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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.

~~["Adequate channel" means a] channel [watercourse] or wetland [that will convey the designated frequency storm event without overtopping] the channel bank [nor its banks or causing erosive damage to the] channel [bed] or [banks, or overbank sections of the same. A wetland may be considered an adequate channel provided the discharge from the designated frequency storm event does not cause erosion in the wetland.]~~

"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 ~~their~~ 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).

~~"Aquatic bench" means a 10 to 15 foot wide bench around the inside perimeter of a permanent pool that ranges in depth from zero to 12 inches. Vegetated with emergent plants, the bench augments pollutant removal, provides habitats, conceals trash and water level fluctuations, and enhances safety.~~

~~"Average land cover condition" means a measure of the average amount of impervious surfaces within a watershed, assumed to be 16%. Note that a locality may opt to calculate actual watershed-specific values for the average land cover condition based upon 4VAC50-60-110.~~

"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 ~~(BMP)~~" 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

46 pollution of surface waters and groundwater systems from the impacts of land-disturbing
47 activities.

48 ~~"Bioretention basin" means a water quality BMP engineered to filter the water quality~~
49 ~~volume through an engineered planting bed, consisting of a vegetated surface layer~~
50 ~~(vegetation, mulch, ground cover), planting soil, and sand bed, and into the in situ~~
51 ~~material.~~

52 ~~"Bioretention filter" means a bioretention basin with the addition of a sand filter~~
53 ~~collector pipe system beneath the planting bed.~~

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

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

57 "Channel" means a natural [stream] or manmade [waterway ~~watercourse with~~
58 ~~defined bed and banks that conducts continuously or periodically flowing water.~~]

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

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

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

71 ~~"Constructed wetlands" means areas intentionally designed and created to emulate~~
72 ~~the water quality improvement function of wetlands for the primary purpose of removing~~
73 ~~pollutants from stormwater.~~

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

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

82 "Contiguous zone" means the entire zone established by the United States under
83 Article 24 of the Convention on the Territorial Sea and the Contiguous Zone (37 FR
84 11906 June 15, 1972).

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

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

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

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

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

100 "Daily discharge" means the discharge of a pollutant measured during a calendar
101 day or any 24-hour period that reasonably represents the calendar day for purposes of
102 sampling. For pollutants with limitations expressed in units of mass, the daily discharge
103 is calculated as the total mass of the pollutant discharged over the day. For pollutants
104 with limitations expressed in other units of measurement, the daily discharge is
105 calculated as the average measurement of the pollutant over the day.

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

107 "Development" means ~~a tract of land developed or to be developed as a unit under~~
108 ~~single ownership or unified control which is to be used for any business or industrial~~
109 ~~purpose or is to contain three or more residential dwelling units~~ land disturbance and the
110 resulting landform associated with the construction of residential, commercial, industrial,
111 institutional, recreation, transportation, or utility facilities or structures or the clearing of
112 land for nonagricultural or nonsilvicultural purposes. [The regulation of discharges from
113 development , for purposes of these regulations, does not include the exemptions found
114 in 4VAC50-60-300.]

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

116 "Director" means the Director of the Department of Conservation and Recreation or
117 his designee.

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

119 "Discharge of a pollutant" means:

- 120 1. Any addition of any pollutant or combination of pollutants to state waters from
121 any point source; or
- 122 2. Any addition of any pollutant or combination of pollutants to the waters of the
123 contiguous zone or the ocean from any point source other than a vessel or other
124 floating craft which is being used as a means of transportation.

125 This definition includes additions of pollutants into surface waters from: surface
126 runoff that is collected or channeled by man; discharges through pipes, sewers, or other
127 conveyances owned by a state, municipality, or other person that do not lead to a
128 treatment works; and discharges through pipes, sewers, or other conveyances, leading
129 into privately owned treatment works. This term does not include an addition of
130 pollutants by any indirect discharger.

131 "Discharge Monitoring Report" or "DMR" means the form supplied by the
132 department, or an equivalent form developed by the operator and approved by the
133 board, for the reporting of self-monitoring results by operators.

134 "Draft permit" means a document indicating the board's tentative decision to issue or
135 deny, modify, revoke and reissue, terminate, or reissue a permit. A notice of intent to
136 terminate a permit, and a notice of intent to deny a permit are types of draft permits. A
137 denial of a request for modification, revocation and reissuance, or termination is not a
138 draft permit. A proposed permit is not a draft permit.

139 "Drainage area" means a land and area, water area on a land-disturbing site, or both
140 from which runoff flows to a common outlet point.

141 "Effluent limitation" means any restriction imposed by the board on quantities,
142 discharge rates, and concentrations of pollutants which are discharged from point
143 sources into surface waters, the waters of the contiguous zone, or the ocean.

144 "Effluent limitations guidelines" means a regulation published by the administrator
145 under § 304(b) of the CWA to adopt or revise effluent limitations.

146 "Environmental Protection Agency (~~EPA~~)" or "EPA" means the United States
147 Environmental Protection Agency.

148 "Existing permit" means for the purposes of this chapter a permit issued by the
149 permit-issuing authority and currently held by a permit applicant.

150 "Existing source" means any source that is not a new source or a new discharger.

151 "Facilities or equipment" means buildings, structures, process or production
152 equipment or machinery that form a permanent part of a new source and that will be
153 used in its operation, if these facilities or equipment are of such value as to represent a
154 substantial commitment to construct. It excludes facilities or equipment used in
155 connection with feasibility, engineering, and design studies regarding the new source or
156 water pollution treatment for the new source.

157 "Facility or activity" means any VSMP point source or treatment works treating
158 domestic sewage or any other facility or activity (including land or appurtenances
159 thereto) that is subject to regulation under the VSMP program.

160 "Flood fringe" [is means] the portion of the floodplain outside the floodway, usually
161 associated with standing rather than flowing water, which is covered by floodwater
162 during the 100-year discharge that is [usually] covered with water from the 100-year
163 storm event. [This includes, but is not limited to, the flood fringe designated by the
164 Federal Emergency Management Agency.]

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

168 "Floodplain" means [any land the] area [adjoining adjacent to] a channel, river,
169 stream, or other water body that is susceptible to being inundated by water [~~It includes~~
170 the floodway and flood fringe areas normally] associated with the 100-year storm event.
171 [This includes, but is not limited to, the floodplain designated by the Federal Emergency
172 Management Agency.]

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

177 "Floodway" means the channel of a river or other watercourse and the adjacent land
178 areas, usually associated with flowing water, that must be reserved in order to discharge

179 ~~the base flood 100-year storm event without cumulatively increasing the water surface~~
180 ~~elevation more than one foot [. or as otherwise This includes, but is not limited to, the~~
181 ~~floodway] designated by the Federal Emergency Management Agency.~~

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

184 ~~"Grassed swale" means an earthen conveyance system which is broad and shallow~~
185 ~~with erosion resistant grasses and check dams, engineered to remove pollutants from~~
186 ~~stormwater runoff by filtration through grass and infiltration into the soil.~~

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

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

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

196 "Impervious cover" means a [manmade] surface composed of [any] material that
197 significantly impedes or prevents natural infiltration of water into soil. [Impervious
198 surfaces include, but are not limited to, conventional roofs, buildings, streets, parking
199 areas, and any conventional concrete, asphalt, or compacted gravel surface that is or
200 may become compacted.]

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

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

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

212 ~~"Infiltration facility" means a stormwater management facility that temporarily~~
213 ~~impounds runoff and discharges it via infiltration through the surrounding soil. While an~~
214 ~~infiltration facility may also be equipped with an outlet structure to discharge impounded~~
215 ~~runoff, such discharge is normally reserved for overflow and other emergency~~
216 ~~conditions. Since an infiltration facility impounds runoff only temporarily, it is normally dry~~
217 ~~during nonrainfall periods. Infiltration basin, infiltration trench, infiltration dry well, and~~
218 ~~porous pavement shall be considered infiltration facilities.~~

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

223 "Interstate agency" means an agency of two or more states established by or under
224 an agreement or compact approved by Congress, or any other agency of two or more

225 states having substantial powers or duties pertaining to the control of pollution as
226 determined and approved by the administrator under the CWA and regulations.

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

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

232 "Land disturbance" or "land-disturbing activity" means a manmade change to the
233 land surface that potentially changes its runoff characteristics including any clearing,
234 grading, or excavation associated with a construction activity regulated pursuant to the
235 ~~federal Clean Water Act CWA~~, the Act, and this chapter [or with a Chesapeake Bay
236 Preservation Act land-disturbing activity regulated pursuant to the Act and this chapter].

237 "Large construction activity" means construction activity including clearing, grading
238 and excavation, except operations that result in the disturbance of less than five acres of
239 total land area. Large construction activity also includes the disturbance of less than five
240 acres of total land area that is a part of a larger common plan of development or sale if
241 the larger common plan will ultimately disturb five acres or more. [Large construction
242 activity does not include routine maintenance that is performed to maintain the original
243 line and grade, hydraulic capacity, or original purpose of the facility.]

244 "Large municipal separate storm sewer system" means all municipal separate storm
245 sewers that are either:

246 1. Located in an incorporated place with a population of 250,000 or more as
247 determined by the 1990 decennial census by the Bureau of Census (40 CFR Part
248 122 Appendix F (2000));

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

252 3. Owned or operated by a municipality other than those described in subdivision
253 1 or 2 of this definition and that are designated by the board as part of the large
254 or medium municipal separate storm sewer system due to the interrelationship
255 between the discharges of the designated storm sewer and the discharges from
256 municipal separate storm sewers described under subdivision 1 or 2 of this
257 definition. In making this determination the board may consider the following
258 factors:

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

260 b. The location of discharges from the designated municipal separate storm
261 sewer relative to discharges from municipal separate storm sewers described
262 in subdivision 1 of this definition;

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

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

265 e. Other relevant factors.

266 4. The board may, upon petition, designate as a large municipal separate storm
267 sewer system, municipal separate storm sewers located within the boundaries of
268 a region defined by a stormwater management regional authority based on a

269 jurisdictional, watershed, or other appropriate basis that includes one or more of
270 the systems described in this definition.

271 ["Layout" means a conceptual drawing sufficient to provide for the specified
272 stormwater management facilities required at the time of approval.]

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

280 "Local stormwater management program" or "local program" means ~~a statement of~~
281 ~~the various methods employed by a locality [or the department] to manage the quality~~
282 ~~and quantity of runoff resulting from land-disturbing activities and shall include such~~
283 ~~items as local ordinances, permit requirements, policies and guidelines, technical~~
284 ~~materials, plan review, inspection, enforcement, and evaluation consistent with the Act~~
285 ~~and this chapter. The ordinance shall include provisions to require the control of after-~~
286 ~~development stormwater runoff rate of flow, the proper maintenance of stormwater~~
287 ~~management facilities, and minimum administrative procedures. [Upon board approval~~
288 ~~of a local stormwater management program, it shall be recognized as a qualifying local~~
289 ~~program.]~~

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

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

294 ["Main channel" means the portion of the stormwater conveyance system that
295 contains the base flow and small frequent storm events.]

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

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

301 "Major municipal separate storm sewer outfall ~~(or major outfall)~~ or "major outfall"
302 means a municipal separate storm sewer outfall that discharges from a single pipe with
303 an inside diameter of 36 inches or more or its equivalent (discharge from a single
304 conveyance other than circular pipe which is associated with a drainage area of more
305 than 50 acres); or for municipal separate storm sewers that receive stormwater from
306 lands zoned for industrial activity (based on comprehensive zoning plans or the
307 equivalent), with an outfall that discharges from a single pipe with an inside diameter of
308 12 inches or more or from its equivalent (discharge from other than a circular pipe
309 associated with a drainage area of two acres or more).

310 "Manmade" means constructed by man.

311 ["~~Manmade stormwater conveyance system~~" means a pipe, ditch, vegetated swale,
312 or other conveyance constructed by man.]

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

314 "Maximum extent practicable" or "MEP" means the technology-based discharge
315 standard for municipal separate storm sewer systems established by CWA § 402(p).
316 MEP is achieved, in part, by selecting and implementing effective structural and
317 nonstructural best management practices (BMPs) and rejecting ineffective BMPs and
318 replacing them with effective best management practices (BMPs). MEP is an iterative
319 standard, which evolves over time as urban runoff management knowledge increases.
320 As such, the operator's MS4 program must continually be assessed and modified to
321 incorporate improved programs, control measures, BMPs, etc., to attain compliance with
322 water quality standards.

323 "Medium municipal separate storm sewer system" means all municipal separate
324 storm sewers that are either:

- 325 1. Located in an incorporated place with a population of 100,000 or more but less
326 than 250,000 as determined by the 1990 decennial census by the Bureau of
327 Census (40 CFR Part 122 Appendix G (2000));
- 328 2. Located in the counties listed in 40 CFR Part 122 Appendix I (2000), except
329 municipal separate storm sewers that are located in the incorporated places,
330 townships or towns within such counties;
- 331 3. Owned or operated by a municipality other than those described in subdivision
332 1 or 2 of this definition and that are designated by the board as part of the large
333 or medium municipal separate storm sewer system due to the interrelationship
334 between the discharges of the designated storm sewer and the discharges from
335 municipal separate storm sewers described under subdivision 1 or 2 of this
336 definition. In making this determination the board may consider the following
337 factors:
 - 338 a. Physical interconnections between the municipal separate storm sewers;
 - 339 b. The location of discharges from the designated municipal separate storm
340 sewer relative to discharges from municipal separate storm sewers described
341 in subdivision 1 of this definition;
 - 342 c. The quantity and nature of pollutants discharged to surface waters;
 - 343 d. The nature of the receiving surface waters; or
 - 344 e. Other relevant factors.
- 345 4. The board may, upon petition, designate as a medium municipal separate
346 storm sewer system, municipal separate storm sewers located within the
347 boundaries of a region defined by a stormwater management regional authority
348 based on a jurisdictional, watershed, or other appropriate basis that includes one
349 or more of the systems described in subdivisions 1, 2 and 3 of this definition.

350 "Minor modification" means, for the purposes of this chapter, minor modification or
351 amendment of an existing permit before its expiration for the reasons listed at 40 CFR
352 122.63 and as specified in 4VAC50-60-640. Minor modification for the purposes of this
353 chapter also means other modifications and amendments not requiring extensive review
354 and evaluation including, but not limited to, changes in EPA promulgated test protocols,
355 increasing monitoring frequency requirements, changes in sampling locations, and
356 changes to compliance dates within the overall compliance schedules. A minor permit
357 modification or amendment does not substantially alter permit conditions, substantially
358 increase or decrease the amount of surface water impacts, increase the size of the

359 operation, or reduce the capacity of the facility to protect human health or the
360 environment.

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

365 1. Owned or operated by a federal, state, city, town, county, district, association,
366 or other public body, created by or pursuant to state law, having jurisdiction or
367 delegated authority for erosion and sediment control and stormwater
368 management, or a designated and approved management agency under § 208
369 of the CWA that discharges to surface waters;

370 2. Designed or used for collecting or conveying stormwater;

371 3. That is not a combined sewer; and

372 4. That is not part of a publicly owned treatment works.

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

376 "Municipal Separate Storm Sewer System Management Program" or "MS4 Program"
377 means a management program covering the duration of a permit for a municipal
378 separate storm sewer system that includes a comprehensive planning process that
379 involves public participation and intergovernmental coordination, to reduce the discharge
380 of pollutants to the maximum extent practicable, to protect water quality, and to satisfy
381 the appropriate water quality requirements of the CWA and regulations and the Virginia
382 Stormwater Management Act and attendant regulations, using management practices,
383 control techniques, and system, design and engineering methods, and such other
384 provisions that are appropriate.

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

389 "National Pollutant Discharge Elimination System (NPDES)" or "NPDES" means the
390 national program for issuing, modifying, revoking and reissuing, terminating, monitoring
391 and enforcing permits, and imposing and enforcing pretreatment requirements under §§
392 307, 402, 318, and 405 of the CWA. The term includes an approved program.

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

397 [~~"Natural stormwater conveyance system" means the main channel of a natural~~
398 ~~stream, in combination with the floodway and flood fringe, which compose the~~
399 ~~floodplain.]~~

400 "Natural stream" means a tidal or nontidal watercourse that is part of the natural
401 topography. It usually maintains a continuous or seasonal flow during the year and is
402 characterized as being irregular in cross-section with a meandering course. Constructed
403 channels such as drainage ditches or swales shall not be considered natural streams ;

404 however, channels designed utilizing natural channel design concepts may be
405 considered natural streams.

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

- 407 1. From which there is or may be a discharge of pollutants;
408 2. That did not commence the discharge of pollutants at a particular site prior to
409 August 13, 1979;
410 3. Which is not a new source; and
411 4. Which has never received a finally effective VPDES or VSMP permit for
412 discharges at that site.

413 This definition includes an indirect discharger that commences discharging into
414 surface waters after August 13, 1979. It also includes any existing mobile point source
415 (other than an offshore or coastal oil and gas exploratory drilling rig or a coastal oil and
416 gas developmental drilling rig) such as a seafood processing rig, seafood processing
417 vessel, or aggregate plant, that begins discharging at a site for which it does not have a
418 permit; and any offshore or coastal mobile oil and gas exploratory drilling rig or coastal
419 mobile oil and gas developmental drilling rig that commences the discharge of pollutants
420 after August 13, 1979.

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

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

- 426 1. After promulgation of standards of performance under § 306 of the CWA that
427 are applicable to such source; or
428 2. After proposal of standards of performance in accordance with § 306 of the
429 CWA that are applicable to such source, but only if the standards are
430 promulgated in accordance with § 306 of the CWA within 120 days of their
431 proposal.

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

436 ~~"Nonpoint source pollutant runoff load" or "pollutant discharge" means the average~~
437 ~~amount of a particular pollutant measured in pounds per year, delivered in a diffuse~~
438 ~~manner by stormwater runoff.~~

439 "Operator" means the owner or operator of any facility or activity subject to the
440 VSMP permit regulation. In the context of stormwater associated with a large or small
441 construction activity, operator means any person associated with a construction project
442 that meets either of the following two criteria: (i) the person has direct operational control
443 over construction plans and specifications, including the ability to make modifications to
444 those plans and specifications or (ii) the person has day-to-day operational control of
445 those activities at a project that are necessary to ensure compliance with a stormwater
446 pollution prevention plan for the site or other permit conditions (i.e., they are authorized
447 to direct workers at a site to carry out activities required by the stormwater pollution
448 prevention plan or comply with other permit conditions). In the context of stormwater

449 discharges from Municipal Separate Storm Sewer Systems (MS4s), operator means the
450 operator of the regulated MS4 system.

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

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

459 "Owner" means the Commonwealth or any of its political subdivisions including, but
460 not limited to, sanitation district commissions and authorities, and any public or private
461 institution, corporation, association, firm or company organized or existing under the
462 laws of this or any other state or country, or any officer or agency of the United States, or
463 any person or group of persons acting individually or as a group that owns, operates,
464 charters, rents, or otherwise exercises control over or is responsible for any actual or
465 potential discharge of sewage, industrial wastes, or other wastes or pollutants to state
466 waters, or any facility or operation that has the capability to alter the physical, chemical,
467 or biological properties of state waters in contravention of § 62.1-44.5 of the Code of
468 Virginia, the Act and this chapter.

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

471 "Percent impervious" means the impervious area within the site divided by the area
472 of the site multiplied by 100.

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

477 "Permit-issuing authority" means the board, the department, or a locality [that is
478 delegated authority by the board to issue, deny, revoke, terminate, or amend stormwater
479 permits under the provisions of the Act and this chapter ~~with a qualifying local program~~].

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

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

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

491 "Point of discharge" means a location at which concentrated stormwater runoff is
492 released.

493 "Point source" means any discernible, confined, and discrete conveyance including,
494 but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure,

495 container, rolling stock, concentrated animal feeding operation, landfill leachate
496 collection system, vessel, or other floating craft from which pollutants are or may be
497 discharged. This term does not include return flows from irrigated agriculture or
498 agricultural stormwater runoff.

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

- 505 1. Sewage from vessels; or
- 506 2. Water, gas, or other material that is injected into a well to facilitate production
507 of oil or gas, or water derived in association with oil and gas production and
508 disposed of in a well if the well used either to facilitate production or for disposal
509 purposes is approved by the board and if the board determines that the injection
510 or disposal will not result in the degradation of ground or surface water
511 resources.

512 "Pollutant discharge" means the average amount of a particular pollutant measured
513 in pounds per year or other standard reportable unit as appropriate, delivered in a diffuse
514 manner by stormwater runoff.

515 "Pollution" means such alteration of the physical, chemical or biological properties of
516 any state waters as will or is likely to create a nuisance or render such waters (a)
517 harmful or detrimental or injurious to the public health, safety or welfare, or to the health
518 of animals, fish or aquatic life; (b) unsuitable with reasonable treatment for use as
519 present or possible future sources of public water supply; or (c) unsuitable for
520 recreational, commercial, industrial, agricultural, or other reasonable uses, provided that
521 (i) an alteration of the physical, chemical, or biological property of state waters, or a
522 discharge or deposit of sewage, industrial wastes or other wastes to state waters by any
523 owner which by itself is not sufficient to cause pollution, but which, in combination with
524 such alteration of or discharge or deposit to state waters by other owners, is sufficient to
525 cause pollution; (ii) the discharge of untreated sewage by any owner into state waters;
526 and (iii) contributing to the contravention of standards of water quality duly established
527 by the State Water Control Board, are "pollution" for the terms and purposes of this
528 chapter.

529 ~~"Post-development"~~ "Postdevelopment" refers to conditions that reasonably may be
530 expected or anticipated to exist after completion of the land development activity on a
531 specific site or tract of land.

532 ~~"Pre-development"~~ "Predevelopment" refers to the conditions that exist at the time
533 that plans for the land development of a tract of land are ~~approved by~~ submitted to the
534 plan approval authority. Where phased development or plan approval occurs
535 (preliminary grading, demolition of existing structures, roads and utilities, etc.), the
536 existing conditions at the time prior to the first item being ~~approved or permitted~~
537 submitted shall establish ~~pre-development~~ predevelopment conditions.

538 "Prior developed lands" means land that has been previously utilized for residential,
539 commercial, industrial, institutional, recreation, transportation or utility facilities or

540 structures, and that will have the impervious areas associated with those uses altered
541 during a land-disturbing activity.

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

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

549 "Publicly owned treatment works (~~POTW~~) or "POTW" means a treatment works as
550 defined by § 212 of the CWA that is owned by a state or municipality (as defined by §
551 502(4) of the CWA). This definition includes any devices and systems used in the
552 storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes
553 of a liquid nature. It also includes sewers, pipes, and other conveyances only if they
554 convey wastewater to a POTW treatment plant. The term also means the municipality as
555 defined in § 502(4) of the CWA, that has jurisdiction over the indirect discharges to and
556 the discharges from such a treatment works.

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

560 "Qualifying local stormwater management program" or "qualifying local program"
561 means a local [stormwater management] program [that is .] administered by a locality
562 [.] that has been authorized by the board [. to issue coverage under the VSMP General
563 Permit for Discharges of Stormwater from Construction Activities (4VAC50-60-1170). To
564 authorize a qualifying local program, the board must find that the ordinances adopted by
565 the locality are consistent with the VSMP General Permit for Discharges of Stormwater
566 from Construction Activities.]

567 "Recommencing discharger" means a source that recommences discharge after
568 terminating operations.

569 "Regional administrator" means the Regional Administrator of Region III of the
570 Environmental Protection Agency or the authorized representative of the regional
571 administrator.

572 "~~Regional (watershed-wide) stormwater management facility~~" or "~~regional facility~~"
573 ~~means a facility or series of facilities designed to control stormwater runoff from a~~
574 ~~specific watershed, although only portions of the watershed may experience land~~
575 ~~development.~~

576 "~~Regional (watershed-wide) stormwater management plan~~" or "~~regional plan~~" means
577 ~~a document containing material describing how runoff from open space, existing~~
578 ~~development and future planned development areas within a watershed will be~~
579 ~~controlled by coordinated design and implementation of regional stormwater~~
580 ~~management facilities.~~

581 [~~"Restored stormwater conveyance system" means a stormwater conveyance~~
582 ~~system that has been designed and constructed using natural channel design concepts,~~
583 ~~including the main channel, floodway, and flood fringe.]~~

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

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

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

590 ~~"Sand filter" means a contained bed of sand that acts to filter the first flush of runoff.
591 The runoff is then collected beneath the sand bed and conveyed to an adequate
592 discharge point or infiltrated into the in-situ soils.~~

593 "Runoff characteristics" include, but are not limited to, [velocity,] peak flow rate,
594 volume, [time of concentration,] and flow duration [,and their influence on channel
595 morphology including sinuosity, channel cross sectional area, and channel slope] .

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

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

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

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

608 ~~"Shallow marsh" means a zone within a stormwater extended detention basin that
609 exists from the surface of the normal pool to a depth of six to 18 inches, and has a large
610 surface area and, therefore, requires a reliable source of baseflow, groundwater supply,
611 or a sizeable drainage area, to maintain the desired water surface elevations to support
612 emergent vegetation.~~

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

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

622 "Site" means the land or water area where any facility or activity is physically located
623 or conducted, a parcel of land being developed, or a designated ~~planning area of a~~
624 parcel in which the land development project is located. Areas channelward of mean low
625 water in tidal Virginia shall not be considered part of a site.

