

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

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

47 "Bioretention filter" means a bioretention basin with the addition of a sand filter collector pipe  
48 system beneath the planting bed.

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

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

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

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

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

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

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

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

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

74 "Contiguous zone" means the entire zone established by the United States under Article 24  
75 of the Convention on the Territorial Sea and the Contiguous Zone (37 FR 11906 June 15,  
76 1972).

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

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

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

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

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

92 "Daily discharge" means the discharge of a pollutant measured during a calendar day or any  
93 24-hour period that reasonably represents the calendar day for purposes of sampling. For  
94 pollutants with limitations expressed in units of mass, the daily discharge is calculated as the  
95 total mass of the pollutant discharged over the day. For pollutants with limitations expressed in  
96 other units of measurement, the daily discharge is calculated as the average measurement of  
97 the pollutant over the day.

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

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

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

107 "Director" means the Director of the Department of Conservation and Recreation or his  
108 designee.

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

110 "Discharge of a pollutant" means:

111 1. Any addition of any pollutant or combination of pollutants to state waters from any  
112 point source; or

113 2. Any addition of any pollutant or combination of pollutants to the waters of the  
114 contiguous zone or the ocean from any point source other than a vessel or other floating  
115 craft which is being used as a means of transportation.

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

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

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

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

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

134 "Effluent limitations guidelines" means a regulation published by the administrator under §  
135 304(b) of the CWA to adopt or revise effluent limitations.

136 "Environmental Protection Agency (~~EPA~~)" or "EPA" means the United States Environmental  
137 Protection Agency.

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

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

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

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

149 "Flood fringe" ~~[ is means ] the portion of the floodplain outside the floodway, usually~~  
150 ~~associated with standing rather than flowing water, which is covered by floodwater during the~~  
151 ~~100-year discharge that is [ usually ] covered with water from the 100-year [ flood or ] storm~~  
152 ~~event. [ This includes, but is not limited to, the flood or floodway fringe designated by the~~  
153 ~~Federal Emergency Management Agency. ]~~

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

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

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

166 "Floodway" means ~~the channel of a river or other watercourse and the adjacent land areas,~~  
167 ~~usually associated with flowing water, that must be reserved in order to discharge the base flood~~  
168 ~~100-year [ flood or ] storm event without cumulatively increasing the water surface elevation~~  
169 ~~more than one foot [ . or as otherwise This includes, but is not limited to, the floodway ]~~  
170 ~~designated by the Federal Emergency Management Agency.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

220 "Land disturbance" or "land-disturbing activity" means a manmade change to the land  
221 surface that potentially changes its runoff characteristics including any clearing, grading, or  
222 excavation associated with a construction activity regulated pursuant to the ~~federal Clean Water~~

223 ~~Act CWA~~, the Act, and this chapter [ or with a Chesapeake Bay Preservation Act land-disturbing  
224 activity regulated pursuant to the Act and this chapter ].

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

232 "Large municipal separate storm sewer system" means all municipal separate storm sewers  
233 that are either:

234 1. Located in an incorporated place with a population of 250,000 or more as determined  
235 by the 1990 decennial census by the Bureau of Census (40 CFR Part 122 Appendix F  
236 (2000));

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

240 3. Owned or operated by a municipality other than those described in subdivision 1 or 2  
241 of this definition and that are designated by the board as part of the large or medium  
242 municipal separate storm sewer system due to the interrelationship between the  
243 discharges of the designated storm sewer and the discharges from municipal separate  
244 storm sewers described under subdivision 1 or 2 of this definition. In making this  
245 determination the board may consider the following factors:

- 246 a. Physical interconnections between the municipal separate storm sewers;  
247 b. The location of discharges from the designated municipal separate storm sewer  
248 relative to discharges from municipal separate storm sewers described in subdivision  
249 1 of this definition;  
250 c. The quantity and nature of pollutants discharged to surface waters;  
251 d. The nature of the receiving surface waters; and  
252 e. Other relevant factors.

253 4. The board may, upon petition, designate as a large municipal separate storm sewer  
254 system, municipal separate storm sewers located within the boundaries of a region  
255 defined by a stormwater management regional authority based on a jurisdictional,  
256 watershed, or other appropriate basis that includes one or more of the systems  
257 described in this definition.

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

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

266 "Local stormwater management program" or "local program" means ~~a statement of the~~  
267 various methods employed by a locality [ or the department ] to manage the quality and quantity

268 of runoff resulting from land-disturbing activities and shall include such items as local  
269 ordinances, permit requirements, policies and guidelines, technical materials, plan review,  
270 inspection, enforcement, and evaluation consistent with the Act and this chapter. ~~The ordinance~~  
271 ~~shall include provisions to require the control of after development stormwater runoff rate of~~  
272 ~~flow, the proper maintenance of stormwater management facilities, and minimum administrative~~  
273 ~~procedures. [ Upon board approval of a local stormwater management program, it shall be~~  
274 ~~recognized as a qualifying local program. ]~~

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

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

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

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

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

286 "Major municipal separate storm sewer outfall ~~(or major outfall)~~" or "major outfall" means a  
287 municipal separate storm sewer outfall that discharges from a single pipe with an inside  
288 diameter of 36 inches or more or its equivalent (discharge from a single conveyance other than  
289 circular pipe which is associated with a drainage area of more than 50 acres); or for municipal  
290 separate storm sewers that receive stormwater from lands zoned for industrial activity (based on  
291 comprehensive zoning plans or the equivalent), with an outfall that discharges from a single  
292 pipe with an inside diameter of 12 inches or more or from its equivalent (discharge from other  
293 than a circular pipe associated with a drainage area of two acres or more).

294 "Manmade" means constructed by man.

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

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

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

306 "Medium municipal separate storm sewer system" means all municipal separate storm  
307 sewers that are either:

308 1. Located in an incorporated place with a population of 100,000 or more but less than  
309 250,000 as determined by the 1990 decennial census by the Bureau of Census (40 CFR  
310 Part 122 Appendix G (2000));

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

314 3. Owned or operated by a municipality other than those described in subdivision 1 or 2  
315 of this definition and that are designated by the board as part of the large or medium  
316 municipal separate storm sewer system due to the interrelationship between the  
317 discharges of the designated storm sewer and the discharges from municipal separate  
318 storm sewers described under subdivision 1 or 2 of this definition. In making this  
319 determination the board may consider the following factors:

- 320 a. Physical interconnections between the municipal separate storm sewers;
- 321 b. The location of discharges from the designated municipal separate storm sewer  
322 relative to discharges from municipal separate storm sewers described in subdivision  
323 1 of this definition;
- 324 c. The quantity and nature of pollutants discharged to surface waters;
- 325 d. The nature of the receiving surface waters; or
- 326 e. Other relevant factors.

