbing activities and shall include such items as local ordinances, permit
239 requirements, policies and guidelines, technical materials, plan review, inspection,
240 enforcement, and evaluation consistent with the Act and this chapter. Upon board
241 approval of a local stormwater management program, it shall be recognized as a
242 qualifying local program.

243 "Locality" means a county, city, or town.

244 "Localized flooding" refers to smaller scale flooding that may occur outside of a
245 stormwater conveyance system. This may include high water, ponding or standing water
246 from stormwater runoff, which is likely to cause property damage or unsafe conditions.

247 "Main channel" means the portion of the stormwater conveyance system that
248 contains the base flow and small frequent storm events.

249 "Major facility" means any VSMP facility or activity classified as such by the regional
250 administrator in conjunction with the board.

251 "Major modification" means, for the purposes of this chapter, the modification or
252 amendment of an existing permit before its expiration that is not a minor modification as
253 defined in this regulation.

254 "Major municipal separate storm sewer outfall " or "major outfall" means a municipal
255 separate storm sewer outfall that discharges from a single pipe with an inside diameter
256 of 36 inches or more or its equivalent (discharge from a single conveyance other than
257 circular pipe which is associated with a drainage area of more than 50 acres); or for
258 municipal separate storm sewers that receive stormwater from lands zoned for industrial
259 activity (based on comprehensive zoning plans or the equivalent), with an outfall that
260 discharges from a single pipe with an inside diameter of 12 inches or more or from its
261 equivalent (discharge from other than a circular pipe associated with a drainage area of
262 two acres or more).

263 "Manmade" means constructed by man.

264 "Maximum daily discharge limitation" means the highest allowable daily discharge.

265 "Maximum extent practicable" or "MEP" means the technology-based discharge
266 standard for municipal separate storm sewer systems established by CWA § 402(p).
267 MEP is achieved, in part, by selecting and implementing effective structural and
268 nonstructural best management practices (BMPs) and rejecting ineffective BMPs and
269 replacing them with effective best management practices (BMPs). MEP is an iterative

270 standard, which evolves over time as urban runoff management knowledge increases.
271 As such, the operator's MS4 program must continually be assessed and modified to
272 incorporate improved programs, control measures, BMPs, etc., to attain compliance with
273 water quality standards.

274 "Medium municipal separate storm sewer system" means all municipal separate
275 storm sewers that are either:

276 1. Located in an incorporated place with a population of 100,000 or more but less
277 than 250,000 as determined by the 1990 decennial census by the Bureau of
278 Census (40 CFR Part 122 Appendix G (2000));

279 2. Located in the counties listed in 40 CFR Part 122 Appendix I (2000), except
280 municipal separate storm sewers that are located in the incorporated places,
281 townships or towns within such counties;

282 3. Owned or operated by a municipality other than those described in subdivision
283 1 or 2 of this definition and that are designated by the board as part of the large
284 or medium municipal separate storm sewer system due to the interrelationship
285 between the discharges of the designated storm sewer and the discharges from
286 municipal separate storm sewers described under subdivision 1 or 2 of this
287 definition. In making this determination the board may consider the following
288 factors:

289 a. Physical interconnections between the municipal separate storm sewers;

290 b. The location of discharges from the designated municipal separate storm
291 sewer relative to discharges from municipal separate storm sewers described
292 in subdivision 1 of this definition;

293 c. The quantity and nature of pollutants discharged to surface waters;

294 d. The nature of the receiving surface waters; or

295 e. Other relevant factors.

296 4. The board may, upon petition, designate as a medium municipal separate
297 storm sewer system, municipal separate storm sewers located within the
298 boundaries of a region defined by a stormwater management regional authority
299 based on a jurisdictional, watershed, or other appropriate basis that includes one
300 or more of the systems described in subdivisions 1, 2 and 3 of this definition.

301 "Minor modification" means, for the purposes of this chapter, minor modification or
302 amendment of an existing permit before its expiration for the reasons listed at 40 CFR
303 122.63 and as specified in 4VAC50-60-640. Minor modification for the purposes of this
304 chapter also means other modifications and amendments not requiring extensive review
305 and evaluation including, but not limited to, changes in EPA promulgated test protocols,
306 increasing monitoring frequency requirements, changes in sampling locations, and
307 changes to compliance dates within the overall compliance schedules. A minor permit
308 modification or amendment does not substantially alter permit conditions, substantially
309 increase or decrease the amount of surface water impacts, increase the size of the
310 operation, or reduce the capacity of the facility to protect human health or the
311 environment.

312 "Municipal separate storm sewer" means a conveyance or system of conveyances
313 otherwise known as a municipal separate storm sewer system, including roads with
314 drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade
315 channels, or storm drains:

- 316 1. Owned or operated by a federal, state, city, town, county, district, association,
317 or other public body, created by or pursuant to state law, having jurisdiction or
318 delegated authority for erosion and sediment control and stormwater
319 management, or a designated and approved management agency under § 208
320 of the CWA that discharges to surface waters;
321 2. Designed or used for collecting or conveying stormwater;
322 3. That is not a combined sewer; and
323 4. That is not part of a publicly owned treatment works.

324 "Municipal separate storm sewer system" or "MS4" means all separate storm sewers
325 that are defined as "large" or "medium" or "small" municipal separate storm sewer
326 systems or designated under 4VAC50-60-380 A 1.

327 "Municipal Separate Storm Sewer System Management Program" or "MS4 Program"
328 means a management program covering the duration of a permit for a municipal
329 separate storm sewer system that includes a comprehensive planning process that
330 involves public participation and intergovernmental coordination, to reduce the discharge
331 of pollutants to the maximum extent practicable, to protect water quality, and to satisfy
332 the appropriate water quality requirements of the CWA and regulations and the Act and
333 attendant regulations, using management practices, control techniques, and system,
334 design and engineering methods, and such other provisions that are appropriate.

335 "Municipality" means a city, town, county, district, association, or other public body
336 created by or under state law and having jurisdiction over disposal of sewage, industrial
337 wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or
338 a designated and approved management agency under § 208 of the CWA.

339 "National Pollutant Discharge Elimination System " or "NPDES" means the national
340 program for issuing, modifying, revoking and reissuing, terminating, monitoring and
341 enforcing permits, and imposing and enforcing pretreatment requirements under §§ 307,
342 402, 318, and 405 of the CWA. The term includes an approved program.

343 "Natural channel design concepts" means the utilization of engineering analysis and
344 fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open
345 conveyance system for the purpose of creating or recreating a stream that conveys its
346 bankfull storm event within its banks and allows larger flows to access its floodplain.

347 "Natural stream" means a tidal or nontidal watercourse that is part of the natural
348 topography. It usually maintains a continuous or seasonal flow during the year and is
349 characterized as being irregular in cross-section with a meandering course. Constructed
350 channels such as drainage ditches or swales shall not be considered natural streams;
351 however, channels designed utilizing natural channel design concepts may be
352 considered natural streams.

353 "New discharger" means any building, structure, facility, or installation:

- 354 1. From which there is or may be a discharge of pollutants;
355 2. That did not commence the discharge of pollutants at a particular site prior to
356 August 13, 1979;
357 3. Which is not a new source; and
358 4. Which has never received a finally effective VPDES or VSMP permit for
359 discharges at that site.

360 This definition includes an indirect discharger that commences discharging into
361 surface waters after August 13, 1979. It also includes any existing mobile point source
362 (other than an offshore or coastal oil and gas exploratory drilling rig or a coastal oil and
363 gas developmental drilling rig) such as a seafood processing rig, seafood processing
364 vessel, or aggregate plant, that begins discharging at a site for which it does not have a
365 permit; and any offshore or coastal mobile oil and gas exploratory drilling rig or coastal
366 mobile oil and gas developmental drilling rig that commences the discharge of pollutants
367 after August 13, 1979.

368 "New permit" means, for the purposes of this chapter, a permit issued by the permit-
369 issuing authority to a permit applicant that does not currently hold and has never held a
370 permit of that type, for that activity, at that location.

371 "New source," means any building, structure, facility, or installation from which there
372 is or may be a discharge of pollutants, the construction of which commenced:

- 373 1. After promulgation of standards of performance under § 306 of the CWA that
374 are applicable to such source; or
- 375 2. After proposal of standards of performance in accordance with § 306 of the
376 CWA that are applicable to such source, but only if the standards are
377 promulgated in accordance with § 306 of the CWA within 120 days of their
378 proposal.

379 "Nonpoint source pollution" means pollution such as sediment, nitrogen and
380 phosphorous, hydrocarbons, heavy metals, and toxics whose sources cannot be
381 pinpointed but rather are washed from the land surface in a diffuse manner by
382 stormwater runoff.

383 "Operator" means the owner or operator of any facility or activity subject to the
384 VSMP permit regulation. In the context of stormwater associated with a large or small
385 construction activity, operator means any person associated with a construction project
386 that meets either of the following two criteria: (i) the person has direct operational control
387 over construction plans and specifications, including the ability to make modifications to
388 those plans and specifications or (ii) the person has day-to-day operational control of
389 those activities at a project that are necessary to ensure compliance with a stormwater
390 pollution prevention plan for the site or other permit conditions (i.e., they are authorized
391 to direct workers at a site to carry out activities required by the stormwater pollution
392 prevention plan or comply with other permit conditions). In the context of stormwater
393 discharges from Municipal Separate Storm Sewer Systems (MS4s), operator means the
394 operator of the regulated MS4 system.

395 "Outfall" means, when used in reference to municipal separate storm sewers, a point
396 source at the point where a municipal separate storm sewer discharges to surface
397 waters and does not include open conveyances connecting two municipal separate
398 storm sewers, or pipes, tunnels or other conveyances which connect segments of the
399 same stream or other surface waters and are used to convey surface waters.

400 "Overburden" means any material of any nature, consolidated or unconsolidated,
401 that overlies a mineral deposit, excluding topsoil or similar naturally occurring surface
402 materials that are not disturbed by mining operations.

403 "Owner" means the Commonwealth or any of its political subdivisions including, but
404 not limited to, sanitation district commissions and authorities, and any public or private
405 institution, corporation, association, firm or company organized or existing under the

406 laws of this or any other state or country, or any officer or agency of the United States, or
407 any person or group of persons acting individually or as a group that owns, operates,
408 charters, rents, or otherwise exercises control over or is responsible for any actual or
409 potential discharge of sewage, industrial wastes, or other wastes or pollutants to state
410 waters, or any facility or operation that has the capability to alter the physical, chemical,
411 or biological properties of state waters in contravention of § 62.1-44.5 of the Code of
412 Virginia, the Act and this chapter.

413 "Peak flow rate" means the maximum instantaneous flow from a prescribed design
414 storm at a particular location.

415 "Percent impervious" means the impervious area within the site divided by the area
416 of the site multiplied by 100.

417 "Permit" means an approval issued by the permit-issuing authority for the initiation of
418 a land-disturbing activity or for stormwater discharges from an MS4. Permit does not
419 include any permit that has not yet been the subject of final permit-issuing authority
420 action, such as a draft permit or a proposed permit.

421 "Permit-issuing authority" means the board, the department, or a locality that is
422 delegated authority by the board to issue, deny, revoke, terminate, or amend stormwater
423 permits under the provisions of the Act and this chapter.

424 "Permittee" means the person or locality to which the permit is issued, including any
425 owner or operator whose construction site is covered under a construction general
426 permit.

427 "Person" means any individual, corporation, partnership, association, state,
428 municipality, commission, or political subdivision of a state, governmental body
429 (including but not limited to a federal, state, or local entity), any interstate body or any
430 other legal entity.

431 "Planning area" means a designated portion of the parcel on which the land
432 development project is located. Planning areas shall be established by delineation on a
433 master plan. Once established, planning areas shall be applied consistently for all future
434 projects.

435 "Point of discharge" means a location at which concentrated stormwater runoff is
436 released.

437 "Point source" means any discernible, confined, and discrete conveyance including,
438 but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure,
439 container, rolling stock, concentrated animal feeding operation, landfill leachate
440 collection system, vessel, or other floating craft from which pollutants are or may be
441 discharged. This term does not include return flows from irrigated agriculture or
442 agricultural stormwater runoff.

443 "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash,
444 sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials,
445 radioactive materials (except those regulated under the Atomic Energy Act of 1954, as
446 amended (42 USC § 2011 et seq.)), heat, wrecked or discarded equipment, rock, sand,
447 cellar dirt and industrial, municipal, and agricultural waste discharged into water. It does
448 not mean:

- 449 1. Sewage from vessels; or
- 450 2. Water, gas, or other material that is injected into a well to facilitate production
451 of oil or gas, or water derived in association with oil and gas production and

452 disposed of in a well if the well used either to facilitate production or for disposal
453 purposes is approved by the board and if the board determines that the injection
454 or disposal will not result in the degradation of ground or surface water
455 resources.

456 "Pollutant discharge" means the average amount of a particular pollutant measured
457 in pounds per year or other standard reportable unit as appropriate, delivered by
458 stormwater runoff.