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

629 "Small construction activity" means:

630 1. Construction activities including clearing, grading, and excavating that results
631 in land disturbance of equal to or greater than one acre, [~~or equal to or greater~~
632 ~~than 2,500 square feet in all areas of the jurisdictions designated as subject to~~
633 ~~the Chesapeake Bay Preservation Area Designation and Management~~
634 ~~Regulations adopted pursuant to the Chesapeake Bay Preservation Act,] and
635 less than five acres. Small construction activity also includes the disturbance of
636 less than one acre of total land area that is part of a larger common plan of
637 development or sale if the larger common plan will ultimately disturb equal to or
638 greater than one and less than five acres. Small construction activity does not
639 include routine maintenance that is performed to maintain the original line and
640 grade, hydraulic capacity, or original purpose of the facility. The board may waive
641 the otherwise applicable requirements in a general permit for a stormwater
642 discharge from construction activities that disturb less than five acres where
643 stormwater controls are not needed based on a "total maximum daily load"
644 (TMDL) approved or established by EPA that addresses the pollutant(s) of
645 concern or, for nonimpaired waters that do not require TMDLs, an equivalent
646 analysis that determines allocations for small construction sites for the
647 pollutant(s) of concern or that determines that such allocations are not needed to
648 protect water quality based on consideration of existing in-stream concentrations,
649 expected growth in pollutant contributions from all sources, and a margin of
650 safety. For the purpose of this subdivision, the pollutant(s) of concern include
651 sediment or a parameter that addresses sediment (such as total suspended
652 solids, turbidity or siltation) and any other pollutant that has been identified as a
653 cause of impairment of any water body that will receive a discharge from the
654 construction activity. The operator must certify to the board that the construction
655 activity will take place, and stormwater discharges will occur, within the drainage
656 area addressed by the TMDL or equivalent analysis.~~

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

661 "Small municipal separate storm sewer system" or "small MS4" means all separate
662 storm sewers that are (i) owned or operated by the United States, a state, city, town,
663 borough, county, parish, district, association, or other public body (created by or
664 pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes,
665 stormwater, or other wastes, including special districts under state law such as a sewer
666 district, flood control district or drainage district, or similar entity, or an Indian tribe or an
667 authorized Indian tribal organization, or a designated and approved management
668 agency under § 208 of the CWA that discharges to surface waters and (ii) not defined as
669 "large" or "medium" municipal separate storm sewer systems or designated under
670 4VAC50-60-380 A 1. This term includes systems similar to separate storm sewer
671 systems in municipalities, such as systems at military bases, large hospital or prison
672 complexes, and highway and other thoroughfares. The term does not include separate
673 storm sewers in very discrete areas, such as individual buildings.

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

676 ~~["Stable" means, in the context of channels, a channel that has developed an~~
677 ~~established dimension, pattern, and profile such that over time, these features are~~
678 ~~maintained.]~~

679 "State" means the Commonwealth of Virginia.

680 "State/EPA agreement" means an agreement between the [EPA] regional
681 administrator and the state that coordinates EPA and state activities, responsibilities and
682 programs including those under the CWA and the Act.

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

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

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

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

694 "Stormwater conveyance system" means ~~[any of the following a combination of~~
695 ~~drainage components that are used to convey stormwater discharge] , either within or~~
696 ~~downstream of the land-disturbing activity [. This includes] :~~

697 ~~(i) [a manmade "Manmade"] stormwater conveyance system [" means a pipe, ditch,~~
698 ~~vegetated swale, or other stormwater conveyance system constructed by man except for~~
699 ~~restored stormwater conveyance systems;]~~

700 ~~[.] (ii) [a natural "Natural"] stormwater conveyance system [" means the main~~
701 ~~channel of a natural stream and the flood-prone area adjacent to the main channel;] or~~

702 ~~(iii) [a restored "Restored"] stormwater conveyance system [" means a stormwater~~
703 ~~conveyance system that has been designed and constructed using natural channel~~
704 ~~design concepts. Restored stormwater conveyance systems include the main channel~~
705 ~~and the flood-prone area adjacent to the main channel] .~~

706 ~~"Stormwater detention basin" or "detention basin" means a stormwater management~~
707 ~~facility that temporarily impounds runoff and discharges it through a hydraulic outlet~~
708 ~~structure to a downstream conveyance system. While a certain amount of outflow may~~
709 ~~also occur via infiltration through the surrounding soil, such amounts are negligible when~~
710 ~~compared to the outlet structure discharge rates and are, therefore, not considered in~~
711 ~~the facility's design. Since a detention facility impounds runoff only temporarily, it is~~
712 ~~normally dry during nonrainfall periods.~~

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

719 "Stormwater discharge associated with large construction activity" means the
720 discharge of stormwater from large construction activities.

721 "Stormwater discharge associated with small construction activity" means the
722 discharge of stormwater from small construction activities.

723 ~~"Stormwater extended detention basin" or "extended detention basin" means a~~
724 ~~stormwater management facility that temporarily impounds runoff and discharges it~~
725 ~~through a hydraulic outlet structure over a specified period of time to a downstream~~
726 ~~conveyance system for the purpose of water quality enhancement or stream channel~~
727 ~~erosion control. While a certain amount of outflow may also occur via infiltration through~~
728 ~~the surrounding soil, such amounts are negligible when compared to the outlet structure~~
729 ~~discharge rates and, therefore, are not considered in the facility's design. Since an~~
730 ~~extended detention basin impounds runoff only temporarily, it is normally dry during~~
731 ~~nonrainfall periods.~~

732 ~~"Stormwater extended detention basin-enhanced" or "extended detention basin-~~
733 ~~enhanced" means an extended detention basin modified to increase pollutant removal~~
734 ~~by providing a shallow marsh in the lower stage of the basin.~~

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

738 "Stormwater management plan" means a document(s) containing material for
739 describing how existing runoff characteristics will be maintained by a land-disturbing
740 activity and methods for complying with the requirements of the local program or this
741 chapter.

742 "Stormwater Management Program" means a program established by a locality that
743 is consistent with the requirements of the Virginia Stormwater Management Act, this
744 chapter and associated guidance documents.

745 ~~["Stormwater management standards" means the minimum criteria for stormwater~~
746 ~~management programs and land-disturbing activities as set out in Part II (4VAC50-60-40~~
747 ~~et seq.) of this chapter.]~~

748 "Stormwater Pollution Prevention Plan" or "SWPPP" means a document that is
749 prepared in accordance with good engineering practices and that identifies potential
750 sources of pollutants that may reasonably be expected to affect the quality of stormwater
751 discharges from the construction site or its associated land-disturbing activities. In
752 addition the document shall identify and require the implementation of control measures,
753 and shall include, but not be limited to the inclusion of, or the incorporation by reference
754 of, an [approved] erosion and sediment control plan, ~~[a post construction an~~
755 ~~approved]~~ stormwater management plan, ~~[a spill prevention control and~~
756 ~~countermeasure (SPCC) a pollution prevention]~~ plan ~~[, and other practices that will be~~
757 ~~used to minimize pollutants in stormwater discharges from land-disturbing activities in~~
758 ~~compliance with the terms and conditions of this chapter. All plans incorporated by~~
759 ~~reference into the SWPPP shall be enforceable under the permit issued or general~~
760 ~~permit coverage authorized] .~~

761 ~~["Stormwater Program Administrative Authority" means a local stormwater~~
762 ~~management program or the department, as the permit-issuing authority, in the absence~~
763 ~~of a local stormwater management program, which administers the Virginia Stormwater~~
764 ~~Management Program.]~~

765 "Stormwater retention basin" or "retention basin" means a stormwater management
766 facility that includes a permanent impoundment, or normal pool of water, for the purpose

767 of enhancing water quality and, therefore, is normally wet, even during nonrainfall
768 periods. Storm runoff inflows may be temporarily stored above this permanent
769 impoundment for the purpose of reducing flooding, or stream channel erosion.

770 "Stormwater retention basin I" or "retention basin I" means a retention basin with the
771 volume of the permanent pool equal to three times the water quality volume.

772 "Stormwater retention basin II" or "retention basin II" means a retention basin with
773 the volume of the permanent pool equal to four times the water quality volume.

774 "Stormwater retention basin III" or "retention basin III" means a retention basin with
775 the volume of the permanent pool equal to four times the water quality volume with the
776 addition of an aquatic bench.

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

778 "Surface waters" means:

779 1. All waters that are currently used, were used in the past, or may be
780 susceptible to use in interstate or foreign commerce, including all waters that are
781 subject to the ebb and flow of the tide;

782 2. All interstate waters, including interstate wetlands;

783 3. All other waters such as intrastate lakes, rivers, streams (including intermittent
784 streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows,
785 playa lakes, or natural ponds the use, degradation, or destruction of which would
786 affect or could affect interstate or foreign commerce including any such waters:

787 a. That are or could be used by interstate or foreign travelers for recreational
788 or other purposes;

789 b. From which fish or shellfish are or could be taken and sold in interstate or
790 foreign commerce; or

791 c. That are used or could be used for industrial purposes by industries in
792 interstate commerce.

793 4. All impoundments of waters otherwise defined as surface waters under this
794 definition;

795 5. Tributaries of waters identified in subdivisions 1 through 4 of this definition;

796 6. The territorial sea; and

797 7. Wetlands adjacent to waters (other than waters that are themselves wetlands)
798 identified in subdivisions 1 through 6 of this definition.

799 Waste treatment systems, including treatment ponds or lagoons designed to meet
800 the requirements of the CWA and the law, are not surface waters. Surface waters do not
801 include prior converted cropland. Notwithstanding the determination of an area's status
802 as prior converted cropland by any other agency, for the purposes of the [~~Clean Water~~
803 ~~Act CWA~~], the final authority regarding the [~~Clean Water Act CWA~~] jurisdiction
804 remains with the EPA.

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

807 "Total maximum daily load" or "TMDL" means the sum of the individual wasteload
808 allocations for point sources, load allocations (LAs) for nonpoint sources, natural
809 background loading and a margin of safety. TMDLs can be expressed in terms of either

810 mass per time, toxicity, or other appropriate measure. The TMDL process provides for
811 point versus nonpoint source trade-offs.

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

815 [~~"Unstable" means, in the context of channels, a channel that is not stable.]~~

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

822 [~~"Urban development area" or "UDA" means, as defined by § 15.2-2223.1 of the
823 Code of Virginia, an area designated by a locality that is appropriate for higher density
824 development due to proximity to transportation facilities, the availability of a public or
825 community water and sewer system, or proximity to a city, town, or other developed
826 area.]~~

827 "Variance" means any mechanism or provision under § 301 or § 316 of the CWA or
828 under 40 CFR Part 125 (2000), or in the applicable federal effluent limitations guidelines
829 that allows modification to or waiver of the generally applicable effluent limitation
830 requirements or time deadlines of the CWA. This includes provisions that allow the
831 establishment of alternative limitations based on fundamentally different factors or on §
832 301(c), § 301(g), § 301(h), § 301(i), or § 316(a) of the CWA.

833 ~~"Vegetated filter strip" means a densely vegetated section of land engineered to
834 accept runoff as overland sheet flow from upstream development. It shall adopt any
835 natural vegetated form, from grassy meadow to small forest. The vegetative cover
836 facilitates pollutant removal through filtration, sediment deposition, infiltration and
837 absorption, and is dedicated for that purpose.~~

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

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

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

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

855 "Virginia Stormwater Management Program (~~VSMP~~) or "VSMP" means the Virginia
856 program for issuing, modifying, revoking and reissuing, terminating, monitoring and
857 enforcing permits, and imposing and enforcing requirements pursuant to the ~~federal~~
858 ~~Clean Water Act CWA~~, the ~~Virginia Stormwater Management Act~~, this chapter, and
859 associated guidance documents.

860 "Virginia Stormwater Management Program (~~VSMP~~) permit" or "VSMP permit"
861 means a document issued by the permit-issuing authority pursuant to the Virginia
862 Stormwater Management Act and this chapter authorizing, under prescribed conditions,
863 the potential or actual discharge of pollutants from a point source to surface waters.
864 Under the approved state program, a VSMP permit is equivalent to a NPDES permit.

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

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

871 "Water quality standards" or "WQS" means provisions of state or federal law that
872 consist of a designated use or uses for the waters of the Commonwealth and water
873 quality criteria for such waters based on such uses. Water quality standards are to
874 protect the public health or welfare, enhance the quality of water, and serve the
875 purposes of the State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia),
876 the ~~Virginia Stormwater Management Act~~ (§ 10.1-603.1 et seq. of the Code of Virginia),
877 and the ~~federal Clean Water Act CWA~~ (33 USC § 1251 et seq.).

878 ~~"Water quality volume" means the volume equal to the first 1/2 inch of runoff~~
879 ~~multiplied by the impervious surface of the land development project.~~

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

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

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

891 **4VAC50-60-20. Purposes.**

892 The purposes of this chapter are to provide a framework for the administration,
893 implementation and enforcement of the Virginia Stormwater Management Act (Act) and
894 to delineate the procedures and requirements to be followed in connection with VSMP
895 permits issued by the board or its designee pursuant to the Clean Water Act (CWA) and
896 the Virginia Stormwater Management Act, while at the same time providing flexibility for
897 innovative solutions to stormwater management issues. The chapter also establishes the
898 board's procedures for the authorization of a qualifying local program, [the board's
899 procedures for the administration of a local stormwater management program by an
900 authorized qualifying local program,] board and department oversight authorities for an

901 authorized qualifying local program, the board's procedures for utilization by the
902 department in administering [a local program the Virginia Stormwater Management
903 Program] in localities where no qualifying local program is authorized, and the
904 [components of a stormwater management program including but not limited to required
905 technical criteria for] stormwater management [standards from land-disturbing
906 activities] .

907 **4VAC50-60-30. Applicability.**

908 This chapter is applicable to:

- 909 1. Every [~~private, local, state, or federal entity~~ locality] that [~~establishes~~
910 administers] a [local] stormwater management program [~~or a MS4 program~~] ;
911 2. The department in its oversight of locally administered programs or in its
912 administration of a [~~local program the Virginia Stormwater Management~~
913 Program] ;
914 2- 3. [Every MS4 program;
915 4.] Every state agency project regulated under the Act and this chapter; and
916 3- [4-5.] Every land-disturbing activity regulated under § 10.1-603.8 of the Code
917 of Virginia unless otherwise exempted in § 10.1-603.8 B.

918 [Part II A
919 Stormwater Management Program Technical Criteria Part II]

920 **4VAC50-60-40. Applicability Authority and applicability.**

921 ~~This part specifies technical criteria for every stormwater management program and~~
922 ~~land-disturbing activity.~~

923 Pursuant to the Virginia Stormwater Management Act (§ 10.1-603.2 et seq. of the
924 Code of Virginia), the board is required to take actions ensuring the general health,
925 safety, and welfare of the citizens of the Commonwealth as well as protecting the quality
926 and quantity of state waters from the potential harm of unmanaged stormwater. In
927 addition to other authority granted to the board under the Stormwater Management Act,
928 the board is authorized pursuant to §§ 10.1-603.2:1 and 10.1-603.4 to adopt regulations
929 that specify [minimum technical criteria standards and procedures] for [local]
930 stormwater management programs [in and the] Virginia [, Stormwater Management
931 Program,] to establish statewide standards for stormwater management from land-
932 disturbing activities, and to protect properties, the quality and quantity of state waters,
933 the physical integrity of stream channels, and other natural resources.

934 ~~In accordance with the board's authority, this part establishes the minimum technical~~
935 ~~criteria and stormwater management standards that shall be employed by a state~~
936 ~~agency in accordance with an implementation schedule set by the board, or by a~~
937 ~~qualifying local program or department-administered local stormwater management~~
938 ~~program that has been approved by the board, to protect the quality and quantity of state~~
939 ~~waters from the potential harm of unmanaged stormwater runoff resulting from land-~~
940 ~~disturbing activities.~~

941 ~~For those localities required to adopt a local stormwater management program~~
942 ~~pursuant to § 10.1-603.3 of the Code of Virginia, until a local program is approved by the~~
943 ~~board, the technical criteria required shall be that found at 4VAC50-60-1180 through~~
944 ~~4VAC50-60-1190.~~

945 **4VAC50-60-45. [Applicability Implementation date.**

946 In accordance with the board's authority, this part establishes the minimum technical
947 criteria and stormwater management standards that shall be employed by a state
948 agency in accordance with an implementation schedule set by the board, or by a
949 qualifying local program or department administered local stormwater management
950 program that has been approved by the board, to protect the quality and quantity of state
951 waters from the potential harm of unmanaged stormwater runoff resulting from land-
952 disturbing activities, except as provided in 4VAC50-60-48. The technical criteria in Part II
953 A and Part II B shall be implemented by a stormwater program administrative authority
954 when a VSMP General Permit for Discharges of Stormwater from Construction Activities
955 has been issued that incorporates such criteria. Until that time, the required technical
956 criteria shall be found in Part II C.]

957 **[4VAC50-60-46. General objectives.**

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

964 **[4VAC50-60-47. Applicability of other laws and regulations.**

965 Nothing in this chapter shall be construed as limiting the applicability of other laws
966 and regulations, including, but not limited to, the CWA, Virginia Stormwater Management
967 Act, Virginia Erosion and Sediment Control Law, and the Chesapeake Bay Preservation
968 Act, except as provided in § 10.1-603.3 I of the Code of Virginia, and all applicable
969 regulations adopted in accordance with those laws, or the rights of other federal
970 agencies, state agencies, or local governments to impose more stringent technical
971 criteria or other requirements as allowed by law.

972 **4VAC50-60-48. Grandfathering.**

973 A. [Land-disturbing activities that receive coverage under the VSMP General Permit
974 for Discharges of Stormwater from Construction Activities prior to the adoption of a local
975 stormwater management program within their jurisdiction shall not be subject to the
976 technical criteria of Part II A, but shall be subject to the technical criteria of Part II B, until
977 the expiration of that permit on June 30, 2014. Beginning with the VMSP General Permit
978 for Discharges of Stormwater from Construction Activities issued July 1, 2009, all land-
979 disturbing activities that receive general permit coverage shall be conducted in
980 accordance with the technical criteria under which permit coverage was issued and shall
981 remain subject to those criteria for an additional two permits, except as provided for in
982 subsection D. After the two additional permits have passed, or should permit coverage
983 not be maintained, portions of the project not under construction shall become subject to
984 any new technical criteria adopted since original permit coverage was issued. For land-
985 disturbing projects issued coverage under the July 1, 2009 permit and for which
986 coverage was maintained, such projects shall remain subject to the technical criteria of
987 Part II C for an additional two permits.]

988 B. [If the operator of a project, as of July 1, 2010, (i) obtained or is the beneficiary of
989 a significant affirmative governmental act that remains in effect allowing development of
990 a specific project, (ii) relied in good faith on the significant affirmative governmental act,

991 ~~(iii) incurred extensive obligations or substantial expenses in diligent pursuit of the~~
992 ~~specific project in reliance on the significant affirmative governmental act, and (iv)~~
993 ~~obtained VSMP general permit coverage prior to July 1, 2010, then the land-disturbing~~
994 ~~activity associated with the project is grandfathered and shall remain subject to the Part~~
995 ~~II B Technical Criteria until June 30, 2014. If permit coverage continuously remains in~~
996 ~~effect for the land-disturbing activity within the entire project area, then the project shall~~
997 ~~remain subject to the Part II B Technical Criteria until June 30, 2019. Should permit~~
998 ~~coverage not be maintained or if the land-disturbing activity continues beyond June 30,~~
999 ~~2019, portions of the project not completed shall be subject to the Part II A Technical~~
1000 ~~Criteria. In the event that the qualifying significant affirmative governmental act or the~~
1001 ~~VSMP permit is subsequently modified or amended in a manner such that there is no~~
1002 ~~increase in the amount of phosphorus leaving the site through stormwater runoff, and~~
1003 ~~such that there is no increase in the volume or rate of runoff, the grandfathering shall~~
1004 ~~continue as before.~~

1005 ~~For purposes of this subsection and without limitation, the following are deemed to~~
1006 ~~be significant affirmative governmental acts allowing development of a specific project:~~
1007 ~~(i) the governing body has accepted proffers or proffered conditions that specify use~~
1008 ~~related to a zoning amendment; (ii) the governing body has approved an application for~~
1009 ~~a rezoning for a specific use or density; (iii) the governing body or board of zoning~~
1010 ~~appeals has granted a special exception or use permit with conditions; (iv) the board of~~
1011 ~~zoning appeals has approved a variance; (v) the governing body or its designated agent~~
1012 ~~has approved a preliminary subdivision plat, site plan, or plan of development for the~~
1013 ~~landowner's property and the applicant diligently pursues approval of the final plat or~~
1014 ~~plan within a reasonable period of time under the circumstances; or (vi) the governing~~
1015 ~~body or its designated agent has approved a final subdivision plat, site plan or plan of~~
1016 ~~development for the landowner's property. For the purposes of this subsection and~~
1017 ~~without limitation, for state and federal projects, the approval of state or federal funding~~
1018 ~~for a project or the approval of a stormwater management plan are deemed to be~~
1019 ~~significant affirmative governmental acts. Until June 30, 2019, any land-disturbing~~
1020 ~~activity for which a currently valid proffered or conditional zoning plan, preliminary or final~~
1021 ~~subdivision plat, preliminary or final site plan or zoning with a plan of development, or~~
1022 ~~any document determined by the locality as being equivalent thereto, was approved by a~~
1023 ~~locality prior to July 1, 2012, and for which no coverage under the VSMP General Permit~~
1024 ~~for Discharges of Stormwater from Construction Activities has been issued prior to July~~
1025 ~~1, 2014, shall be considered grandfathered by the stormwater program administrative~~
1026 ~~authority and shall not be subject to the technical criteria of Part II B, but shall be subject~~
1027 ~~to the technical criteria of Part II C for those areas that were included in the approval,~~
1028 ~~provided that the stormwater program administrative authority finds that such proffered~~
1029 ~~or conditional zoning plan, preliminary or final subdivision plat, preliminary or final site~~
1030 ~~plan or zoning with a plan of development, or any document determined by the locality~~
1031 ~~as being equivalent thereto, (i) provides for a layout; and (ii) the resulting land-disturbing~~
1032 ~~activity will be compliant with the requirements of Part II C. In the event that the locality-~~
1033 ~~approved document is subsequently modified or amended in a manner such that there is~~
1034 ~~no increase over the previously approved plat or plan in the amount of phosphorus~~
1035 ~~leaving each point of discharge of the land-disturbing activity through stormwater runoff,~~
1036 ~~and such that there is no increase over the previously approved plat or plan in the~~
1037 ~~volume or rate of runoff, the grandfathering shall continue as before.]~~

1038 C. [Until June 30, 2019, for locality, state, and federal projects for which there has
1039 been an obligation of locality, state, or federal funding, in whole or in part, prior to July 1,
1040 2012, or for which the department has approved a stormwater management plan prior to
1041 July 1, 2012, such projects shall be considered grandfathered by the stormwater
1042 program administrative authority and shall not be subject to the technical criteria of Part
1043 II B, but shall be subject to the technical criteria of Part II C for those areas that were
1044 included in the approval.]

1045 D. [Where a land disturbing activity is part of a common plan of development or
1046 sale that has obtained VSMP general permit coverage from the department prior to July
1047 1, 2010 , the land disturbing activity will be subject to the technical criteria of Part II B.
1048 The registration statement shall include the permit coverage number for the common
1049 plan of development or sale for which association is being claimed. In cases where
1050 governmental bonding or public debt financing has been issued for a project prior to
1051 [July 1, 2010 July 1, 2012] , such project shall be subject to the technical criteria of
1052 [Part II B Part II C] .

1053 [E. Nothing in this section shall preclude an operator from constructing to a more
1054 stringent standard at their discretion.]

1055 **4VAC50-60-50. General. (Repealed.)**

1056 A. Determination of flooding and channel erosion impacts to receiving streams due to
1057 land disturbing activities shall be measured at each point of discharge from the land
1058 disturbance and such determination shall include any runoff from the balance of the
1059 watershed which also contributes to that point of discharge.

1060 B. The specified design storms shall be defined as either a 24-hour storm using the
1061 rainfall distribution recommended by the U.S. Department of Agriculture's Natural
1062 Resources Conservation Service (NRCS) when using NRCS methods or as the storm of
1063 critical duration that produces the greatest required storage volume at the site when
1064 using a design method such as the Modified Rational Method.

1065 C. For purposes of computing runoff, all pervious lands in the site shall be assumed
1066 prior to development to be in good condition (if the lands are pastures, lawns, or parks),
1067 with good cover (if the lands are woods), or with conservation treatment (if the lands are
1068 cultivated); regardless of conditions existing at the time of computation.

1069 D. Construction of stormwater management facilities or modifications to channels
1070 shall comply with all applicable laws and regulations. Evidence of approval of all
1071 necessary permits shall be presented.

1072 E. Impounding structures that are not covered by the Impounding Structure
1073 Regulations (4VAC50-20) shall be engineered for structural integrity during the 100-year
1074 storm event.

1075 F. Pre-development and post-development runoff rates shall be verified by
1076 calculations that are consistent with good engineering practices.

1077 G. Outflows from a stormwater management facility or stormwater conveyance
1078 system, shall be discharged to an adequate channel.

1079 H. Proposed residential, commercial, or industrial subdivisions shall apply these
1080 stormwater management criteria to the land disturbance as a whole. Individual lots in
1081 new subdivisions shall not be considered separate land-disturbing activities, but rather
1082 the entire subdivision shall be considered a single land development project. Hydrologic

1083 ~~parameters shall reflect the ultimate land disturbance and shall be used in all~~
1084 ~~engineering calculations.~~

1085 ~~I. All stormwater management facilities shall have an inspection and maintenance~~
1086 ~~plan that identifies the owner and the responsible party for carrying out the inspection~~
1087 ~~and maintenance plan.~~

1088 ~~J. Construction of stormwater management impoundment structures within a Federal~~
1089 ~~Emergency Management Agency (FEMA) designated 100-year floodplain shall be~~
1090 ~~avoided to the extent possible. When this is unavoidable, all stormwater management~~
1091 ~~facility construction shall be in compliance with all applicable regulations under the~~
1092 ~~National Flood Insurance Program, 44 CFR Part 59.~~

1093 ~~K. Natural channel characteristics shall be preserved to the maximum extent~~
1094 ~~practicable.~~

1095 ~~L. Land disturbing activities shall comply with the Virginia Erosion and Sediment~~
1096 ~~Control Law (§ 10.1-560 et seq. of the Code of Virginia) and attendant regulations.~~

1097 ~~M. Flood control and stormwater management facilities that drain or treat water from~~
1098 ~~multiple development projects or from a significant portion of a watershed may be~~
1099 ~~allowed in Resource Protection Areas defined in the Chesapeake Bay Preservation Act,~~
1100 ~~provided that (i) the local government has conclusively established that the location of~~
1101 ~~the facility within the Resource Protection Area is the optimum location; (ii) the size of~~
1102 ~~the facility is the minimum necessary to provide necessary flood control, stormwater~~
1103 ~~treatment, or both; and, (iii) the facility must be consistent with a stormwater~~
1104 ~~management program that has been approved by the board.~~

1105 **[4VAC50-60-51. Chesapeake Bay Preservation Act land-disturbing activity.**

1106 In order to protect the quality of state waters and to control the discharge of
1107 stormwater pollutants from land-disturbing activities, runoff associated with Chesapeake
1108 Bay Preservation Act land-disturbing activities shall be controlled. Such land-disturbing
1109 activities shall not require completion of a registration statement or require coverage
1110 under the VSMP General Permit for Discharges of Stormwater from Construction
1111 Activities but shall be subject to the following technical criteria and program and
1112 administrative requirements.