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

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

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

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

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

357 "Municipal Separate Storm Sewer System Management Program" or "MS4 Program" means  
358 a management program covering the duration of a permit for a municipal separate storm sewer  
359 system that includes a comprehensive planning process that involves public participation and  
360 intergovernmental coordination, to reduce the discharge of pollutants to the maximum extent  
361 practicable, to protect water quality, and to satisfy the appropriate water quality requirements of  
362 the CWA and regulations and the ~~Virginia Stormwater Management Act~~ and attendant  
363 regulations, using management practices, control techniques, and system, design and  
364 engineering methods, and such other provisions that are appropriate.

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

369 "National Pollutant Discharge Elimination System ~~(NPDES)~~ or "NPDES" means the national  
370 program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing  
371 permits, and imposing and enforcing pretreatment requirements under §§ 307, 402, 318, and  
372 405 of the CWA. The term includes an approved program.

373 "Natural channel design concepts" means the utilization of engineering analysis [ ~~and based~~  
374 ~~on~~ ] fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open  
375 conveyance system for the purpose of creating or recreating a stream that conveys its bankfull  
376 storm event within its banks and allows larger flows to access its floodplain.

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

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

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

- 385 1. From which there is or may be a discharge of pollutants;  
386 2. That did not commence the discharge of pollutants at a particular site prior to August  
387 13, 1979;  
388 3. Which is not a new source; and  
389 4. Which has never received a finally effective VPDES or VSMP permit for discharges at  
390 that site.

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

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

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

403 1. After promulgation of standards of performance under § 306 of the CWA that are  
404 applicable to such source; or

405 2. After proposal of standards of performance in accordance with § 306 of the CWA that  
406 are applicable to such source, but only if the standards are promulgated in accordance  
407 with § 306 of the CWA within 120 days of their proposal.

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

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

414 "Operator" means the owner or operator of any facility or activity subject to the VSMP permit  
415 regulation. In the context of stormwater associated with a large or small construction activity,  
416 operator means any person associated with a construction project that meets either of the  
417 following two criteria: (i) the person has direct operational control over construction plans and  
418 specifications, including the ability to make modifications to those plans and specifications or (ii)  
419 the person has day-to-day operational control of those activities at a project that are necessary  
420 to ensure compliance with a stormwater pollution prevention plan for the site or other permit  
421 conditions (i.e., they are authorized to direct workers at a site to carry out activities required by  
422 the stormwater pollution prevention plan or comply with other permit conditions). In the context  
423 of stormwater discharges from Municipal Separate Storm Sewer Systems (MS4s), operator  
424 means the operator of the regulated MS4 system.

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

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

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

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

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444 "Percent impervious" means the impervious area within the site divided by the area of the  
445 site multiplied by 100.

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

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

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

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

458 [ ~~"Planning area" means a designated portion of the parcel on which the land development  
459 project is located. Planning areas shall be established by delineation on a master plan. Once  
460 established, planning areas shall be applied consistently for all future projects. ]~~

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

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

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

- 472 1. Sewage from vessels; or  
473 2. Water, gas, or other material that is injected into a well to facilitate production of oil or  
474 gas, or water derived in association with oil and gas production and disposed of in a well  
475 if the well used either to facilitate production or for disposal purposes is approved by the  
476 board and if the board determines that the injection or disposal will not result in the  
477 degradation of ground or surface water resources.

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

481 "Pollution" means such alteration of the physical, chemical or biological properties of any  
482 state waters as will or is likely to create a nuisance or render such waters (a) harmful or  
483 detrimental or injurious to the public health, safety or welfare, or to the health of animals, fish or  
484 aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future  
485 sources of public water supply; or (c) unsuitable for recreational, commercial, industrial,  
486 agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or  
487 biological property of state waters, or a discharge or deposit of sewage, industrial wastes or  
488 other wastes to state waters by any owner which by itself is not sufficient to cause pollution, but  
489 which, in combination with such alteration of or discharge or deposit to state waters by other

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490 owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into  
491 state waters; and (iii) contributing to the contravention of standards of water quality duly  
492 established by the State Water Control Board, are "pollution" for the terms and purposes of this  
493 chapter.

494 "~~Post development~~" "Postdevelopment" refers to conditions that reasonably may be  
495 expected or anticipated to exist after completion of the land development activity on a specific  
496 site [ ~~or tract of land~~ ] .

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

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

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

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

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

520 "Qualified personnel" means a [ person knowledgeable in the principles and practice of  
521 erosion and sediment controls who possesses the skills to assess conditions at the construction  
522 site for the operator that could impact stormwater quality and to assess the effectiveness of any  
523 sediment and erosion control measures selected to control the quality of stormwater discharges  
524 from the construction activity. This may include a ] licensed professional engineer, responsible  
525 land disturber, or other person who holds a certificate of competency from the board in the area  
526 of project inspection or combined administrator.

527 "Qualifying local stormwater management program" or "qualifying local program" means a  
528 local [ stormwater management ] program [ ~~that is~~ ] administered by a locality [ . ] that has  
529 been authorized by the board [ . ~~to issue coverage under the VSMP General Permit for~~  
530 Discharges of Stormwater from Construction Activities (4VAC50-60-1170). To authorize a  
531 qualifying local program, the board must find that the ordinances adopted by the locality are  
532 consistent with the VSMP General Permit for Discharges of Stormwater from Construction  
533 Activities. ]

534 "Recommencing discharger" means a source that recommences discharge after terminating  
535 operations.

536 "Regional administrator" means the Regional Administrator of Region III of the  
537 Environmental Protection Agency or the authorized representative of the regional administrator.