459 "Pollution" means such alteration of the physical, chemical or biological properties of
460 any state waters as will or is likely to create a nuisance or render such waters (a)
461 harmful or detrimental or injurious to the public health, safety or welfare, or to the health
462 of animals, fish or aquatic life; (b) unsuitable with reasonable treatment for use as
463 present or possible future sources of public water supply; or (c) unsuitable for
464 recreational, commercial, industrial, agricultural, or other reasonable uses, provided that
465 (i) an alteration of the physical, chemical, or biological property of state waters, or a
466 discharge or deposit of sewage, industrial wastes or other wastes to state waters by any
467 owner which by itself is not sufficient to cause pollution, but which, in combination with
468 such alteration of or discharge or deposit to state waters by other owners, is sufficient to
469 cause pollution; (ii) the discharge of untreated sewage by any owner into state waters;
470 and (iii) contributing to the contravention of standards of water quality duly established
471 by the State Water Control Board, are "pollution" for the terms and purposes of this
472 chapter.

473 "Postdevelopment" refers to conditions that reasonably may be expected or
474 anticipated to exist after completion of the land development activity on a specific site or
475 tract of land.

476 "Predevelopment" refers to the conditions that exist at the time that plans for the land
477 development of a tract of land are submitted to the plan approval authority. Where
478 phased development or plan approval occurs (preliminary grading, demolition of existing
479 structures, roads and utilities, etc.), the existing conditions at the time prior to the first
480 item being submitted shall establish predevelopment conditions.

481 "Prior developed lands" means land that has been previously utilized for residential,
482 commercial, industrial, institutional, recreation, transportation or utility facilities or
483 structures, and that will have the impervious areas associated with those uses altered
484 during a land-disturbing activity.

485 "Privately owned treatment works " or "PVOTW" means any device or system that is
486 (i) used to treat wastes from any facility whose operator is not the operator of the
487 treatment works and (ii) not a POTW.

488 "Proposed permit" means a VSMP permit prepared after the close of the public
489 comment period (and, when applicable, any public hearing and administrative appeals)
490 that is sent to EPA for review before final issuance. A proposed permit is not a draft
491 permit.

492 "Publicly owned treatment works " or "POTW" means a treatment works as defined
493 by § 212 of the CWA that is owned by a state or municipality (as defined by § 502(4) of
494 the CWA). This definition includes any devices and systems used in the storage,
495 treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid
496 nature. It also includes sewers, pipes, and other conveyances only if they convey
497 wastewater to a POTW treatment plant. The term also means the municipality as defined

498 in § 502(4) of the CWA, that has jurisdiction over the indirect discharges to and the
499 discharges from such a treatment works.

500 "Qualified personnel" means a licensed professional engineer, responsible land
501 disturber, or other person who holds a certificate of competency from the board in the
502 area of project inspection or combined administrator.

503 "Qualifying local stormwater management program" or "qualifying local program"
504 means a local stormwater management program , administered by a locality, that has
505 been authorized by the board. To authorize a qualifying local program, the board must
506 find that the ordinances adopted by the locality are consistent with the VSMP General
507 Permit for Discharges of Stormwater from Construction Activities.

508 "Recommencing discharger" means a source that recommences discharge after
509 terminating operations.

510 "Regional administrator" means the Regional Administrator of Region III of the
511 Environmental Protection Agency or the authorized representative of the regional
512 administrator.

513 "Revoked permit" means, for the purposes of this chapter, an existing permit that is
514 terminated by the board before its expiration.

515 "Runoff coefficient" means the fraction of total rainfall that will appear at a
516 conveyance as runoff.

517 "Runoff" or "stormwater runoff" means that portion of precipitation that is discharged
518 across the land surface or through conveyances to one or more waterways.

519 "Runoff characteristics" include peak flow rate, volume, and flow duration .

520 "Runoff volume" means the volume of water that runs off the site of a land-disturbing
521 activity from a prescribed design storm.

522 "Schedule of compliance" means a schedule of remedial measures included in a
523 permit, including an enforceable sequence of interim requirements (for example, actions,
524 operations, or milestone events) leading to compliance with the Act, the CWA and
525 regulations.

526 "Secretary" means the Secretary of the Army, acting through the Chief of Engineers.

527 "Severe property damage" means substantial physical damage to property, damage
528 to the treatment facilities that causes them to become inoperable, or substantial and
529 permanent loss of natural resources that can reasonably be expected to occur in the
530 absence of a bypass. Severe property damage does not mean economic loss caused by
531 delays in production.

532 "Significant materials" means, but is not limited to: raw materials; fuels; materials
533 such as solvents, detergents, and plastic pellets; finished materials such as metallic
534 products; raw materials used in food processing or production; hazardous substances
535 designated under § 101(14) of CERCLA (42 USC § 9601(14)); any chemical the facility
536 is required to report pursuant to § 313 of Title III of SARA (42 USC § 11023); fertilizers;
537 pesticides; and waste products such as ashes, slag and sludge that have the potential to
538 be released with stormwater discharges.

539 "Single jurisdiction" means, for the purposes of this chapter, a single county or city.
540 The term county includes incorporated towns which are part of the county.

541 "Site" means the land or water area where any facility or activity is physically located
542 or conducted, a parcel of land being developed, or a designated area of a parcel in

543 which the land development project is located. Areas channelward of mean low water in
544 tidal Virginia shall not be considered part of a site.

545 "Site hydrology" means the movement of water on, across, through and off the site
546 as determined by parameters including, but not limited to, soil types, soil permeability,
547 vegetative cover, seasonal water tables, slopes, land cover, and impervious cover.

548 "Small construction activity" means:

549 1. Construction activities including clearing, grading, and excavating that results
550 in land disturbance of equal to or greater than one acre, and less than five acres.
551 Small construction activity also includes the disturbance of less than one acre of
552 total land area that is part of a larger common plan of development or sale if the
553 larger common plan will ultimately disturb equal to or greater than one and less
554 than five acres. Small construction activity does not include routine maintenance
555 that is performed to maintain the original line and grade, hydraulic capacity, or
556 original purpose of the facility. The board may waive the otherwise applicable
557 requirements in a general permit for a stormwater discharge from construction
558 activities that disturb less than five acres where stormwater controls are not
559 needed based on a "total maximum daily load" (TMDL) approved or established
560 by EPA that addresses the pollutant(s) of concern or, for nonimpaired waters that
561 do not require TMDLs, an equivalent analysis that determines allocations for
562 small construction sites for the pollutant(s) of concern or that determines that
563 such allocations are not needed to protect water quality based on consideration
564 of existing in-stream concentrations, expected growth in pollutant contributions
565 from all sources, and a margin of safety. For the purpose of this subdivision, the
566 pollutant(s) of concern include sediment or a parameter that addresses sediment
567 (such as total suspended solids, turbidity or siltation) and any other pollutant that
568 has been identified as a cause of impairment of any water body that will receive a
569 discharge from the construction activity. The operator must certify to the board
570 that the construction activity will take place, and stormwater discharges will
571 occur, within the drainage area addressed by the TMDL or equivalent analysis.

572 2. Any other construction activity designated by the either the board or the EPA
573 regional administrator, based on the potential for contribution to a violation of a
574 water quality standard or for significant contribution of pollutants to surface
575 waters.

576 "Small municipal separate storm sewer system" or "small MS4" means all separate
577 storm sewers that are (i) owned or operated by the United States, a state, city, town,
578 borough, county, parish, district, association, or other public body (created by or
579 pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes,
580 stormwater, or other wastes, including special districts under state law such as a sewer
581 district, flood control district or drainage district, or similar entity, or an Indian tribe or an
582 authorized Indian tribal organization, or a designated and approved management
583 agency under § 208 of the CWA that discharges to surface waters and (ii) not defined as
584 "large" or "medium" municipal separate storm sewer systems or designated under
585 4VAC50-60-380 A 1. This term includes systems similar to separate storm sewer
586 systems in municipalities, such as systems at military bases, large hospital or prison
587 complexes, and highway and other thoroughfares. The term does not include separate
588 storm sewers in very discrete areas, such as individual buildings.

589 "Source" means any building, structure, facility, or installation from which there is or
590 may be a discharge of pollutants.

591 "State" means the Commonwealth of Virginia.

592 "State/EPA agreement" means an agreement between the EPA regional
593 administrator and the state that coordinates EPA and state activities, responsibilities and
594 programs including those under the CWA and the Act.

595 "State project" means any land development project that is undertaken by any state
596 agency, board, commission, authority or any branch of state government, including
597 state-supported institutions of higher learning.

598 "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1 of
599 the Code of Virginia.

600 "State waters" means all water, on the surface and under the ground, wholly or
601 partially within or bordering the Commonwealth or within its jurisdiction, including
602 wetlands.

603 "Stormwater" means precipitation that is discharged across the land surface or
604 through conveyances to one or more waterways and that may include stormwater runoff,
605 snow melt runoff, and surface runoff and drainage.

606 "Stormwater conveyance system" means a combination of drainage components that
607 are used to convey stormwater discharge, either within or downstream of the land-
608 disturbing activity. This includes:

609 (i) "Manmade stormwater conveyance system " means a pipe, ditch, vegetated
610 swale, or other stormwater conveyance system constructed by man except for restored
611 stormwater conveyance systems;

612 (ii) "Natural stormwater conveyance system " means the main channel of a natural
613 stream and the flood-prone area adjacent to the main channel; or

614 (iii) "Restored stormwater conveyance system " means a stormwater conveyance
615 system that has been designed and constructed using natural channel design concepts.
616 Restored stormwater conveyance systems include the main channel and the flood-prone
617 area adjacent to the main channel.

618 "Stormwater discharge associated with construction activity" means a discharge of
619 pollutants in stormwater runoff from areas where land-disturbing activities (e.g., clearing,
620 grading, or excavation); construction materials or equipment storage or maintenance
621 (e.g., fill piles, borrow area, concrete truck washout, fueling); or other industrial
622 stormwater directly related to the construction process (e.g., concrete or asphalt batch
623 plants) are located.

624 "Stormwater discharge associated with large construction activity" means the
625 discharge of stormwater from large construction activities.

626 "Stormwater discharge associated with small construction activity" means the
627 discharge of stormwater from small construction activities.

628 "Stormwater management facility" means a device that controls stormwater runoff
629 and changes the characteristics of that runoff including, but not limited to, the quantity
630 and quality, the period of release or the velocity of flow.

631 "Stormwater management plan" means a document(s) containing material for
632 describing how existing runoff characteristics will be maintained by a land-disturbing

633 activity and methods for complying with the requirements of the local program or this
634 chapter.

635 "Stormwater Management Program" means a program established by a locality that
636 is consistent with the requirements of the Act, this chapter and associated guidance
637 documents.

638 "Stormwater Pollution Prevention Plan" or "SWPPP" means a document that is
639 prepared in accordance with good engineering practices and that identifies potential
640 sources of pollutants that may reasonably be expected to affect the quality of stormwater
641 discharges from the construction site or its associated land-disturbing activities. In
642 addition the document shall identify and require the implementation of control measures,
643 and shall include, but not be limited to the inclusion of, or the incorporation by reference
644 of, an approved erosion and sediment control plan, an approved stormwater
645 management plan, and a pollution prevention plan .

646 "Stormwater Program Administrative Authority" means a local stormwater
647 management program or the department, as the permit-issuing authority, in the absence
648 of a local stormwater management program, which administers the Virginia Stormwater
649 Management Program.

650 "Subdivision" means the same as defined in § 15.2-2201 of the Code of Virginia.

651 "Surface waters" means:

- 652 1. All waters that are currently used, were used in the past, or may be
653 susceptible to use in interstate or foreign commerce, including all waters that are
654 subject to the ebb and flow of the tide;
- 655 2. All interstate waters, including interstate wetlands;
- 656 3. All other waters such as intrastate lakes, rivers, streams (including intermittent
657 streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows,
658 playa lakes, or natural ponds the use, degradation, or destruction of which would
659 affect or could affect interstate or foreign commerce including any such waters:
 - 660 a. That are or could be used by interstate or foreign travelers for recreational
661 or other purposes;
 - 662 b. From which fish or shellfish are or could be taken and sold in interstate or
663 foreign commerce; or
 - 664 c. That are used or could be used for industrial purposes by industries in
665 interstate commerce.
- 666 4. All impoundments of waters otherwise defined as surface waters under this
667 definition;
- 668 5. Tributaries of waters identified in subdivisions 1 through 4 of this definition;
- 669 6. The territorial sea; and
- 670 7. Wetlands adjacent to waters (other than waters that are themselves wetlands)
671 identified in subdivisions 1 through 6 of this definition.

672 Waste treatment systems, including treatment ponds or lagoons designed to meet
673 the requirements of the CWA and the law, are not surface waters. Surface waters do not
674 include prior converted cropland. Notwithstanding the determination of an area's status
675 as prior converted cropland by any other agency, for the purposes of the CWA , the final
676 authority regarding the CWA jurisdiction remains with the EPA.

677 "Total dissolved solids" means the total dissolved (filterable) solids as determined by
678 use of the method specified in 40 CFR Part 136 (2000).

679 "Total maximum daily load" or "TMDL" means the sum of the individual wasteload
680 allocations for point sources, load allocations (LAs) for nonpoint sources, natural
681 background loading and a margin of safety. TMDLs can be expressed in terms of either
682 mass per time, toxicity, or other appropriate measure. The TMDL process provides for
683 point versus nonpoint source trade-offs.

684 "Toxic pollutant" means any pollutant listed as toxic under § 307(a)(1) of the CWA or,
685 in the case of sludge use or disposal practices, any pollutant identified in regulations
686 implementing § 405(d) of the CWA.