1113 A. An erosion and sediment control plan consistent with the requirements of the
1114 Virginia Erosion and Sediment Control Law and regulations must be designed
1115 and implemented during land disturbing activities. Prior to land disturbance, this
1116 plan must be approved by either the local erosion and sediment control program
1117 or the department in accordance with the Virginia Erosion and Sediment Control
1118 Law and attendant regulations.

1119 B. A stormwater plan consistent with the requirements of the Virginia Stormwater
1120 Management Act and regulations must be designed and implemented during the
1121 land-disturbing activity. The stormwater management plan shall be developed
1122 and submitted in accordance with 4VAC50-60-55. Prior to land disturbance, this
1123 plan must be approved by the stormwater program administrative authority.

1124 C. Exceptions may be requested in accordance with 4VAC50-60-57.

1125 D. Long-term maintenance of stormwater management facilities shall be provided
1126 for and conducted in accordance with 4VAC50-60-58.

1127 E. Water quality design criteria in 4VAC50-60-63 shall be applied to the site of a
1128 land-disturbing activity.

1129 F. Water quality compliance shall be achieved in accordance with 4VAC50-60-
1130 65.

1131 G. Channel protection and flood protection shall be achieved in accordance with
1132 4VAC50-60-66.

1133 H. Offsite compliance options in accordance with 4VAC50-60-69 shall be
1134 available to Chesapeake Bay Preservation Act land-disturbing activities.

1135 I. Such land-disturbing activities shall be subject to the design storm and
1136 hydrologic methods set out in 4VAC50-60-72, linear development controls in
1137 4VAC50-60-76, and criteria associated with stormwater impoundment structures
1138 or facilities in 4VAC50-60-85.

1139 [Part II A

1140 General Administrative Criteria for Regulated Land-Disturbing Activities]

1141 **4VAC50-60-53. [General requirements-Applicability] :**

1142 [The physical, chemical, biological, and hydrologic characteristics and the water
1143 quality and quantity of the receiving state waters shall be maintained, protected, or
1144 improved in accordance with the requirements of this part. Objectives include, but are
1145 not limited to, supporting state designated uses and water quality standards. All control
1146 measures used shall be employed in a manner that minimizes impacts on receiving state
1147 waters. This Part applies to all regulated land-disturbing activities.]

1148 **[4VAC50-60-54. Stormwater pollution prevention plan content.**

1149 A. A stormwater pollution prevention plan shall include, but not be limited to, an
1150 approved erosion and sediment control plan, an approved stormwater management plan
1151 and a pollution prevention plan for regulated land-disturbing activities.

1152 B. An erosion and sediment control plan consistent with the requirements of the
1153 Virginia Erosion and Sediment Control Law and regulations must be designed and
1154 implemented during construction activities. Prior to land disturbance, this plan must be
1155 approved by either the local erosion and sediment control program or the department in
1156 accordance with the Virginia Erosion and Sediment Control Law and attendant
1157 regulations.

1158 C. A stormwater management plan consistent with the requirements of the Virginia
1159 Stormwater Management Act and regulations must be designed and implemented during
1160 construction activities. Prior to land disturbance, this plan must be approved by the
1161 stormwater program administrative authority.

1162 D. A pollution prevention plan that identifies potential sources of pollutants that may
1163 reasonably be expected to affect the quality of stormwater discharges from the
1164 construction site and describe control measures that will be used to minimize pollutants
1165 in stormwater discharges from the construction site must be developed before land
1166 disturbance commences.

1167 E. The stormwater pollution prevention plan must address the following
1168 requirements, to the extent otherwise required by state law or regulations and any
1169 applicable requirements of a VSMP permit:

1170 1. Control stormwater volume and velocity within the site to minimize soil erosion;

1171 2. Control stormwater discharges, including both peak flow rates and total
1172 stormwater volume, to minimize erosion at outlets and to minimize downstream
1173 channel and stream bank erosion;

- 1174 3. Minimize the amount of soil exposed during construction activity;
1175 4. Minimize the disturbance of steep slopes;
1176 5. Minimize sediment discharges from the site. The design, installation and
1177 maintenance of erosion and sediment controls must address factors such as the
1178 amount, frequency, intensity and duration of precipitation, the nature of resulting
1179 stormwater runoff, and soil characteristics, including the range of soil particle
1180 sizes expected to be present on the site;
1181 6. Provide and maintain natural buffers around surface waters, direct stormwater
1182 to vegetated areas to increase sediment removal and maximize stormwater
1183 infiltration, unless infeasible;
1184 7. Minimize soil compaction and, unless infeasible, preserve topsoil; and
1185 8. Stabilization of disturbed areas must, at a minimum, be initiated immediately
1186 whenever any clearing, grading, excavating or other earth disturbing activities
1187 have permanently ceased on any portion of the site, or temporarily ceased on
1188 any portion of the site and will not resume for a period exceeding 14 calendar
1189 days. Stabilization must be completed within a period of time determined by the
1190 stormwater program administrative authority. In arid, semiarid, and drought-
1191 stricken areas where initiating vegetative stabilization measures immediately is
1192 infeasible, alternative stabilization measures must be employed as specified by
1193 the stormwater program administrative authority.

1194

1195 **[4VAC50-60-55. Stormwater management plans.**

1196 A. A stormwater management plan shall be developed and submitted to the
1197 stormwater program administrative authority. The stormwater management plan shall be
1198 implemented as approved or modified by the stormwater program administrative
1199 authority and shall be developed in accordance with the following:

1200 1. A stormwater management plan for a land-disturbing activity shall apply the
1201 stormwater management technical criteria set forth in this Part to the entire land-
1202 disturbing activity.

1203 2. A stormwater management plan shall consider all sources of surface runoff
1204 and all sources of subsurface and groundwater flows converted to surface runoff.

1205 B. A complete stormwater management plan shall include the following elements:

1206 1. Information on the type of and location of stormwater discharges, information
1207 on the features to which stormwater is being discharged including surface waters
1208 or karst features if present, and predevelopment and postdevelopment drainage
1209 areas;

1210 2. Contact information including the name, address, and telephone number of the
1211 owner and the tax reference number and parcel number of the property or
1212 properties affected;

1213 3. A narrative that includes a description of current site conditions and final site
1214 conditions or if allowed by the stormwater program administrative authority, the
1215 information provided and documented during the review process that addresses
1216 the current and final site conditions;

- 1217 4. A general description of the proposed stormwater management facilities and
1218 the mechanism through which the facilities will be operated and maintained after
1219 construction is complete;
- 1220 5. Information on the proposed stormwater management facilities, including the
1221 type of facilities, location, including geographic coordinates, acres treated, and
1222 the surface waters or karst features into which the facility will discharge;
- 1223 6. Hydrologic and hydraulic computations;
- 1224 7. Documentation and calculations verifying compliance with the water quality
1225 and quantity requirements of these regulations;
- 1226 8. A map or maps of the site that depicts the topography of the site and includes:
- 1227 a. All contributing drainage areas;
- 1228 b. Existing streams, ponds, culverts, ditches, wetlands, and other water
1229 bodies;
- 1230 c. Soil types, geologic formations if karst features are present in the area,
1231 forest cover, and other vegetative areas;
- 1232 d. Current land use including existing structures, roads, and locations of
1233 known utilities and easements;
- 1234 e. Sufficient information on adjoining parcels to assess the impacts of
1235 stormwater from the site on these parcels;
- 1236 f. The limits of clearing and grading, and the proposed drainage patterns on
1237 the site;
- 1238 g. Proposed buildings, roads, parking areas, utilities, and stormwater
1239 management facilities; and
- 1240 h. Proposed land use with tabulation of the percentage of surface area to be
1241 adapted to various uses, including but not limited to planned locations of
1242 utilities, roads, and easements.
- 1243 9. If an operator intends to meet the requirements established in 4VAC50-60-60
1244 or 4VAC50-60-66 through the use of off-site compliance options, where
1245 applicable, then a letter of availability from the off-site provider must be included.
- 1246 9. If payment of a fee is required with the stormwater management plan
1247 submission by the stormwater program administrative authority, the fee and the
1248 required fee form in accordance with Part XIII must have been submitted.
- 1249 C. Elements of the stormwater management plans shall be appropriately sealed and
1250 signed by a professional registered in the Commonwealth of Virginia pursuant to Article
1251 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1.
- 1252 D. A construction record drawing for permanent stormwater management facilities
1253 shall be submitted to the stormwater program administrative authority. The construction
1254 record drawing shall be appropriately sealed and signed by a professional registered in
1255 the Commonwealth of Virginia, certifying that the stormwater management facilities have
1256 been constructed in accordance with the approved plan.
- 1257 **4VAC50-60-56. [Applicability of other laws and regulations Pollution prevention**
1258 **plans] :**
- 1259 [Nothing in this chapter shall be construed as limiting the applicability of other laws
1260 and regulations, including, but not limited to, the CWA, Virginia Stormwater Management

1261 ~~Act, Virginia Erosion and Sediment Control Law, and the Chesapeake Bay Preservation~~
1262 ~~Act, except as provided in § 10.1-603.3 I of the Code of Virginia and all applicable~~
1263 ~~regulations adopted in accordance with those laws, or the rights of other federal~~
1264 ~~agencies, state agencies, or local governments to impose more stringent technical~~
1265 ~~criteria or other requirements as allowed by law.~~

1266 A. A plan for implementing stormwater pollution prevention measures during
1267 construction activities shall be developed and implemented. The pollution prevention
1268 plan shall detail the design, installation, implementation and maintenance of effective
1269 pollution prevention measures to minimize the discharge of pollutants. At a minimum,
1270 such measures must be designed, installed, implemented and maintained to:

1271 1. Minimize the discharge of pollutants from equipment and vehicle washing,
1272 wheel wash water, and other wash waters. Wash waters must be treated in a
1273 sediment basin or alternative control that provides equivalent or better treatment
1274 prior to discharge;

1275 2. Minimize the exposure of building materials, building products, construction
1276 wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents,
1277 sanitary waste and other materials present on the site to precipitation and to
1278 stormwater; and

1279 3. Minimize the discharge of pollutants from spills and leaks and implement
1280 chemical spill and leak prevention and response procedures.

1281 B. The pollution prevention plan shall include effective best management practices to
1282 prohibit the following discharges:

1283 1. Wastewater from washout of concrete, unless managed by an appropriate
1284 control;

1285 2. Wastewater from washout and cleanout of stucco, paint, form release oils,
1286 curing compounds and other construction materials;

1287 3. Fuels, oils, or other pollutants used in vehicle and equipment operation and
1288 maintenance; and

1289 4. Soaps or solvents used in vehicle and equipment washing.

1290 C. Discharges from dewatering activities, including discharges from dewatering of
1291 trenches and excavations, are prohibited unless managed by appropriate controls.]

1292 **[4VAC50-60-57. Requesting an exception.**

1293 A request for an exception for Part II B or Part II C, including the reasons for making
1294 the request, may be submitted in writing to the stormwater program administrative
1295 authority. Economic hardship alone is not a sufficient reason to request an exception
1296 from the requirements of this chapter. The request for an exception will be reviewed
1297 pursuant to 4VAC50-60-122. An exception to the requirement that the land disturbing
1298 activity obtain a VSMP permit will not be granted by the stormwater program
1299 administrative authority.

1300 **[4VAC50-60-58. Responsibility for long-term maintenance of permanent**
1301 **stormwater management facilities.**

1302 A recorded instrument shall be submitted to the stormwater program administrative
1303 authority in accordance with 4VAC50-60-112.

1304 [4VAC50-60-59. Applying for VSMP permit coverage.

1305 The operator must submit a complete and accurate registration statement on the
1306 official department form to the stormwater program administrative authority in order to
1307 apply for VSMP permit coverage. The registration statement must be signed by the
1308 operator in accordance with 4VAC50-60-370.

1309 **4VAC50-60-60. Water quality. (Repealed.)**

1310 ~~A. Compliance with the water quality criteria may be achieved by applying the~~
1311 ~~performance-based criteria or the technology-based criteria to either the site or a~~
1312 ~~planning area.~~

1313 ~~B. Performance based criteria. For land disturbing activities, the calculated post-~~
1314 ~~development nonpoint source pollutant runoff load shall be compared to the calculated~~
1315 ~~pre-development load based upon the average land cover condition or the existing site~~
1316 ~~condition. A BMP shall be located, designed, and maintained to achieve the target~~
1317 ~~pollutant removal efficiencies specified in Table 1 to effectively reduce the pollutant load~~
1318 ~~to the required level based upon the following four applicable land development~~
1319 ~~situations for which the performance criteria apply:~~

1320 ~~1. Situation 1 consists of land disturbing activities where the existing percent~~
1321 ~~impervious cover is less than or equal to the average land cover condition and~~
1322 ~~the proposed improvements will create a total percent impervious cover which is~~
1323 ~~less than the average land cover condition.~~

1324 ~~Requirement: No reduction in the after disturbance pollutant discharge is~~
1325 ~~required.~~

1326 ~~2. Situation 2 consists of land disturbing activities where the existing percent~~
1327 ~~impervious cover is less than or equal to the average land cover condition and~~
1328 ~~the proposed improvements will create a total percent impervious cover which is~~
1329 ~~greater than the average land cover condition.~~

1330 ~~Requirement: The pollutant discharge after disturbance shall not exceed the~~
1331 ~~existing pollutant discharge based on the average land cover condition.~~

1332 ~~3. Situation 3 consists of land disturbing activities where the existing percent~~
1333 ~~impervious cover is greater than the average land cover condition.~~

1334 ~~Requirement: The pollutant discharge after disturbance shall not exceed (i) the~~
1335 ~~pollutant discharge based on existing conditions less 10% or (ii) the pollutant~~
1336 ~~discharge based on the average land cover condition, whichever is greater.~~

1337 ~~4. Situation 4 consists of land disturbing activities where the existing percent~~
1338 ~~impervious cover is served by an existing stormwater management BMP that~~
1339 ~~addresses water quality.~~

1340 ~~Requirement: The pollutant discharge after disturbance shall not exceed the existing~~
1341 ~~pollutant discharge based on the existing percent impervious cover while served by the~~
1342 ~~existing BMP. The existing BMP shall be shown to have been designed and constructed~~
1343 ~~in accordance with proper design standards and specifications, and to be in proper~~
1344 ~~functioning condition.~~

1345 ~~C. Technology based criteria. For land disturbing activities, the post-developed~~
1346 ~~stormwater runoff from the impervious cover shall be treated by an appropriate BMP as~~
1347 ~~required by the post-developed condition percent impervious cover as specified in Table~~
1348 ~~1. The selected BMP shall be located, designed, and maintained to perform at the target~~

1349 pollutant removal efficiency specified in Table 1. Design standards and specifications for
 1350 the BMPs in Table 1 that meet the required target pollutant removal efficiency will be
 1351 available at the department.
 1352

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%	

1353 *Innovative or alternate BMPs not included in this table may be allowed at the discretion
 1354 of the local program administrator or the department. Innovative or alternate BMPs not
 1355 included in this table which target appropriate nonpoint source pollution other than
 1356 phosphorous may be allowed at the discretion of the local program administrator or the
 1357 department.

[Part II B

Technical Criteria for Regulated Land-Disturbing Activities

1358
 1359 **4VAC50-60-62. Applicability.**

1360 In accordance with the board's authority, and except as provided in 4VAC50-60-48,
 1361 this part establishes the minimum technical criteria that shall be employed by a state
 1362 agency in accordance with an implementation schedule set by the board, or by a
 1363 stormwater program administrative authority that has been approved by the board, to
 1364 protect the quality and quantity of state waters from the potential harm of unmanaged
 1365 stormwater runoff resulting from land-disturbing activities.

1366
 1367 **4VAC50-60-63. Water quality design criteria requirements.**

1368 [A.] In order to protect the quality of state waters and to control nonpoint source
 1369 pollution [the discharge of] stormwater pollutants [from regulated activities] , the
 1370 following minimum [technical design] criteria and statewide standards for stormwater
 1371 management shall be applied to the site of a land-disturbing activity. The local program
 1372 shall have discretion to allow for application of the criteria to each drainage area of the
 1373 site. However, where a site drains to more than one HUC, the pollutant load reduction

1374 ~~requirements shall be applied independently within each HUC unless reductions are~~
1375 ~~achieved in accordance with a comprehensive watershed stormwater management plan~~
1376 ~~in accordance with 4VAC50-60-96.~~

1377 1. New development. The total phosphorus load of new development projects
1378 shall not exceed 0.28 [0.45 0.41] pounds per acre per year, as calculated
1379 pursuant to 4VAC50-60-65 [. , except:]

1380 a. The total phosphorus load of a new development project disturbing greater
1381 than or equal to one acre in the Chesapeake Bay watershed shall not exceed
1382 0.28 pounds per acre per year, as calculated pursuant to 4VAC50-60-65.

1383 b. Within [a. Should the board establish by regulatory action a standard more
1384 stringent than 0.45 pounds per acre per year in the Chesapeake Bay
1385 watershed, then a qualifying local program may establish a standard of no
1386 greater than 0.45 pounds per acre per year to be applied within urban
1387 development areas designated pursuant to § 15.2-2223.1 of the Code of
1388 Virginia] in the Chesapeake Bay watershed a qualifying local program may
1389 establish a phosphorus standard between 0.28 and 0.45 pounds per acre per
1390 year [for projects greater than or equal to one acre in order to encourage
1391 compact development that achieves superior water quality benefits. The
1392 qualifying local program shall provide to the board for approval a justification
1393 for any standards established] if greater than 0.28 [and shall define the
1394 types of projects within a UDA that would qualify for the] relaxed [standards.
1395 The standard shall be based upon factors including, but not limited to,
1396 number of housing units per acre for residential development, floor area ratio
1397 for nonresidential development, level of imperviousness, brownfield
1398 remediation potential, mixed-use and transit oriented development potential,
1399 proximity to the Chesapeake Bay or local waters of concern, and the
1400 presence of impaired waters. This provision shall not apply to department-
1401 administered local programs.]

1402 c. Localities [b. Should the board establish by regulatory action a standard
1403 more stringent than 0.45 pounds per acre per year in the Chesapeake Bay
1404 watershed, localities that have lands that drain to both the Chesapeake Bay
1405 watershed and other non-Chesapeake Bay watersheds may choose to apply
1406 the] 0.28 pounds per acre per year [more stringent phosphorus standard for
1407 the Chesapeake Bay watershed to land disturbing activities that discharge to
1408 watersheds other than the Chesapeake Bay watershed.

1409 c. Upon the completion of the Virginia TMDL Implementation Plan for the
1410 Chesapeake Bay Nutrient and Sediment TMDL approved by EPA, the board
1411 shall by regulatory action establish a water quality design criteria for new
1412 development activities that is consistent with the pollutant loadings called for
1413 in the approved Implementation Plan.]

1414 2. Development on prior developed lands.

1415 a. [The total phosphorus load of projects a project occurring on prior
1416 developed lands and] distributing [For land-disturbing activities] disturbing
1417 greater than or equal to one acre [that result in no net increase in
1418 impervious cover from the predevelopment condition, the total phosphorus
1419 load] shall be reduced [to an amount] at least 20% below the
1420 predevelopment total phosphorus load.

1421 ~~However, the b. [The total phosphorus load of a project occurring on prior~~
1422 ~~developed lands and For land-disturbing activities] disturbing less than one~~
1423 ~~acre [that result in no net increase in impervious cover from the~~
1424 ~~predevelopment condition, the total phosphorus load] shall be reduced [to~~
1425 ~~an amount] at least 10% below the predevelopment total phosphorus load.~~
1426 c. [For land-disturbing activities that result in a new increase in impervious
1427 cover over the predevelopment condition, the design criteria for new
1428 development shall be applied to the increased impervious area. Depending
1429 on the area of disturbance, the criteria of subdivisions a or b above, shall be
1430 applied to the remainder of the site.
1431 d. In lieu of subdivision (c), the total phosphorus load of a linear development
1432 project occurring on prior developed lands may be reduced 20%.
1433 e.] ~~The total phosphorus load shall not be required to be reduced to below~~
1434 ~~0.28 pounds per acre per year the applicable standard for new development~~
1435 ~~unless a more stringent standard has been established by a [qualifying]~~
1436 ~~local [stormwater management] program.~~
1437 [3.B.] ~~Compliance with [subdivisions 1 and 2 of this section subsection A~~
1438 ~~above] shall be determined in accordance with 4VAC50-60-65 shall constitute~~
1439 ~~compliance with subdivisions 1 and 2 of this section.~~
1440 [4.C.] ~~TMDL. In addition to the above requirements, if a specific WLA for a~~
1441 ~~pollutant has been established in a TMDL and is assigned to stormwater~~
1442 ~~discharges from a construction activity, necessary control measures must be~~
1443 ~~implemented by the operator to meet the WLA in accordance with the~~
1444 ~~requirements established in the General Permit for Discharges of Stormwater~~
1445 ~~from Construction Activities or an individual permit [, which . Such control~~
1446 ~~measures must] address both construction and postconstruction discharges.~~
1447 [D. Upon completion of the 2017 Chesapeake Bay Phase III Watershed
1448 Implementation Plan, the department shall review the water quality design criteria
1449 standards.
1450 5.E.] ~~Nothing in this section shall prohibit a [qualifying local stormwater~~
1451 ~~management] program from establishing [a] more stringent [standard water~~
1452 ~~quality design criteria requirements].~~

1453 **4VAC50-60-65. Water quality compliance.**

1454 A. Compliance with the water quality design criteria set out in subdivisions 1 and 2 of
1455 4VAC50-60-63 shall be determined by utilizing the Virginia Runoff Reduction Method or
1456 another [equivalent] methodology that is [~~demonstrated by the qualifying local program~~
1457 ~~to achieve equivalent or more stringent results and is] approved by the board.~~

1458 B. The BMPs listed [in Table 1 below] ~~or the BMPs [shall be utilized are approved~~
1459 ~~for use] as necessary to effectively reduce the phosphorus load [and runoff volume] in~~
1460 ~~accordance with the Virginia Runoff Reduction Method. [Other approved BMPs found~~
1461 ~~on the Virginia Stormwater BMP Clearinghouse Website at <http://www.vwrrc.vt.edu/swc>~~
1462 ~~may also be utilized.] Design specifications [and the pollutant removal efficiencies] for~~
1463 ~~[the all approved] BMPs [listed in Table 1 can be are] found on the Virginia~~
1464 ~~Stormwater BMP Clearinghouse Website [at <http://www.vwrrc.vt.edu/swc>] .~~

1465

[TABLE 1
 BMP Pollutant Removal Efficiencies

<u>Practice</u>	<u>Removal of Total Phosphorus by Runoff Volume Reduction (RR, as %) (based upon 1 inch of rainfall— 90% storm)</u>	<u>Removal of Total Phosphorus by Treatment— Pollutant Concentration Reduction (PR, as %)</u>	<u>Total Mass Load Removal of Total Phosphorus (TR, as %)⁵</u>
<u>Green Vegetated Roof 1</u>	<u>45</u>	<u>0</u>	<u>45</u>
<u>Green Vegetated Roof 2</u>	<u>60</u>	<u>0</u>	<u>60</u>
<u>Rooftop Disconnection 1-2</u>	<u>25 or 50¹</u>	<u>0</u>	<u>25 or 50¹</u>
<u>Rooftop Disconnection 2</u>	<u>50</u>	<u>0</u>	<u>50</u>
<u>Rain Tanks/Cisterns 1 Rainwater Harvesting</u>	<u>actual volume x .75 up to 90³⁻⁵</u>	<u>0</u>	<u>actual volume x .75 up to 90³⁻⁵</u>
<u>Soil Amendments 1</u>	<u>50</u>	<u>0</u>	<u>50</u>
<u>Soil Amendments 2</u>	<u>75</u>	<u>0</u>	<u>75</u>
<u>Soil Amendments</u>	<u>Can be used to decrease runoff coefficient for turf cover at site. See designs for Rooftop Disconnection, Sheet Flow, and Grass Channel practices.</u>		
<u>Permeable Pavement 1</u>	<u>45</u>	<u>25</u>	<u>59</u>
<u>Permeable Pavement 2</u>	<u>75</u>	<u>25</u>	<u>81</u>
<u>Grass Channel 1</u>	<u>10 or 20¹</u>	<u>15</u>	<u>23</u>
<u>Grass Channel 2</u>	<u>20</u>	<u>15</u>	<u>32</u>
<u>Bioretention 1 (also applies to Urban Bioretention)</u>	<u>40</u>	<u>25</u>	<u>55</u>
<u>Bioretention 2</u>	<u>80</u>	<u>50</u>	<u>90</u>
<u>Infiltration 1</u>	<u>50</u>	<u>25</u>	<u>63</u>
<u>Infiltration 2</u>	<u>90</u>	<u>25</u>	<u>93</u>
<u>Dry Swale 1</u>	<u>40</u>	<u>20</u>	<u>52</u>

<u>Dry Swale 2</u>	<u>60</u>	<u>40</u>	<u>76</u>
<u>Wet Swale 1</u>	<u>0</u>	<u>20</u>	<u>20</u>
<u>Wet Swale 2</u>	<u>0</u>	<u>40</u>	<u>40</u>
<u>Sheet Flow to Conserved Filter/ Open Space 1</u>	<u>0-25 or 50¹</u>	<u>50-0</u>	<u>25 or 50¹</u>
<u>Sheet Flow to Conserved Filter/ Open Space 2^{5,2}</u>	<u>0-50 or 75¹</u>	<u>75-0</u>	<u>50 or 75¹</u>
<u>Extended Detention Pond 1</u>	<u>0</u>	<u>15</u>	<u>15</u>
<u>Extended Detention Pond 2</u>	<u>15</u>	<u>15</u>	<u>28-31</u>
<u>Filtering Practice 1</u>	<u>0</u>	<u>60</u>	<u>60</u>
<u>Filtering Practice 2</u>	<u>0</u>	<u>65</u>	<u>65</u>
<u>Constructed Wetland 1</u>	<u>0</u>	<u>50</u>	<u>50</u>
<u>Constructed Wetland 2</u>	<u>0</u>	<u>75</u>	<u>75</u>
<u>Wet Pond 1</u>	<u>0</u>	<u>50 (45⁴)</u>	<u>50 (45⁴)</u>
<u>Wet Pond 2</u>	<u>0</u>	<u>75 (65⁴)</u>	<u>75 (65⁴)</u>

¹ Lower rate is for Hydrologic Soil Group (HSG) class C and D soils; higher rate is for HSG class A and B soils.