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

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

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

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

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

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

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

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

560 ~~"Runoff volume" means the volume of water that runs off the site [ of a land-disturbing~~  
561 ~~activity ] from a prescribed design storm.~~

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

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

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

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

574 "Significant materials" means, but is not limited to: raw materials; fuels; materials such as  
575 solvents, detergents, and plastic pellets; finished materials such as metallic products; raw  
576 materials used in food processing or production; hazardous substances designated under §  
577 101(14) of CERCLA (42 USC § 9601(14)); any chemical the facility is required to report  
578 pursuant to § 313 of Title III of SARA (42 USC § 11023); fertilizers; pesticides; and waste  
579 products such as ashes, slag and sludge that have the potential to be released with stormwater  
580 discharges.

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

583 "Site" means the land or water area where any facility or [land-disturbing] activity is  
584 physically located or conducted, [~~a parcel of land being developed, or a designated planning~~  
585 ~~area of a parcel in which the land development project is located including adjacent land used or~~  
586 ~~preserved in connection with the facility or land-disturbing activity~~]. Areas channelward of mean  
587 low water in tidal Virginia shall not be considered part of a site.

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

591 "Small construction activity" means:

592 1. Construction activities including clearing, grading, and excavating that results in land  
593 disturbance of equal to or greater than one acre, [~~or equal to or greater than 2,500~~  
594 ~~square feet in all areas of the jurisdictions designated as subject to the Chesapeake Bay~~  
595 ~~Preservation Area Designation and Management Regulations adopted pursuant to the~~  
596 ~~Chesapeake Bay Preservation Act,~~] and less than five acres. Small construction activity  
597 also includes the disturbance of less than one acre of total land area that is part of a  
598 larger common plan of development or sale if the larger common plan will ultimately  
599 disturb equal to or greater than one and less than five acres. Small construction activity  
600 does not include routine maintenance that is performed to maintain the original line and  
601 grade, hydraulic capacity, or original purpose of the facility. The board may waive the  
602 otherwise applicable requirements in a general permit for a stormwater discharge from  
603 construction activities that disturb less than five acres where stormwater controls are not  
604 needed based on a "total maximum daily load" (TMDL) approved or established by EPA  
605 that addresses the pollutant(s) of concern or, for nonimpaired waters that do not require  
606 TMDLs, an equivalent analysis that determines allocations for small construction sites  
607 for the pollutant(s) of concern or that determines that such allocations are not needed to  
608 protect water quality based on consideration of existing in-stream concentrations,  
609 expected growth in pollutant contributions from all sources, and a margin of safety. For  
610 the purpose of this subdivision, the pollutant(s) of concern include sediment or a  
611 parameter that addresses sediment (such as total suspended solids, turbidity or siltation)  
612 and any other pollutant that has been identified as a cause of impairment of any water  
613 body that will receive a discharge from the construction activity. The operator must  
614 certify to the board that the construction activity will take place, and stormwater  
615 discharges will occur, within the drainage area addressed by the TMDL or equivalent  
616 analysis.

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

620 "Small municipal separate storm sewer system" or "small MS4" means all separate storm  
621 sewers that are (i) owned or operated by the United States, a state, city, town, borough, county,  
622 parish, district, association, or other public body (created by or pursuant to state law) having  
623 jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including  
624 special districts under state law such as a sewer district, flood control district or drainage district,  
625 or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated  
626 and approved management agency under § 208 of the CWA that discharges to surface waters  
627 and (ii) not defined as "large" or "medium" municipal separate storm sewer systems or

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628 designated under 4VAC50-60-380 A 1. This term includes systems similar to separate storm  
629 sewer systems in municipalities, such as systems at military bases, large hospital or prison  
630 complexes, and highway and other thoroughfares. The term does not include separate storm  
631 sewers in very discrete areas, such as individual buildings.

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

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

636 "State" means the Commonwealth of Virginia.

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

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

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

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

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

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

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

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

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

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

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

673 "Stormwater discharge associated with large construction activity" means the discharge of  
674 stormwater from large construction activities.

675 "Stormwater discharge associated with small construction activity" means the discharge of  
676 stormwater from small construction activities.

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

685 ~~"Stormwater extended detention basin enhanced" or "extended detention basin enhanced"~~  
686 ~~means an extended detention basin modified to increase pollutant removal by providing a~~  
687 ~~shallow marsh in the lower stage of the basin.~~

688 "Stormwater management facility" means a [ device control measure ] that controls  
689 stormwater runoff and changes the characteristics of that runoff including, but not limited to, the  
690 quantity and quality, the period of release or the velocity of flow.

691 "Stormwater management plan" means a document(s) containing material for describing  
692 [ ~~how existing runoff characteristics will be maintained by a land disturbing activity and~~ ]  
693 methods for complying with the requirements of the local program or this chapter.

694 "Stormwater Management Program" means a program established by a locality that is  
695 consistent with the requirements of the ~~Virginia Stormwater Management Act~~, this chapter and  
696 associated guidance documents.

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

700 "Stormwater Pollution Prevention Plan" or "SWPPP" means a document that is prepared in  
701 accordance with good engineering practices and that identifies potential sources of pollutants  
702 that may reasonably be expected to affect the quality of stormwater discharges from the  
703 construction site [ ~~or its associated land disturbing activities~~ ]. In addition the document shall  
704 identify and require the implementation of control measures, and shall include, but not be limited  
705 to the inclusion of, or the incorporation by reference of, an [ approved ] erosion and sediment  
706 control plan, [ ~~a post-construction~~ an approved ] stormwater management plan, [ ~~a spill~~  
707 ~~prevention control and countermeasure (SPCC)~~ a pollution prevention ] plan [ ~~, and other~~  
708 ~~practices that will be used to minimize pollutants in stormwater discharges from land-disturbing~~  
709 ~~activities in compliance with the terms and conditions of this chapter. All plans incorporated by~~  
710 ~~reference into the SWPPP shall be enforceable under the permit issued or general permit~~  
711 ~~coverage authorized~~ ].

712 [ "Stormwater Program Administrative Authority" means a local stormwater management  
713 program or the department, as the permit-issuing authority, in the absence of a local stormwater  
714 management program, which administers the Virginia Stormwater Management Program. ]

715 ~~"Stormwater retention basin" or "retention basin" means a stormwater management facility~~  
716 ~~that includes a permanent impoundment, or normal pool of water, for the purpose of enhancing~~  
717 ~~water quality and, therefore, is normally wet, even during nonrainfall periods. Storm runoff~~

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718 ~~inflows may be temporarily stored above this permanent impoundment for the purpose of~~  
719 ~~reducing flooding, or stream channel erosion.~~

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

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

724 ~~"Stormwater retention basin III" or "retention basin III" means a retention basin with the~~  
725 ~~volume of the permanent pool equal to four times the water quality volume with the addition of~~  
726 ~~an aquatic bench.~~

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

728 "Surface waters" means:

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

732 2. All interstate waters, including interstate wetlands;

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

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

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

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

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

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

745 6. The territorial sea; and

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

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

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

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

760 "Toxic pollutant" means any pollutant listed as toxic under § 307(a)(1) of the CWA or, in the  
761 case of sludge use or disposal practices, any pollutant identified in regulations implementing §  
762 405(d) of the CWA.