687 "Upset" means an exceptional incident in which there is unintentional and temporary
688 noncompliance with technology based permit effluent limitations because of factors
689 beyond the reasonable control of the operator. An upset does not include
690 noncompliance to the extent caused by operational error, improperly designed treatment
691 facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or
692 improper operation.

693 "Variance" means any mechanism or provision under § 301 or § 316 of the CWA or
694 under 40 CFR Part 125 (2000), or in the applicable federal effluent limitations guidelines
695 that allows modification to or waiver of the generally applicable effluent limitation
696 requirements or time deadlines of the CWA. This includes provisions that allow the
697 establishment of alternative limitations based on fundamentally different factors or on §
698 301(c), § 301(g), § 301(h), § 301(i), or § 316(a) of the CWA.

699 "Virginia Pollutant Discharge Elimination System (VPDES) permit" or "VPDES
700 permit" means a document issued by the State Water Control Board pursuant to the
701 State Water Control Law authorizing, under prescribed conditions, the potential or actual
702 discharge of pollutants from a point source to surface waters and the use or disposal of
703 sewage sludge.

704 "Virginia Stormwater Management Act" means Article 1.1 (§ 10.1-603.1 et seq.) of
705 Chapter 6 of Title 10.1 of the Code of Virginia.

706 "Virginia Stormwater BMP Clearinghouse website" means a website that contains
707 detailed design standards and specifications for control measures that may be used in
708 Virginia to comply with the requirements of the Virginia Stormwater Management Act
709 and associated regulations and that is jointly created by the department and the Virginia
710 Water Resources Research Center subject to advice to the director from a permanent
711 stakeholder advisory committee.

712 "Virginia Stormwater Management Handbook" means a collection of pertinent
713 information that provides general guidance for compliance with the Act and associated
714 regulations and is developed by the department with advice from a stakeholder advisory
715 committee.

716 "Virginia Stormwater Management Program " or "VSMP" means the Virginia program
717 for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing
718 permits, and imposing and enforcing requirements pursuant to the CWA, the Act, this
719 chapter, and associated guidance documents.

720 "Virginia Stormwater Management Program permit" or "VSMP permit" means a
721 document issued by the permit-issuing authority pursuant to the Virginia Stormwater
722 Management Act and this chapter authorizing, under prescribed conditions, the potential

723 or actual discharge of pollutants from a point source to surface waters. Under the
724 approved state program, a VSMP permit is equivalent to a NPDES permit.

725 "VSMP application" or "application" means the standard form or forms, including any
726 additions, revisions or modifications to the forms, approved by the administrator and the
727 board for applying for a VSMP permit.

728 "Wasteload allocation" or "wasteload" or "WLA" means the portion of a receiving
729 surface water's loading or assimilative capacity allocated to one of its existing or future
730 point sources of pollution. WLAs are a type of water quality-based effluent limitation.

731 "Water quality standards" or "WQS" means provisions of state or federal law that
732 consist of a designated use or uses for the waters of the Commonwealth and water
733 quality criteria for such waters based on such uses. Water quality standards are to
734 protect the public health or welfare, enhance the quality of water, and serve the
735 purposes of the State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia),
736 the Act (§ 10.1-603.1 et seq. of the Code of Virginia), and the CWA (33 USC § 1251 et
737 seq.).

738 "Watershed" means a defined land area drained by a river or stream, karst system,
739 or system of connecting rivers or streams such that all surface water within the area
740 flows through a single outlet. In karst areas, the karst feature to which the water drains
741 may be considered the single outlet for the watershed.

742 "Wetlands" means those areas that are inundated or saturated by surface or
743 groundwater at a frequency and duration sufficient to support, and that under normal
744 circumstances do support, a prevalence of vegetation typically adapted for life in
745 saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and
746 similar areas.

747 "Whole effluent toxicity" means the aggregate toxic effect of an effluent measured
748 directly by a toxicity test.

749 **4VAC50-60-20. Purposes.**

750 The purposes of this chapter are to provide a framework for the administration,
751 implementation and enforcement of the Virginia Stormwater Management Act (Act) and
752 to delineate the procedures and requirements to be followed in connection with VSMP
753 permits issued by the board or its designee pursuant to the Clean Water Act (CWA) and
754 the Virginia Stormwater Management Act, while at the same time providing flexibility for
755 innovative solutions to stormwater management issues. The chapter also establishes the
756 board's procedures for the authorization of a qualifying local program, the board's
757 procedures for the administration of a local stormwater management program by an
758 authorized qualifying local program, board and department oversight authorities for an
759 authorized qualifying local program, the board's procedures for utilization by the
760 department in administering the Virginia Stormwater Management Program in localities
761 where no qualifying local program is authorized, and the required technical criteria for
762 stormwater management from land-disturbing activities.

763 **4VAC50-60-30. Applicability.**

764 This chapter is applicable to:

- 765 1. Every locality that administers a local stormwater management program ;
- 766 2. The department in its oversight of locally administered programs or in its
767 administration of a the Virginia Stormwater Management Program;

- 768 3. Every MS4 program;
769 4. Every state agency project regulated under the Act and this chapter; and
770 5. Every land-disturbing activity regulated under § 10.1-603.8 of the Code of
771 Virginia unless otherwise exempted in § 10.1-603.8 B.

772 Part II

773 **4VAC50-60-40. Authority.**

774 Pursuant to the Virginia Stormwater Management Act (§ 10.1-603.2 et seq. of the
775 Code of Virginia), the board is required to take actions ensuring the general health,
776 safety, and welfare of the citizens of the Commonwealth as well as protecting the quality
777 and quantity of state waters from the potential harm of unmanaged stormwater. In
778 addition to other authority granted to the board under the Stormwater Management Act,
779 the board is authorized pursuant to §§ 10.1-603.2:1 and 10.1-603.4 to adopt regulations
780 that specify standards and procedures for local stormwater management programs and
781 the Virginia Stormwater Management Program, to establish statewide standards for
782 stormwater management from land-disturbing activities, and to protect properties, the
783 quality and quantity of state waters, the physical integrity of stream channels, and other
784 natural resources.

785 **4VAC50-60-45. Implementation date.**

786 The technical criteria in Part II A and Part II B shall be implemented by a stormwater
787 program administrative authority when a VSMP General Permit for Discharges of
788 Stormwater from Construction Activities has been issued that incorporates such criteria.
789 Until that time, the required technical criteria shall be found in Part II C.

790 **4VAC50-60-46. General objectives.**

791 The physical, chemical, biological, and hydrologic characteristics and the water
792 quality and quantity of the receiving state waters shall be maintained, protected, or
793 improved in accordance with the requirements of this part. Objectives include, but are
794 not limited to, supporting state designated uses and water quality standards. All control
795 measures used shall be employed in a manner that minimizes impacts on receiving state
796 waters.

797 **4VAC50-60-47. Applicability of other laws and regulations.**

798 Nothing in this chapter shall be construed as limiting the applicability of other laws
799 and regulations, including, but not limited to, the CWA, Virginia Stormwater Management
800 Act, Virginia Erosion and Sediment Control Law, and the Chesapeake Bay Preservation
801 Act, except as provided in § [10.1-603.3](#) I of the Code of Virginia, and all applicable
802 regulations adopted in accordance with those laws, or the rights of other federal
803 agencies, state agencies, or local governments to impose more stringent technical
804 criteria or other requirements as allowed by law.

805 **4VAC50-60-48. Grandfathering.**

806 A. Beginning with the VMSP General Permit for Discharges of Stormwater from
807 Construction Activities issued July 1, 2009, all land-disturbing activities that receive
808 general permit coverage shall be conducted in accordance with the technical criteria
809 under which permit coverage was issued and shall remain subject to those criteria for an
810 additional two permits, except as provided for in subsection D. After the two additional
811 permits have passed, or should permit coverage not be maintained, portions of the
812 project not under construction shall become subject to any new technical criteria

813 adopted since original permit coverage was issued. For land-disturbing projects issued
814 coverage under the July 1, 2009 permit and for which coverage was maintained, such
815 projects shall remain subject to the technical criteria of Part II C for an additional two
816 permits.

817 B.

818 Until June 30, 2019, any land-disturbing activity for which a currently valid proffered
819 or conditional zoning plan, preliminary or final subdivision plat, preliminary or final site
820 plan or zoning with a plan of development, or any document determined by the locality
821 as being equivalent thereto, was approved by a locality prior to July 1, 2012, and for
822 which no coverage under the VSMP General Permit for Discharges of Stormwater from
823 Construction Activities has been issued prior to July 1, 2014, shall be considered
824 grandfathered by the stormwater program administrative authority and shall not be
825 subject to the technical criteria of Part II B, but shall be subject to the technical criteria of
826 Part II C for those areas that were included in the approval, provided that the stormwater
827 program administrative authority finds that such proffered or conditional zoning plan,
828 preliminary or final subdivision plat, preliminary or final site plan or zoning with a plan of
829 development, or any document determined by the locality as being equivalent thereto, (i)
830 provides for a layout; and (ii) the resulting land-disturbing activity will be compliant with
831 the requirements of Part II C. In the event that the locality-approved document is
832 subsequently modified or amended in a manner such that there is no increase over the
833 previously approved plat or plan in the amount of phosphorus leaving each point of
834 discharge of the land-disturbing activity through stormwater runoff, and such that there is
835 no increase over the previously approved plat or plan in the volume or rate of runoff, the
836 grandfathering shall continue as before.

837 C. Until June 30, 2019, for locality, state, and federal projects for which there has
838 been an obligation of locality, state, or federal funding, in whole or in part, prior to July 1,
839 2012, or for which the department has approved a stormwater management plan prior to
840 July 1, 2012, such projects shall be considered grandfathered by the stormwater
841 program administrative authority and shall not be subject to the technical criteria of Part
842 II B, but shall be subject to the technical criteria of Part II C for those areas that were
843 included in the approval.

844 D. . In cases where governmental bonding or public debt financing has been issued
845 for a project prior to July 1, 2012, such project shall be subject to the technical criteria of
846 Part II C.

847 E. Nothing in this section shall preclude an operator from constructing to a more
848 stringent standard at their discretion.

849 **4VAC50-60-50. (Repealed.)**

850 **4VAC50-60-51. Chesapeake Bay Preservation Act land-disturbing activity.**

851 In order to protect the quality of state waters and to control the discharge of
852 stormwater pollutants from land-disturbing activities, runoff associated with Chesapeake
853 Bay Preservation Act land-disturbing activities shall be controlled. Such land-disturbing
854 activities shall not require completion of a registration statement or require coverage
855 under the VSMP General Permit for Discharges of Stormwater from Construction
856 Activities but shall be subject to the following technical criteria and program and
857 administrative requirements.

- 858 A. An erosion and sediment control plan consistent with the requirements of the
859 Virginia Erosion and Sediment Control Law and regulations must be designed
860 and implemented during land disturbing activities. Prior to land disturbance, this
861 plan must be approved by either the local erosion and sediment control program
862 or the department in accordance with the Virginia Erosion and Sediment Control
863 Law and attendant regulations.
- 864 B. A stormwater plan consistent with the requirements of the Virginia Stormwater
865 Management Act and regulations must be designed and implemented during the
866 land-disturbing activity. The stormwater management plan shall be developed
867 and submitted in accordance with 4VAC50-60-55. Prior to land disturbance, this
868 plan must be approved by the stormwater program administrative authority.
- 869 C. Exceptions may be requested in accordance with 4VAC50-60-57.
- 870 D. Long-term maintenance of stormwater management facilities shall be provided
871 for and conducted in accordance with 4VAC50-60-58.
- 872 E. Water quality design criteria in 4VAC50-60-63 shall be applied to the site of a
873 land-disturbing activity.
- 874 F. Water quality compliance shall be achieved in accordance with 4VAC50-60-
875 65.
- 876 G. Channel protection and flood protection shall be achieved in accordance with
877 4VAC50-60-66.
- 878 H. Offsite compliance options in accordance with 4VAC50-60-69 shall be
879 available to Chesapeake Bay Preservation Act land-disturbing activities.
- 880 I. Such land-disturbing activities shall be subject to the design storm and
881 hydrologic methods set out in 4VAC50-60-72, linear development controls in
882 4VAC50-60-76, and criteria associated with stormwater impoundment structures
883 or facilities in 4VAC50-60-85.

884 Part II A

885 General Administrative Criteria for Regulated Land-Disturbing Activities

886 **4VAC50-60-53. Applicability .**

887 This Part applies to all regulated land-disturbing activities.

888 **4VAC50-60-54. Stormwater pollution prevention plan content.**

889 A. A stormwater pollution prevention plan shall include, but not be limited to, an
890 approved erosion and sediment control plan, an approved stormwater management plan
891 and a pollution prevention plan for regulated land-disturbing activities.

892 B. An erosion and sediment control plan consistent with the requirements of the
893 Virginia Erosion and Sediment Control Law and regulations must be designed and
894 implemented during construction activities. Prior to land disturbance, this plan must be
895 approved by either the local erosion and sediment control program or the department in
896 accordance with the Virginia Erosion and Sediment Control Law and attendant
897 regulations.

898 C. A stormwater management plan consistent with the requirements of the Virginia
899 Stormwater Management Act and regulations must be designed and implemented during
900 construction activities. Prior to land disturbance, this plan must be approved by the
901 stormwater program administrative authority.