² The removal can be increased to 50% for C and D soils by adding soil compost amendments, and may be higher yet if combined with secondary runoff reduction practices.

³ Credit up to 90% is possible if all water from storms 1" or less is used through demand, and tank is sized such that no overflow occurs. Total credit is not to exceed 90%.

⁴ Lower nutrient removals in parentheses apply to wet ponds in coastal plain terrain.

⁵ See BMP design specification for an explanation of how additional pollutant removal can be achieved.

- 1466 1. Vegetated Roof (Version 2.3, March 1, 2011);
- 1467 2. Rooftop Disconnection (Version 1.9, March 1, 2011);
- 1468 3. Rainwater Harvesting (Version 1.9.5, March 1, 2011);
- 1469 4. Soil Amendments (Version 1.8, March 1, 2011);;

- 1470 5. Permeable Pavement (Version 1.8, March 1, 2011);
1471 6. Grass Channel (Version 1.9, March 1, 2011);
1472 7. Bioretention (Version 1.9, March 1, 2011);
1473 8. Infiltration (Version 1.9, March 1, 2011);
1474 9. Dry Swale (Version 1.9, March 1, 2011);
1475 10. Wet Swale (Version 1.9, March 1, 2011);
1476 11. Sheet Flow to Filter/Open Space (Version 1.9, March 1, 2011);
1477 12. Extended Detention Pond (Version 1.9, March 1, 2011);
1478 13. Filtering Practice (Version 1.8, March 1, 2011);
1479 14. Constructed Wetland (Version 1.9, March 1, 2011); and
1480 15. Wet Pond (Version 1.9, March 1, 2011).
1481 Other approved BMPs available on this website may also be utilized.]
1482 C. BMPs differing from those listed [in Table 4 above] shall be reviewed and
1483 approved by the director in accordance with procedures established by the BMP
1484 Clearinghouse Committee and approved by the board.
1485 D. A [qualifying] local [stormwater management] program may establish use
1486 limitations on the use of specific BMPs following the submission of the proposed use
1487 limitation and written justification to the department.
1488 E. Where the land-disturbing activity only occurs on a portion of the site, the [local
1489 stormwater] program [administrative authority] may review the stormwater
1490 management plan based upon the portion of the site that is proposed to be developed [,
1491 provided that the local program has established guidance for such a review] . Such
1492 portion shall be deemed to include any area left undeveloped pursuant to any local
1493 requirement or proffer accepted by a locality. [Any such guidance shall be provided to
1494 the department.]
1495 F. If a comprehensive watershed stormwater management plan has been adopted
1496 pursuant to 4VAC50-60-96 for the watershed within which a project is located, then the
1497 qualifying local program may allow offsite controls in accordance with the plan to achieve
1498 the postdevelopment pollutant load water quality technical criteria set out in subdivisions
1499 1 and 2 of 4VAC50-60-63. Such offsite controls shall achieve the required pollutant
1500 reductions either completely offsite in accordance with the plan or in a combination of
1501 onsite and offsite controls. The [local stormwater] program [administrative authority]
1502 shall have the discretion to allow for application of the [design] criteria to each drainage
1503 area of the site. However, where a site drains to more than one HUC, the pollutant load
1504 reduction requirements shall be applied independently within each HUC unless
1505 reductions are achieved in accordance with a comprehensive watershed stormwater
1506 management plan in accordance with 4VAC50-60-92.
1507 G. Where no plan exists pursuant to subsection F of this section, offsite controls may
1508 be used to meet the postdevelopment pollutant load water quality technical criteria set
1509 out in subdivisions 1 and 2 of 4VAC50-60-63 provided:
1510 1. The local program allows for offsite controls;
1511 2. The applicant demonstrates to the satisfaction of the local program that offsite
1512 reductions equal to or greater than those that would otherwise be required for the
1513 site are achieved;

1514 ~~3. The applicant demonstrates to the satisfaction of the local program that the~~
1515 ~~development's runoff and the runoff from any offsite treatment area shall be~~
1516 ~~controlled in accordance with 4VAC50-60-66;~~

1517 ~~4. Offsite controls must be located within the same HUC or the adjacent~~
1518 ~~downstream HUC to the land disturbing site; and~~

1519 ~~5. The applicant demonstrates to the satisfaction of the local program that the~~
1520 ~~right to utilize the offsite control area and any necessary easements has been~~
1521 ~~obtained and maintenance agreements for the stormwater management facilities~~
1522 ~~have been established pursuant to 4VAC50-60-124.~~

1523 ~~H. Alternatively, the local program may waive the requirements of subdivisions 1 and~~
1524 ~~2 of 4VAC50-60-63 through the granting of an exception pursuant to 4VAC50-60-122. G.~~
1525 ~~Offsite alternatives where allowed in accordance with 4VAC50-60-69 may be utilized to~~
1526 ~~meet the design criteria of [subdivisions 1 and 2 subsection A] of 4VAC50-60-63.~~

1527 **4VAC50-60-66. Water quantity.**

1528 ~~A. Channel protection and flood protection shall be addressed in accordance with the~~
1529 ~~minimum standards set out in this section, which are established pursuant to the~~
1530 ~~requirements of subdivision 7 of § 10.1-603.4 of the Code of Virginia. Nothing in this~~
1531 ~~section shall prohibit a [qualifying] local [stormwater management] program from~~
1532 ~~establishing a more stringent standard. [Compliance with the minimum standards set~~
1533 ~~out in this section shall be deemed to satisfy the requirements of 4VAC50-30-40.19~~
1534 ~~(Minimum Standard 19 of the Virginia Erosion and Sediment Control Regulations).]~~

1535 ~~B. Channel protection. Concentrated stormwater flow [from the site and offsite~~
1536 ~~contributing areas] shall be released into a stormwater conveyance system [and shall~~
1537 ~~meet one of the following criteria as demonstrated by use of accepted hydrologic and~~
1538 ~~hydraulic methodologies:~~

1539 ~~1. Concentrated stormwater flow to manmade stormwater conveyance systems.~~
1540 ~~The point of discharge releases stormwater into a manmade stormwater~~
1541 ~~conveyance system that, following the land disturbing activity, conveys the~~
1542 ~~postdevelopment peak flow rate from the two-year 24-hour storm without causing~~
1543 ~~erosion of the system.~~

1544 ~~2. Concentrated stormwater flow to restored stormwater conveyance systems.~~
1545 ~~The point of discharge releases stormwater into a stormwater conveyance~~
1546 ~~system that (i) has been restored and is functioning as designed or (ii) will be~~
1547 ~~restored. The applicant must demonstrate that the runoff following the land-~~
1548 ~~disturbing activity, in combination with other existing stormwater runoff, will not~~
1549 ~~exceed the design of the restored stormwater conveyance system nor result in~~
1550 ~~instability of the system.~~

1551 ~~3. Concentrated stormwater flow to stable natural stormwater conveyance~~
1552 ~~systems. The point of discharge releases stormwater into a natural stormwater~~
1553 ~~conveyance system that is stable and, following the land-disturbing activity, (i)~~
1554 ~~will not become unstable as a result of the discharge from the one-year 24-hour~~
1555 ~~storm, and (ii) provides a peak flow rate from the one-year 24-hour storm~~
1556 ~~calculated as follows or in accordance with another methodology that is~~
1557 ~~demonstrated by the local program to achieve equivalent results and is approved~~
1558 ~~by the board:~~

1559 ~~$Q_{\text{Developed}} * RV_{\text{Developed}} \leq Q_{\text{Pre-Developed}} * RV_{\text{Pre-Developed}}$, where~~

1560 ~~$Q_{\text{Developed}}$ = The allowable peak flow rate of runoff from the developed site.~~
1561 ~~Such peak flow rate must be less than or equal to $Q_{\text{Pre-developed}}$.~~

1562 ~~$Q_{\text{Pre-Developed}}$ = The peak flow rate of runoff from the site in the predeveloped~~
1563 ~~condition.~~

1564 ~~$RV_{\text{Pre-Developed}}$ = The volume of runoff from the site in the predeveloped~~
1565 ~~condition.~~

1566 ~~$RV_{\text{Developed}}$ = The volume of runoff from the developed site.~~

1567 ~~4.] Concentrated [Except as set out in subdivision 5 of this subsection,~~
1568 ~~concentrated stormwater flow to unstable natural stormwater conveyance~~
1569 ~~systems. Where the point of discharge releases stormwater into a natural~~
1570 ~~stormwater conveyance system that is unstable, stormwater runoff following a~~
1571 ~~land disturbing activity shall be released into a channel at or below a peak flow~~
1572 ~~rate ($Q_{\text{Developed}}$) based on the one year 24 hour storm, calculated as follows or in~~
1573 ~~accordance with another methodology that is demonstrated by the local program~~
1574 ~~to achieve equivalent or more stringent results and is approved by the board:~~

1575 ~~$Q_{\text{Developed}} * RV_{\text{Developed}} \leq Q_{\text{Forested [Good Pasture * RV] Forested [Good Pasture}}$ where~~

1576 ~~$Q_{\text{Developed}}$ = The allowable peak flow rate from the developed site. Such peak~~
1577 ~~flow rate must be less than or equal to $Q_{\text{Good Pasture}}$.~~

1578 ~~$Q_{\text{Forested [Good Pasture}}$ = The peak flow rate from the site in a] forested [good~~
1579 ~~pasture condition.~~

1580 ~~$RV_{\text{Forested [Good Pasture}}$ = The volume of runoff from the site in a] forested~~
1581 ~~[good pasture condition.~~

1582 ~~$RV_{\text{Developed}}$ = The volume of runoff from the developed site.~~

1583 ~~However, in the case that the predeveloped condition is forested,] both the peak~~
1584 ~~flow rate and the volume of runoff from the developed site shall be held to the~~
1585 ~~forested condition [the forested condition shall be utilized instead of the good~~
1586 ~~pasture condition in all instances in the calculation above.~~

1587 ~~5. This subdivision shall apply to concentrated stormwater flow to unstable~~
1588 ~~natural stormwater conveyance systems from (i) a land disturbing activity less~~
1589 ~~than five acres on prior developed lands, or (ii) a regulated land disturbing~~
1590 ~~activity less than one acre for new development. Where the point of discharge~~
1591 ~~releases stormwater into a natural stormwater conveyance system that is~~
1592 ~~unstable, stormwater runoff following a land disturbing activity shall provide a~~
1593 ~~peak flow rate from the one year 24 hour storm, calculated as follows or in~~
1594 ~~accordance with another methodology that is demonstrated by the local program~~
1595 ~~to achieve equivalent or more stringent results and is approved by the board:~~

1596 ~~$Q_{\text{Developed}} * RV_{\text{Developed}} < Q_{\text{Pre-Developed}} * RV_{\text{Pre-Developed}}$ where~~

1597 ~~$Q_{\text{Developed}}$ = The allowable peak flow rate from the developed site. Such peak~~
1598 ~~flow rate must be less than $Q_{\text{Pre-Developed}}$.~~

1599 ~~$Q_{\text{Pre-Developed}}$ = The peak flow rate from the site in pre development condition.~~

1600 ~~$RV_{\text{Pre-Developed}}$ = The volume of runoff from the site in pre-development~~
1601 ~~condition.~~

1602 ~~$RV_{\text{Developed}}$ = The volume of runoff from the developed site.] Such volume~~
1603 ~~must be less than $RV_{\text{Pre-Developed}}$.~~

- 1604 [and shall meet criteria 1, 2 or 3 of this subsection, where applicable, from the
1605 point of discharge to a point to the limits of analysis in subsection 4.
- 1606 1. Manmade stormwater conveyance systems. When stormwater from a
1607 development is discharged to a manmade stormwater conveyance system,
1608 following the land-disturbing activity, either:
- 1609 a. The manmade stormwater conveyance system shall convey the
1610 postdevelopment peak flow rate from the two-year 24-hour storm event
1611 without causing erosion of the system. Detention of stormwater or
1612 downstream improvements may be incorporated into the approved land-
1613 disturbing activity to meet this criterion, at the discretion of the stormwater
1614 program administrative authority; or
- 1615 b. The peak discharge requirements for concentrated stormwater flow to
1616 natural stormwater conveyance systems in subsection 3 shall be met.
- 1617 2. Restored stormwater conveyance systems. When stormwater from a
1618 development is discharged to a restored stormwater conveyance system that has
1619 been restored using natural design concepts, following the land-disturbing
1620 activity, either:
- 1621 a. The development shall be consistent, in combination with other stormwater
1622 runoff, with the design parameters of the restored stormwater conveyance
1623 system that is functioning in accordance with the design objectives.
- 1624 b. The peak discharge requirements for concentrated stormwater flow to
1625 natural stormwater conveyance systems in subsection 3 shall be met.
- 1626 3. Natural stormwater conveyance systems. When stormwater from a
1627 development is discharged to a natural stormwater conveyance system, the
1628 maximum peak flow rate from the one-year 24-hour storm following the land-
1629 disturbing activity shall be calculated either:
- 1630 a. In accordance with the following methodology:
- 1631 $Q_{\text{Developed}} \leq \text{I.F.} * (Q_{\text{Pre-developed}} * RV_{\text{Pre-Developed}}) / RV_{\text{Developed}}$
- 1632 Under no condition shall $Q_{\text{Developed}}$ be greater than $Q_{\text{Pre-Developed}}$ nor shall
1633 $Q_{\text{Developed}}$ be required to be less than that calculated in the equation $(Q_{\text{Forest}} *$
1634 $RV_{\text{Forest}}) / RV_{\text{Developed}}$; where
- 1635 I.F. (Improvement Factor) equals 0.8 for sites > 1 acre or 0.9 for sites ≤ 1
1636 acre.
- 1637 $Q_{\text{Developed}}$ = The allowable peak flow rate of runoff from the developed site.
- 1638 $RV_{\text{Developed}}$ = The volume of runoff from the site in the developed condition.
- 1639 $Q_{\text{Pre-Developed}}$ = The peak flow rate of runoff from the site in the pre-developed
1640 condition.
- 1641 $RV_{\text{Pre-Developed}}$ = The volume of runoff from the site in pre-developed condition.
- 1642 Q_{Forest} = The peak flow rate of runoff from the site in a forested condition.
- 1643 RV_{Forest} = The volume of runoff from the site in a forested condition; or
- 1644 b. In accordance with another methodology that is demonstrated by the local
1645 stormwater management program to achieve equivalent results and is
1646 approved by the board.

- 1647 4. Limits of analysis. Unless subsection 3 is utilized to show compliance with
1648 the channel protection criteria, stormwater conveyance systems shall be
1649 analyzed for compliance with channel protection criteria to a point where
1650 either:
- 1651 a. Based on land area, the site's contributing drainage area is less than or
1652 equal to 1.0% of the total watershed area; or
- 1653 b. Based on peak flow rate, the site's peak flow rate from the one-year 24-
1654 hour storm is less than or equal to 1.0% of the existing peak flow rate from
1655 the one-year 24-hour storm prior to the implementation of any stormwater
1656 quantity control measures.]
- 1657 C. Flood protection. Concentrated stormwater flow shall be released into a
1658 stormwater conveyance system and shall meet one of the following criteria as
1659 demonstrated by use of [~~accepted~~ acceptable] hydrologic and hydraulic methodologies:
- 1660 1. Concentrated stormwater flow to [~~manmade~~] stormwater conveyance
1661 systems [that currently do not experience localized flooding during the 10-year
1662 24-hour storm event.] The point of discharge releases stormwater into a
1663 [~~manmade~~] stormwater conveyance system that, following the land-disturbing
1664 activity, confines the postdevelopment peak flow rate from the 10-year 24-hour
1665 storm [event] within the [~~manmade~~] stormwater conveyance system.
1666 [Detention of stormwater or downstream improvements may be incorporated into
1667 the approved land-disturbing activity to meet this criterion, at the discretion of the
1668 stormwater program administrative authority.]
- 1669 2. Concentrated stormwater flow to [~~restored~~] stormwater conveyance systems
1670 [that currently experience localized flooding during the 10-year 24-hour storm
1671 event.] The point of discharge [either: ~~releases stormwater into a stormwater~~
1672 ~~conveyance system that (i) has been restored and is functioning as designed or~~
1673 ~~(ii) will be restored. The applicant must demonstrate that the peak flow rate from~~
1674 ~~the 10-year 24-hour storm following the land-disturbing activity will be confined~~
1675 ~~within the system.~~
- 1676 a. Confines the postdevelopment peak flow rate from the 10-year 24-hour
1677 storm event within the stormwater conveyance system to avoid the localized
1678 flooding. Detention of stormwater or downstream improvements may be
1679 incorporated into the approved land-disturbing activity to meet this criterion,
1680 at the discretion of the stormwater program administrative authority;; or
- 1681 b. Releases a postdevelopment peak flow rate for the 10-year 24-hour storm
1682 event that is less than the predevelopment peak flow rate from the 10-year
1683 24-hour storm event. Downstream stormwater conveyance systems do not
1684 require any additional analysis to show compliance with flood protection
1685 criteria is this option is utilized.]
- 1686 3. [~~Concentrated stormwater flow to natural stormwater conveyance systems.~~
1687 ~~The point of discharge releases stormwater into a natural stormwater~~
1688 ~~conveyance system that currently does not flood during the 10-year 24-hour~~
1689 ~~storm and, following the land-disturbing activity, confines the postdevelopment~~
1690 ~~peak flow rate from the 10-year 24-hour storm within the system Limits of~~
1691 ~~analysis. Unless 2b above is utilized to comply with the flood protection criteria,~~

1692 stormwater conveyance systems shall be analyzed for compliance with flood
1693 protection criteria to a point where:

1694 a. The site's contributing drainage area is less than or equal to 1.0% of the
1695 total watershed area draining to a point of analysis in the downstream
1696 stormwater conveyance system;

1697 b. Based on peak flow rate, the site's peak flow rate from the 10-year 24-hour
1698 storm event is less than or equal to 1.0% of the existing peak flow rate from
1699 the 10-year 24-hour storm event prior to the implementation of any
1700 stormwater quantity control measures; or

1701 c. The stormwater conveyance system enters a mapped floodplain or other
1702 flood-prone area, adopted by ordinance, of any locality] .

1703 [4. Concentrated stormwater flow to natural stormwater conveyance systems
1704 where localized flooding exists during the 10-year 24-hour storm. The point of
1705 discharge releases a postdevelopment peak flow rate for the 10-year 24-hour
1706 storm that shall not exceed the predevelopment peak flow rate from the 10-year
1707 24-hour storm based on forested good pasture conditions, unless the
1708 predeveloped condition is forested, in which case the peak flow rate from the
1709 developed site shall be held to the forested condition.

1710 5.] A local program may adopt alternate flood protection design criteria that (i)
1711 achieve equivalent or more stringent results, (ii) are based upon geographic, land
1712 use, topographic, geologic, or other downstream conveyance factors, and (iii) are
1713 approved by the board. [Subdivision C 4 of this subsection notwithstanding, this
1714 subdivision shall apply to concentrated stormwater flow to natural stormwater
1715 conveyance systems where localized flooding exists during the 10-year 24-hour
1716 storm from (i) a land disturbing activity less than five acres on prior developed
1717 lands, or (ii) a regulated land disturbing activity less than one acre for new
1718 development. The point of discharge releases a postdevelopment peak flow rate
1719 for the 10-year 24-hour storm that is less than the predevelopment peak flow rate
1720 from the 10-year 24-hour storm.]

1721 D. [One percent rule. If either of the following criteria are met, subsections A B and
1722 B C of this section do not apply, nor is the analysis of subsection H required:

1723 1. Based on area. Prior to any land disturbance, the site's contributing drainage
1724 area to a point of discharge from the site is less than or equal to 1.0% of the total
1725 watershed area draining to that point of discharge; or

1726 2. Based on peak flow rate. Based on the postdevelopment land cover conditions
1727 prior to the implementation of any stormwater quantity control measures, the
1728 development of the site results in an increase in the peak flow rate from the one-
1729 year 24-hour storm that is less than 1.0% of the existing peak flow rate from the
1730 one-year 24-hour storm generated by the total watershed area draining to that
1731 point of discharge.

1732 E.] Increased volumes of sheet flow resulting from pervious or disconnected
1733 impervious areas, or from physical spreading of concentrated flow through level
1734 spreaders, must be identified and evaluated for potential impacts on down-gradient
1735 properties or resources. Increased volumes of sheet flow that will cause or contribute to
1736 erosion, sedimentation, or flooding of down gradient properties or resources shall be
1737 diverted to a detention stormwater management facility or a stormwater conveyance

1738 system that conveys the runoff without causing down-gradient erosion, sedimentation, or
1739 flooding. If all runoff from the site is sheet flow and the conditions of this subsection are
1740 met, no further water quantity controls are required.

1741 [~~F. E.~~] For purposes of computing predevelopment runoff from prior developed
1742 [~~sites lands~~], all pervious lands on the site shall be assumed to be in good hydrologic
1743 condition in accordance with the U.S. Department of Agriculture's Natural Resources
1744 Conservation Service (NRCS) standards, regardless of conditions existing at the time of
1745 computation. Predevelopment runoff calculations utilizing other hydrologic conditions
1746 may be utilized provided that it is demonstrated to and approved by the [~~local~~
1747 stormwater] program [~~administrative authority~~] that actual site conditions warrant such
1748 considerations.

1749 [~~G. F.~~] Predevelopment [and postdevelopment] runoff characteristics and site
1750 hydrology shall be verified by site inspections, topographic surveys, available soil
1751 mapping or studies, and calculations consistent with good engineering practices in
1752 accordance with guidance. Guidance provided in the Virginia Stormwater Management
1753 Handbook [and by the] ~~qualifying local program~~ [Virginia Stormwater BMP
1754 Clearinghouse] shall be considered appropriate [~~standards practices~~].