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

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

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

773 "Variance" means any mechanism or provision under § 301 or § 316 of the CWA or under  
774 40 CFR Part 125 (2000), or in the applicable federal effluent limitations guidelines that allows  
775 modification to or waiver of the generally applicable effluent limitation requirements or time  
776 deadlines of the CWA. This includes provisions that allow the establishment of alternative  
777 limitations based on fundamentally different factors or on § 301(c), § 301(g), § 301(h), § 301(i),  
778 or § 316(a) of the CWA.

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

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

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

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

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

798 "Virginia Stormwater Management Program (VSMP)" or "VSMP" means the Virginia  
799 program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing  
800 permits, and imposing and enforcing requirements pursuant to the ~~federal Clean Water Act~~  
801 ~~CWA~~, the Virginia Stormwater Management Act, this chapter, and associated guidance  
802 documents.

803 "Virginia Stormwater Management Program (VSMP) permit" or "VSMP permit" means a  
804 document issued by the permit-issuing authority pursuant to the Virginia Stormwater  
805 Management Act and this chapter authorizing, under prescribed conditions, the potential or

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

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

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

814 "Water quality standards" or "WQS" means provisions of state or federal law that consist of  
815 a designated use or uses for the waters of the Commonwealth and water quality criteria for such  
816 waters based on such uses. Water quality standards are to protect the public health or welfare,  
817 enhance the quality of water, and serve the purposes of the State Water Control Law (§ 62.1-  
818 44.2 et seq. of the Code of Virginia), the ~~Virginia Stormwater Management Act~~ (§ 10.1-603.1 et  
819 seq. of the Code of Virginia), and the ~~federal Clean Water Act~~ CWA (33 USC § 1251 et seq.).

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

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

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

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

832 **4VAC50-60-20. Purposes.**

833 The purposes of this chapter are to provide a framework for the administration,  
834 implementation and enforcement of the Virginia Stormwater Management Act (Act) and to  
835 delineate the procedures and requirements to be followed in connection with VSMP permits  
836 issued by the board or its designee pursuant to the Clean Water Act (CWA) and the Virginia  
837 Stormwater Management Act, while at the same time providing flexibility for innovative solutions  
838 to stormwater management issues. The chapter also establishes the board's procedures for the  
839 authorization of a qualifying local program, [ the board's procedures for approving the  
840 administration of a local stormwater management program by an authorized qualifying local  
841 program, ] board and department oversight authorities for an authorized qualifying local  
842 program, the board's procedures for utilization by the department in administering [ a local  
843 program the Virginia Stormwater Management Program ] in localities where no qualifying local  
844 program is authorized, and the [ components of a stormwater management program including  
845 but not limited to required technical criteria for ] stormwater management [ standards for land-  
846 disturbing activities ] .

847 **4VAC50-60-30. Applicability.**

848 This chapter is applicable to:

- 849 1. Every [ ~~private, local, state, or federal entity~~ locality ] that [ ~~establishes~~ administers ] a  
850 [ local ] stormwater management program [ ~~or a MS4 program~~ ] ;

- 851 2. The department in its oversight of locally administered programs or in its  
852 administration of [ a local program the Virginia Stormwater Management Program ] :  
853 2. 3. [ Every MS4 program;  
854 4. ] Every state agency project regulated under the Act and this chapter; and  
855 3. [ 4.5. ] Every land-disturbing activity regulated under § 10.1-603.8 of the Code of  
856 Virginia unless otherwise exempted in § 10.1-603.8 B.

857 [ Part II A

858 Stormwater Management Program Technical Criteria Part II ]

859 **4VAC50-60-40. Applicability Authority and applicability.**

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

862 Pursuant to the Virginia Stormwater Management Act (§ 10.1-603.2 et seq. of the Code of  
863 Virginia), the board is required to take actions ensuring the general health, safety, and welfare  
864 of the citizens of the Commonwealth as well as protecting the quality and quantity of state  
865 waters from the potential harm of unmanaged stormwater. In addition to other authority granted  
866 to the board under the Stormwater Management Act, the board is authorized pursuant to §§  
867 10.1-603.2:1 and 10.1-603.4 to adopt regulations that specify [ ~~minimum technical criteria~~  
868 ~~standards and procedures~~ ] for [ ~~local~~ ] stormwater management programs [ ~~in and the~~ ] Virginia  
869 [ ~~Stormwater Management Program,~~ ] to establish statewide standards for stormwater  
870 management [ ~~from for~~ ] land-disturbing activities, and to protect properties, the quality and  
871 quantity of state waters, the physical integrity of stream channels, and other natural resources.

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

878 ~~For those localities required to adopt a local stormwater management program pursuant to §~~  
879 ~~10.1-603.3 of the Code of Virginia, until a local program is approved by the board, the technical~~  
880 ~~criteria required shall be that found at 4VAC50-60-1180 through 4VAC50-60-1190.~~

881 **4VAC50-60-45. [ Applicability Implementation date.**

882 ~~In accordance with the board's authority, this part establishes the minimum technical criteria and~~  
883 ~~stormwater management standards that shall be employed by a state agency in accordance~~  
884 ~~with an implementation schedule set by the board, or by a qualifying local program or~~  
885 ~~department-administered local stormwater management program that has been approved by~~  
886 ~~the board, to protect the quality and quantity of state waters from the potential harm of~~  
887 ~~unmanaged stormwater runoff resulting from land-disturbing activities, except as provided in~~  
888 ~~4VAC50-60-48. The technical criteria in Part II A and Part II B shall be implemented by a~~  
889 ~~stormwater program administrative authority when a VSMP General Permit for Discharges of~~  
890 ~~Stormwater from Construction Activities has been issued that incorporates such criteria. Until~~  
891 ~~that time, the required technical criteria shall be found in Part II C. ]~~

892 **[ 4VAC50-60-46. General objectives.**

893 The physical, chemical, biological, and hydrologic characteristics and the water quality and  
894 quantity of the receiving state waters shall be maintained, protected, or improved in accordance  
895 with the requirements of this part. Objectives include, but are not limited to, supporting state

896 designated uses and water quality standards. All control measures used shall be employed in a  
897 manner that minimizes impacts on receiving state waters.