902 D. A pollution prevention plan that identifies potential sources of pollutants that may
903 reasonably be expected to affect the quality of stormwater discharges from the
904 construction site and describe control measures that will be used to minimize pollutants
905 in stormwater discharges from the construction site must be developed before land
906 disturbance commences.

907 E. The stormwater pollution prevention plan must address the following
908 requirements, to the extent otherwise required by state law or regulations and any
909 applicable requirements of a VSMP permit:

- 910 1. Control stormwater volume and velocity within the site to minimize soil erosion;
- 911 2. Control stormwater discharges, including both peak flow rates and total
912 stormwater volume, to minimize erosion at outlets and to minimize downstream
913 channel and stream bank erosion;
- 914 3. Minimize the amount of soil exposed during construction activity;
- 915 4. Minimize the disturbance of steep slopes;
- 916 5. Minimize sediment discharges from the site. The design, installation and
917 maintenance of erosion and sediment controls must address factors such as the
918 amount, frequency, intensity and duration of precipitation, the nature of resulting
919 stormwater runoff, and soil characteristics, including the range of soil particle
920 sizes expected to be present on the site;
- 921 6. Provide and maintain natural buffers around surface waters, direct stormwater
922 to vegetated areas to increase sediment removal and maximize stormwater
923 infiltration, unless infeasible;
- 924 7. Minimize soil compaction and, unless infeasible, preserve topsoil; and
- 925 8. Stabilization of disturbed areas must, at a minimum, be initiated immediately
926 whenever any clearing, grading, excavating or other earth disturbing activities
927 have permanently ceased on any portion of the site, or temporarily ceased on
928 any portion of the site and will not resume for a period exceeding 14 calendar
929 days. Stabilization must be completed within a period of time determined by the
930 stormwater program administrative authority. In arid, semiarid, and drought-
931 stricken areas where initiating vegetative stabilization measures immediately is
932 infeasible, alternative stabilization measures must be employed as specified by
933 the stormwater program administrative authority.

934

935 **4VAC50-60-55. Stormwater management plans.**

936 A. A stormwater management plan shall be developed and submitted to the
937 stormwater program administrative authority. The stormwater management plan shall be
938 implemented as approved or modified by the stormwater program administrative
939 authority and shall be developed in accordance with the following:

- 940 1. A stormwater management plan for a land-disturbing activity shall apply the
941 stormwater management technical criteria set forth in this Part to the entire land-
942 disturbing activity.
- 943 2. A stormwater management plan shall consider all sources of surface runoff
944 and all sources of subsurface and groundwater flows converted to surface runoff.

945 B. A complete stormwater management plan shall include the following elements:

- 946 1. Information on the type of and location of stormwater discharges, information
947 on the features to which stormwater is being discharged including surface waters
948 or karst features if present, and predevelopment and postdevelopment drainage
949 areas;
- 950 2. Contact information including the name, address, and telephone number of the
951 owner and the tax reference number and parcel number of the property or
952 properties affected;
- 953 3. A narrative that includes a description of current site conditions and final site
954 conditions or if allowed by the stormwater program administrative authority, the
955 information provided and documented during the review process that addresses
956 the current and final site conditions;
- 957 4. A general description of the proposed stormwater management facilities and
958 the mechanism through which the facilities will be operated and maintained after
959 construction is complete;
- 960 5. Information on the proposed stormwater management facilities, including the
961 type of facilities, location, including geographic coordinates, acres treated, and
962 the surface waters or karst features into which the facility will discharge;
- 963 6. Hydrologic and hydraulic computations;
- 964 7. Documentation and calculations verifying compliance with the water quality
965 and quantity requirements of these regulations;
- 966 8. A map or maps of the site that depicts the topography of the site and includes:
967 a. All contributing drainage areas;
968 b. Existing streams, ponds, culverts, ditches, wetlands, and other water
969 bodies;
970 c. Soil types, geologic formations if karst features are present in the area,
971 forest cover, and other vegetative areas;
972 d. Current land use including existing structures, roads, and locations of
973 known utilities and easements;
974 e. Sufficient information on adjoining parcels to assess the impacts of
975 stormwater from the site on these parcels;
976 f. The limits of clearing and grading, and the proposed drainage patterns on
977 the site;
978 g. Proposed buildings, roads, parking areas, utilities, and stormwater
979 management facilities; and
980 h. Proposed land use with tabulation of the percentage of surface area to be
981 adapted to various uses, including but not limited to planned locations of
982 utilities, roads, and easements.
- 983 9. If an operator intends to meet the requirements established in 4VAC50-60-60
984 or 4VAC50-60-66 through the use of off-site compliance options, where
985 applicable, then a letter of availability from the off-site provider must be included.
- 986 9. If payment of a fee is required with the stormwater management plan
987 submission by the stormwater program administrative authority, the fee and the
988 required fee form in accordance with Part XIII must have been submitted.

989 C. Elements of the stormwater management plans shall be appropriately sealed and
990 signed by a professional registered in the Commonwealth of Virginia pursuant to Article
991 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1.

992 D. A construction record drawing for permanent stormwater management facilities
993 shall be submitted to the stormwater program administrative authority. The construction
994 record drawing shall be appropriately sealed and signed by a professional registered in
995 the Commonwealth of Virginia, certifying that the stormwater management facilities have
996 been constructed in accordance with the approved plan.

997 **4VAC50-60-56. Pollution prevention plans.**

998 [

999 A. A plan for implementing stormwater pollution prevention measures during
1000 construction activities shall be developed and implemented. The pollution prevention
1001 plan shall detail the design, installation, implementation and maintenance of effective
1002 pollution prevention measures to minimize the discharge of pollutants. At a minimum,
1003 such measures must be designed, installed, implemented and maintained to:

1004 1. Minimize the discharge of pollutants from equipment and vehicle washing,
1005 wheel wash water, and other wash waters. Wash waters must be treated in a
1006 sediment basin or alternative control that provides equivalent or better treatment
1007 prior to discharge;

1008 2. Minimize the exposure of building materials, building products, construction
1009 wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents,
1010 sanitary waste and other materials present on the site to precipitation and to
1011 stormwater; and

1012 3. Minimize the discharge of pollutants from spills and leaks and implement
1013 chemical spill and leak prevention and response procedures.

1014 B. The pollution prevention plan shall include effective best management practices to
1015 prohibit the following discharges:

1016 1. Wastewater from washout of concrete, unless managed by an appropriate
1017 control;

1018 2. Wastewater from washout and cleanout of stucco, paint, form release oils,
1019 curing compounds and other construction materials;

1020 3. Fuels, oils, or other pollutants used in vehicle and equipment operation and
1021 maintenance; and

1022 4. Soaps or solvents used in vehicle and equipment washing.

1023 C. Discharges from dewatering activities, including discharges from dewatering of
1024 trenches and excavations, are prohibited unless managed by appropriate controls.

1025 **4VAC50-60-57. Requesting an exception.**

1026 A request for an exception for Part II B or Part II C, including the reasons for making
1027 the request, may be submitted in writing to the stormwater program administrative
1028 authority. Economic hardship alone is not a sufficient reason to request an exception
1029 from the requirements of this chapter. The request for an exception will be reviewed
1030 pursuant to 4VAC50-60-122. An exception to the requirement that the land disturbing
1031 activity obtain a VSMP permit will not be granted by the stormwater program
1032 administrative authority.

1033 4VAC50-60-58. Responsibility for long-term maintenance of permanent
1034 stormwater management facilities.

1035 A recorded instrument shall be submitted to the stormwater program administrative
1036 authority in accordance with 4VAC50-60-112.

1037 4VAC50-60-59. Applying for VSMP permit coverage.

1038 The operator must submit a complete and accurate registration statement on the
1039 official department form to the stormwater program administrative authority in order to
1040 apply for VSMP permit coverage. The registration statement must be signed by the
1041 operator in accordance with 4VAC50-60-370.

1042 4VAC50-60-60. (Repealed.)

1043

Part II B

1044

Technical Criteria for Regulated Land-Disturbing Activities

1045

4VAC50-60-62. Applicability.

1046

1047

1048

1049

1050

1051

In accordance with the board's authority, and except as provided in 4VAC50-60-48, this part establishes the minimum technical criteria that shall be employed by a state agency in accordance with an implementation schedule set by the board, or by a stormwater program administrative authority that has been approved by the board, to protect the quality and quantity of state waters from the potential harm of unmanaged stormwater runoff resulting from land-disturbing activities.

1052

4VAC50-60-63. Water quality design criteria requirements.

1053

1054

1055

1056

A. In order to protect the quality of state waters and to control the discharge of stormwater pollutants from regulated activities, the following minimum design criteria and statewide standards for stormwater management shall be applied to the site of a land-disturbing activity.

1057

1058

1059

1. New development. The total phosphorus load of new development projects shall not exceed 0.41 pounds per acre per year, as calculated pursuant to 4VAC50-60-65.

1060

1061

2. Development on prior developed lands.

1062

1063

1064

1065

a. For land-disturbing activities disturbing greater than or equal to one acre that result in no net increase in impervious cover from the predevelopment condition, the total phosphorus load shall be reduced at least 20% below the predevelopment total phosphorus load.

1066

1067

1068

1069

b. For land-disturbing activities disturbing less than one acre that result in no net increase in impervious cover from the predevelopment condition, the total phosphorus load shall be reduced at least 10% below the predevelopment total phosphorus load.

- 1070 c. For land-disturbing activities that result in a new increase in impervious
- 1071 cover over the predevelopment condition, the design criteria for new
- 1072 development shall be applied to the increased impervious area. Depending
- 1073 on the area of disturbance, the criteria of subdivisions a or b above, shall be
- 1074 applied to the remainder of the site.
- 1075 d. In lieu of subdivision (c), the total phosphorus load of a linear development
- 1076 project occurring on prior developed lands may be reduced 20%.
- 1077 e. The total phosphorus load shall not be required to be reduced to below the
- 1078 applicable standard for new development unless a more stringent standard
- 1079 has been established by a local stormwater management program.
- 1080 B. Compliance with subsection A above shall be determined in accordance with
- 1081 4VAC50-60-65.
- 1082 C. TMDL. In addition to the above requirements, if a specific WLA for a pollutant
- 1083 has been established in a TMDL and is assigned to stormwater discharges from
- 1084 a construction activity, necessary control measures must be implemented by the
- 1085 operator to meet the WLA in accordance with the requirements established in the
- 1086 General Permit for Discharges of Stormwater from Construction Activities or an
- 1087 individual permit . Such control measures must address both construction and
- 1088 postconstruction discharges.
- 1089 D. Upon completion of the 2017 Chesapeake Bay Phase III Watershed
- 1090 Implementation Plan, the department shall review the water quality design criteria
- 1091 standards.
- 1092 E. Nothing in this section shall prohibit a local stormwater management program
- 1093 from establishing more stringent water quality design criteria requirements.
- 1094 **4VAC50-60-65. Water quality compliance.**
- 1095 A. Compliance with the water quality design criteria set out in subdivisions 1 and 2 of
- 1096 4VAC50-60-63 shall be determined by utilizing the Virginia Runoff Reduction Method or
- 1097 another equivalent methodology that is approved by the board.
- 1098 B. The BMPs listed below are approved for use as necessary to effectively reduce
- 1099 the phosphorus load and runoff volume in accordance with the Virginia Runoff Reduction
- 1100 Method. Other approved BMPs found on the Virginia Stormwater BMP Clearinghouse
- 1101 Website at <http://www.vwrrc.vt.edu/swc> may also be utilized. Design specifications and
- 1102 the pollutant removal efficiencies for all approved BMPs are found on the Virginia
- 1103 Stormwater BMP Clearinghouse Website .
- 1104



- 1105 1. Vegetated Roof (Version 2.3, March 1, 2011);
- 1106 2. Rooftop Disconnection (Version 1.9, March 1, 2011);
- 1107 3. Rainwater Harvesting (Version 1.9.5, March 1, 2011);
- 1108 4. Soil Amendments (Version 1.8, March 1, 2011);;
- 1109 5. Permeable Pavement (Version 1.8, March 1, 2011);
- 1110 6. Grass Channel (Version 1.9, March 1, 2011);
- 1111 7. Bioretention (Version 1.9, March 1, 2011);
- 1112 8. Infiltration (Version 1.9, March 1, 2011);
- 1113 9. Dry Swale (Version 1.9, March 1, 2011);
- 1114 10. Wet Swale (Version 1.9, March 1, 2011);
- 1115 11. Sheet Flow to Filter/Open Space (Version 1.9, March 1, 2011);
- 1116 12. Extended Detention Pond (Version 1.9, March 1, 2011);
- 1117 13. Filtering Practice (Version 1.8, March 1, 2011);
- 1118 14. Constructed Wetland (Version 1.9, March 1, 2011); and
- 1119 15. Wet Pond (Version 1.9, March 1, 2011).
- 1120 C. BMPs differing from those listed above shall be reviewed and approved by the
- 1121 director in accordance with procedures established by the BMP Clearinghouse
- 1122 Committee and approved by the board.
- 1123 D. A local stormwater management program may establish limitations on the use of
- 1124 specific BMPs following the submission of the proposed limitation and written justification
- 1125 to the department.
- 1126 E. Where the land-disturbing activity only occurs on a portion of the site, the
- 1127 stormwater program administrative authority may review the stormwater management
- 1128 plan based upon the portion of the site that is proposed to be developed . Such portion
- 1129 shall be deemed to include any area left undeveloped pursuant to any local requirement
- 1130 or proffer accepted by a locality.
- 1131 F. The stormwater program administrative authority shall have the discretion to allow
- 1132 for application of the design criteria to each drainage area of the site. However, where a
- 1133 site drains to more than one HUC, the pollutant load reduction requirements shall be
- 1134 applied independently within each HUC unless reductions are achieved in accordance
- 1135 with a comprehensive watershed stormwater management plan in accordance with
- 1136 4VAC50-60-92.
- 1137 G. Offsite alternatives where allowed in accordance with 4VAC50-60-69 may be
- 1138 utilized to meet the design criteria of subsection A of 4VAC50-60-63.
- 1139 **4VAC50-60-66. Water quantity.**
- 1140 A. Channel protection and flood protection shall be addressed in accordance with the
- 1141 minimum standards set out in this section, which are established pursuant to the
- 1142 requirements of subdivision 7 of § 10.1-603.4 of the Code of Virginia. Nothing in this

1143 section shall prohibit a local stormwater management program from establishing a more
1144 stringent standard. Compliance with the minimum standards set out in this section shall
1145 be deemed to satisfy the requirements of 4VAC50-30-40.19 (Minimum Standard 19 of
1146 the Virginia Erosion and Sediment Control Regulations).