1755 [~~H. Except where the compliance options under subdivisions B 4 and 5 and C 4 and~~
1756 ~~5 of this section are utilized, flooding and channel erosion impacts to stormwater~~
1757 ~~conveyance systems shall be analyzed for each point of discharge in accordance with~~
1758 ~~channel analysis guidance provided in Technical Bulletin # 1, Stream Channel Erosion~~
1759 ~~Control, or in accordance with more stringent channel analysis guidance established by~~
1760 ~~the qualifying local program and provided to the department. Such analysis shall include~~
1761 ~~estimates of runoff from the developed site and the entire upstream watershed that~~
1762 ~~contributes to that point of discharge. Good engineering practices and calculations in~~
1763 ~~accordance with department guidance shall be used to evaluate postdevelopment runoff~~
1764 ~~characteristics and site hydrology, and flooding and channel erosion impacts.~~

1765 ~~If the downstream owner or owners refuse to give permission to access the property~~
1766 ~~for the collection of data, evidence of this refusal shall be given and arrangements made~~
1767 ~~satisfactory to the local program to provide an alternative method for the collection of~~
1768 ~~data to complete the analysis, such as through the use of photos, aerial surveys, "as~~
1769 ~~built" plans, topographic maps, soils maps, and any other relevant information.]~~

1770 **4VAC50-60-69. Offsite compliance options.**

1771 A. [~~A qualifying local program shall have the authority to consider the use of the~~
1772 ~~following offsite [Offsite] compliance options [~~∴ that a stormwater program~~~~
1773 ~~administrative authority may allow an operator to use to meet required phosphorus~~
1774 ~~nutrient reductions include the following:]~~

1775 1. [~~If a A~~] ~~comprehensive watershed stormwater management plan [~~has been~~]~~
1776 ~~adopted pursuant to 4VAC50-60-92 for the local watershed within which a project~~
1777 ~~is located [~~, then the qualifying local program may allow offsite controls in~~~~
1778 ~~accordance with the plan to achieve the water quality reductions, quantity~~
1779 ~~reductions, or both required for a site by this chapter. Such offsite controls shall~~
1780 ~~achieve the required reductions either completely offsite in accordance with the~~
1781 ~~plan or by a combination of on site and offsite controls.;~~]

1782 2. A [~~locality pollutant loading~~] ~~pro rata [~~fee in accordance with share program~~~~
1783 ~~established pursuant to] § 15.2-2243 of the Code of Virginia or similar local~~

1784 ~~funding mechanism [through which the water quality and quantity reductions~~
1785 ~~required for a site by this chapter may be achieved by the payment of a fee~~
1786 ~~sufficient to fund improvements necessary to adequately achieve offsite~~
1787 ~~reductions equal to or greater than those that would otherwise be required for the~~
1788 ~~site.]~~

1789 ~~3. The nonpoint nutrient offset program established [by pursuant to] § 10.1-~~
1790 ~~603.8:1 of the Code of Virginia [;]~~

1791 ~~4 [Where no comprehensive watershed stormwater management plan or pro~~
1792 ~~rata fee exists, or where a qualifying local program otherwise elects to allow the~~
1793 ~~use of this subdivision, offsite stormwater management facilities may be used by~~
1794 ~~the operator of a land-disturbing activity to meet the water quality reductions~~
1795 ~~required for a site by this chapter provided:~~

1796 ~~a. The operator demonstrates to the satisfaction of the local program that~~
1797 ~~offsite reductions equal to or greater than those that would otherwise be~~
1798 ~~required for the site are achieved;~~

1799 ~~b. The operator demonstrates to the satisfaction of the local program that the~~
1800 ~~development's runoff and the runoff from any offsite treatment area shall be~~
1801 ~~controlled in accordance with 4VAC50-60-66;~~

1802 ~~c. Offsite stormwater management facilities must be located within the HUC~~
1803 ~~or within the upstream HUCs in the watershed that the land-disturbing activity~~
1804 ~~directly discharges to or within the same watershed, as determined by the~~
1805 ~~local program; and~~

1806 ~~d. The operator demonstrates to the satisfaction of the local program that the~~
1807 ~~right to utilize the offsite area and any necessary easements have been~~
1808 ~~obtained and maintenance agreements for the stormwater management~~
1809 ~~facilities have been established pursuant to 4VAC50-60-124.~~

1810 ~~Any other offsite options approved by an applicable state agency or state board;~~
1811 ~~and~~

1812 ~~5. When an operator has additional properties available within the same HUC or~~
1813 ~~upstream HUC that the land-disturbing activity directly discharges to or within the~~
1814 ~~same watershed as determined by the stormwater program administrative~~
1815 ~~authority, offsite stormwater management facilities on those properties may be~~
1816 ~~utilized to meet the required phosphorus nutrient reductions from the land-~~
1817 ~~disturbing activity.]~~

1818 ~~B. [Should the board establish by regulatory action a standard more stringent than~~
1819 ~~0.45 pounds per acre per year in the Chesapeake Bay watershed, the offsite compliance~~
1820 ~~option provided by this subsection shall be available as follows. Where the offsite~~
1821 ~~options of subsection A of this section are not available for use, where the fee~~
1822 ~~established by a qualifying local program to offset a pound of phosphorus onsite~~
1823 ~~pursuant to subdivision A 2 exceeds \$23,900, or where a qualifying local program~~
1824 ~~otherwise elects to allow the use of this subsection, offsite compliance may be achieved~~
1825 ~~through a payment in accordance with the following:~~

1826 ~~1. When the land-disturbing activity is in an urban development area the payment~~
1827 ~~shall be \$15,000 per pound of phosphorus and shall be calculated based on the~~
1828 ~~poundage not treated on site. In all other cases the payment shall be \$23,900 per~~

1829 pound of phosphorus. Payment amounts shall be determined based upon the
1830 nearest 0.01 of a pound of phosphorus.

1831 2. All payments shall be deposited and utilized in accordance with the following:

1832 a. Payments shall be made prior to commencement of the land-disturbing
1833 activity and shall be deposited to the Virginia Stormwater Management Fund
1834 and held in a subaccount.

1835 b. The board shall establish priorities for the use of these funds by December
1836 1 of each year. Payments held in the fund shall be promptly applied to ensure
1837 that nutrient reduction practices are being implemented. Priorities for the
1838 funds shall be established in accordance with the following:

1839 (1) At least 50% of the funds shall be utilized for projects to address local
1840 stormwater quality issues related to the impacts of development activities
1841 including but not limited to urban retrofits, urban stream restorations, and
1842 reduction of impervious areas.

1843 (2) Priority use for the remaining funds shall be for the acquisition of certified
1844 nonpoint nutrient offsets at a rate not to exceed \$23,900 per pound of
1845 phosphorus. Any remaining funds shall be utilized to fund long term contracts
1846 for agricultural best management practices no less than 20 years in duration
1847 or long term best management practices including but not limited to stream
1848 fencing, alternative water supplies, and riparian buffers in accordance with
1849 practice standards established within the Virginia Agricultural BMP Cost
1850 Share Program administered by the department.

1851 (3) In establishing priorities, the board shall consider targeting equivalent
1852 reductions in the same local watershed as where the payment came from;
1853 implementing urban practices/retrofits that address TMDLs; securing
1854 permanent practices; and achieving measurable reductions. When
1855 purchasing agricultural best management practices, the board shall consider
1856 purchasing practices beyond the baseline established under the Chesapeake
1857 Bay Watershed Nutrient Credit Exchange Program (§ 62.1-44.19:12 et seq.
1858 of the Code of Virginia).

1859 c. The department shall track the payment amount, the associated poundage
1860 of phosphorus purchased, the jurisdiction where the payment originated, the
1861 regulated MS4 name, if any, and the HUC for the land-disturbing activity. The
1862 department shall additionally track the annual expenditure of the funds
1863 including the locality and regulated MS4 name, if any, where the moneys are
1864 expended, the associated poundage of phosphorus reduced, and the cost per
1865 pound for phosphorus reductions associated with the nutrient reduction
1866 practices.

1867 d. The department may annually utilize up to 6.0% of the payments to
1868 administer the stormwater management program.

1869 e. The board shall periodically review the payment amount, at least every five
1870 years or in conjunction with the development of a new construction general
1871 permit, and shall evaluate the performance of the fund and the sufficiency of
1872 the payment rate in achieving the needed offsite pollution reductions. The
1873 board shall adjust the payment amount based upon this analysis.

1874 3. Utilization of a payment to achieve compliance with the water quality technical
1875 criteria shall be subject to the following limitations:

1876 a. A new development project disturbing greater than or equal to one acre in
1877 the Chesapeake Bay watershed must reduce its phosphorus discharge to a
1878 level of 0.45 pounds per acre per year of phosphorus on site, or less, and
1879 then may achieve all or a portion of the remaining required phosphorus
1880 reductions through a payment.

1881 b. A new development project disturbing less than one acre in the
1882 Chesapeake Bay watershed may achieve all necessary phosphorus
1883 reductions through a payment.

1884 c. A new development project outside of the Chesapeake Bay watershed
1885 must achieve all necessary phosphorus reductions on site.

1886 d. Development on prior developed lands disturbing greater than or equal to
1887 one acre must achieve at least a 10% reduction from the predevelopment
1888 total phosphorus load on site and then may achieve the remaining required
1889 phosphorus reductions through a payment.

1890 e. Development on prior developed lands disturbing less than one acre may
1891 achieve all necessary phosphorus reductions through a payment.

1892 4. Nitrogen or other pollutant reductions achieved through payments into the fund
1893 must be retired and shall not be made available to other parties.

1894 Notwithstanding subsection A, operators shall be allowed to utilize offsite options
1895 identified in subsection A under any of the following conditions:

1896 1. Less than five acres of land will be disturbed;

1897 2. The postconstruction phosphorus control requirements is less than 10 pounds
1898 per year; or

1899 3. At least 75% of the required phosphorus nutrient reductions are achieved on-
1900 site. If at least 75% of the required phosphorus nutrient reductions can not be
1901 met on-site, and the operator can demonstrate to the satisfaction of the
1902 stormwater program administrative authority that (i) alternative site designs have
1903 been considered that may accommodate on-site best management practices, (ii)
1904 on-site best management practices have been considered in alternative site
1905 designs to the maximum extent practicable, (iii) appropriate on-site best
1906 management practices will be implemented, and (iv) full compliance with
1907 postdevelopment nonpoint nutrient runoff compliance requirements cannot
1908 practicably be met on-site, then the required phosphorus nutrient reductions may
1909 be achieved, in whole or in part, through the use of off-site compliance options.]

1910 C. [Where the department is administering a local program, only offsite options set
1911 out in subdivisions A 3 and A 4, and, when available, subsection B of this section shall
1912 be available. Notwithstanding subsections A and B, offsite options shall not be allowed:

1913 1. Unless the selected offsite option achieves the necessary nutrient reductions
1914 prior to the commencement of the operator's land-disturbing activity. In the case
1915 of a phased project, the operator may acquire or achieve offsite nutrient
1916 reductions prior to the commencement of each phase of land-disturbing activity in
1917 an amount sufficient for each phase.

1918 2. In contravention of local water quality-based limitations at the point of
1919 discharge that are (i) consistent with the determinations made pursuant to
1920 subsection B of § 62.1-44.19:7, (ii) contained in a municipal separate stormwater
1921 sewer (MS4) program plan approved by the department, or (iii) as otherwise may
1922 be established or approved by the board.

1923 D. In order to meet the requirements of 4VAC50-60-66, offsite options 1 and 2 of
1924 subsection A above may be utilized.]

1925

1926

1927

1928 In order to meet the requirements of 4VAC50-60-66, off-site options 1 and 2 of
1929 subsection A above may be utilized.]

1930 **4VAC50-60-70. Stream channel erosion. (Repealed.)**

1931 ~~A. Properties and receiving waterways downstream of any land-disturbing activity~~
1932 ~~shall be protected from erosion and damage due to changes in runoff rate of flow and~~
1933 ~~hydrologic characteristics, including but not limited to, changes in volume, velocity,~~
1934 ~~frequency, duration, and peak flow rate of stormwater runoff in accordance with the~~
1935 ~~minimum design standards set out in this section.~~

1936 ~~B. The permit-issuing authority shall require compliance with subdivision 19 of~~
1937 ~~4VAC50-30-40 of the Erosion and Sediment Control Regulations, promulgated pursuant~~
1938 ~~to Article 4 (§ 10.1-560 et seq.) of Chapter 5 of Title 10.1 of the Code of Virginia.~~

1939 ~~C. The permit-issuing authority may determine that some watersheds or receiving~~
1940 ~~stream systems require enhanced criteria in order to address the increased frequency of~~
1941 ~~bankfull flow conditions (top of bank) brought on by land-disturbing activities. Therefore,~~
1942 ~~in lieu of the reduction of the two-year post-developed peak rate of runoff as required in~~
1943 ~~subsection B of this section, the land development project being considered shall~~
1944 ~~provide 24-hour extended detention of the runoff generated by the one-year, 24-hour~~
1945 ~~duration storm.~~

1946 ~~D. In addition to subsections B and C of this section permit-issuing authorities, by~~
1947 ~~local ordinance may, or the board by state regulation may, adopt more stringent channel~~
1948 ~~analysis criteria or design standards to ensure that the natural level of channel erosion,~~
1949 ~~to the maximum extent practicable, will not increase due to the land-disturbing activities.~~
1950 ~~These criteria may include, but are not limited to, the following:~~

1951 ~~1. Criteria and procedures for channel analysis and classification.~~

1952 ~~2. Procedures for channel data collection.~~

1953 ~~3. Criteria and procedures for the determination of the magnitude and frequency~~
1954 ~~of natural sediment transport loads.~~

1955 ~~4. Criteria for the selection of proposed natural or man-made channel linings.~~

1956 **4VAC50-60-72. Design storms and hydrologic methods.**

1957 A. Unless otherwise specified, the prescribed design storms are the one-year, two-
1958 year, and 10-year 24-hour storms using the site-specific rainfall precipitation frequency
1959 data recommended by the U.S. National Oceanic and Atmospheric Administration
1960 (NOAA) Atlas 14. Partial duration time series shall be used for the precipitation data.

1961 B. All Unless otherwise specified, all hydrologic analyses shall be based on the
1962 existing watershed characteristics and [how] the ultimate development condition of the
1963 subject project [will be addressed] .

1964 C. The U.S. Department of Agriculture's Natural Resources Conservation Service
1965 (NRCS) synthetic 24-hour rainfall distribution and models, including, but not limited to
1966 TR-55 and TR-20; hydrologic and hydraulic methods developed by the U.S. Army Corps
1967 of Engineers; or other standard hydrologic and hydraulic methods, shall be used to
1968 conduct the analyses described in this part.

1969 D. The [local stormwater] program [administrative authority] may allow for the use
1970 of the Rational Method for evaluating peak discharges or the Modified Rational Method
1971 for evaluating volumetric flows to stormwater conveyances with drainage areas of 200
1972 acres or less.

1973 **4VAC50-60-74. Stormwater harvesting.**

1974 In accordance with § 10.1-603.4 of the Code of Virginia, stormwater harvesting is
1975 encouraged for the purposes of landscape irrigation systems, fire protection systems,
1976 flushing water closets and urinals, and other water handling systems to the extent such
1977 systems are consistent with federal, state, and local regulatory authorities.

1978 **4VAC50-60-76. Linear development projects.**

1979 Unless exempt pursuant to § 10.1-603.8 B of the Code of Virginia, linear
1980 development projects shall control postdevelopment stormwater runoff in accordance
1981 with a site-specific stormwater management plan or a comprehensive watershed
1982 stormwater management plan developed in accordance with these regulations.

1983 **4VAC50-60-80. Flooding. (Repealed.)**

1984 A. Downstream properties and waterways shall be protected from damages from
1985 localized flooding due to changes in runoff rate of flow and hydrologic characteristics,
1986 including but not limited to, changes in volume, velocity, frequency, duration, and peak
1987 flow rate of stormwater runoff in accordance with the minimum design standards set out
1988 in this section.

1989 B. The 10-year post-developed peak rate of runoff from the development site shall
1990 not exceed the 10-year pre-developed peak rate of runoff.

1991 C. In lieu of subsection B of this section, localities may, by ordinance, adopt alternate
1992 design criteria based upon geographic, land use, topographic, geologic factors or other
1993 downstream conveyance factors as appropriate.

1994 D. Linear development projects shall not be required to control post-developed
1995 stormwater runoff for flooding, except in accordance with a watershed or regional
1996 stormwater management plan.

1997 **4VAC50-60-85. Stormwater management impoundment structures or facilities.**

1998 A. [Construction of stormwater management impoundment structures or facilities
1999 within tidal or nontidal wetlands and perennial streams is not recommended.

2000 B. Construction of stormwater management impoundment structures or facilities
2001 within a Federal Emergency Management Agency (FEMA) designated 100-year
2002 floodplain is not recommended.

2003 C.] Stormwater management wet ponds and extended detention ponds that are not
2004 covered by the Impounding Structure Regulations (4VAC50-20) shall, at a minimum, be
2005 engineered for structural integrity and spillway design for the 100-year storm event.

2006 [D-B.] Construction of stormwater management impoundment structures or facilities
2007 may occur in karst areas only after a geological study of the geology and hydrology of
2008 the area has been conducted to determine the presence or absence of karst features
2009 that may be impacted by stormwater runoff and BMP placement.

2010 [E-C.] Discharge of stormwater runoff to a karst feature shall meet the water quality
2011 criteria set out in 4VAC50-60-63 and the water quantity criteria set out in 4VAC50-60-66.
2012 Permanent stormwater management impoundment structures or facilities shall only be
2013 constructed in karst features after completion of a geotechnical investigation that
2014 identifies any necessary modifications to the BMP to ensure its structural integrity and
2015 maintain its water quality and quantity efficiencies. The person responsible for the land-
2016 disturbing activity is encouraged to screen for known existence of heritage resources in
2017 the karst features. Any Class V Underground Injection Control Well registration
2018 statements for stormwater discharges to improved sinkholes shall be included in the
2019 SWPPP.

2020 **4VAC50-60-90. Regional (watershed-wide) stormwater management plans.**
2021 **(Repealed.)**

2022 ~~This section enables localities to develop regional stormwater management plans.~~
2023 ~~State agencies intending to develop large tracts of land such as campuses or prison~~
2024 ~~compounds are encouraged to develop regional plans where practical.~~

2025 ~~The objective of a regional stormwater management plan is to address the~~
2026 ~~stormwater management concerns in a given watershed with greater economy and~~
2027 ~~efficiency by installing regional stormwater management facilities versus individual, site-~~
2028 ~~specific facilities. The result will be fewer stormwater management facilities to design,~~
2029 ~~build and maintain in the affected watershed. It is also anticipated that regional~~
2030 ~~stormwater management facilities will not only help mitigate the impacts of new~~
2031 ~~development, but may also provide for the remediation of erosion, flooding or water~~
2032 ~~quality problems caused by existing development within the given watershed.~~

2033 ~~If developed, a regional plan shall, at a minimum, address the following:~~

- 2034 ~~1. The specific stormwater management issues within the targeted watersheds.~~
- 2035 ~~2. The technical criteria in 4VAC50-60-40 through 4VAC50-60-80 as needed~~
2036 ~~based on subdivision 1 of this section.~~
- 2037 ~~3. The implications of any local comprehensive plans, zoning requirements, local~~
2038 ~~ordinances pursuant to the Chesapeake Bay Preservation Area Designation and~~
2039 ~~Management Regulations adopted pursuant to the Chesapeake Bay~~
2040 ~~Preservation Act, and other planning documents.~~
- 2041 ~~4. Opportunities for financing a watershed plan through cost sharing with~~
2042 ~~neighboring agencies or localities, implementation of regional stormwater utility~~
2043 ~~fees, etc.~~
- 2044 ~~5. Maintenance of the selected stormwater management facilities.~~
- 2045 ~~6. Future expansion of the selected stormwater management facilities in the~~
2046 ~~event that development exceeds the anticipated level.~~

2047 **4VAC50-60-92. Comprehensive [watershed] stormwater management plans.**

2048 A. [Qualifying local Local stormwater management] programs may develop
2049 comprehensive [watershed] stormwater management plans to be approved by the

2050 department that meet the water quality objectives, quantity objectives, or both of this
2051 chapter:

2052 1. Such plans shall ensure that offsite reductions equal to or greater than those
2053 that would be required on each contributing land-disturbing site are achieved
2054 within the same HUC or within another locally designated watershed. Pertaining
2055 to water quantity objectives, the plan may provide for implementation of a
2056 combination of channel improvement, stormwater detention, or other measures
2057 that are satisfactory to the [qualifying] local [stormwater management] program
2058 to prevent downstream erosion and flooding.

2059 2. If the land use assumptions upon which the plan was based change or if any
2060 other amendments are deemed necessary by the [qualifying] local [stormwater
2061 management] program, [the qualifying local such] program shall provide plan
2062 amendments to the board for review and approval.

2063 3. During the plan's implementation, the [qualifying] local [stormwater
2064 management] program shall [account for document] nutrient reductions
2065 accredited to the BMPs specified in the plan.

2066 4. State and federal agencies may develop comprehensive stormwater
2067 management plans, and may participate in locality-developed comprehensive
2068 [watershed] stormwater management plans where practicable and permitted by
2069 the [qualifying] local [stormwater management] program.

2070 **4VAC50-60-93. Stormwater management plan development. (Reserved.)**

2071 A. A stormwater management plan for a land-disturbing activity shall apply these
2072 stormwater management technical criteria to the entire land-disturbing activity.

2073 B. Individual lots or planned phases of developments shall not be considered
2074 separate land-disturbing activities, but rather the entire development shall be considered
2075 a single land-disturbing activity.

2076 C. The stormwater management plan shall consider all sources of surface runoff and
2077 all sources of subsurface and groundwater flows converted to surface runoff.

2078 [Part II B
2079 Stormwater Management Program Part II C] Technical Criteria [for Regulated Land-
2080 Disturbing Activities] : Grandfathered Projects

2081 **4VAC50-60-94. Applicability.**

2082 This part specifies the technical criteria for regulated land-disturbing activities that
2083 are not subject to the technical criteria of [Part II A Part II B] in accordance with 4VAC
2084 50-60-48.

2085 **4VAC50-60-95. General.**

2086 A. Determination of flooding and channel erosion impacts to receiving streams due to
2087 land-disturbing activities shall be measured at each point of discharge from the land
2088 disturbance and such determination shall include any runoff from the balance of the
2089 watershed that also contributes to that point of discharge.

2090 B. The specified design storms shall be defined as either a 24-hour storm using the
2091 rainfall distribution recommended by the U.S. Department of Agriculture's Natural
2092 Resources Conservation Service (NRCS) when using NRCS methods or as the storm of
2093 critical duration that produces the greatest required storage volume at the site when
2094 using a design method such as the Modified Rational Method.

2095 C. For purposes of computing runoff, all pervious lands in the site shall be assumed
2096 prior to development to be in good condition (if the lands are pastures, lawns, or parks),
2097 with good cover (if the lands are woods), or with conservation treatment (if the lands are
2098 cultivated); regardless of conditions existing at the time of computation.

2099 D. Construction of stormwater management facilities or modifications to channels
2100 shall comply with all applicable laws [and] regulations [, and ordinances] . Evidence of
2101 approval of all necessary permits shall be presented.

2102 E. Impounding structures that are not covered by the Impounding Structure
2103 Regulations (4VAC50-20) shall be engineered for structural integrity during the 100-year
2104 storm event.

2105 F. Predevelopment and postdevelopment runoff rates shall be verified by
2106 calculations that are consistent with good engineering practices.

2107 G. Outflows from a stormwater management facility or stormwater conveyance
2108 system shall be discharged to an adequate channel.

2109 H. Proposed residential, commercial, or industrial subdivisions shall apply these
2110 stormwater management criteria to the land disturbance as a whole. Individual lots in
2111 new subdivisions shall not be considered separate land-disturbing activities, but rather
2112 the entire subdivision shall be considered a single land development project. Hydrologic
2113 parameters shall reflect the ultimate land disturbance and shall be used in all
2114 engineering calculations.

2115 I. All stormwater management facilities shall have an inspection and maintenance
2116 plan that identifies the owner and the responsible party for carrying out the inspection
2117 and maintenance plan.

2118 J. Construction of stormwater management impoundment structures within a Federal
2119 Emergency Management Agency (FEMA) designated 100-year floodplain shall be
2120 avoided to the extent possible. When this is unavoidable, all stormwater management
2121 facility construction shall be in compliance with all applicable regulations under the
2122 National Flood Insurance Program, 44 CFR Part 59.

2123 K. Natural channel characteristics shall be preserved to the maximum extent
2124 practicable.

2125 L. Land-disturbing activities shall comply with the Virginia Erosion and Sediment
2126 Control Law (§ 10.1-560 et seq. of the Code of Virginia) and attendant regulations.

2127 M. Flood control and stormwater management facilities that drain or treat water from
2128 multiple development projects or from a significant portion of a watershed may be
2129 allowed in resource protection areas defined in the Chesapeake Bay Preservation Act,
2130 provided that (i) the local government has conclusively established that the location of
2131 the facility within the resource protection area is the optimum location; (ii) the size of the
2132 facility is the minimum necessary to provide necessary flood control, stormwater
2133 treatment, or both; and (iii) the facility must be consistent with a stormwater
2134 management program that has been approved by the board, the Chesapeake Bay Local
2135 Assistance Board, or the Board of Conservation and Recreation.

2136 ~~4VAC50-60-96. Comprehensive watershed stormwater management plans Water~~
2137 ~~quality.~~

2138 ~~A. Local programs may develop comprehensive watershed stormwater management~~
2139 ~~plans to be approved by the department that meet the water quality objectives, quantity~~
2140 ~~objectives, or both of this chapter.~~

2141 ~~1. Such plans shall ensure that offsite reductions equal to or greater than those that~~
2142 ~~would be required on each contributing land-disturbing site are achieved within the same~~
2143 ~~HUC or within another locally designated watershed. Pertaining to water quantity~~
2144 ~~objectives, the plan may provide for implementation of a combination of channel~~
2145 ~~improvement, stormwater detention, or other measures that are satisfactory to the local~~
2146 ~~program to prevent downstream erosion and flooding.~~

2147 ~~2. If the land use assumptions upon which the plan was based change or if any other~~
2148 ~~amendments are deemed necessary by the local program, the local program shall~~
2149 ~~provide plan amendments to the board for review and approval.~~

2150 ~~3. During the plan's implementation, the local program shall account for nutrient~~
2151 ~~reductions accredited to the BMPs specified in the plan.~~

2152 ~~4. State and federal agencies may participate in comprehensive watershed~~
2153 ~~stormwater management plans where practicable and permitted by the local program.~~

2154 ~~A. Compliance with the water quality criteria may be achieved by applying the~~
2155 ~~performance-based criteria or the technology-based criteria to either the site or a~~
2156 ~~planning area.~~

2157 ~~B. If the qualifying local program allows for a pro rata fee in accordance with § 15.2-~~
2158 ~~2243 of the Code of Virginia, then the reductions required for a site by this chapter may~~
2159 ~~be achieved by the payment of a pro rata fee sufficient to fund improvements necessary~~
2160 ~~to adequately achieve those requirements in accordance with that section of the Code of~~
2161 ~~Virginia and this chapter. Performance-based criteria. For land-disturbing activities, the~~
2162 ~~calculated postdevelopment nonpoint source pollutant runoff load shall be compared to~~
2163 ~~the calculated predevelopment load based upon the average land cover condition or the~~
2164 ~~existing site condition. A BMP shall be located, designed, and maintained to achieve the~~
2165 ~~target pollutant removal efficiencies specified in [Table 2 Table 1] of this section to~~
2166 ~~effectively reduce the pollutant load to the required level based upon the following four~~
2167 ~~applicable land development situations for which the performance criteria apply:~~

2168 ~~1. Situation 1 consists of land-disturbing activities where the existing percent~~
2169 ~~impervious cover is less than or equal to the average land cover condition and~~
2170 ~~the proposed improvements will create a total percent impervious cover that is~~
2171 ~~less than the average land cover condition.~~

2172 ~~Requirement: No reduction in the after disturbance pollutant discharge is~~
2173 ~~required.~~

2174 ~~2. Situation 2 consists of land-disturbing activities where the existing percent~~
2175 ~~impervious cover is less than or equal to the average land cover condition and~~
2176 ~~the proposed improvements will create a total percent impervious cover that is~~
2177 ~~greater than the average land cover condition.~~

2178 ~~Requirement: The pollutant discharge after disturbance shall not exceed the~~
2179 ~~existing pollutant discharge based on the average land cover condition.~~

2180 ~~3. Situation 3 consists of land-disturbing activities where the existing percent~~
2181 ~~impervious cover is greater than the average land cover condition.~~

2182 ~~Requirement: The pollutant discharge after disturbance shall not exceed (i) the~~
2183 ~~pollutant discharge based on existing conditions less 10% or (ii) the pollutant~~
2184 ~~discharge based on the average land cover condition, whichever is greater.~~

2185 4. Situation 4 consists of land-disturbing activities where the existing percent
 2186 impervious cover is served by an existing stormwater management BMP that
 2187 addresses water quality.
 2188 Requirement: The pollutant discharge after disturbance shall not exceed the
 2189 existing pollutant discharge based on the existing percent impervious cover while
 2190 served by the existing BMP. The existing BMP shall be shown to have been
 2191 designed and constructed in accordance with proper design standards and
 2192 specifications, and to be in proper functioning condition.
 2193 C. Technology-based criteria. For land-disturbing activities, the postdeveloped
 2194 stormwater runoff from the impervious cover shall be treated by an appropriate BMP as
 2195 required by the postdeveloped condition percent impervious cover as specified in [~~Table~~
 2196 2 Table 1] of this section. The selected BMP shall be located, designed, and maintained
 2197 to perform at the target pollutant removal efficiency specified in [~~Table 2~~ Table 1] or
 2198 those found in 4VAC50-60-65. Design standards and specifications for the BMPs in
 2199 [~~Table 2~~ Table 1] that meet the required target pollutant removal efficiency are
 2200 available in the 1990 Virginia Stormwater Management Handbook. Other approved
 2201 BMPs available on the Virginia Stormwater BMP Clearinghouse website at
 2202 <http://www.vwrrc.vt.edu/swc> may also be utilized.