898 **[ 4VAC50-60-47. Applicability of other laws and regulations.**

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

906 **[ 4VAC50-60-47.1. Time limits on applicability of approved design criteria.**

907 Beginning with the VSMP General Permit for Discharges of Stormwater from Construction  
908 Activities issued July 1, 2009, all land-disturbing activities that receive general permit coverage  
909 shall be conducted in accordance with the Part II B or Part II C technical criteria in place at the  
910 time of initial permit coverage and shall remain subject to those criteria for an additional two  
911 permit cycles, except as provided for in subsection D of 4VAC50-60-48. After the two additional  
912 permit cycles have passed, or should permit coverage not be maintained, portions of the project  
913 not under construction shall become subject to any new technical criteria adopted since original  
914 permit coverage was issued. For land-disturbing projects issued coverage under the July 1,  
915 2009 permit and for which coverage was maintained, such projects shall remain subject to the  
916 technical criteria of Part II C for an additional two permits. ]

917 **4VAC50-60-48. Grandfathering.**

918 A. [~~Land disturbing activities that receive coverage under the VSMP General Permit for~~  
919 ~~Discharges of Stormwater from Construction Activities prior to the adoption of a local~~  
920 ~~stormwater management program within their jurisdiction shall not be subject to the technical~~  
921 ~~criteria of Part II A, but shall be subject to the technical criteria of Part II B, until the expiration of~~  
922 ~~that permit on June 30, 2014.~~ Until June 30, 2019, any land-disturbing activity for which a  
923 currently valid proffered or conditional zoning plan, preliminary or final subdivision plat,  
924 preliminary or final site plan or zoning with a plan of development, or any document determined  
925 by the locality as being equivalent thereto, was approved by a locality prior to July 1, 2012, and  
926 for which no coverage under the VSMP General Permit for Discharges of Stormwater from  
927 Construction Activities has been issued prior to July 1, 2014, shall be considered grandfathered  
928 by the stormwater program administrative authority and shall not be subject to the technical  
929 criteria of Part II B, but shall be subject to the technical criteria of Part II C for those areas that  
930 were included in the approval, provided that the stormwater program administrative authority  
931 finds that such proffered or conditional zoning plan, preliminary or final subdivision plat,  
932 preliminary or final site plan or zoning with a plan of development, or any document determined  
933 by the locality as being equivalent thereto, (i) provides for a layout; and (ii) the resulting land-  
934 disturbing activity will be compliant with the requirements of Part II C. In the event that the  
935 locality-approved document is subsequently modified or amended in a manner such that there is  
936 no increase over the previously approved plat or plan in the amount of phosphorus leaving each  
937 point of discharge of the land-disturbing activity through stormwater runoff, and such that there  
938 is no increase over the previously approved plat or plan in the volume or rate of runoff, the  
939 grandfathering shall continue as before. ]

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

943 ~~extensive obligations or substantial expenses in diligent pursuit of the specific project in reliance~~  
944 ~~on the significant affirmative governmental act, and (iv) obtained VSMP general permit coverage~~  
945 ~~prior to July 1, 2010, then the land-disturbing activity associated with the project is~~  
946 ~~grandfathered and shall remain subject to the Part II B Technical Criteria until June 30, 2014. If~~  
947 ~~permit coverage continuously remains in effect for the land-disturbing activity within the entire~~  
948 ~~project area, then the project shall remain subject to the Part II B Technical Criteria until June~~  
949 ~~30, 2019. Should permit coverage not be maintained or if the land-disturbing activity continues~~  
950 ~~beyond June 30, 2019, portions of the project not completed shall be subject to the Part II A~~  
951 ~~Technical Criteria. In the event that the qualifying significant affirmative governmental act or the~~  
952 ~~VSMP permit is subsequently modified or amended in a manner such that there is no increase~~  
953 ~~in the amount of phosphorus leaving the site through stormwater runoff, and such that there is~~  
954 ~~no increase in the volume or rate of runoff, the grandfathering shall continue as before.~~

955 ~~For purposes of this subsection and without limitation, the following are deemed to be~~  
956 ~~significant affirmative governmental acts allowing development of a specific project: (i) the~~  
957 ~~governing body has accepted proffers or proffered conditions that specify use related to a~~  
958 ~~zoning amendment; (ii) the governing body has approved an application for a rezoning for a~~  
959 ~~specific use or density; (iii) the governing body or board of zoning appeals has granted a special~~  
960 ~~exception or use permit with conditions; (iv) the board of zoning appeals has approved a~~  
961 ~~variance; (v) the governing body or its designated agent has approved a preliminary subdivision~~  
962 ~~plat, site plan, or plan of development for the landowner's property and the applicant diligently~~  
963 ~~pursues approval of the final plat or plan within a reasonable period of time under the~~  
964 ~~circumstances; or (vi) the governing body or its designated agent has approved a final~~  
965 ~~subdivision plat, site plan or plan of development for the landowner's property. For the purposes~~  
966 ~~of this subsection and without limitation, for state and federal projects, the approval of state or~~  
967 ~~federal funding for a project or the approval of a stormwater management plan are deemed to~~  
968 ~~be significant affirmative governmental acts. Until June 30, 2019, for locality, state, and federal~~  
969 ~~projects for which there has been an obligation of locality, state, or federal funding, in whole or~~  
970 ~~in part, prior to July 1, 2012, or for which the department has approved a stormwater~~  
971 ~~management plan prior to July 1, 2012, such projects shall be considered grandfathered by the~~  
972 ~~stormwater program administrative authority and shall not be subject to the technical criteria of~~  
973 ~~Part II B, but shall be subject to the technical criteria of Part II C for those areas that were~~  
974 ~~included in the approval. ]~~

975 ~~C. [ For land-disturbing activities grandfathered under subsections A and B above,~~  
976 ~~construction must be completed by June 30, 2019 or portions of the project not under~~  
977 ~~construction shall become subject to the technical criteria of Part II B. ]~~

978 ~~D. [ Where a land-disturbing activity is part of a common plan of development or sale that~~  
979 ~~has obtained VSMP general permit coverage from the department prior to July 1, 2010 , the~~  
980 ~~land-disturbing activity will be subject to the technical criteria of Part II B. The registration~~  
981 ~~statement shall include the permit coverage number for the common plan of development or~~  
982 ~~sale for which association is being claimed. In cases where governmental bonding or public~~  
983 ~~debt financing has been issued for a project prior to [ July 1, 2010 July 1, 2012 ] , such project~~  
984 ~~shall be subject to the technical criteria of [ Part II-B Part II C ] .~~

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

987 **4VAC50-60-50. General. (Repealed.)**

988 ~~A. Determination of flooding and channel erosion impacts to receiving streams due to land-~~  
989 ~~disturbing activities shall be measured at each point of discharge from the land disturbance and~~

990 such determination shall include any runoff from the balance of the watershed which also  
991 contributes to that point of discharge.