1147 B. Channel protection. Concentrated stormwater flow shall be released into a
1148 stormwater conveyance system

1149 [[
1150]

1151 and shall meet criteria 1, 2 or 3 of this subsection, where applicable, from the
1152 point of discharge to a point to the limits of analysis in subsection 4.

1153 1. Manmade stormwater conveyance systems. When stormwater from a
1154 development is discharged to a manmade stormwater conveyance system,
1155 following the land-disturbing activity, either:

1156 a. The manmade stormwater conveyance system shall convey the
1157 postdevelopment peak flow rate from the two-year 24-hour storm event
1158 without causing erosion of the system. Detention of stormwater or
1159 downstream improvements may be incorporated into the approved land-
1160 disturbing activity to meet this criterion, at the discretion of the stormwater
1161 program administrative authority; or

1162 b. The peak discharge requirements for concentrated stormwater flow to
1163 natural stormwater conveyance systems in subsection 3 shall be met.

1164 2. Restored stormwater conveyance systems. When stormwater from a
1165 development is discharged to a restored stormwater conveyance system that has
1166 been restored using natural design concepts, following the land-disturbing
1167 activity, either:

1168 a. The development shall be consistent, in combination with other stormwater
1169 runoff, with the design parameters of the restored stormwater conveyance
1170 system that is functioning in accordance with the design objectives.

1171 b. The peak discharge requirements for concentrated stormwater flow to
1172 natural stormwater conveyance systems in subsection 3 shall be met.

1173 3. Natural stormwater conveyance systems. When stormwater from a
1174 development is discharged to a natural stormwater conveyance system, the
1175 maximum peak flow rate from the one-year 24-hour storm following the land-
1176 disturbing activity shall be calculated either:

1177 a. In accordance with the following methodology:

1178
$$Q_{\text{Developed}} \leq \text{I.F.} \cdot (Q_{\text{Pre-developed}} \cdot RV_{\text{Pre-Developed}}) / RV_{\text{Developed}}$$

1179 Under no condition shall $Q_{\text{Developed}}$ be greater than $Q_{\text{Pre-Developed}}$ nor shall
1180 $Q_{\text{Developed}}$ be required to be less than that calculated in the equation $(Q_{\text{Forest}} \cdot$
1181 $RV_{\text{Forest}}) / RV_{\text{Developed}}$; where

1182 I.F. (Improvement Factor) equals 0.8 for sites > 1 acre or 0.9 for sites ≤ 1
1183 acre.

1184 $Q_{\text{Developed}}$ = The allowable peak flow rate of runoff from the developed site.

1185 $RV_{\text{Developed}}$ = The volume of runoff from the site in the developed condition.

- 1186 $Q_{\text{Pre-Developed}}$ = The peak flow rate of runoff from the site in the pre-developed
1187 condition.
- 1188 $RV_{\text{Pre-Developed}}$ = The volume of runoff from the site in pre-developed condition.
- 1189 Q_{Forest} = The peak flow rate of runoff from the site in a forested condition.
- 1190 RV_{Forest} = The volume of runoff from the site in a forested condition; or
- 1191 b. In accordance with another methodology that is demonstrated by the local
1192 stormwater management program to achieve equivalent results and is
1193 approved by the board.
- 1194 4. Limits of analysis. Unless subsection 3 is utilized to show compliance with
1195 the channel protection criteria, stormwater conveyance systems shall be
1196 analyzed for compliance with channel protection criteria to a point where
1197 either:
- 1198 a. Based on land area, the site's contributing drainage area is less than or
1199 equal to 1.0% of the total watershed area; or
- 1200 b. Based on peak flow rate, the site's peak flow rate from the one-year 24-
1201 hour storm is less than or equal to 1.0% of the existing peak flow rate from
1202 the one-year 24-hour storm prior to the implementation of any stormwater
1203 quantity control measures.
- 1204 C. Flood protection. Concentrated stormwater flow shall be released into a
1205 stormwater conveyance system and shall meet one of the following criteria as
1206 demonstrated by use of acceptable hydrologic and hydraulic methodologies:
- 1207 1. Concentrated stormwater flow to stormwater conveyance systems that
1208 currently do not experience localized flooding during the 10-year 24-hour storm
1209 event: The point of discharge releases stormwater into a stormwater conveyance
1210 system that, following the land-disturbing activity, confines the postdevelopment
1211 peak flow rate from the 10-year 24-hour storm event within the stormwater
1212 conveyance system. Detention of stormwater or downstream improvements may
1213 be incorporated into the approved land-disturbing activity to meet this criterion, at
1214 the discretion of the stormwater program administrative authority.
- 1215 2. Concentrated stormwater flow to stormwater conveyance systems that
1216 currently experience localized flooding during the 10-year 24-hour storm event:
1217 The point of discharge either:
- 1218 a. Confines the postdevelopment peak flow rate from the 10-year 24-hour
1219 storm event within the stormwater conveyance system to avoid the localized
1220 flooding. Detention of stormwater or downstream improvements may be
1221 incorporated into the approved land-disturbing activity to meet this criterion,
1222 at the discretion of the stormwater program administrative authority;; or
- 1223 b. Releases a postdevelopment peak flow rate for the 10-year 24-hour storm
1224 event that is less than the predevelopment peak flow rate from the 10-year
1225 24-hour storm event. Downstream stormwater conveyance systems do not
1226 require any additional analysis to show compliance with flood protection
1227 criteria is this option is utilized.
- 1228 3. Limits of analysis. Unless 2b above is utilized to comply with the flood
1229 protection criteria, stormwater conveyance systems shall be analyzed for
1230 compliance with flood protection criteria to a point where:

- 1231 a. The site's contributing drainage area is less than or equal to 1.0% of the
1232 total watershed area draining to a point of analysis in the downstream
1233 stormwater conveyance system;
- 1234 b. Based on peak flow rate, the site's peak flow rate from the 10-year 24-hour
1235 storm event is less than or equal to 1.0% of the existing peak flow rate from
1236 the 10-year 24-hour storm event prior to the implementation of any
1237 stormwater quantity control measures; or
- 1238 c. The stormwater conveyance system enters a mapped floodplain or other
1239 flood-prone area, adopted by ordinance, of any locality.

1240 D.

1241 Increased volumes of sheet flow resulting from pervious or disconnected impervious
1242 areas, or from physical spreading of concentrated flow through level spreaders, must be
1243 identified and evaluated for potential impacts on down-gradient properties or resources.
1244 Increased volumes of sheet flow that will cause or contribute to erosion, sedimentation,
1245 or flooding of down gradient properties or resources shall be diverted to a stormwater
1246 management facility or a stormwater conveyance system that conveys the runoff without
1247 causing down-gradient erosion, sedimentation, or flooding. If all runoff from the site is
1248 sheet flow and the conditions of this subsection are met, no further water quantity
1249 controls are required.

1250 E. For purposes of computing predevelopment runoff from prior developed lands, all
1251 pervious lands on the site shall be assumed to be in good hydrologic condition in
1252 accordance with the U.S. Department of Agriculture's Natural Resources Conservation
1253 Service (NRCS) standards, regardless of conditions existing at the time of computation.
1254 Predevelopment runoff calculations utilizing other hydrologic conditions may be utilized
1255 provided that it is demonstrated to and approved by the stormwater program
1256 administrative authority that actual site conditions warrant such considerations.

1257 F. Predevelopment and postdevelopment runoff characteristics and site hydrology
1258 shall be verified by site inspections, topographic surveys, available soil mapping or
1259 studies, and calculations consistent with good engineering practices. Guidance provided
1260 in the Virginia Stormwater Management Handbook and by the Virginia Stormwater BMP
1261 Clearinghouse shall be considered appropriate practices.

1262 **4VAC50-60-69. Offsite compliance options.**

1263 A. Offsite compliance options that a stormwater program administrative authority
1264 may allow an operator to use to meet required phosphorus nutrient reductions include
1265 the following:

- 1266 1. A comprehensive watershed stormwater management plan adopted pursuant
1267 to 4VAC50-60-92 for the local watershed within which a project is located;
 - 1268 2. A locality pollutant loading pro rata share program established pursuant to §
1269 15.2-2243 of the Code of Virginia or similar local funding mechanism;
 - 1270 3. The nonpoint nutrient offset program established pursuant to § 10.1-603.8:1 of
1271 the Code of Virginia;
 - 1272 4
- 1273 Any other offsite options approved by an applicable state agency or state board;
1274 and

1275 5. When an operator has additional properties available within the same HUC or
1276 upstream HUC that the land-disturbing activity directly discharges to or within the
1277 same watershed as determined by the stormwater program administrative
1278 authority, offsite stormwater management facilities on those properties may be
1279 utilized to meet the required phosphorus nutrient reductions from the land-
1280 disturbing activity.

1281 B.

1282 Notwithstanding subsection A, operators shall be allowed to utilize offsite options
1283 identified in subsection A under any of the following conditions:

- 1284 1. Less than five acres of land will be disturbed;
1285 2. The postconstruction phosphorus control requirements is less than 10 pounds
1286 per year; or
1287 3. At least 75% of the required phosphorus nutrient reductions are achieved on-
1288 site. If at least 75% of the required phosphorus nutrient reductions can not be
1289 met on-site, and the operator can demonstrate to the satisfaction of the
1290 stormwater program administrative authority that (i) alternative site designs have
1291 been considered that may accommodate on-site best management practices, (ii)
1292 on-site best management practices have been considered in alternative site
1293 designs to the maximum extent practicable, (iii) appropriate on-site best
1294 management practices will be implemented, and (iv) full compliance with
1295 postdevelopment nonpoint nutrient runoff compliance requirements cannot
1296 practicably be met on-site, then the required phosphorus nutrient reductions may
1297 be achieved, in whole or in part, through the use of off-site compliance options.

1298 C. Notwithstanding subsections A and B, offsite options shall not be allowed:

- 1299 1. Unless the selected offsite option achieves the necessary nutrient reductions
1300 prior to the commencement of the operator's land-disturbing activity. In the case
1301 of a phased project, the operator may acquire or achieve offsite nutrient
1302 reductions prior to the commencement of each phase of land-disturbing activity in
1303 an amount sufficient for each phase.
1304 2. In contravention of local water quality-based limitations at the point of
1305 discharge that are (i) consistent with the determinations made pursuant to
1306 subsection B of § 62.1-44.19:7, (ii) contained in a municipal separate stormwater
1307 sewer (MS4) program plan approved by the department, or (iii) as otherwise may
1308 be established or approved by the board.

1309 D. In order to meet the requirements of 4VAC50-60-66, offsite options 1 and 2 of
1310 subsection A above may be utilized.

1311

1312

1313

1314 In order to meet the requirements of 4VAC50-60-66, off-site options 1 and 2 of
1315 subsection A above may be utilized.]

1316 **4VAC50-60-70. (Repealed.)**

1317 **4VAC50-60-72. Design storms and hydrologic methods.**

1318 A. Unless otherwise specified, the prescribed design storms are the one-year, two-
1319 year, and 10-year 24-hour storms using the site-specific rainfall precipitation frequency

1320 data recommended by the U.S. National Oceanic and Atmospheric Administration
1321 (NOAA) Atlas 14. Partial duration time series shall be used for the precipitation data.

1322 B. Unless otherwise specified, all hydrologic analyses shall be based on the existing
1323 watershed characteristics and how the ultimate development condition of the subject
1324 project will be addressed.

1325 C. The U.S. Department of Agriculture's Natural Resources Conservation Service
1326 (NRCS) synthetic 24-hour rainfall distribution and models, including, but not limited to
1327 TR-55 and TR-20; hydrologic and hydraulic methods developed by the U.S. Army Corps
1328 of Engineers; or other standard hydrologic and hydraulic methods, shall be used to
1329 conduct the analyses described in this part.

1330 D. The stormwater program administrative authority may allow for the use of the
1331 Rational Method for evaluating peak discharges or the Modified Rational Method for
1332 evaluating volumetric flows to stormwater conveyances with drainage areas of 200 acres
1333 or less.