[~~Table 2~~ Table 1]*

<u>Water Quality BMP*</u>	<u>Target Phosphorus Removal Efficiency</u>	<u>Percent Impervious Cover</u>
<u>Vegetated filter strip</u>	<u>10%</u>	<u>16-21%</u>
<u>Grassed Swale</u>	<u>15%</u>	
<u>Constructed wetlands</u>	<u>20%</u>	<u>22-37%</u>
<u>Extended detention (2 x WQ Vol)</u>	<u>35%</u>	
<u>Retention basin I (3 x WQ Vol)</u>	<u>40%</u>	
<u>Bioretention basin</u>	<u>50%</u>	<u>38-66%</u>
<u>Bioretention filter</u>	<u>50%</u>	
<u>Extended detention-enhanced</u>	<u>50%</u>	
<u>Retention basin II (4 x WQ Vol)</u>	<u>50%</u>	
<u>Infiltration (1 x WQ Vol)</u>	<u>50%</u>	
<u>Sand filter</u>	<u>65%</u>	<u>67-100%</u>
<u>Infiltration (2 x WQ Vol)</u>	<u>65%</u>	
<u>Retention basin III (4 x WQ Vol with aquatic bench)</u>	<u>65%</u>	
<u>*Innovative or alternate BMPs not included in this table may be allowed at the discretion of the [local program administrator or the department 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</u>		

at the discretion of the [local stormwater] program [administrator or the department administrative authority] .

2203 **4VAC50-60-97. Stream channel erosion.**

2204 A. Properties and receiving waterways downstream of any land-disturbing activity
2205 shall be protected from erosion and damage due to changes in runoff rate of flow and
2206 hydrologic characteristics, including, but not limited to, changes in volume, velocity,
2207 frequency, duration, and peak flow rate of stormwater runoff in accordance with the
2208 minimum design standards set out in this section.

2209 B. The [~~permit-issuing stormwater program administrative~~] authority shall require
2210 compliance with subdivision 19 of 4VAC50-30-40 of the Erosion and Sediment Control
2211 Regulations, promulgated pursuant to Article 4 (§ 10.1-560 et seq.) of Chapter 5 of Title
2212 10.1 of the Code of Virginia.

2213 C. The [~~permit-issuing authority local stormwater management program~~] may
2214 determine that some watersheds or receiving stream systems require enhanced criteria
2215 in order to address the increased frequency of bankfull flow conditions (top of bank)
2216 brought on by land-disturbing activities. Therefore, in lieu of the reduction of the two-year
2217 postdeveloped peak rate of runoff as required in subsection B of this section, the land
2218 development project being considered shall provide 24-hour extended detention of the
2219 runoff generated by the one-year, 24-hour duration storm.

2220 D. In addition to subsections B and C of this section, [~~permit-issuing authorities local~~
2221 stormwater management programs] , by local ordinance may, or the board by state
2222 regulation may, adopt more stringent channel analysis criteria or design standards to
2223 ensure that the natural level of channel erosion, to the maximum extent practicable, will
2224 not increase due to the land-disturbing activities. These criteria may include, but are not
2225 limited to, the following:

- 2226 1. Criteria and procedures for channel analysis and classification.
2227 2. Procedures for channel data collection.
2228 3. Criteria and procedures for the determination of the magnitude and frequency
2229 of natural sediment transport loads.
2230 4. Criteria for the selection of proposed natural or manmade channel linings.

2231 **4VAC50-60-98. Flooding.**

2232 A. Downstream properties and waterways shall be protected from damages from
2233 localized flooding due to changes in runoff rate of flow and hydrologic characteristics,
2234 including, but not limited to, changes in volume, velocity, frequency, duration, and peak
2235 flow rate of stormwater runoff in accordance with the minimum design standards set out
2236 in this section.

2237 B. The 10-year postdeveloped peak rate of runoff from the development site shall not
2238 exceed the 10-year predeveloped peak rate of runoff.

2239 C. In lieu of subsection B of this section, localities may, by ordinance, adopt alternate
2240 design criteria based upon geographic, land use, topographic, geologic factors, or other
2241 downstream conveyance factors as appropriate.

2242 D. Linear development projects shall not be required to control postdeveloped
2243 stormwater runoff for flooding, except in accordance with a watershed or regional
2244 stormwater management plan.

2245 **4VAC50-60-99. Regional (watershedwide) (watershed-wide) stormwater**
2246 **management plans.**

2247 Water quality [requirements] and where allowed, water quantity [requirements] .
2248 may be achieved in accordance with sections 4VAC50-60-69 and 4VAC50-60-92.

2249 Part III
2250 Local Programs
2251 [Part III]

2252 **4VAC50-60-100. [Applicability. (Repealed.)**

2253 This part specifies technical criteria, minimum ordinance requirements, and
2254 administrative procedures for all localities operating local stormwater management
2255 programs. establishes the board's procedures for the authorization of a qualifying local
2256 program, the board's procedures for the administration of a local stormwater
2257 management program by an authorized qualifying local program, board and department
2258 oversight authorities for an authorized qualifying local program, and the board's
2259 procedures for utilization by the department in administering the Virginia Stormwater
2260 Management Program in localities where no qualifying local program is authorized.]

2261 [Part III A
2262 Local Programs.]

2263 **4VAC50-60-102. Authority [and applicability] .**

2264 If a locality has adopted a local stormwater management program in accordance with
2265 the Virginia Stormwater Management Act (§ 10.1-603.2 et seq. of the Code of Virginia)
2266 and the board has deemed such program adoption consistent with the Virginia
2267 Stormwater Management Act and these regulations in accordance with § 10.1-603.3 F of
2268 the Code of Virginia, the board may authorize a locality to administer a qualifying local
2269 program. Pursuant to § 10.1-603.4, the board is required to establish standards and
2270 procedures for such an authorization.

2271 [This part specifies the minimum technical criteria and the local government
2272 ordinance requirements for a local program to be considered a qualifying local program.
2273 Such criteria include but are not limited to administration, plan review, issuance of
2274 coverage under the Virginia Stormwater Management Program (VSMP) General Permit
2275 for Discharges of Stormwater from Construction Activities, inspection, and
2276 enforcement.]

2277 **[4VAC50-60-103. Stormwater program administrative authority requirements for**
2278 **Chesapeake Bay Preservation Act land-disturbing activities.**

2279 A. A stormwater program administrative authority shall regulate runoff associated
2280 with Chesapeake Bay Preservation Act land-disturbing activities in accordance with the
2281 following:

2282 1. Such land-disturbing activities shall not require completion of a registration
2283 statement or require coverage under the VSMP General Permit for Discharges of
2284 Stormwater from Construction Activities but shall be subject to the technical
2285 criteria and program and administrative requirements set out in 4VAC50-60-51.

2286 2. A permit shall be issued permitting the land-disturbing activity.

2287 3. The stormwater program administrative authority shall regulate such land-
2288 disturbing activities in compliance with the:

2289 a. Program requirements in 4VAC50-60-104;

- 2290 b. Plan review requirements in 4VAC50-60-108 with the exception of
2291 subsection D;
2292 c. Long-term stormwater management facility requirements of 4VAC50-60-
2293 112;
2294 d. Inspection requirements of 4VAC50-60-114 with the exception of
2295 subsection A3;
2296 e. Enforcement components of 4VAC50-60-116;
2297 f. Hearing requirements of 4VAC50-60-118;
2298 g. Exception conditions of 4VAC50-60-122 excluding subsection C which is
2299 not applicable; and
2300 h. Reporting and recordkeeping requirements of 4VAC50-60-126 with the
2301 exception of subsection B3;

2302 B. A local stormwater management program shall adopt an ordinance that
2303 incorporates the components of this section.

2304 C. In accordance with §10.1-603.4 subsection 5, a stormwater program
2305 administrative authority may collect a permit issuance fee from the applicant of \$290 and
2306 an annual maintenance fee of \$50 for such land-disturbing activities.

2307 [Part III A

2308 Programs Operated by a Stormwater Program Administrative Authority]

2309 **4VAC50-60-104. [~~Technical criteria~~ Criteria] for [~~qualifying local~~] programs**
2310 **[~~operated by a stormwater program administrative authority~~] .**

2311 A. All [~~qualifying local programs~~ stormwater program administrative authorities] shall
2312 require compliance with the provisions of [~~Part II Part II A and Part II B as applicable~~]
2313 (4VAC50-60-40 et seq.) of this chapter [~~unless an exception is granted pursuant to~~
2314 4VAC50-60-122 and shall comply with the requirements of 4VAC50-60-460 L] .

2315 B. When a [~~locality operating a qualifying~~] local [~~stormwater management~~
2316 program has adopted requirements more stringent than those imposed by this chapter in
2317 accordance with § 10.1-603.7 of the Code of Virginia or implemented a comprehensive
2318 stormwater management plan, the department shall consider such requirements in its
2319 review of state projects within that locality in accordance with Part IV (4VAC50-60-160 et
2320 seq.) of this chapter.

2321 C. Nothing in this part shall be construed as authorizing a locality to regulate, or to
2322 require prior approval by the locality for, a state [~~or federal~~] project [, unless authorized
2323 by separate statute] .

2324 [D. A stormwater program administrative authority may require the submission of a
2325 reasonable performance bond or other financial surety and provide for the release of
2326 such sureties in accordance with the criteria set forth in § 10.1-603.8 of the Code of
2327 Virginia.]

2328 **4VAC50-60-106. [~~Qualifying local program administrative~~ Additional]**
2329 **requirements [~~for local stormwater management programs~~] .**

2330 A. [~~A qualifying local program shall provide for the following:~~

- 2331 1. Identification of the authority authorizing coverage under the VSMP General
2332 Permit for Discharges of Stormwater from Construction Activities, the plan

2333 ~~reviewing authority, the plan approving authority, the inspection authority, and the~~
2334 ~~enforcement authority;~~

2335 ~~2. Technical criteria to be used in the qualifying local program;~~

2336 ~~3. Procedures for the submission and approval of plans;~~

2337 ~~4. Inspection and monitoring of land disturbing activities covered by a permit for~~
2338 ~~compliance;~~

2339 ~~5. Procedures or policies for long term inspection and maintenance of~~
2340 ~~stormwater management facilities Enforcement; and~~

2341 ~~6. Enforcement Procedures or policies for long term inspection and maintenance~~
2342 ~~of stormwater management facilities.~~

2343 ~~B. A locality qualifying local program shall adopt an ordinance(s) that incorporates~~
2344 ~~the components set out in subdivisions 1 through 5 of subsection A of this section and~~
2345 ~~consent to follow procedures provided by the department for the issuance, denial,~~
2346 ~~revocation, termination, reissuance, transfer, or modifications of coverage under the~~
2347 ~~VSMP General Permit for Discharges of Stormwater from Construction Activities.~~

2348 ~~C. A qualifying local program shall report to the department information related to the~~
2349 ~~administration and implementation of the qualifying local program in accordance with~~
2350 ~~4VAC50-60-126.~~

2351 ~~D. A qualifying local program may require the submission of a reasonable~~
2352 ~~performance bond or other financial surety and provide for the release of such sureties~~
2353 ~~in accordance with the criteria set forth in § 10.1-603.8 of the Code of Virginia. A local~~
2354 ~~stormwater management program shall adopt ordinances that ensure compliance with~~
2355 ~~the requirements set forth in 4VAC50-60-460L.~~

2356 ~~B. The local stormwater management program shall adopt ordinances at least as~~
2357 ~~stringent as the provisions of the Virginia Stormwater Management Program (VSMP)~~
2358 ~~General Permit for Discharges of Stormwater from Construction Activities.]~~

2359 **4VAC50-60-108. [Qualifying local program stormwater Stormwater] management**
2360 **plan review.**

2361 ~~A. A [qualifying local stormwater] program [administrative authority] shall [require~~
2362 ~~review and approve] stormwater management plans [to be submitted for review and be~~
2363 ~~approved prior to commencement of land disturbing activities] . [In addition to the other~~
2364 ~~requirements of this chapter, a stormwater management plan must be developed in~~
2365 ~~accordance with the following:~~

2366 ~~1. A stormwater management plan for a land disturbing activity shall apply the~~
2367 ~~stormwater management technical criteria to the entire land disturbing activity.~~

2368 ~~2. At the discretion of the qualifying local program, individual lots or planned~~
2369 ~~phases of developments shall not be considered separate land disturbing~~
2370 ~~activities, but rather the entire development shall be considered a single land-~~
2371 ~~disturbing activity.~~

2372 ~~3. The stormwater management plan shall consider all sources of surface runoff~~
2373 ~~and all sources of subsurface and groundwater flows converted to surface runoff.~~

2374]

2375 ~~B. A [qualifying local stormwater] program [administrative authority] shall approve~~
2376 ~~or disapprove a stormwater management plan [and required accompanying~~
2377 ~~information] according to the following:~~

- 2378 1. [Stormwater management plan review shall begin upon submission of a
2379 complete plan. A complete plan shall include the following elements:
- 2380 a. The location of all points of stormwater discharge, receiving surface waters
2381 or karst features into which the stormwater discharges, and predevelopment
2382 and postdevelopment conditions for drainage areas, including final drainage
2383 patterns and changes to existing contours;
- 2384 b. Contact information including the name, address, and telephone number of
2385 the property owner and the tax reference number and parcel number of the
2386 property or properties affected;
- 2387 c. A narrative that includes a description of current site conditions and
2388 proposed development and final site conditions, including proposed
2389 stormwater management facilities and the mechanism, including an
2390 identification of financially responsible parties, through which the facilities will
2391 be operated and maintained during and after construction activity;
- 2392 d. The location and the design of the proposed stormwater management
2393 facilities;
- 2394 e. Information identifying the hydrologic characteristics and structural
2395 properties of soils utilized with the installation of stormwater management
2396 facilities;
- 2397 f. Hydrologic and hydraulic computations of the predevelopment and
2398 postdevelopment runoff conditions for the required design storms;
- 2399 g. Good engineering practices and calculations verifying compliance with the
2400 water quality and quantity requirements of this chapter;
- 2401 h. A map or maps of the site that depicts the topography of the site and
2402 includes:
- 2403 (1) All contributing drainage areas;
- 2404 (2) Receiving surface waters or karst features into which stormwater will be
2405 discharged;
- 2406 (3) Existing streams, ponds, culverts, ditches, wetlands, and other water
2407 bodies;
- 2408 (4) Soil types, geologic formations, forest cover, and other vegetative areas;
- 2409 (5) Current land use including existing structures, roads, and locations of
2410 known utilities and easements;
- 2411 (6) Sufficient information on adjoining parcels to assess the impacts of
2412 stormwater from the site;
- 2413 (7) The limits of clearing and grading, and the proposed drainage patterns on
2414 the site;
- 2415 (8) Proposed buildings, roads, parking areas, utilities, and stormwater
2416 management facilities; and
- 2417 (9) Proposed land use with tabulation of the percentage of surface area to be
2418 adapted to various uses, including but not limited to planned locations of
2419 utilities, roads, and easements.
- 2420 i. No more than 50% of the required base fee in accordance with 4VAC50-60-
2421 820, and the required fee form must have been submitted.

2422 ~~2. Elements of the stormwater management plans shall be appropriately sealed~~
2423 ~~and signed by a professional in adherence to all minimum standards and~~
2424 ~~requirements pertaining to the practice of that profession in accordance with~~
2425 ~~Chapter 4 (§ 54.1-400 et seq.) of Title 54.1 of the Code of Virginia and attendant~~
2426 ~~regulations.]~~

2427 ~~[3. Completeness The stormwater program administrative authority shall~~
2428 ~~determine the completeness] of a plan [and required accompanying information~~
2429 ~~shall be determined by the qualifying local program in accordance with 4VAC50-~~
2430 ~~60-55] , and [shall notify] the applicant [shall be notified] of any determination,~~
2431 ~~within 15 calendar days of receipt. [Where available to the applicant, electronic~~
2432 ~~communication may be considered communication in writing.]~~

2433 ~~a. If within those 15 days the plan is deemed to be incomplete [based on the~~
2434 ~~criteria set out in this subsection] , the applicant shall be notified in writing of~~
2435 ~~the reasons the plan is deemed incomplete.~~

2436 ~~b. If a determination of completeness is made and communicated to the~~
2437 ~~applicant within the 15 calendar days, an additional 60 calendar days from~~
2438 ~~the date of the communication will be allowed for the review of the plan.~~

2439 ~~c. If a determination of completeness is not made and communicated to the~~
2440 ~~applicant within the 15 calendar days, the plan shall be deemed complete as~~
2441 ~~of the date of submission and a total of 60 calendar days from the date of~~
2442 ~~submission will be allowed for the review of the plan.~~

2443 ~~d. The [qualifying local stormwater] program [administrative authority] shall~~
2444 ~~[act review,] within 45 [calendar] days [on of the date of resubmission]~~
2445 ~~any plan that has been previously disapproved [and resubmitted] .~~

2446 ~~[4.2.] During the review period, the plan shall be approved or disapproved and~~
2447 ~~the decision communicated in writing to the person responsible for the land-~~
2448 ~~disturbing activity or his designated agent. If the plan is not approved, the~~
2449 ~~reasons for not approving the plan shall be provided in writing. Approval or denial~~
2450 ~~shall be based on the plan's compliance with the requirements of this chapter~~
2451 ~~and of the [qualifying local stormwater] program [administrative authority] .~~
2452 ~~Where available to the applicant, electronic communication may be considered~~
2453 ~~communication in writing.~~

2454 ~~[5.3.] If a plan meeting all requirements of this chapter and of the [qualifying~~
2455 ~~local stormwater] program [administrative authority] is submitted and no action~~
2456 ~~is taken within the time specified above, the plan shall be deemed approved.~~

2457 ~~C. [Notwithstanding the requirements of subsection A of this section, if allowed by~~
2458 ~~the qualifying local program, an initial stormwater management plan may be submitted~~
2459 ~~for review and approval when it is accompanied by an erosion and sediment control~~
2460 ~~plan, preliminary stormwater design for the current and future site work, fee form, and no~~
2461 ~~more than 50% of the base fee required by 4VAC50-60-820. Such plans shall be limited~~
2462 ~~to the initial clearing and grading of the site unless otherwise allowed by the qualifying~~
2463 ~~local program. Approval by the qualifying local program of an initial plan does not~~
2464 ~~supersede the need for the submittal and approval of a complete stormwater~~
2465 ~~management plan and the updating of the SWPPP prior to the commencement of~~
2466 ~~activities beyond initial clearing and grading and other activities approved by the local~~
2467 ~~program. The initial plan shall include information detailed in subsection B of this section~~

2468 ~~to the extent required by the qualifying local program and such other information as may~~
2469 ~~be required by the qualifying local program.~~

2470 ~~D.] Each approved plan may be modified in accordance with the following:~~

2471 ~~1. Modifications to an approved stormwater management plan shall be allowed~~
2472 ~~only after review and written approval by the [qualifying local stormwater]~~
2473 ~~program [administrative authority] . The [qualifying local stormwater] program~~
2474 ~~[administrative authority] shall have 60 calendar days to respond in writing~~
2475 ~~either approving or disapproving such requests.~~

2476 ~~2. Based on an inspection, the [qualifying local stormwater] program~~
2477 ~~[administrative authority] may require amendments to the approved stormwater~~
2478 ~~management plan to address [the noted any] deficiencies [and notify the~~
2479 ~~permittee of the required modifications within a time frame set by the stormwater~~
2480 ~~program administrative authority] .~~

2481 ~~[D. A stormwater program administrative authority shall not provide authorization to~~
2482 ~~begin land disturbance until provided evidence of VSMP permit coverage.~~

2483 ~~E. The stormwater program administrative authority shall require the submission of a~~
2484 ~~construction record drawing for permanent stormwater management facilities in~~
2485 ~~accordance with 4VAC50-60-55. A stormwater program administrative authority may~~
2486 ~~elect not to require construction record drawings for stormwater management facilities~~
2487 ~~for which maintenance agreements are not required pursuant to 4VAC50-60-124.]~~

2488 **4VAC50-60-110. Technical criteria for local programs. (Repealed.)**

2489 ~~A. All local stormwater management programs shall comply with the general~~
2490 ~~technical criteria as outlined in 4VAC50-60-50.~~

2491 ~~B. All local stormwater management programs which contain provisions for~~
2492 ~~stormwater runoff quality shall comply with 4VAC50-60-60. A locality may establish~~
2493 ~~criteria for selecting either the site or a planning area on which to apply the water quality~~
2494 ~~criteria. A locality may opt to calculate actual watershed specific or locality wide values~~
2495 ~~for the average land cover condition based upon:~~

2496 ~~1. Existing land use data at time of local Chesapeake Bay Preservation Act~~
2497 ~~Program or department stormwater management program adoption, whichever~~
2498 ~~was adopted first;~~

2499 ~~2. Watershed or locality size; and~~

2500 ~~3. Determination of equivalent values of impervious cover for nonurban land uses~~
2501 ~~which contribute nonpoint source pollution, such as agriculture, forest, etc.~~

2502 ~~C. All local stormwater management programs which contain provisions for stream~~
2503 ~~channel erosion shall comply with 4VAC50-60-70.~~

2504 ~~D. All local stormwater management programs must contain provisions for flooding~~
2505 ~~and shall comply with 4VAC50-60-80.~~

2506 ~~E. All local stormwater management programs which contain provisions for~~
2507 ~~watershed or regional stormwater management plans shall comply with 4VAC50-60-110.~~

2508 ~~F. A locality that has adopted more stringent requirements or implemented a regional~~
2509 ~~(watershed wide) stormwater management plan may request, in writing, that the~~
2510 ~~department consider these requirements in its review of state projects within that locality.~~

2511 ~~G. Nothing in this part shall be construed as authorizing a locality to regulate, or to~~
2512 ~~require prior approval by the locality for, a state project.~~

2513 ~~4VAC50-60-112. [Qualifying local program authorization of coverage under the~~
2514 ~~VSMP General Permit for Discharges of Stormwater from Construction Activities~~
2515 ~~Long-term maintenance of permanent stormwater management facilities] .~~

2516 ~~A. [Coverage shall be authorized by the qualifying local program under the VSMP~~
2517 ~~General Permit for Discharges of Stormwater from Construction Activities in accordance~~
2518 ~~with the following:~~

2519 ~~1. The applicant must have an approved initial stormwater management plan or~~
2520 ~~an approved stormwater management plan for the land-disturbing activity.~~

2521 ~~2. The applicant must have submitted proposed right-of-entry agreements or~~
2522 ~~easements from the owner for purposes of inspection and maintenance and~~
2523 ~~proposed maintenance agreements, including inspection schedules, where~~
2524 ~~required in accordance with 4VAC50-60-124.~~

2525 ~~3. The applicant must have an approved registration statement for the VSMP~~
2526 ~~General Permit for Discharges of Stormwater from Construction Activities.~~

2527 ~~4. The applicant must have submitted the required fee form and total fee required~~
2528 ~~by 4VAC50-60-820.~~

2529 ~~5. Applicants submitting registration statements deemed to be incomplete must~~
2530 ~~be notified within 15 working days of receipt by the qualifying local program that~~
2531 ~~the registration statement is not complete and be notified (i) of what material~~
2532 ~~needs to be submitted to complete the registration statement, and (ii) that the~~
2533 ~~land-disturbing activity does not have coverage under the VSMP General Permit~~
2534 ~~for Discharges of Stormwater from Construction Activities. The stormwater~~
2535 ~~program administrative authority shall require the provision of long-term~~
2536 ~~responsibility for and maintenance of stormwater management facilities and other~~
2537 ~~techniques specified to manage the quality and quantity of runoff. Such~~
2538 ~~requirements shall be set forth in an instrument recorded in the local land records~~
2539 ~~prior to permit termination or earlier as required by the stormwater program~~
2540 ~~administrative authority and shall, at a minimum:~~

2541 ~~1. Be submitted to the stormwater program administrative authority for review~~
2542 ~~and approval prior to the approval of the stormwater management plan;~~

2543 ~~2. Be stated to run with the land;~~

2544 ~~3. Provide for all necessary access to the property for purposes of~~
2545 ~~maintenance and regulatory inspections;~~

2546 ~~4. Provide for inspections and maintenance and the submission of inspection~~
2547 ~~and maintenance reports to the stormwater program administrative authority;~~
2548 ~~and~~

2549 ~~5. Be enforceable by all appropriate governmental parties.]~~

2550 ~~B. [Coverage or termination of coverage shall be authorized through a standardized~~
2551 ~~database or other method provided by the department. Such database shall include, at a~~
2552 ~~minimum, permit number, operator name, activity name, acres disturbed, date of permit~~
2553 ~~coverage, and site address and location as well as date of termination. At the discretion~~
2554 ~~of the stormwater program administrative authority, such recorded instruments need not~~
2555 ~~be required for stormwater management facilities designed to treat stormwater runoff~~
2556 ~~primarily from an individual residential lot on which they are located, provided it is~~
2557 ~~demonstrated to the satisfaction of the stormwater program administrative authority that~~

2558 future maintenance of such facilities will be addressed through an enforceable
2559 mechanism at the discretion of the stormwater program administrative authority.