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

997 C. For purposes of computing runoff, all pervious lands in the site shall be assumed prior to  
998 development to be in good condition (if the lands are pastures, lawns, or parks), with good cover  
999 (if the lands are woods), or with conservation treatment (if the lands are cultivated); regardless  
1000 of conditions existing at the time of computation.

1001 D. Construction of stormwater management facilities or modifications to channels shall  
1002 comply with all applicable laws and regulations. Evidence of approval of all necessary permits  
1003 shall be presented.

1004 E. Impounding structures that are not covered by the Impounding Structure Regulations  
1005 (4VAC50-20) shall be engineered for structural integrity during the 100-year storm event.

1006 F. Pre-development and post-development runoff rates shall be verified by calculations that  
1007 are consistent with good engineering practices.

1008 G. Outflows from a stormwater management facility or stormwater conveyance system, shall  
1009 be discharged to an adequate channel.

1010 H. Proposed residential, commercial, or industrial subdivisions shall apply these stormwater  
1011 management criteria to the land disturbance as a whole. Individual lots in new subdivisions shall  
1012 not be considered separate land disturbing activities, but rather the entire subdivision shall be  
1013 considered a single land development project. Hydrologic parameters shall reflect the ultimate  
1014 land disturbance and shall be used in all engineering calculations.

1015 I. All stormwater management facilities shall have an inspection and maintenance plan that  
1016 identifies the owner and the responsible party for carrying out the inspection and maintenance  
1017 plan.

1018 J. Construction of stormwater management impoundment structures within a Federal  
1019 Emergency Management Agency (FEMA) designated 100-year floodplain shall be avoided to  
1020 the extent possible. When this is unavoidable, all stormwater management facility construction  
1021 shall be in compliance with all applicable regulations under the National Flood Insurance  
1022 Program, 44 CFR Part 59.

1023 K. Natural channel characteristics shall be preserved to the maximum extent practicable.

1024 L. Land disturbing activities shall comply with the Virginia Erosion and Sediment Control  
1025 Law (§ 10.1-560 et seq. of the Code of Virginia) and attendant regulations.

1026 M. Flood control and stormwater management facilities that drain or treat water from multiple  
1027 development projects or from a significant portion of a watershed may be allowed in Resource  
1028 Protection Areas defined in the Chesapeake Bay Preservation Act, provided that (i) the local  
1029 government has conclusively established that the location of the facility within the Resource  
1030 Protection Area is the optimum location; (ii) the size of the facility is the minimum necessary to  
1031 provide necessary flood control, stormwater treatment, or both; and, (iii) the facility must be  
1032 consistent with a stormwater management program that has been approved by the board.

1033 **[ 4VAC50-60-51. Chesapeake Bay Preservation Act land-disturbing activity.**

1034 In order to protect the quality of state waters and to control the discharge of stormwater  
1035 pollutants from land-disturbing activities, runoff associated with Chesapeake Bay Preservation  
1036 Act land-disturbing activities shall be controlled. Such land-disturbing activities shall not require  
1037 completion of a registration statement or require coverage under the VSMP General Permit for  
1038 Discharges of Stormwater from Construction Activities but shall be subject to the following  
1039 technical criteria and program and administrative requirements:

1040 A. An erosion and sediment control plan consistent with the requirements of the Virginia  
1041 Erosion and Sediment Control Law and regulations must be designed and implemented  
1042 during land disturbing activities. Prior to land disturbance, this plan must be approved by  
1043 either the local erosion and sediment control program or the department in accordance  
1044 with the Virginia Erosion and Sediment Control Law and attendant regulations.

1045 B. A stormwater plan consistent with the requirements of the Virginia Stormwater  
1046 Management Act and regulations must be designed and implemented during the land-  
1047 disturbing activity. The stormwater management plan shall be developed and submitted  
1048 in accordance with 4VAC50-60-55. Prior to land disturbance, this plan must be approved  
1049 by the stormwater program administrative authority.

1050 C. Exceptions may be requested in accordance with 4VAC50-60-57.

1051 D. Long-term maintenance of stormwater management facilities shall be provided for  
1052 and conducted in accordance with 4VAC50-60-58.

1053 E. Water quality design criteria in 4VAC50-60-63 shall be applied to the site.

1054 F. Water quality compliance shall be achieved in accordance with 4VAC50-60-65.

1055 G. Channel protection and flood protection shall be achieved in accordance with  
1056 4VAC50-60-66.

1057 H. Offsite compliance options in accordance with 4VAC50-60-69 shall be available to  
1058 Chesapeake Bay Preservation Act land-disturbing activities.

1059 I. Such land-disturbing activities shall be subject to the design storm and hydrologic  
1060 methods set out in 4VAC50-60-72, linear development controls in 4VAC50-60-76, and  
1061 criteria associated with stormwater impoundment structures or facilities in 4VAC50-60-  
1062 85.

1063 [ Part II A

1064 General Administrative Criteria for Regulated Land-Disturbing Activities ]

1065 **4VAC50-60-53. [ General requirements Applicability ] .**

1066 [ The physical, chemical, biological, and hydrologic characteristics and the water quality and  
1067 quantity of the receiving state waters shall be maintained, protected, or improved in accordance  
1068 with the requirements of this part. Objectives include, but are not limited to, supporting state  
1069 designated uses and water quality standards. All control measures used shall be employed in a  
1070 manner that minimizes impacts on receiving state waters. This Part applies to all regulated land-  
1071 disturbing activities. ]

1072 **[ 4VAC50-60-54. Stormwater pollution prevention plan requirements.**

1073 A. A stormwater pollution prevention plan shall include, but not be limited to, an approved  
1074 erosion and sediment control plan, an approved stormwater management plan, a pollution  
1075 prevention plan for regulated land-disturbing activities, and a description of any additional  
1076 control measures necessary to address a TMDL pursuant to subsection E.