1334 **4VAC50-60-74. Stormwater harvesting.**

1335 In accordance with § 10.1-603.4 of the Code of Virginia, stormwater harvesting is
1336 encouraged for the purposes of landscape irrigation systems, fire protection systems,
1337 flushing water closets and urinals, and other water handling systems to the extent such
1338 systems are consistent with federal, state, and local regulatory authorities.

1339 **4VAC50-60-76. Linear development projects.**

1340 Unless exempt pursuant to § 10.1-603.8 B of the Code of Virginia, linear
1341 development projects shall control postdevelopment stormwater runoff in accordance
1342 with a site-specific stormwater management plan or a comprehensive watershed
1343 stormwater management plan developed in accordance with these regulations.

1344 **4VAC50-60-80. (Repealed.)**

1345 **4VAC50-60-85. Stormwater management impoundment structures or facilities.**

1346 A.

1347 Stormwater management wet ponds and extended detention ponds that are not
1348 covered by the Impounding Structure Regulations (4VAC50-20) shall, at a minimum, be
1349 engineered for structural integrity for the 100-year storm event.

1350 B. Construction of stormwater management impoundment structures or facilities may
1351 occur in karst areas only after a study of the geology and hydrology of the area has been
1352 conducted to determine the presence or absence of karst features that may be impacted
1353 by stormwater runoff and BMP placement.

1354 C. Discharge of stormwater runoff to a karst feature shall meet the water quality
1355 criteria set out in 4VAC50-60-63 and the water quantity criteria set out in 4VAC50-60-66.
1356 Permanent stormwater management impoundment structures or facilities shall only be
1357 constructed in karst features after completion of a geotechnical investigation that
1358 identifies any necessary modifications to the BMP to ensure its structural integrity and
1359 maintain its water quality and quantity efficiencies. The person responsible for the land-
1360 disturbing activity is encouraged to screen for known existence of heritage resources in
1361 the karst features. Any Class V Underground Injection Control Well registration
1362 statements for stormwater discharges to improved sinkholes shall be included in the
1363 SWPPP.

1364 4VAC50-60-90. (Repealed.)

1365 4VAC50-60-92. Comprehensive stormwater management plans.

1366 Local stormwater management programs may develop comprehensive stormwater
1367 management plans to be approved by the department that meet the water quality
1368 objectives, quantity objectives, or both of this chapter:

1369 1. Such plans shall ensure that offsite reductions equal to or greater than those
1370 that would be required on each contributing land-disturbing site are achieved
1371 within the same HUC or within another locally designated watershed. Pertaining
1372 to water quantity objectives, the plan may provide for implementation of a
1373 combination of channel improvement, stormwater detention, or other measures
1374 that are satisfactory to the local stormwater management program to prevent
1375 downstream erosion and flooding.

1376 2. If the land use assumptions upon which the plan was based change or if any
1377 other amendments are deemed necessary by the local stormwater management
1378 program, such program shall provide plan amendments to the board for review
1379 and approval.

1380 3. During the plan's implementation, the local stormwater management program
1381 shall document nutrient reductions accredited to the BMPs specified in the plan.

1382 4. State and federal agencies may develop comprehensive stormwater
1383 management plans, and may participate in locality-developed comprehensive
1384 stormwater management plans where practicable and permitted by the local
1385 stormwater management program.

1386 4VAC50-60-93. (Reserved.)

1387 Part II C Technical Criteria for Regulated Land-Disturbing Activities: Grandfathered
1388 Projects

1389 4VAC50-60-94. Applicability.

1390 This part specifies the technical criteria for regulated land-disturbing activities that
1391 are not subject to the technical criteria of Part II B in accordance with 4VAC 50-60-48.

1392 4VAC50-60-95. General.

1393 A. Determination of flooding and channel erosion impacts to receiving streams due to
1394 land-disturbing activities shall be measured at each point of discharge from the land
1395 disturbance and such determination shall include any runoff from the balance of the
1396 watershed that also contributes to that point of discharge.

1397 B. The specified design storms shall be defined as either a 24-hour storm using the
1398 rainfall distribution recommended by the U.S. Department of Agriculture's Natural
1399 Resources Conservation Service (NRCS) when using NRCS methods or as the storm of
1400 critical duration that produces the greatest required storage volume at the site when
1401 using a design method such as the Modified Rational Method.

1402 C. For purposes of computing runoff, all pervious lands in the site shall be assumed
1403 prior to development to be in good condition (if the lands are pastures, lawns, or parks),
1404 with good cover (if the lands are woods), or with conservation treatment (if the lands are
1405 cultivated); regardless of conditions existing at the time of computation.

1406 D. Construction of stormwater management facilities or modifications to channels
1407 shall comply with all applicable laws regulations, and ordinances. Evidence of approval
1408 of all necessary permits shall be presented.

1409 E. Impounding structures that are not covered by the Impounding Structure
1410 Regulations (4VAC50-20) shall be engineered for structural integrity during the 100-year
1411 storm event.

1412 F. Predevelopment and postdevelopment runoff rates shall be verified by
1413 calculations that are consistent with good engineering practices.

1414 G. Outflows from a stormwater management facility or stormwater conveyance
1415 system shall be discharged to an adequate channel.

1416 H. Proposed residential, commercial, or industrial subdivisions shall apply these
1417 stormwater management criteria to the land disturbance as a whole. Individual lots in
1418 new subdivisions shall not be considered separate land-disturbing activities, but rather
1419 the entire subdivision shall be considered a single land development project. Hydrologic
1420 parameters shall reflect the ultimate land disturbance and shall be used in all
1421 engineering calculations.

1422 I. All stormwater management facilities shall have an inspection and maintenance
1423 plan that identifies the owner and the responsible party for carrying out the inspection
1424 and maintenance plan.

1425 J. Construction of stormwater management impoundment structures within a Federal
1426 Emergency Management Agency (FEMA) designated 100-year floodplain shall be
1427 avoided to the extent possible. When this is unavoidable, all stormwater management
1428 facility construction shall be in compliance with all applicable regulations under the
1429 National Flood Insurance Program, 44 CFR Part 59.

1430 K. Natural channel characteristics shall be preserved to the maximum extent
1431 practicable.

1432 L. Land-disturbing activities shall comply with the Virginia Erosion and Sediment
1433 Control Law (§ 10.1-560 et seq. of the Code of Virginia) and attendant regulations.

1434 M. Flood control and stormwater management facilities that drain or treat water from
1435 multiple development projects or from a significant portion of a watershed may be
1436 allowed in resource protection areas defined in the Chesapeake Bay Preservation Act,
1437 provided that (i) the local government has conclusively established that the location of
1438 the facility within the resource protection area is the optimum location; (ii) the size of the
1439 facility is the minimum necessary to provide necessary flood control, stormwater
1440 treatment, or both; and (iii) the facility must be consistent with a stormwater
1441 management program that has been approved by the board, the Chesapeake Bay Local
1442 Assistance Board, or the Board of Conservation and Recreation.

1443 **4VAC50-60-96. Water quality.**

1444 A. Compliance with the water quality criteria may be achieved by applying the
1445 performance-based criteria or the technology-based criteria to either the site or a
1446 planning area.

1447 B. Performance-based criteria. For land-disturbing activities, the calculated
1448 postdevelopment nonpoint source pollutant runoff load shall be compared to the
1449 calculated predevelopment load based upon the average land cover condition or the
1450 existing site condition. A BMP shall be located, designed, and maintained to achieve the
1451 target pollutant removal efficiencies specified in Table 1 of this section to effectively
1452 reduce the pollutant load to the required level based upon the following four applicable
1453 land development situations for which the performance criteria apply:

- 1454 1. Situation 1 consists of land-disturbing activities where the existing percent
 1455 impervious cover is less than or equal to the average land cover condition and
 1456 the proposed improvements will create a total percent impervious cover that is
 1457 less than the average land cover condition.
- 1458 Requirement: No reduction in the after disturbance pollutant discharge is
 1459 required.
- 1460 2. Situation 2 consists of land-disturbing activities where the existing percent
 1461 impervious cover is less than or equal to the average land cover condition and
 1462 the proposed improvements will create a total percent impervious cover that is
 1463 greater than the average land cover condition.
- 1464 Requirement: The pollutant discharge after disturbance shall not exceed the
 1465 existing pollutant discharge based on the average land cover condition.
- 1466 3. Situation 3 consists of land-disturbing activities where the existing percent
 1467 impervious cover is greater than the average land cover condition.
- 1468 Requirement: The pollutant discharge after disturbance shall not exceed (i) the
 1469 pollutant discharge based on existing conditions less 10% or (ii) the pollutant
 1470 discharge based on the average land cover condition, whichever is greater.
- 1471 4. Situation 4 consists of land-disturbing activities where the existing percent
 1472 impervious cover is served by an existing stormwater management BMP that
 1473 addresses water quality.
- 1474 Requirement: The pollutant discharge after disturbance shall not exceed the
 1475 existing pollutant discharge based on the existing percent impervious cover while
 1476 served by the existing BMP. The existing BMP shall be shown to have been
 1477 designed and constructed in accordance with proper design standards and
 1478 specifications, and to be in proper functioning condition.
- 1479 C. Technology-based criteria. For land-disturbing activities, the postdeveloped
 1480 stormwater runoff from the impervious cover shall be treated by an appropriate BMP as
 1481 required by the postdeveloped condition percent impervious cover as specified in Table
 1482 1 of this section. The selected BMP shall be located, designed, and maintained to
 1483 perform at the target pollutant removal efficiency specified in Table 1 or those found in
 1484 4VAC50-60-65. Design standards and specifications for the BMPs in Table 1 that meet
 1485 the required target pollutant removal efficiency are available in the 1990 Virginia
 1486 Stormwater Management Handbook. Other approved BMPs available on the Virginia
 1487 Stormwater BMP Clearinghouse website at <http://www.vwrrc.vt.edu/swc> may also be
 1488 utilized.

Table 1*

Water Quality BMP*	Target Phosphorus Removal Efficiency	Percent Impervious Cover
Vegetated filter strip	10%	16-21%
Grassed Swale	15%	
Constructed wetlands	20%	22-37%
Extended detention (2 x WQ Vol)	35%	

Retention basin I (3 x WQ Vol)	40%	
Bioretention basin	50%	38-66%
Bioretention filter	50%	
Extended detention-enhanced	50%	
Retention basin II (4 x WQ Vol)	50%	
Infiltration (1 x WQ Vol)	50%	
Sand filter	65%	67-100%
Infiltration (2 x WQ Vol)	65%	
Retention basin III (4 x WQ Vol with aquatic bench)	65%	
*Innovative or alternate BMPs not included in this table may be allowed at the discretion of the stormwater program administrative authority. Innovative or alternate BMPs not included in this table that target appropriate nonpoint source pollution other than phosphorous may be allowed at the discretion of the stormwater program administrative authority.		

1489 4VAC50-60-97. Stream channel erosion.

1490 A. Properties and receiving waterways downstream of any land-disturbing activity
1491 shall be protected from erosion and damage due to changes in runoff rate of flow and
1492 hydrologic characteristics, including, but not limited to, changes in volume, velocity,
1493 frequency, duration, and peak flow rate of stormwater runoff in accordance with the
1494 minimum design standards set out in this section.

1495 B. The stormwater program administrative authority shall require compliance with
1496 subdivision 19 of 4VAC50-30-40 of the Erosion and Sediment Control Regulations,
1497 promulgated pursuant to Article 4 (§ 10.1-560 et seq.) of Chapter 5 of Title 10.1 of the
1498 Code of Virginia.

1499 C. The local stormwater management program may determine that some watersheds
1500 or receiving stream systems require enhanced criteria in order to address the increased
1501 frequency of bankfull flow conditions (top of bank) brought on by land-disturbing
1502 activities. Therefore, in lieu of the reduction of the two-year postdeveloped peak rate of
1503 runoff as required in subsection B of this section, the land development project being
1504 considered shall provide 24-hour extended detention of the runoff generated by the one-
1505 year, 24-hour duration storm.

1506 D. In addition to subsections B and C of this section, local stormwater management
1507 programs, by local ordinance may, or the board by state regulation may, adopt more
1508 stringent channel analysis criteria or design standards to ensure that the natural level of
1509 channel erosion, to the maximum extent practicable, will not increase due to the land-
1510 disturbing activities. These criteria may include, but are not limited to, the following:

- 1511** 1. Criteria and procedures for channel analysis and classification.
- 1512** 2. Procedures for channel data collection.

1513 3. Criteria and procedures for the determination of the magnitude and frequency
1514 of natural sediment transport loads.

1515 4. Criteria for the selection of proposed natural or manmade channel linings.

1516 **4VAC50-60-98. Flooding.**

1517 A. Downstream properties and waterways shall be protected from damages from
1518 localized flooding due to changes in runoff rate of flow and hydrologic characteristics,
1519 including, but not limited to, changes in volume, velocity, frequency, duration, and peak
1520 flow rate of stormwater runoff in accordance with the minimum design standards set out
1521 in this section.

1522 B. The 10-year postdeveloped peak rate of runoff from the development site shall not
1523 exceed the 10-year predeveloped peak rate of runoff.