2560 C. Coverage information pertaining to the VSMP General Permit for Discharges of
2561 Stormwater from Construction Activities shall be reported to the department in
2562 accordance with 4VAC50-60-126 by the qualifying local program.

2563 D. The applicant shall be notified of authorization of permit coverage by the
2564 qualifying local program.]

2565 **4VAC50-60-114. Inspections.**

2566 A. The [qualifying local stormwater] program [or its designee administrative
2567 authority] shall inspect the land-disturbing activity during construction for [compliance :

2568 1. Compliance] with the [VSMP General Permit for Discharges of Stormwater
2569 from Construction Activities. approved erosion and sediment control plan;

2570 2. Compliance with the approved stormwater management plan; and

2571 3. Development, updating, and implementation of a pollution prevention plan.]

2572 B. [The person responsible for the development project or their designated agent
2573 shall submit to a qualifying local program a construction record drawing for permanent
2574 stormwater management facilities, appropriately sealed, and signed by a professional in
2575 accordance with all minimum standards and requirements pertaining to the practice of
2576 that profession pursuant to Chapter 4 (§ 54.1-400 et seq.) of Title 54.1 of the Code of
2577 Virginia and attendant regulations, certifying that the stormwater management facilities
2578 have been constructed in accordance with the approved plan. The qualifying local
2579 program shall have the construction record drawing and certification on file prior to the
2580 release of the portion of the any performance bond or surety associated with the
2581 stormwater management facility. The qualifying local program may elect not to require
2582 construction record drawings for stormwater management facilities for which
2583 maintenance agreements are not required pursuant to 4VAC50-60-124. The stormwater
2584 program administrative authority shall establish an inspection program that ensures that
2585 stormwater management facilities are being adequately maintained as designed after
2586 completion of land-disturbing activities. Inspection programs shall:

2587 1. Be approved by the board;

2588 2. Ensure that each stormwater management facility is inspected by the
2589 stormwater program administrative authority, or its designee, not to include the
2590 owner, except as provided in subsections C and D of this section, at least once
2591 every five years; and

2592 3. Be documented by records.]

2593 C. The owners [owner of a stormwater management] facilities [facility for which a
2594 maintenance agreement is required pursuant to 4VAC50-60-124 shall be required to
2595 conduct inspections in accordance with an inspection schedule in a the recorded
2596 maintenance agreement, and shall submit written inspection and maintenance reports to
2597 the qualifying local program] upon request. [Such stormwater program administrative
2598 authority may utilize the inspection] reports [, if consistent with a board approved as
2599 part of an] inspection program established in subsection D [E B] of this section [, may
2600 be utilized by the qualifying local program] if the inspection is conducted by a person
2601 who is licensed as a professional engineer, architect, certified landscape architect, or
2602 land surveyor pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 or who

2603 holds ~~[a an appropriate]~~ certificate of competence from the board. ~~[The reports, if so~~
2604 ~~utilized, must be kept on file with the qualifying local program.]~~

2605 ~~D. [A qualifying local~~ If a recorded instrument is not required pursuant to 4VAC50-
2606 ~~60-112, a stormwater]~~ program ~~[administrative authority]~~ shall develop a strategy for
2607 ~~addressing maintenance of stormwater management facilities designed to treat~~
2608 ~~stormwater runoff solely primarily from an individual residential lot on which they are~~
2609 ~~located. Such a strategy may include periodic inspections, homeowner outreach and~~
2610 ~~education, or other method targeted at promoting the long-term maintenance of such~~
2611 ~~facilities. Such facilities shall not be subject to the requirement for an inspection to be~~
2612 ~~conducted by the [qualifying local stormwater] program [every five years contained~~
2613 ~~within subsection E of this section administrative authority] .~~

2614 ~~[E. A qualifying local program shall establish an inspection program that ensures~~
2615 ~~that the stormwater management facilities are being maintained as designed. Any~~
2616 ~~inspection program shall be:~~

- 2617 ~~1. Approved by the board prior to implementation;~~
- 2618 ~~2. Established in writing;~~
- 2619 ~~3. Based on a system of priorities that takes into consideration the purpose and~~
2620 ~~type of the facility, ownership and the existence of a recorded maintenance~~
2621 ~~agreement and inspection schedule where required, the contributing drainage~~
2622 ~~area, and downstream conditions;~~
- 2623 ~~4. Demonstrated to be an enforceable inspection program that meets the intent~~
2624 ~~of the regulations and ensures that each stormwater management facility is~~
2625 ~~inspected by the qualifying local program or its designee, not to include the~~
2626 ~~owner, except as provided in subsection subsections C and D of this section, at~~
2627 ~~least every five years; and~~
- 2628 ~~5. Documented by inspection records.]~~

2629 ~~E. [F. Inspection reports shall be generated and kept on file in accordance with~~
2630 ~~4VAC50-60-126 for all stormwater management facilities inspected by the qualifying~~
2631 ~~local program.]~~

2632 **4VAC50-60-116. [Qualifying local program enforcement Enforcement] .**

2633 ~~A. A [qualifying local stormwater] program [may administrative authority shall~~
2634 ~~incorporate [the following] components [: from subsection 1 and 2.]~~

- 2635 ~~1. Informal and formal administrative enforcement procedures [including may~~
2636 ~~include] :~~
 - 2637 ~~a. Verbal warnings and inspection reports;~~
 - 2638 ~~b. Notices of corrective action;~~
 - 2639 ~~c. Consent special orders and civil charges in accordance with subdivision 7~~
2640 ~~of § 10.1-603.2:1 and § 10.1-603.14 D 2 of the Code of Virginia;~~
 - 2641 ~~d. Notices to comply in accordance with § 10.1-603.11 of the Code of~~
2642 ~~Virginia;~~
 - 2643 ~~e. Special orders in accordance with subdivision 7 of § 10.1-603.2:1 of the~~
2644 ~~Code of Virginia;~~
 - 2645 ~~f. Emergency special orders in accordance with subdivision 7 of § 10.1-~~
2646 ~~603.2:1 of the Code of Virginia; and~~

- 2647 g. Public notice and comment periods [for proposed settlements and consent
 2648 special orders] pursuant to 4VAC50-60-660.
- 2649 2. Civil and criminal judicial enforcement procedures [including may include] :
- 2650 a. Schedule of civil penalties [set out in subsection D of this section in
 2651 accordance with § 10.1-603.14 of the Code of Virginia] ;
- 2652 b. Criminal penalties in accordance with § 10.1-603.14 B and C of the Code
 2653 of Virginia; and
- 2654 c. Injunctions in accordance with §§ 10.1-603.12:4, 10.1-603.2:1 and 10.1-
 2655 603.14 D 1 of the Code of Virginia.
- 2656 B. A [qualifying local stormwater.] program [administrative authority] shall develop
 2657 policies and procedures that outline the steps to be taken regarding enforcement actions
 2658 under the Stormwater Management Act and attendant regulations and [the] local
 2659 [ordinance ordinances] .
- 2660 C. [A qualifying local program may utilize the department's Stormwater Management
 2661 Enforcement Manual as guidance in establishing policies and procedures.
- 2662 D. A court may utilize as guidance the following Schedule of Civil Penalties set by
 2663 the board in accordance with Pursuant to] § 10.1-603.14 A of the Code of Virginia [, the
 2664 permit-issuing authority shall use the following schedule of civil penalties for
 2665 enforcement actions] . [The range contained within the schedule reflects the degree of
 2666 harm caused by the violation, which is site specific and may vary greatly from case to
 2667 case, as may the economic benefit of noncompliance to the violator. Each day of
 2668 violation of each requirement shall constitute a separate offense. Assignment of the
 2669 degree of harm is a qualitative decision subject to the court's discretion.] The court has
 2670 the discretion to impose a maximum penalty of \$32,500 per violation per day in
 2671 accordance with § 10.1-603.14 A of the Code of Virginia. [Such violation may reflect the
 2672 degree of harm caused by the violation. The court may take into account the economic
 2673 benefit to the violator from noncompliance. Such violations include, but are not limited to:
 2674 -

<u>1. Gravity-based Component</u>	<u>Marginal</u>	<u>Moderate</u>	<u>Serious</u>	-
<u>Violations* and Frequency of Occurrence **</u>	<u>\$\$ x occurrences</u>	<u>\$\$ x occurrences</u>	<u>\$\$ x occurrences</u>	<u>SUBTOTAL</u>
-				
<u>No Permit Registration (each month w/o coverage = 1 occurrence)</u>	<u>500 x _____</u>	<u>1,000 x _____</u>	<u>2,000 x _____</u>	- -

<u>No SWPPP (No SWPPP components including E&S Plan) (each month of land-disturbing without SWPPP = 1 occurrence)</u>	<u>1,000 x</u>	<u>1,500 x</u>	<u>2,000 x</u>	-
<u>Incomplete SWPPP</u>	<u>300 x</u>	<u>500 x</u>	<u>1,000 x</u>	-
<u>SWPPP not on site</u>	<u>100 x</u>	<u>300 x</u>	<u>500 x</u>	-
<u>No approved Erosion and Sediment Control Plan</u>	<u>500 x</u>	<u>1,000 x</u>	<u>2,000 x</u>	-
<u>Failure to install stormwater BMPs or erosion and sediment ("E&S") controls</u>	<u>300 x</u>	<u>500 x</u>	<u>1,000 x</u>	-
<u>Stormwater BMPs or E&S controls improperly installed or maintained</u>	<u>250 x</u>	<u>500 x</u>	<u>750 x</u>	-
<u>Operational deficiencies (e.g., failure to initiate stabilization measures as soon as practicable; unauthorized discharges of stormwater; failure to implement control measures for construction debris)</u>	<u>1,000 x</u>	<u>2,000 x</u>	<u>5,000 x</u>	-
<u>Failure to conduct required inspections</u>	<u>500 x</u>	<u>2,000 x</u>	<u>3,000 x</u>	-

<u>Incomplete, improper or missed inspections (e.g., inspections not conducted by qualified personnel; site inspection reports do not include date, weather information, location of discharge, or are not certified, etc.)</u>	<u>300 x _____</u>	<u>500 x _____</u>	<u>1,000 x _____</u>	-
-			<u>Subtotal #1</u>	-
<u>2. Estimated Economic Benefit of Noncompliance (if applicable)</u>			<u>Subtotal #2</u>	-
<u>3. Recommended civil penalty</u>			<u>Total (#1 and #2)</u>	-
<p><u>* Each stormwater BMP or E&S control that is either not installed or improperly installed or maintained is a separate violation.</u></p> <p><u>** The frequency of occurrence is per event unless otherwise noted.</u></p>				

- 2675 1. No permit registration;
- 2676 2. No SWPPP;
- 2677 3. Incomplete SWPPP;
- 2678 4. SWPPP not on site;
- 2679 5. No approved erosion and sediment control plan;
- 2680 6. Failure to install stormwater BMPs or erosion and sediment controls;
- 2681 7. Stormwater BMPs or erosion and sediment controls improperly installed or
- 2682 maintained;
- 2683 8. Operational deficiencies;
- 2684 9. Failure to conduct required inspections;
- 2685 10. Incomplete, improper, or missed inspections.
- 2686 E. D.] Pursuant to subdivision 2 of § 10.1-603.2:1 of the Code of Virginia,
- 2687 authorization to administer a [qualifying] local [stormwater management] program
- 2688 shall not remove from the board the authority to enforce the provisions of the [Virginia
- 2689 Stormwater Management] Act and attendant regulations.
- 2690 [E. The department may terminate VSMP permit coverage during its term and
- 2691 require application for an individual permit or deny a permit renewal application for
- 2692 failure to comply with permit conditions or on its own initiative in accordance with the Act
- 2693 and this chapter.]
- 2694 F. Pursuant to § 10.1-603.14 A of the Code of Virginia, [amounts civil penalties]
- 2695 recovered by a [qualifying] local [stormwater management] program shall be paid into

2696 the treasury of the locality in which the violation occurred and are to be used for the
2697 purpose of minimizing, preventing, managing, or mitigating pollution of the waters of the
2698 locality and abating environmental pollution therein in such manner as the court may, by
2699 order, direct.

2700 [G. The department may provide additional guidance concerning suggested penalty
2701 amounts in its Stormwater Management Enforcement Manual.]

2702 **4VAC50-60-118. Hearings.**

2703 [~~A qualifying local~~ The stormwater] program [administrative authority] shall ensure
2704 that any permit applicant or permittee [aggrieved by any action of the stormwater
2705 program administrative authority taken without a formal hearing, or by inaction of the
2706 stormwater program administrative authority,] shall have a right to a hearing pursuant
2707 to § 10.1-603.12:6 of the Code of Virginia and shall ensure that all hearings held under
2708 this chapter shall be conducted in accordance with § 10.1-603.12:7 of the Code of
2709 Virginia or as otherwise provided by law.

2710 **4VAC50-60-120. Requirements for local program and ordinance. (Repealed.)**

2711 A. At a minimum, the local stormwater management program and implementing
2712 ordinance shall meet the following:

2713 1. The ordinance shall identify the plan approving authority and other positions of
2714 authority within the program, and shall include the regulations and technical
2715 criteria to be used in the program.

2716 2. The ordinance shall include procedures for submission and approval of plans,
2717 issuance of permits, monitoring and inspections of land development projects.
2718 The party responsible for conducting inspections shall be identified. The local
2719 program authority shall maintain, either on site or in local program files, a copy of
2720 the approved plan and a record of all inspections for each land development
2721 project.

2722 B. The department shall periodically review each locality's stormwater management
2723 program, implementing ordinance, and amendments. Subsequent to this review, the
2724 department shall determine if the program and ordinance are consistent with the state
2725 stormwater management regulations and notify the locality of its findings. To the
2726 maximum extent practicable the department will coordinate the reviews with other local
2727 government program reviews to avoid redundancy. The review of a local program shall
2728 consist of the following:

2729 1. A personal interview between department staff and the local program
2730 administrator or his designee;

2731 2. A review of the local ordinance and other applicable documents;

2732 3. A review of plans approved by the locality and consistency of application;

2733 4. An inspection of regulated activities; and

2734 5. A review of enforcement actions.

2735 C. Nothing in this chapter shall be construed as limiting the rights of other federal
2736 and state agencies from imposing stricter technical criteria or other requirements as
2737 allowed by law.

2738 **4VAC50-60-122. [~~Qualifying local program exceptions~~ Exceptions] .**

2739 A. A [~~qualifying local~~ stormwater] program [administrative authority] may grant
2740 exceptions to the provisions of Part II (4VAC50-60-40 et seq.) [~~Parts II A and II B~~ Part II

2741 ~~B or Part II C] of this chapter [through an administrative process] . [A request for an~~
2742 ~~exception, including the reasons for making the request, shall be submitted in writing to~~
2743 ~~the qualifying local program.] An exception may be granted provided that (i) the~~
2744 ~~exception is the minimum necessary to afford relief, (ii) reasonable and appropriate~~
2745 ~~conditions shall be imposed as necessary upon any exception granted so that the intent~~
2746 ~~of the Act and this chapter are preserved, (iii) granting the exception will not confer [on~~
2747 ~~the permittee] any special privileges that are denied to other [permittees who present]~~
2748 ~~similar circumstances, and (iv) exception requests are not based upon conditions or~~
2749 ~~circumstances that are self-imposed or self-created.~~

2750 ~~B. Economic hardship alone is not sufficient reason to grant an exception from the~~
2751 ~~requirements of this chapter.~~

2752 ~~C. Under no circumstance shall the [qualifying local stormwater] program~~
2753 ~~[administrative authority] grant an exception to the requirement that the land-disturbing~~
2754 ~~activity obtain [a required VSMP permit permits nor approve the use of a BMP not~~
2755 ~~found on the Virginia Stormwater BMP Clearinghouse Website] .~~

2756 ~~D. [Any exception to the water quality technical criteria of subdivisions 1 and 2 of~~
2757 ~~4VAC50-60-63 shall require that all available offsite options be utilized before an~~
2758 ~~exception is granted and that any necessary phosphorus reductions unable to be~~
2759 ~~achieved on site or through the available offsite options of subsection A of 4VAC50-60-~~
2760 ~~69 be achieved through a payment made in accordance with subsection B of 4VAC50-~~
2761 ~~60-69, when such payment option is available. In the case of the granting of an~~
2762 ~~exception, the minimum on site thresholds of subsection B of 4VAC50-60-69 shall not~~
2763 ~~apply. Exceptions to requirements for phosphorus reductions shall not be allowed unless~~
2764 ~~offsite options available through 4VAC50-60-69 have been considered and found not~~
2765 ~~available.]~~

2766 ~~E. A record of all exceptions [applied for and] granted shall be maintained by the~~
2767 ~~[qualifying local stormwater] program [and reported to the department administrative~~
2768 ~~authority] in accordance with 4VAC50-60-126.~~

2769 ~~[**4VAC50-60-124. Qualifying local program stormwater management facility**~~
2770 ~~**maintenance.**~~

2771 ~~A. Responsibility for the operation and maintenance of stormwater management~~
2772 ~~facilities in accordance with this chapter, unless assumed by a governmental agency,~~
2773 ~~shall remain with the property owner or other legally established entity and shall pass to~~
2774 ~~any successor.~~

2775 ~~1. The government entity implementing the qualifying local program shall be a~~
2776 ~~party to each require a maintenance agreement for each stormwater~~
2777 ~~management facility except as provided in subdivision 2. Such maintenance~~
2778 ~~agreement shall include a schedule for require the owner to (i) perform~~
2779 ~~inspections by the owner, and, in addition to ensuring that each on a specified~~
2780 ~~schedule, (ii) maintain the facility is maintained as designed, shall ensure that~~
2781 ~~and (iii) maintain the designed flow and drainage patterns from the site to a~~
2782 ~~permanent facility are maintained. Such agreements may also contain provisions~~
2783 ~~specifying that, where maintenance or repair of a stormwater management~~
2784 ~~facility located on the owner's property is neglected, or the stormwater~~
2785 ~~management facility becomes a public health or safety concern and the owner~~
2786 ~~has failed to perform the necessary maintenance and repairs after receiving~~
2787 ~~notice from the locality, the qualifying local program may perform the necessary~~

2788 ~~maintenance and repairs and recover the costs from the owner. In the specific~~
2789 ~~case of a public health or safety danger, the agreement may provide that the~~
2790 ~~written notice may be waived by the locality.~~

2791 ~~2. Maintenance agreements, at the discretion of the qualifying local program,~~
2792 ~~shall not be required for stormwater management facilities designed to treat~~
2793 ~~stormwater runoff solely primarily from an individual residential lot on which they~~
2794 ~~are located, provided it is demonstrated to the satisfaction of the qualifying local~~
2795 ~~program that future maintenance of such facilities will be addressed through a~~
2796 ~~deed restriction or other mechanism enforceable by at the discretion of the~~
2797 ~~qualifying local program.~~

2798 ~~B. The Where a maintenance agreement is required for a stormwater management~~
2799 ~~facility, the qualifying local program shall be notified of any transfer or conveyance of~~
2800 ~~ownership or responsibility for maintenance of a stormwater management facility.~~

2801 ~~C. The Where a maintenance agreement is required for a stormwater management~~
2802 ~~facility, the qualifying local program shall require right of entry agreements or easements~~
2803 ~~from the property owner for purposes of inspection and maintenance.~~

2804 **4VAC50-60-126. [Qualifying local program report Reports] and recordkeeping.**

2805 ~~A. On a fiscal year basis (July 1 to June 30), a [qualifying] local [stormwater~~
2806 ~~management] program shall report to the department by October 1 of each year in a~~
2807 ~~format provided by the department. The information to be provided shall include the~~
2808 ~~following:~~

2809 ~~1. Information on each permanent stormwater management facility completed~~
2810 ~~during the fiscal year to include type of stormwater management facility,~~
2811 ~~[geographic] coordinates, acres treated, and the surface waters or karst~~
2812 ~~features into which the stormwater management facility will discharge;~~

2813 ~~2. [Number of VSMP General Permit for Discharges of Stormwater from~~
2814 ~~Construction Activities projects inspected and the total number of inspections by~~
2815 ~~acreage categories determined by the department during the fiscal year;~~

2816 ~~3.] Number and type of enforcement actions during the fiscal year; and~~
2817 ~~[4.3.] Number of exceptions [applied for and the number] granted [or denied]~~
2818 ~~during the fiscal year.~~

2819 ~~B. [A qualifying local program shall make information set out in subsection A of this~~
2820 ~~section available to the department upon request.~~

2821 ~~C.] A [qualifying local stormwater] program [administrative authority] shall keep~~
2822 ~~records in accordance with the following:~~

2823 ~~1. [Permit files Project records, including approved stormwater management~~
2824 ~~plans,] shall be kept for three years after permit termination [or project~~
2825 ~~completion] . [After three years, the permit file shall be delivered to the~~
2826 ~~department by October 1 of each year.~~

2827 ~~2.] Stormwater [maintenance management] facility inspection [reports records]~~
2828 ~~shall be [kept documented and retained] for [at least] five years from the date~~
2829 ~~of inspection.~~

2830 ~~[3.2. Stormwater maintenance agreements, design standards and specifications,~~
2831 ~~postconstruction surveys construction Construction] record drawings [, and~~

2832 ~~maintenance records] shall be maintained in perpetuity or until a stormwater~~
2833 ~~management facility is removed [due to redevelopment of the site] .~~

2834 ~~[3. All registration statements submitted in accordance with 4VAC50-60-59 shall~~
2835 ~~be documented and retained for at least three years from the date of project~~
2836 ~~completion or permit termination.]~~

2837 ~~[Part III B~~

2838 ~~Department of Conservation and Recreation Administered Local Programs~~

2839 ~~**4VAC50-60-128. Authority and applicability.**~~

2840 ~~In the absence of a qualifying local program, the department, in accordance with an~~
2841 ~~adoption and implementation schedule set by the board and upon board approval, shall~~
2842 ~~administer the local stormwater management program in a locality in accordance with §~~
2843 ~~10.1-603.3 C of the Code of Virginia. This part specifies the minimum technical criteria~~
2844 ~~for a department administered local stormwater management program in accordance~~
2845 ~~with the Virginia Stormwater Management Act (§ 10.1-603.2 et seq. of the Code of~~
2846 ~~Virginia), and the standards and criteria established in these regulations by the board~~
2847 ~~pursuant to its authority under that article. Such criteria include but are not limited to~~
2848 ~~administration, plan review, issuance of coverage under the Virginia Stormwater~~
2849 ~~Management Program (VSMP) General Permit for Discharges of Stormwater from~~
2850 ~~Construction Activities, issuance of individual permits, inspection, enforcement, and~~
2851 ~~education and outreach components.~~

2852 ~~**4VAC50-60-130. Administrative procedures: stormwater management plans.**~~
2853 ~~**(Repealed.)**~~

2854 ~~A. Localities shall approve or disapprove stormwater management plans according~~
2855 ~~to the following:~~

2856 ~~1. A maximum of 60 calendar days from the day a complete stormwater~~
2857 ~~management plan is accepted for review will be allowed for the review of the~~
2858 ~~plan. During the 60-day review period, the locality shall either approve or~~
2859 ~~disapprove the plan and communicate its decision to the applicant in writing.~~
2860 ~~Approval or denial shall be based on the plan's compliance with the locality's~~
2861 ~~stormwater management program.~~

2862 ~~2. A disapproval of a plan shall contain the reasons for disapproval.~~

2863 ~~B. Each plan approved by a locality shall be subject to the following conditions:~~

2864 ~~1. The applicant shall comply with all applicable requirements of the approved~~
2865 ~~plan, the local program, this chapter and the Act, and shall certify that all land~~
2866 ~~clearing, construction, land development and drainage will be done according to~~
2867 ~~the approved plan.~~

2868 ~~2. The land development project shall be conducted only within the area~~
2869 ~~specified in the approved plan.~~

2870 ~~3. The locality shall be allowed, after giving notice to the owner, occupier or~~
2871 ~~operator of the land development project, to conduct periodic inspections of the~~
2872 ~~project.~~

2873 ~~4. The person responsible for implementing the approved plan shall conduct~~
2874 ~~monitoring and submit reports as the locality may require to ensure compliance~~
2875 ~~with the approved plan and to determine whether the plan provides effective~~
2876 ~~stormwater management.~~

2877 ~~5. No changes may be made to an approved plan without review and written~~
2878 ~~approval by the locality.~~

2879 ~~[**4VAC50-60-132. Technical criteria.**~~

2880 ~~A. The department administered local stormwater management programs shall~~
2881 ~~require compliance with the provisions of] Part II [Part II A and Part II B as applicable~~
2882 ~~(4VAC50-60-40 et seq.) of this chapter unless an exception is granted pursuant to~~
2883 ~~4VAC50-60-142 D and shall comply with the requirements of 4VAC50-60-460 L.~~

2884 ~~B. When reviewing a federal project, the department shall apply the provisions of this~~
2885 ~~chapter.~~

2886 ~~C. Nothing in this chapter shall be construed as limiting the rights of other federal~~
2887 ~~and state agencies to impose stricter technical criteria or other requirements as allowed~~
2888 ~~by law.~~