1077 B. An erosion and sediment control plan consistent with the requirements of the Virginia  
1078 Erosion and Sediment Control Law and regulations must be designed and implemented during  
1079 construction activities. Prior to land disturbance, this plan must be approved by either the local  
1080 erosion and sediment control program or the department in accordance with the Virginia Erosion  
1081 and Sediment Control Law and attendant regulations.

1082 C. A stormwater management plan consistent with the requirements of the Virginia  
1083 Stormwater Management Act and regulations must be designed and implemented during  
1084 construction activities. Prior to land disturbance, this plan must be approved by the stormwater  
1085 program administrative authority.

1086 D. A pollution prevention plan that identifies potential sources of pollutants that may  
1087 reasonably be expected to affect the quality of stormwater discharges from the construction site  
1088 and describe control measures that will be used to minimize pollutants in stormwater discharges  
1089 from the construction site must be developed before land disturbance commences.

1090 E. In addition to the above requirements, if a specific WLA for a pollutant has been  
1091 established in a TMDL and is assigned to stormwater discharges from a construction activity,  
1092 additional control measures must be identified and implemented by the operator so that  
1093 discharges are consistent with the assumptions and requirements of the WLA in a State Water  
1094 Control Board approved TMDL.

1095 F. The stormwater pollution prevention plan must address the following requirements, to the  
1096 extent otherwise required by state law or regulations and any applicable requirements of a  
1097 VSMP permit:

1098 1. Control stormwater volume and velocity within the site to minimize soil erosion;

1099 2. Control stormwater discharges, including both peak flow rates and total stormwater  
1100 volume, to minimize erosion at outlets and to minimize downstream channel and stream  
1101 bank erosion;

1102 3. Minimize the amount of soil exposed during construction activity;

1103 4. Minimize the disturbance of steep slopes;

1104 5. Minimize sediment discharges from the site. The design, installation and maintenance  
1105 of erosion and sediment controls must address factors such as the amount, frequency,  
1106 intensity and duration of precipitation, the nature of resulting stormwater runoff, and soil  
1107 characteristics, including the range of soil particle sizes expected to be present on the  
1108 site;

1109 6. Provide and maintain natural buffers around surface waters, direct stormwater to  
1110 vegetated areas to increase sediment removal and maximize stormwater infiltration,  
1111 unless infeasible;

1112 7. Minimize soil compaction and, unless infeasible, preserve topsoil; and

1113 8. Stabilization of disturbed areas must, at a minimum, be initiated immediately  
1114 whenever any clearing, grading, excavating or other earth disturbing activities have  
1115 permanently ceased on any portion of the site, or temporarily ceased on any portion of  
1116 the site and will not resume for a period exceeding 14 calendar days. Stabilization must  
1117 be completed within a period of time determined by the stormwater program  
1118 administrative authority. In arid, semiarid, and drought-stricken areas where initiating  
1119 vegetative stabilization measures immediately is infeasible, alternative stabilization  
1120 measures must be employed as specified by the stormwater program administrative  
1121 authority.

1122 G. The SWPPP shall be amended whenever there is a change in design, construction,  
1123 operation, or maintenance that has a significant effect on the discharge of pollutants to state  
1124 waters and that has not been previously addressed in the SWPPP. The SWPPP must be  
1125 maintained at a central location onsite. If an onsite location is unavailable, notice of the  
1126 SWPPP's location must be posted near the main entrance at the construction site.

1127 **[ 4VAC50-60-55. Stormwater management plans.**

1128 A. A stormwater management plan shall be developed and submitted to the stormwater  
1129 program administrative authority. The stormwater management plan shall be implemented as  
1130 approved or modified by the stormwater program administrative authority and shall be  
1131 developed in accordance with the following:

1132 1. A stormwater management plan for a land-disturbing activity shall apply the  
1133 stormwater management technical criteria set forth in this Part to the entire land-  
1134 disturbing activity.

1135 2. A stormwater management plan shall consider all sources of surface runoff and all  
1136 sources of subsurface and groundwater flows converted to surface runoff.

1137 B. A complete stormwater management plan shall include the following elements:

1138 1. Information on the type of and location of stormwater discharges, information on the  
1139 features to which stormwater is being discharged including surface waters or karst  
1140 features if present, and predevelopment and postdevelopment drainage areas;

1141 2. Contact information including the name, address, and telephone number of the owner  
1142 and the tax reference number and parcel number of the property or properties affected;

1143 3. A narrative that includes a description of current site conditions and final site  
1144 conditions or if allowed by the stormwater program administrative authority, the  
1145 information provided and documented during the review process that addresses the  
1146 current and final site conditions;

1147 4. A general description of the proposed stormwater management facilities and the  
1148 mechanism through which the facilities will be operated and maintained after  
1149 construction is complete;

1150 5. Information on the proposed stormwater management facilities, including the type of  
1151 facilities, location, including geographic coordinates, acres treated, and the surface  
1152 waters or karst features into which the facility will discharge;

1153 6. Hydrologic and hydraulic computations, including runoff characteristics;

1154 7. Documentation and calculations verifying compliance with the water quality and  
1155 quantity requirements of these regulations;

1156 8. A map or maps of the site that depicts the topography of the site and includes:

1157 a. All contributing drainage areas;

1158 b. Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and  
1159 floodplains;

1160 c. Soil types, geologic formations if karst features are present in the area, forest  
1161 cover, and other vegetative areas;

1162 d. Current land use including existing structures, roads, and locations of known  
1163 utilities and easements;

1164 e. Sufficient information on adjoining parcels to assess the impacts of stormwater  
1165 from the site on these parcels;