1524 C. In lieu of subsection B of this section, localities may, by ordinance, adopt alternate
1525 design criteria based upon geographic, land use, topographic, geologic factors, or other
1526 downstream conveyance factors as appropriate.

1527 D. Linear development projects shall not be required to control postdeveloped
1528 stormwater runoff for flooding, except in accordance with a watershed or regional
1529 stormwater management plan.

1530 **4VAC50-60-99. Regional (watershed-wide) stormwater management plans.**

1531 Water quality requirements and where allowed, water quantity requirements, may be
1532 achieved in accordance with sections 4VAC50-60-69 and 4VAC50-60-92.

1533 Part III

1534 **4VAC50-60-100. Applicability.**

1535 This part establishes the board's procedures for the authorization of a qualifying local
1536 program, the board's procedures for the administration of a local stormwater
1537 management program by an authorized qualifying local program, board and department
1538 oversight authorities for an authorized qualifying local program, and the board's
1539 procedures for utilization by the department in administering the Virginia Stormwater
1540 Management Program in localities where no qualifying local program is authorized.

1541 **4VAC50-60-102. Authority .**

1542 If a locality has adopted a local stormwater management program in accordance with
1543 the Virginia Stormwater Management Act (§ 10.1-603.2 et seq. of the Code of Virginia)
1544 and the board has deemed such program adoption consistent with the Virginia
1545 Stormwater Management Act and these regulations in accordance with § 10.1-603.3 F of
1546 the Code of Virginia, the board may authorize a locality to administer a qualifying local
1547 program. Pursuant to § 10.1-603.4, the board is required to establish standards and
1548 procedures for such an authorization.

1549 **4VAC50-60-103. Stormwater program administrative authority requirements for**
1550 **Chesapeake Bay Preservation Act land-disturbing activities.**

1551 A. A stormwater program administrative authority shall regulate runoff associated
1552 with Chesapeake Bay Preservation Act land-disturbing activities in accordance with the
1553 following:

1554 1. Such land-disturbing activities shall not require completion of a registration
1555 statement or require coverage under the VSMP General Permit for Discharges of
1556 Stormwater from Construction Activities but shall be subject to the technical
1557 criteria and program and administrative requirements set out in 4VAC50-60-51.

- 1558 2. A permit shall be issued permitting the land-disturbing activity.
- 1559 3. The stormwater program administrative authority shall regulate such land-
- 1560 disturbing activities in compliance with the:
- 1561 a. Program requirements in 4VAC50-60-104;
- 1562 b. Plan review requirements in 4VAC50-60-108 with the exception of
- 1563 subsection D;
- 1564 c. Long-term stormwater management facility requirements of 4VAC50-60-
- 1565 112;
- 1566 d. Inspection requirements of 4VAC50-60-114 with the exception of
- 1567 subsection A3;
- 1568 e. Enforcement components of 4VAC50-60-116;
- 1569 f. Hearing requirements of 4VAC50-60-118;
- 1570 g. Exception conditions of 4VAC50-60-122 excluding subsection C which is
- 1571 not applicable; and
- 1572 h. Reporting and recordkeeping requirements of 4VAC50-60-126 with the
- 1573 exception of subsection B3;
- 1574 B. A local stormwater management program shall adopt an ordinance that
- 1575 incorporates the components of this section.
- 1576 C. In accordance with §10.1-603.4 subsection 5, a stormwater program
- 1577 administrative authority may collect a permit issuance fee from the applicant of \$290 and
- 1578 an annual maintenance fee of \$50 for such land-disturbing activities.
- 1579 Part III A
- 1580 Programs Operated by a Stormwater Program Administrative Authority
- 1581 **4VAC50-60-104. Criteria for programs operated by a stormwater program**
- 1582 **administrative authority.**
- 1583 A. All stormwater program administrative authorities] shall require compliance with
- 1584 the provisions of Part II (4VAC50-60-40 et seq.) of this chapter .
- 1585 B. When a local stormwater management program has adopted requirements more
- 1586 stringent than those imposed by this chapter in accordance with § 10.1-603.7 of the
- 1587 Code of Virginia or implemented a comprehensive stormwater management plan, the
- 1588 department shall consider such requirements in its review of state projects within that
- 1589 locality in accordance with Part IV (4VAC50-60-160 et seq.) of this chapter.
- 1590 C. Nothing in this part shall be construed as authorizing a locality to regulate, or to
- 1591 require prior approval by the locality for, a state or federal project, unless authorized by
- 1592 separate statute.
- 1593 D. A stormwater program administrative authority may require the submission of a
- 1594 reasonable performance bond or other financial surety and provide for the release of
- 1595 such sureties in accordance with the criteria set forth in § 10.1-603.8 of the Code of
- 1596 Virginia.
- 1597 **4VAC50-60-106. Additional requirements for local stormwater management**
- 1598 **programs.**
- 1599 A.

1600 A local stormwater management program shall adopt ordinances that ensure
1601 compliance with the requirements set forth in 4VAC50-60-460L.

1602 B. The local stormwater management program shall adopt ordinances at least as
1603 stringent as the provisions of the Virginia Stormwater Management Program (VSMP)
1604 General Permit for Discharges of Stormwater from Construction Activities.

1605 **4VAC50-60-108. Stormwater management plan review.**

1606 A. A stormwater program administrative authority shall review and approve
1607 stormwater management plans .

1608 B. A stormwater program administrative authority shall approve or disapprove a
1609 stormwater management plan according to the following:

1610 1.

1611 The stormwater program administrative authority shall determine the
1612 completeness of a plan in accordance with 4VAC50-60-55 , and shall notify the
1613 applicant of any determination, within 15 calendar days of receipt. Where
1614 available to the applicant, electronic communication may be considered
1615 communication in writing.

1616 a. If within those 15 days the plan is deemed to be incomplete] , the
1617 applicant shall be notified in writing of the reasons the plan is deemed
1618 incomplete.

1619 b. If a determination of completeness is made and communicated to the
1620 applicant within the 15 calendar days, an additional 60 calendar days from
1621 the date of the communication will be allowed for the review of the plan.

1622 c. If a determination of completeness is not made and communicated to the
1623 applicant within the 15 calendar days, the plan shall be deemed complete as
1624 of the date of submission and a total of 60 calendar days from the date of
1625 submission will be allowed for the review of the plan.

1626 d. The stormwater program administrative authority shall review, within 45
1627 calendar days of the date of resubmission any plan that has been previously
1628 disapproved .

1629 2. During the review period, the plan shall be approved or disapproved and the
1630 decision communicated in writing to the person responsible for the land-
1631 disturbing activity or his designated agent. If the plan is not approved, the
1632 reasons for not approving the plan shall be provided in writing. Approval or denial
1633 shall be based on the plan's compliance with the requirements of this chapter
1634 and of the stormwater program administrative authority. Where available to the
1635 applicant, electronic communication may be considered communication in
1636 writing.

1637 3. If a plan meeting all requirements of this chapter and of the stormwater
1638 program administrative authority is submitted and no action is taken within the
1639 time specified above, the plan shall be deemed approved.

1640 C.

1641 Each approved plan may be modified in accordance with the following:

1642 1. Modifications to an approved stormwater management plan shall be allowed
1643 only after review and written approval by the stormwater program administrative
1644 authority. The stormwater program administrative authority shall have 60

1645 calendar days to respond in writing either approving or disapproving such
1646 requests.

1647 2. Based on an inspection, the stormwater program administrative authority may
1648 require amendments to the approved stormwater management plan to address
1649 any deficiencies within a time frame set by the stormwater program
1650 administrative authority.

1651 D. A stormwater program administrative authority shall not provide authorization to
1652 begin land disturbance until provided evidence of VSMP permit coverage.

1653 E. The stormwater program administrative authority shall require the submission of a
1654 construction record drawing for permanent stormwater management facilities in
1655 accordance with 4VAC50-60-55. A stormwater program administrative authority may
1656 elect not to require construction record drawings for stormwater management facilities
1657 for which maintenance agreements are not required pursuant to 4VAC50-60-124.

1658 **4VAC50-60-110. (Repealed.)**

1659 **4VAC50-60-112. Long-term maintenance of permanent stormwater management**
1660 **facilities.**

1661 A.

1662 The stormwater program administrative authority shall require the provision of
1663 long-term responsibility for and maintenance of stormwater management facilities
1664 and other techniques specified to manage the quality and quantity of runoff. Such
1665 requirements shall be set forth in an instrument recorded in the local land records
1666 prior to permit termination or earlier as required by the stormwater program
1667 administrative authority and shall, at a minimum:

- 1668 1. Be submitted to the stormwater program administrative authority for review
1669 and approval prior to the approval of the stormwater management plan;
- 1670 2. Be stated to run with the land;
- 1671 3. Provide for all necessary access to the property for purposes of
1672 maintenance and regulatory inspections;
- 1673 4. Provide for inspections and maintenance and the submission of inspection
1674 and maintenance reports to the stormwater program administrative authority;
1675 and
- 1676 5. Be enforceable by all appropriate governmental parties.

1677 B. At the discretion of the stormwater program administrative authority, such
1678 recorded instruments need not be required for stormwater management facilities
1679 designed to treat stormwater runoff primarily from an individual residential lot on which
1680 they are located, provided it is demonstrated to the satisfaction of the stormwater
1681 program administrative authority that future maintenance of such facilities will be
1682 addressed through an enforceable mechanism at the discretion of the stormwater
1683 program administrative authority.

1684 **4VAC50-60-114. Inspections.**

1685 A. The stormwater program administrative authority shall inspect the land-disturbing
1686 activity during construction for :

- 1687 1. Compliance with the approved erosion and sediment control plan;
- 1688 2. Compliance with the approved stormwater management plan; and

- 1689 3. Development, updating, and implementation of a pollution prevention plan.
- 1690 B. The stormwater program administrative authority shall establish an inspection
1691 program that ensures that stormwater management facilities are being adequately
1692 maintained as designed after completion of land-disturbing activities. Inspection
1693 programs shall:
- 1694 1. Be approved by the board;
- 1695 2. Ensure that each stormwater management facility is inspected by the
1696 stormwater program administrative authority, or its designee, not to include the
1697 owner, except as provided in subsections C and D of this section, at least once
1698 every five years; and
- 1699 3. Be documented by records.
- 1700 C. The . stormwater program administrative authority may utilize the inspection
1701 reports as part of an inspection program established in subsection B of this section if the
1702 inspection is conducted by a person who is licensed as a professional engineer,
1703 architect, landscape architect, or land surveyor pursuant to Article 1 (§ 54.1-400 et seq.)
1704 of Chapter 4 of Title 54.1 or who holds an appropriate certificate of competence from the
1705 board.
- 1706 D. If a recorded instrument is not required pursuant to 4VAC50-60-112, a stormwater
1707 program administrative authority shall develop a strategy for addressing maintenance of
1708 stormwater management facilities designed to treat stormwater runoff primarily from an
1709 individual residential lot on which they are located. Such a strategy may include periodic
1710 inspections, homeowner outreach and education, or other method targeted at promoting
1711 the long-term maintenance of such facilities. Such facilities shall not be subject to the
1712 requirement for an inspection to be conducted by the stormwater program administrative
1713 authority.
- 1714 **4VAC50-60-116. Enforcement.**
- 1715 A. A stormwater program administrative authority shall incorporate components from
1716 subsection 1 and 2.
- 1717 1. Informal and formal administrative enforcement procedures may include:
- 1718 a. Verbal warnings and inspection reports;
- 1719 b. Notices of corrective action;
- 1720 c. Consent special orders and civil charges in accordance with subdivision 7
1721 of § 10.1-603.2:1 and § 10.1-603.14 D 2 of the Code of Virginia;
- 1722 d. Notices to comply in accordance with § 10.1-603.11 of the Code of
1723 Virginia;
- 1724 e. Special orders in accordance with subdivision 7 of § 10.1-603.2:1 of the
1725 Code of Virginia;
- 1726 f. Emergency special orders in accordance with subdivision 7 of § 10.1-
1727 603.2:1 of the Code of Virginia; and
- 1728 g. Public notice and comment periods for proposed settlements and consent
1729 special orders pursuant to 4VAC50-60-660.
- 1730 2. Civil and criminal judicial enforcement procedures may include:
- 1731 a. Schedule of civil penalties in accordance with § 10.1-603.14 of the Code of
1732 Virginia;

- 1753 6. Failure to install stormwater BMPs or erosion and sediment controls;
1754 7. Stormwater BMPs or erosion and sediment controls improperly installed or
1755 maintained;
1756 8. Operational deficiencies;
1757 9. Failure to conduct required inspections;
1758 10. Incomplete, improper, or missed inspections.

1759 D.. Pursuant to subdivision 2 of § 10.1-603.2:1 of the Code of Virginia, authorization
1760 to administer a local stormwater management program shall not remove from the board
1761 the authority to enforce the provisions of the Act and attendant regulations.

1762 E. The department may terminate VSMP permit coverage during its term and require
1763 application for an individual permit or deny a permit renewal application for failure to
1764 comply with permit conditions or on its own initiative in accordance with the Act and this
1765 chapter.]

1766 F. Pursuant to § 10.1-603.14 A of the Code of Virginia, civil penalties recovered by a
1767 local stormwater management program shall be paid into the treasury of the locality in
1768 which the violation occurred and are to be used for the purpose of minimizing,
1769 preventing, managing, or mitigating pollution of the waters of the locality and abating
1770 environmental pollution therein in such manner as the court may, by order, direct.