2889 ~~[**4VAC50-60-134. Administrative authorities.**~~

2890 ~~A. The department is the permit issuing authority, plan approving authority, and the~~
2891 ~~enforcement authority.~~

2892 ~~B. The department or its designee is the plan reviewing authority and the inspection~~
2893 ~~authority.~~

2894 ~~C. The department shall assess and collect fees.~~

2895 ~~D. The department may require the submission of a reasonable performance bond or~~
2896 ~~other financial surety in accordance with the criteria set forth in § 10.1-603.8 of the Code~~
2897 ~~of Virginia prior to the issuance of coverage under the VSMP General Permit for~~
2898 ~~Discharges of Stormwater from Construction Activities and in accordance with the~~
2899 ~~following:~~

2900 ~~1. The amount of the installation performance security shall be the total~~
2901 ~~estimated construction cost of the stormwater management BMPs approved~~
2902 ~~under the stormwater management plan, plus 25%;~~

2903 ~~2. The performance security shall contain forfeiture provisions for failure, after~~
2904 ~~proper notice, to complete work within the time specified, or to initiate or maintain~~
2905 ~~appropriate actions that may be required in accordance with the approved~~
2906 ~~stormwater management plan;~~

2907 ~~3. Upon failure by the applicant to take such action as required, the department~~
2908 ~~may act and may collect from the applicant the difference should the amount of~~
2909 ~~the reasonable cost of such action exceed the amount of the security held; and~~

2910 ~~4. Within 60 days of the completion of the requirements and conditions of the~~
2911 ~~VSMP General Permit for Discharges of Stormwater from Construction Activities~~
2912 ~~and the department's acceptance of the Notice of Termination, such bond, cash~~
2913 ~~escrow, letter of credit, or other legal arrangement shall be refunded to the~~
2914 ~~applicant.~~

2915 ~~[**4VAC50-60-136. Stormwater management plan review.**~~

2916 ~~A. Stormwater management plans shall be reviewed and approved by the~~
2917 ~~department prior to commencement of land-disturbing activities.~~

2918 ~~B. The department shall approve or disapprove a stormwater management plan and~~
2919 ~~required accompanying information according to the criteria set out for a qualifying local~~
2920 ~~program in 4VAC50-60-108 B.~~

2921 ~~C. The department shall not] accept [review or approve initial stormwater~~
2922 ~~management plans.~~

2923 ~~D. Each approved stormwater management plan may be modified in accordance~~
2924 ~~with the criteria set out for a qualifying local program in 4VAC50-60-108 D.~~

2925 ~~[**4VAC50-60-138. Issuance of coverage under the VSMP General Permit for**~~
2926 ~~**Discharges of Stormwater from Construction Activities.**~~

2927 ~~The department shall issue coverage under the VSMP General Permit for~~
2928 ~~Discharges of Stormwater from Construction Activities in accordance with the following:~~

2929 ~~1. The applicant must have a department-approved stormwater management~~
2930 ~~plan for the land-disturbing activity.~~

2931 ~~2. The applicant must have submitted a complete registration statement for the~~
2932 ~~VSMP General Permit for Discharges of Stormwater from Construction Activities~~
2933 ~~in accordance with Part VII (4VAC50-60-360 et seq.) of this chapter and the~~
2934 ~~requirements of the VSMP General Permit for Discharges of Stormwater from~~
2935 ~~Construction Activities, which acknowledges that a SWPPP has been developed~~
2936 ~~and will be implemented, and the registration statement must have been~~
2937 ~~reviewed and approved prior to the commencement of land disturbance.~~

2938 ~~3. The applicant must have submitted the required fee form and fee for the~~
2939 ~~registration statement seeking coverage under the VSMP General Permit for~~
2940 ~~Discharges of Stormwater from Construction Activities.~~

2941 ~~4. Applicants submitting registration statements deemed to be incomplete must~~
2942 ~~be notified within 15 working days of receipt by the department that the~~
2943 ~~registration statement is not complete and be notified (i) of what material needs~~
2944 ~~to be submitted to complete the registration statement, and (ii) that the land-~~
2945 ~~disturbing activity does not have coverage under the VSMP General Permit for~~
2946 ~~Discharges of Stormwater from Construction Activities.~~

2947 ~~5. The applicant shall be notified of authorization of permit coverage by the~~
2948 ~~department.~~

2949 ~~6. Individual permits for qualifying land-disturbing activities may be issued at the~~
2950 ~~discretion of the board or its designee pursuant to 4VAC50-60-410 B 3.~~

2951 ~~**4VAC50-60-140. Administrative procedures: exceptions. (Repealed.)**~~

2952 ~~A. A request for an exception shall be submitted, in writing, to the locality. An~~
2953 ~~exception from the stormwater management regulations may be granted, provided that:~~
2954 ~~(i) exceptions to the criteria are the minimum necessary to afford relief and (ii)~~
2955 ~~reasonable and appropriate conditions shall be imposed as necessary upon any~~
2956 ~~exception granted so that the intent of the Act and this chapter are preserved.~~

2957 ~~B. Economic hardship is not sufficient reason to grant an exception from the~~
2958 ~~requirements of this chapter.~~

2959 ~~[Part III B~~

2960 ~~Department of Conservation and Recreation Procedures for Review of Local Stormwater~~
2961 ~~Management Plans]~~

2962 ~~**4VAC50-60-142. [Inspections, enforcement, hearings, exceptions, and stormwater**~~
2963 ~~**management facility maintenance Authority and applicability].**~~

2964 ~~[A. Inspections shall be conducted by the department in accordance with 4VAC50-~~
2965 ~~60-114.~~

~~2966 B. Enforcement actions shall be conducted by the department in accordance with
2967 4VAC50-60-116. The department's Stormwater Management Enforcement Manual shall
2968 serve as guidance to be utilized in enforcement actions under the Stormwater
2969 Management Act and attendant regulations. Any amounts assessed by a court as a
2970 result of a summons issued by the board or the department shall be paid into the state
2971 treasury and deposited by the State Treasurer into the Virginia Stormwater Management
2972 Fund established pursuant to § 10.1-603.4:1 of the Code of Virginia.~~

~~2973 C. Hearings shall be conducted by the department in accordance with 4VAC50-60-
2974 118.~~

~~2975 D. Exceptions may be granted by the department in accordance with 4VAC50-60-
2976 122.~~

~~2977 E. Stormwater management facility maintenance shall be conducted in accordance
2978 with 4VAC50-60-124.~~

~~2979 This part specifies the criteria that the department will utilize in reviewing a locality's
2980 administration of a local stormwater management program pursuant to § 10.1-603.12 of
2981 the Code of Virginia following the board's approval of such program in accordance with
2982 the Act and these regulations.]~~

[4VAC50-60-144. Local stormwater management program review.

~~2984 A. The department shall review each board-approved local stormwater management
2985 program at least once every five years on a review schedule approved by the board. The
2986 department may review a local stormwater management program on a more frequent
2987 basis if deemed necessary by the board and shall notify the local government if such
2988 review is scheduled.~~

~~2989 B. The review of a board-approved local stormwater management program shall
2990 consist of the following:~~

~~2991 1. An interview between department staff and the local stormwater management
2992 program administrator or designee;~~

~~2993 2. A review of the local ordinance(s) and other applicable documents;~~

~~2994 3. A review of a subset of the plans approved by the local stormwater
2995 management program for consistency of application including exceptions granted
2996 and calculations or other documentation that demonstrates that required nutrient
2997 reductions are achieved using appropriate on-site and off-site compliance
2998 options;~~

~~2999 4. A review of the funding and staffing plan developed in accordance with
3000 4VAC50-60-148;~~

~~3001 5. An inspection of regulated activities; and~~

~~3002 6. A review of enforcement actions and an accounting of amounts recovered
3003 through enforcement actions.~~

~~3004 C. To the extent practicable, the department will coordinate the reviews with its other
3005 local government program reviews to avoid redundancy.~~

~~3006 D. The department shall provide its recommendations to the board within 90 days of
3007 the completion of a review.~~

~~3008 E. The board shall determine if the local stormwater management program and
3009 ordinance are consistent with the Act and state stormwater management regulations and
3010 notify the local stormwater management program of its findings. If such findings indicate~~

3011 that the program is consistent with the Act and attendant regulations, the findings shall
3012 be provided to the local stormwater management program at least 21 days in advance of
3013 the meeting where the board will take action on the locality's program. If such findings
3014 indicate that the program is inconsistent with the Act and attendant regulations, the
3015 findings shall be provided to the local stormwater management program at least 35 days
3016 in advance of the meeting where the board will take action on the locality's program.

3017 F. If the board determines that the deficiencies noted in the review will cause the
3018 local stormwater management program to be out of compliance with the Stormwater
3019 Management Act and attendant regulations, the board shall notify the local stormwater
3020 management program concerning the deficiencies and provide a reasonable period of
3021 time for corrective action to be taken. If the local stormwater management program
3022 agrees to the corrective action approved by the board, the local stormwater
3023 management program will be considered to be conditionally compliant with the
3024 Stormwater Management Act and attendant regulations until a subsequent finding of
3025 compliance is issued by the board. If the local stormwater management program fails to
3026 take the board's required corrective action within the specified time, the board may take
3027 action pursuant to § 10.1-603.12 of the Code of Virginia. A local stormwater
3028 management program that fails to take corrective action in accordance with the board
3029 requirements shall not be considered a qualifying local program for purposes of the
3030 Virginia Stormwater Management Program permitting regulations.

3031 [Part III C
3032 Virginia Soil and Water Conservation Board Authorization Procedures for Local
3033 Stormwater Management Programs]

3034 **[4VAC50-60-146. Authority and applicability.**

3035 Subdivision 1 of § 10.1-603.4 of the Code of Virginia requires that the board
3036 establish standards and procedures for authorizing a locality to administer a stormwater
3037 management program. In accordance with that requirement, and with the further
3038 authority conferred upon the board by the Virginia Stormwater Management Act (§ 10.1-
3039 603.2 et seq. of the Code of Virginia), this part specifies the procedures the board will
3040 utilize in authorizing a locality to administer a qualifying local program.

3041 **[4VAC50-60-148. Local stormwater management program administrative**
3042 **requirements.**

- 3043 A. A local stormwater management program shall provide for the following:
- 3044 1. Identification of the authority accepting complete registration statements and
3045 for the authorities completing plan review, plan approval, inspection and
3046 enforcement.
 - 3047 2. Submission and approval of erosion and sediment control plans in accordance
3048 with the Virginia Erosion and Sediment Control Law and attendant regulations
3049 and the submission and approval of stormwater management plans;
 - 3050 3. Requirements to ensure compliance with 4VAC50-60-54, 4VAC50-60-55 and
3051 4VAC50-60-56;
 - 3052 4. Requirements for inspections and monitoring of construction activities by the
3053 operator for compliance with local ordinances;
 - 3054 5. Requirements for long-term inspection and maintenance of stormwater
3055 management facilities;

- 3056 6. Collection, distribution to the state if required, and expenditure of fees;
3057 7. Enforcement procedures and civil penalties;
3058 8. Policies and procedures to obtain and release bonds, if applicable; and
3059 9. Procedures for complying with the applicable reporting and record keeping
3060 requirements in 4VAC50-60-126.
- 3061 B. A local stormwater management program shall adopt and enforce an ordinance(s)
3062 that incorporates the components set out in subdivisions 1 through 5 and 7 of subsection
3063 A of this section.
- 3064 **4VAC50-60-150. Administrative procedures: maintenance and inspections.**
3065 **[(Repealed.) Authorization procedures for local stormwater management**
3066 **programs]**
- 3067 ~~A. Responsibility for the operation and maintenance of stormwater management~~
3068 ~~facilities, unless assumed by a governmental agency, shall remain with the property~~
3069 ~~owner and shall pass to any successor or owner. If portions of the land are to be sold,~~
3070 ~~legally binding arrangements shall be made to pass the basic responsibility to~~
3071 ~~successors in title. These arrangements shall designate for each project the property~~
3072 ~~owner, governmental agency, or other legally established entity to be permanently~~
3073 ~~responsible for maintenance.~~
- 3074 ~~B. In the case of developments where lots are to be sold, permanent arrangements~~
3075 ~~satisfactory to the locality shall be made to ensure continued performance of this~~
3076 ~~chapter.~~
- 3077 ~~C. A schedule of maintenance inspections shall be incorporated into the local~~
3078 ~~ordinance. Ordinances shall provide that in cases where maintenance or repair is~~
3079 ~~neglected, or the stormwater management facility becomes a danger to public health or~~
3080 ~~safety, the locality has the authority to perform the work and to recover the costs from~~
3081 ~~the owner.~~
- 3082 ~~D. Localities may require right-of-entry agreements or easements from the applicant~~
3083 ~~for purposes of inspection and maintenance.~~
- 3084 ~~E. Periodic inspections are required for all stormwater management facilities.~~
3085 ~~Localities shall either:~~
- 3086 ~~1. Provide for inspection of stormwater management facilities on an annual basis;~~
3087 ~~or~~
- 3088 ~~2. Establish an alternative inspection program which ensures that stormwater~~
3089 ~~management facilities are functioning as intended. Any alternative inspection~~
3090 ~~program shall be:~~
- 3091 ~~a. Established in writing;~~
3092 ~~b. Based on a system of priorities that, at a minimum, considers the purpose~~
3093 ~~of the facility, the contributing drainage area, and downstream conditions; and~~
3094 ~~c. Documented by inspection records.~~
- 3095 ~~F. During construction of the stormwater management facilities, localities shall make~~
3096 ~~inspections on a regular basis.~~
- 3097 ~~G. Inspection reports shall be maintained as part of a land development project file.~~
- 3098 [A. A locality required to adopt a program in accordance with § 10.1-603.3 A of the
3099 Code of Virginia or those electing to seek authorization to administer a qualifying local

3100 program must submit to the board an application package which, at a minimum, contains
3101 the following:

3102 1. The draft local stormwater management program ordinance(s) as required in
3103 4VAC50-60-148;

3104 2. A funding and staffing plan; and

3105 3. The policies and procedures, including but not limited to, agreements with Soil
3106 and Water Conservation Districts, adjacent localities, or other entities, for the
3107 administration, plan review, inspection, and enforcement components of the
3108 program.

3109 B. Upon receipt of an application package, the board or its designee shall have 30
3110 calendar days to determine the completeness of the application package. If an
3111 application package is deemed to be incomplete based on the criteria set out in
3112 subsection A of this section, the board or its designee must identify to the locality in
3113 writing the reasons the application package is deemed deficient.

3114 C. Upon receipt of a complete application package, the board or its designee shall
3115 have 120 calendar days for the review of the application package, unless an extension
3116 of time is requested. During the 120-day review period, the board or its designee shall
3117 either approve or disapprove the application, or notify the locality of a time extension for
3118 the review, and communicate its decision to the locality in writing. If the application is not
3119 approved, the reasons for not approving the application shall be provided to the locality
3120 in writing. Approval or denial shall be based on the application's compliance with the
3121 Virginia Stormwater Management Act and these regulations.

3122 D. A locality required to adopt a local stormwater management program in
3123 accordance with § 10.1-603.3 A of the Code of Virginia shall submit a complete
3124 application package for the board's review pursuant to a schedule set by the board in
3125 accordance with § 10.1-603.3 and shall adopt a local stormwater management program
3126 consistent with the Act and this chapter within the timeframe established pursuant to §
3127 10.1-603.3.

3128 E. A locality not required to adopt a local stormwater management program in
3129 accordance with § 10.1-603.3 A but electing to adopt a local stormwater management
3130 program shall notify the board in accordance with the following:

3131 1. A locality electing to adopt a local stormwater management program may
3132 notify the board of its intention within six months of the effective date of these
3133 regulations. Such locality shall submit a complete application package for the
3134 board's review pursuant to a schedule set by the board and shall adopt a local
3135 stormwater management program within the timeframe established by the board.

3136 2. A locality electing to adopt a local stormwater management program that does
3137 not notify the board within the initial six-month period of its intention may
3138 thereafter notify the board at any regular meeting of the board. Such notification
3139 shall include a proposed schedule for adoption of a local stormwater
3140 management program within a timeframe agreed upon by the board.

3141 F. A local stormwater management program approved by the board shall be
3142 considered a qualifying local program for purposes of the Virginia Stormwater
3143 Management Program permitting regulations.

3144 G. The department shall administer the responsibilities of the Act and this chapter in
3145 any locality in which a local stormwater management program has not been adopted.

3146 The department shall develop a schedule, to be approved by the board, for adoption and
3147 implementation of the requirements of this chapter in such localities. Such schedule may
3148 include phases of implementation and shall be based upon considerations including the
3149 typical number of permitted projects located within a locality, total number of acres
3150 disturbed by such permitted projects, and such other considerations as may be deemed
3151 necessary by the board.

3152 **[4VAC50-60-154. Reporting and recordkeeping.**

3153 A. The department shall maintain a current database of permit coverage information
3154 for all projects that includes permit number, operator name, activity name, acres
3155 disturbed, date of permit coverage, and site address and location.

3156 B. On a fiscal year basis (July 1 to June 30),] a local program shall report to [the
3157 department shall compile a report on the local programs it administers by October 1 in
3158 accordance with 4VAC50-60-126 A.]

3159 C. On a fiscal year basis (July 1 to June 30), the department shall compile
3160 information provided by local programs.

3161 D. [C. Records shall be maintained by the department in accordance with 4VAC50-
3162 60-126 C.

[Part III C

3164 Department of Conservation and Recreation Procedures for Review of Qualifying Local
3165 Programs]

3166 **[4VAC50-60-156. Authority and applicability.**

3167 This part specifies the criteria that the department will utilize in reviewing a locality's
3168 administration of a qualifying local program pursuant to § 10.1-603.12 of the Code of
3169 Virginia following the board's approval of such program in accordance with the Virginia
3170 Stormwater Management Act and these regulations.

3171 **[4VAC50-60-157. Stormwater management program review.**

3172 A. The department shall review each board-approved qualifying local program at
3173 least once every five years on a review schedule approved by the board. The
3174 department may review a qualifying local program on a more frequent basis if deemed
3175 necessary by the board and shall notify the local government if such review is
3176 scheduled.

3177 B. The review of a board-approved qualifying local program shall consist of the
3178 following:

3179 1. An interview between department staff and the qualifying local program
3180 administrator or his designee;

3181 2. A review of the local ordinance(s) and other applicable documents;

3182 3. A review of a subset of the plans approved by the qualifying local program and
3183 consistency of application including exceptions granted;

3184 4. An accounting of the receipt and of the expenditure of fees received;

3185 5. An inspection of regulated activities; and

3186 6. A review of enforcement actions and an accounting of amounts recovered
3187 through enforcement actions.

3188 C. To the extent practicable, the department will coordinate the reviews with other
3189 local government program reviews to avoid redundancy.

3190 ~~D. The department shall provide its recommendations to the board within 90 days of~~
3191 ~~the completion of a review. Such recommendations shall be provided to the locality in~~
3192 ~~advance of the meeting.~~

3193 ~~E. The board shall determine if the qualifying local program and ordinance are~~
3194 ~~consistent with the Act and state stormwater management regulations and notify the~~
3195 ~~qualifying local program of its findings.~~

3196 ~~F. If the board determines that the deficiencies noted in the review will cause the~~
3197 ~~qualifying local program to be out of compliance with the Stormwater Management Act~~
3198 ~~and its attendant regulations, the board shall notify the qualifying local program~~
3199 ~~concerning the deficiencies and provide a reasonable period of time for corrective action~~
3200 ~~to be taken. If the qualifying local program agrees to the corrective action recommended~~
3201 ~~by the board, the qualifying local program will be considered to be conditionally~~
3202 ~~compliant with the Stormwater Management Act and its attendant regulations until a~~
3203 ~~subsequent finding is issued by the board. If the qualifying local program fails to take the~~
3204 ~~corrective action within the specified time, the board may take action pursuant to § 10.1-~~
3205 ~~603.12 of the Code of Virginia.~~

[Part III D

3206 ~~Virginia Soil and Water Conservation Board Authorization for Qualifying Local Programs~~

3207]

3208]

3209 **[4VAC50-60-158. Authority and applicability.**

3210 ~~Subdivision 1 of § 10.1-603.4 of the Code of Virginia requires that the board~~
3211 ~~establish standards and procedures for authorizing a locality to administer a stormwater~~
3212 ~~management program. In accordance with that requirement, and with the further~~
3213 ~~authority conferred upon the board by the Virginia Stormwater Management Act (§ 10.1-~~
3214 ~~603.2 et seq. of the Code of Virginia), this part specifies the procedures the board will~~
3215 ~~utilize in authorizing a locality to administer a qualifying local program.~~

3216 **[4VAC50-60-159. Authorization procedures for qualifying local programs.**

3217 ~~A. A locality required to adopt a program in accordance with § 10.1-603.3 A of the~~
3218 ~~Code of Virginia or those electing to seek authorization to administer a qualifying local~~
3219 ~~program must submit to the board an application package which, at a minimum, contains~~
3220 ~~the following:~~

- 3221 ~~1. The local program ordinance(s);~~
3222 ~~2. A funding and staffing plan based on the projected permitting fees; and~~
3223 ~~3. The policies and procedures, including but not limited to, agreements with Soil~~
3224 ~~and Water Conservation Districts, adjacent localities, or other entities, for the~~
3225 ~~administration, plan review, permit issuance, inspection, and enforcement~~
3226 ~~components of the program.~~

3227 ~~B. Upon receipt of an application package, the board or its designee shall have] 20~~
3228 ~~[30 calendar days to determine the completeness of the application package. If an~~
3229 ~~application package is deemed to be incomplete based on the criteria set out in~~
3230 ~~subsection A of this section, the board or its designee must identify in writing the~~
3231 ~~reasons the application package is deemed deficient.~~

3232 ~~C. Upon receipt of a complete application package, the board or its designee shall~~
3233 ~~have 90 calendar days for the review of the application package. During the 90-day~~
3234 ~~review period, the board or its designee shall either approve or disapprove the~~
3235 ~~application, or notify the locality of a time extension for the review, and communicate its~~

~~3236 decision to the locality in writing. If the application is not approved, the reasons for not
3237 approving the application shall be provided to the locality in writing. Approval or denial
3238 shall be based on the application's compliance with the Virginia Stormwater
3239 Management Act and these regulations.~~

~~3240 D. A locality required to adopt a qualifying local program in accordance with § 10.1-
3241 603.3 A of the Code of Virginia shall submit a complete application package for the
3242 board's review pursuant to a schedule set by the board in accordance with § 10.1-603.3
3243 and shall adopt a qualifying local program consistent with the Act and this chapter within
3244 the timeframe established pursuant to § 10.1-603.3.~~

~~3245 E. A locality not required to adopt a qualifying local program in accordance with §
3246 10.1-603.3 A but electing to adopt a qualifying local program shall notify the board in
3247 accordance with the following:~~

~~3248 1. A locality electing to adopt a qualifying local program may notify the board of
3249 its intention within six months of the effective date of these regulations. Such
3250 locality shall submit a complete application package for the board's review
3251 pursuant to a schedule set by the board and shall adopt a qualifying local
3252 program within the timeframe established by the board.~~

~~3253 2. A locality electing to adopt a qualifying local program that does not notify the
3254 board within the initial six-month period of its intention may thereafter notify the
3255 board at any regular meeting of the board. Such notification shall include a
3256 proposed schedule for adoption of a qualifying local program within a timeframe
3257 agreed upon by the board.~~

~~3258 F. The department shall administer the responsibilities of the Act and this chapter in
3259 any locality in which a qualifying local program has not been adopted. The department
3260 shall develop a schedule, to be approved by the board, for adoption and implementation
3261 of the requirements of this chapter in such localities. Such schedule may include phases
3262 of implementation and shall be based upon considerations including the typical number
3263 of permitted projects located within a locality, total number of acres disturbed by such
3264 permitted projects, and such other considerations as may be deemed necessary by the
3265 board.~~

3266 DOCUMENTS INCORPORATED BY REFERENCE (4VAC50-60)

3267 Illicit Discharge Detection and Elimination – A Guidance Manual for Program
3268 Development and Technical Assessments, EPA Cooperative Agreement X-82907801-0,
3269 October 2004, by Center for Watershed Protection and Robert Pitt, University of
3270 Alabama, available on the Internet at http://www.cwp.org/idde_verify.htm.

3271 Getting in Step – A Guide for Conducting Watershed Outreach Campaigns, EPA-
3272 841-B-03-002, December 2003, U.S. Environmental Protection Agency, Office of
3273 Wetlands, Oceans, and Watersheds, available on the Internet at
3274 <http://www.epa.gov/owow/watershed/outreach/documents/getnstep.pdf>, or may be
3275 ordered from National Service Center for Environmental Publications, telephone 1-800-
3276 490-9198.

3277 Municipal Stormwater Program Evaluation Guidance, EPA-833-R-07-003, January
3278 2007 (field test version), U.S. Environmental Protection Agency, Office of Wastewater
3279 Management, available on the Internet at
3280 http://cfpub.epa.gov/npdes/docs.cfm?program_id=6&view=allprog&sort=name#ms4_gui

- 3281** dance, or may be ordered from National Technical Information Service, 5285 Port Royal
3282 Road, Springfield, VA 22161, telephone 1-800-553-6847 or (703) 605-6000.
- 3283** ~~[Erosion & Sediment Control Technical Bulletin #1] – Stream Channel Erosion~~
3284 ~~Control [Improving Soil Quality in Urbanizing Areas, Virginia Department of~~
3285 ~~Conservation and Recreation, 2000.]~~
- 3286** ~~Technical Memorandum – The Runoff Reduction Method, April 2008, and beta-~~
3287 ~~version addendum addendums, September December 2008 2009.~~
- 3288** ~~[Virginia Runoff Reduction Method Worksheet,] September [December] 2008~~
3289 ~~[2009.]~~
- 3290** ~~[Virginia Runoff Reduction Method Worksheet – Redevelopment,] September~~
3291 ~~[December 2009.]~~