1771 G. The department may provide additional guidance concerning suggested penalty
1772 amounts in its Stormwater Management Enforcement Manual.

1773 **4VAC50-60-118. Hearings.**

1774 The stormwater program administrative authority shall ensure that any permit
1775 applicant or permittee aggrieved by any action of the stormwater program administrative
1776 authority taken without a formal hearing, or by inaction of the stormwater program
1777 administrative authority, shall have a right to a hearing pursuant to § 10.1-603.12:6 of
1778 the Code of Virginia and shall ensure that all hearings held under this chapter shall be
1779 conducted in accordance with § 10.1-603.12:7 of the Code of Virginia or as otherwise
1780 provided by law.

1781 **4VAC50-60-120. (Repealed.)**

1782 **4VAC50-60-122. Exceptions.**

1783 A. A stormwater program administrative authority may grant exceptions to the
1784 provisions of Part II B or Part II C of this chapter . An exception may be granted provided
1785 that (i) the exception is the minimum necessary to afford relief, (ii) reasonable and
1786 appropriate conditions shall be imposed as necessary upon any exception granted so
1787 that the intent of the Act and this chapter are preserved, (iii) granting the exception will
1788 not confer any special privileges that are denied to other similar circumstances, and (iv)
1789 exception requests are not based upon conditions or circumstances that are self-
1790 imposed or self-created.

1791 B. Economic hardship alone is not sufficient reason to grant an exception from the
1792 requirements of this chapter.

1793 C. Under no circumstance shall the stormwater program administrative authority
1794 grant an exception to the requirement that the land-disturbing activity obtain required
1795 VSMP permits nor approve the use of a BMP not found on the Virginia Stormwater BMP
1796 Clearinghouse Website.

1797 D. Exceptions to requirements for phosphorus reductions shall not be allowed unless
1798 offsite options available through 4VAC50-60-69 have been considered and found not
1799 available.

1800 E. A record of all exceptions granted shall be maintained by the stormwater program
1801 administrative authority in accordance with 4VAC50-60-126.

1802

1803 **4VAC50-60-126. Reports and recordkeeping.**

1804 A. On a fiscal year basis (July 1 to June 30), a local stormwater management
1805 program shall report to the department by October 1 of each year in a format provided
1806 by the department. The information to be provided shall include the following:

1807 1. Information on each permanent stormwater management facility completed
1808 during the fiscal year to include type of stormwater management facility,
1809 geographic coordinates, acres treated, and the surface waters or karst features
1810 into which the stormwater management facility will discharge;

1811

1812] Number and type of enforcement actions during the fiscal year; and

1813

3. Number of exceptions granted during the fiscal year.

1814

B.

1815 A stormwater program administrative authority shall keep records in accordance with
1816 the following:

1817 1. Project records, including approved stormwater management plans, shall be
1818 kept for three years after permit termination or project completion .

1819] Stormwater management] facility inspection records shall be documented and
1820 retained for at least five years from the date of inspection.

1821 2. Construction record drawings shall be maintained in perpetuity or until a
1822 stormwater management facility is removed .

1823 3. All registration statements submitted in accordance with 4VAC50-60-59 shall
1824 be documented and retained for at least three years from the date of project
1825 completion or permit termination.

1826

1827 **4VAC50-60-130. (Repealed.)**

1828

1829

1830

1831 **4VAC50-60-140. (Repealed.)**

1832

Part III B

1833 Department of Conservation and Recreation Procedures for Review of Local Stormwater
1834 Management Plans

1835 **4VAC50-60-142. Authority and applicability.**

1836

1837 This part specifies the criteria that the department will utilize in reviewing a locality's
1838 administration of a local stormwater management program pursuant to § 10.1-603.12 of

1839 the Code of Virginia following the board's approval of such program in accordance with
1840 the Act and these regulations.

1841 **4VAC50-60-144. Local stormwater management program review.**

1842 A. The department shall review each board-approved local stormwater management
1843 program at least once every five years on a review schedule approved by the board. The
1844 department may review a local stormwater management program on a more frequent
1845 basis if deemed necessary by the board and shall notify the local government if such
1846 review is scheduled.

1847 B. The review of a board-approved local stormwater management program shall
1848 consist of the following:

1849 1. An interview between department staff and the local stormwater management
1850 program administrator or designee;

1851 2. A review of the local ordinance(s) and other applicable documents;

1852 3. A review of a subset of the plans approved by the local stormwater
1853 management program for consistency of application including exceptions granted
1854 and calculations or other documentation that demonstrates that required nutrient
1855 reductions are achieved using appropriate on-site and off-site compliance
1856 options;

1857 4. A review of the funding and staffing plan developed in accordance with
1858 4VAC50-60-148;

1859 5. An inspection of regulated activities; and

1860 6. A review of enforcement actions and an accounting of amounts recovered
1861 through enforcement actions.

1862 C. To the extent practicable, the department will coordinate the reviews with its other
1863 local government program reviews to avoid redundancy.

1864 D. The department shall provide its recommendations to the board within 90 days of
1865 the completion of a review.

1866 E. The board shall determine if the local stormwater management program and
1867 ordinance are consistent with the Act and state stormwater management regulations and
1868 notify the local stormwater management program of its findings. If such findings indicate
1869 that the program is consistent with the Act and attendant regulations, the findings shall
1870 be provided to the local stormwater management program at least 21 days in advance of
1871 the meeting where the board will take action on the locality's program. If such findings
1872 indicate that the program is inconsistent with the Act and attendant regulations, the
1873 findings shall be provided to the local stormwater management program at least 35 days
1874 in advance of the meeting where the board will take action on the locality's program.

1875 F. If the board determines that the deficiencies noted in the review will cause the
1876 local stormwater management program to be out of compliance with the Stormwater
1877 Management Act and attendant regulations, the board shall notify the local stormwater
1878 management program concerning the deficiencies and provide a reasonable period of
1879 time for corrective action to be taken. If the local stormwater management program
1880 agrees to the corrective action approved by the board, the local stormwater
1881 management program will be considered to be conditionally compliant with the
1882 Stormwater Management Act and attendant regulations until a subsequent finding of
1883 compliance is issued by the board. If the local stormwater management program fails to

1884 take the board's required corrective action within the specified time, the board may take
1885 action pursuant to § 10.1-603.12 of the Code of Virginia. A local stormwater
1886 management program that fails to take corrective action in accordance with the board
1887 requirements shall not be considered a qualifying local program for purposes of the
1888 Virginia Stormwater Management Program permitting regulations.

1889 Part III C

1890 Virginia Soil and Water Conservation Board Authorization Procedures for Local
1891 Stormwater Management Programs

1892 **4VAC50-60-146. Authority and applicability.**

1893 Subdivision 1 of § 10.1-603.4 of the Code of Virginia requires that the board
1894 establish standards and procedures for authorizing a locality to administer a stormwater
1895 management program. In accordance with that requirement, and with the further
1896 authority conferred upon the board by the Virginia Stormwater Management Act (§ 10.1-
1897 603.2 et seq. of the Code of Virginia), this part specifies the procedures the board will
1898 utilize in authorizing a locality to administer a qualifying local program.

1899 **4VAC50-60-148. Local stormwater management program administrative**
1900 **requirements.**

1901 A. A local stormwater management program shall provide for the following:

- 1902 1. Identification of the authority accepting complete registration statements and
1903 for the authorities completing plan review, plan approval, inspection and
1904 enforcement.
- 1905 2. Submission and approval of erosion and sediment control plans in accordance
1906 with the Virginia Erosion and Sediment Control Law and attendant regulations
1907 and the submission and approval of stormwater management plans;
- 1908 3. Requirements to ensure compliance with 4VAC50-60-54, 4VAC50-60-55 and
1909 4VAC50-60-56;
- 1910 4. Requirements for inspections and monitoring of construction activities by the
1911 operator for compliance with local ordinances;
- 1912 5. Requirements for long-term inspection and maintenance of stormwater
1913 management facilities;
- 1914 6. Collection, distribution to the state if required, and expenditure of fees;
- 1915 7. Enforcement procedures and civil penalties;
- 1916 8. Policies and procedures to obtain and release bonds, if applicable; and
- 1917 9. Procedures for complying with the applicable reporting and record keeping
1918 requirements in 4VAC50-60-126.

1919 B. A local stormwater management program shall adopt and enforce an ordinance(s)
1920 that incorporates the components set out in subdivisions 1 through 5 and 7 of subsection
1921 A of this section.

1922 **4VAC50-60-150. Authorization procedures for local stormwater management**
1923 **programs**

1924 A. A locality required to adopt a program in accordance with § 10.1-603.3 A of the
1925 Code of Virginia or those electing to seek authorization to administer a qualifying local
1926 program must submit to the board an application package which, at a minimum, contains
1927 the following:

- 1928 1. The draft local stormwater management program ordinance(s) as required in
1929 4VAC50-60-148;
- 1930 2. A funding and staffing plan; and
- 1931 3. The policies and procedures, including but not limited to, agreements with Soil
1932 and Water Conservation Districts, adjacent localities, or other entities, for the
1933 administration, plan review, inspection, and enforcement components of the
1934 program.
- 1935 B. Upon receipt of an application package, the board or its designee shall have 30
1936 calendar days to determine the completeness of the application package. If an
1937 application package is deemed to be incomplete based on the criteria set out in
1938 subsection A of this section, the board or its designee must identify to the locality in
1939 writing the reasons the application package is deemed deficient.
- 1940 C. Upon receipt of a complete application package, the board or its designee shall
1941 have 120 calendar days for the review of the application package, unless an extension
1942 of time is requested. During the 120-day review period, the board or its designee shall
1943 either approve or disapprove the application, or notify the locality of a time extension for
1944 the review, and communicate its decision to the locality in writing. If the application is not
1945 approved, the reasons for not approving the application shall be provided to the locality
1946 in writing. Approval or denial shall be based on the application's compliance with the
1947 Virginia Stormwater Management Act and these regulations.
- 1948 D. A locality required to adopt a local stormwater management program in
1949 accordance with § 10.1-603.3 A of the Code of Virginia shall submit a complete
1950 application package for the board's review pursuant to a schedule set by the board in
1951 accordance with § 10.1-603.3 and shall adopt a local stormwater management program
1952 consistent with the Act and this chapter within the timeframe established pursuant to §
1953 10.1-603.3.
- 1954 E. A locality not required to adopt a local stormwater management program in
1955 accordance with § 10.1-603.3 A but electing to adopt a local stormwater management
1956 program shall notify the board in accordance with the following:
- 1957 1. A locality electing to adopt a local stormwater management program may
1958 notify the board of its intention within six months of the effective date of these
1959 regulations. Such locality shall submit a complete application package for the
1960 board's review pursuant to a schedule set by the board and shall adopt a local
1961 stormwater management program within the timeframe established by the board.
- 1962 2. A locality electing to adopt a local stormwater management program that does
1963 not notify the board within the initial six-month period of its intention may
1964 thereafter notify the board at any regular meeting of the board. Such notification
1965 shall include a proposed schedule for adoption of a local stormwater
1966 management program within a timeframe agreed upon by the board.
- 1967 F. A local stormwater management program approved by the board shall be
1968 considered a qualifying local program for purposes of the Virginia Stormwater
1969 Management Program permitting regulations.
- 1970 G. The department shall administer the responsibilities of the Act and this chapter in
1971 any locality in which a local stormwater management program has not been adopted.
1972 The department shall develop a schedule, to be approved by the board, for adoption and
1973 implementation of the requirements of this chapter in such localities. Such schedule may

1974 include phases of implementation and shall be based upon considerations including the
1975 typical number of permitted projects located within a locality, total number of acres
1976 disturbed by such permitted projects, and such other considerations as may be deemed
1977 necessary by the board.

1978

1979

1980

]

1981

1982 DOCUMENTS INCORPORATED BY REFERENCE (4VAC50-60)

1983 Illicit Discharge Detection and Elimination – A Guidance Manual for Program
1984 Development and Technical Assessments, EPA Cooperative Agreement X-82907801-0,
1985 October 2004, by Center for Watershed Protection and Robert Pitt, University of
1986 Alabama, available on the Internet at http://www.cwp.org/idde_verify.htm.

1987 Getting in Step – A Guide for Conducting Watershed Outreach Campaigns, EPA-
1988 841-B-03-002, December 2003, U.S. Environmental Protection Agency, Office of
1989 Wetlands, Oceans, and Watersheds, available on the Internet at
1990 <http://www.epa.gov/owow/watershed/outreach/documents/getnstep.pdf>, or may be
1991 ordered from National Service Center for Environmental Publications, telephone 1-800-
1992 490-9198.

1993 Municipal Stormwater Program Evaluation Guidance, EPA-833-R-07-003, January
1994 2007 (field test version), U.S. Environmental Protection Agency, Office of Wastewater
1995 Management, available on the Internet at
1996 http://cfpub.epa.gov/npdes/docs.cfm?program_id=6&view=allprog&sort=name#ms4_guidance,
1997 or may be ordered from National Technical Information Service, 5285 Port Royal
1998 Road, Springfield, VA 22161, telephone 1-800-553-6847 or (703) 605-6000.

1999 Technical Memorandum – The Runoff Reduction Method, April 2008, and
2000 addendums, December 2009.