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- 1166 f. The limits of clearing and grading, and the proposed drainage patterns on the site;  
1167 g. Proposed buildings, roads, parking areas, utilities, and stormwater management  
1168 facilities; and  
1169 h. Proposed land use with tabulation of the percentage of surface area to be adapted  
1170 to various uses, including but not limited to planned locations of utilities, roads, and  
1171 easements.
- 1172 9. If an operator intends to meet the requirements established in 4VAC50-60-60 or  
1173 4VAC50-60-66 through the use of off-site compliance options, where applicable, then a  
1174 letter of availability from the off-site provider must be included.
- 1175 10. If payment of a fee is required with the stormwater management plan submission by  
1176 the stormwater program administrative authority, the fee and the required fee form in  
1177 accordance with Part XIII must have been submitted.
- 1178 C. Elements of the stormwater management plans that include activities regulated under  
1179 Chapter 4 of Title 54.1 shall be appropriately sealed and signed by a professional registered in  
1180 the Commonwealth of Virginia pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title  
1181 54.1.
- 1182 D. A construction record drawing for permanent stormwater management facilities shall be  
1183 submitted to the stormwater program administrative authority in accordance with 4VAC50-60-  
1184 108 and 4VAC50-60-112. The construction record drawing shall be appropriately sealed and  
1185 signed by a professional registered in the Commonwealth of Virginia, certifying that the  
1186 stormwater management facilities have been constructed in accordance with the approved plan.
- 1187 **4VAC50-60-56. [ Applicability of other laws and regulations Pollution prevention plans ] .**
- 1188 [ Nothing in this chapter shall be construed as limiting the applicability of other laws and  
1189 regulations, including, but not limited to, the CWA, Virginia Stormwater Management Act,  
1190 Virginia Erosion and Sediment Control Law, and the Chesapeake Bay Preservation Act, except  
1191 as provided in § 10.1-603.3 I of the Code of Virginia and all applicable regulations adopted in  
1192 accordance with those laws, or the rights of other federal agencies, state agencies, or local  
1193 governments to impose more stringent technical criteria or other requirements as allowed by  
1194 law.
- 1195 A. A plan for implementing pollution prevention measures during construction activities shall  
1196 be developed, implemented and updated as necessary. The pollution prevention plan shall  
1197 detail the design, installation, implementation and maintenance of effective pollution prevention  
1198 measures to minimize the discharge of pollutants. At a minimum, such measures must be  
1199 designed, installed, implemented and maintained to:
- 1200 1. Minimize the discharge of pollutants from equipment and vehicle washing, wheel  
1201 wash water, and other wash waters. Wash waters must be treated in a sediment basin  
1202 or alternative control that provides equivalent or better treatment prior to discharge;
- 1203 2. Minimize the exposure of building materials, building products, construction wastes,  
1204 trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste  
1205 and other materials present on the site to precipitation and to stormwater; and
- 1206 3. Minimize the discharge of pollutants from spills and leaks and implement chemical  
1207 spill and leak prevention and response procedures.
- 1208 B. The pollution prevention plan shall include effective best management practices to  
1209 prohibit the following discharges:
- 1210 1. Wastewater from washout of concrete, unless managed by an appropriate control;

1211 2. Wastewater from washout and cleanout of stucco, paint, form release oils, curing  
1212 compounds and other construction materials;

1213 3. Fuels, oils, or other pollutants used in vehicle and equipment operation and  
1214 maintenance; and

1215 4. Soaps or solvents used in vehicle and equipment washing.

1216 C. Discharges from dewatering activities, including discharges from dewatering of trenches  
1217 and excavations, are prohibited unless managed by appropriate controls. ]

1218 **[ 4VAC50-60-57. Requesting an exception.**

1219 A request for an exception for Part II B or Part II C, including the reasons for making the  
1220 request, may be submitted in writing to the stormwater program administrative authority.  
1221 Economic hardship alone is not a sufficient reason to request an exception from the  
1222 requirements of this chapter. The request for an exception will be reviewed pursuant to  
1223 4VAC50-60-122. An exception to the requirement that the land disturbing activity obtain a  
1224 VSMP permit will not be granted by the stormwater program administrative authority.

1225 **[ 4VAC50-60-58. Responsibility for long-term maintenance of permanent stormwater**  
1226 **management facilities.**

1227 A recorded instrument shall be submitted to the stormwater program administrative authority  
1228 in accordance with 4VAC50-60-112.

1229 **[ 4VAC50-60-59. Applying for VSMP permit coverage.**

1230 The operator must submit a complete and accurate registration statement on the official  
1231 department form to the stormwater program administrative authority in order to apply for VSMP  
1232 permit coverage. The registration statement must be signed by the operator in accordance with  
1233 4VAC50-60-370.

1234 **4VAC50-60-60. Water quality. (Repealed.)**

1235 A. Compliance with the water quality criteria may be achieved by applying the performance-  
1236 based criteria or the technology based criteria to either the site or a planning area.

1237 B. Performance based criteria. For land disturbing activities, the calculated post-  
1238 development nonpoint source pollutant runoff load shall be compared to the calculated pre-  
1239 development load based upon the average land cover condition or the existing site condition. A  
1240 BMP shall be located, designed, and maintained to achieve the target pollutant removal  
1241 efficiencies specified in Table 1 to effectively reduce the pollutant load to the required level  
1242 based upon the following four applicable land development situations for which the performance  
1243 criteria apply:

1244 1. Situation 1 consists of land disturbing activities where the existing percent impervious  
1245 cover is less than or equal to the average land cover condition and the proposed  
1246 improvements will create a total percent impervious cover which is less than the average  
1247 land cover condition.

1248 Requirement: No reduction in the after disturbance pollutant discharge is required.

1249 2. Situation 2 consists of land disturbing activities where the existing percent impervious  
1250 cover is less than or equal to the average land cover condition and the proposed  
1251 improvements will create a total percent impervious cover which is greater than the  
1252 average land cover condition.

1253 Requirement: The pollutant discharge after disturbance shall not exceed the existing  
1254 pollutant discharge based on the average land cover condition.

1255 ~~3. Situation 3 consists of land disturbing activities where the existing percent impervious~~  
 1256 ~~cover is greater than the average land cover condition.~~

1257 ~~Requirement: The pollutant discharge after disturbance shall not exceed (i) the pollutant~~  
 1258 ~~discharge based on existing conditions less 10% or (ii) the pollutant discharge based on~~  
 1259 ~~the average land cover condition, whichever is greater.~~

1260 ~~4. Situation 4 consists of land disturbing activities where the existing percent impervious~~  
 1261 ~~cover is served by an existing stormwater management BMP that addresses water~~  
 1262 ~~quality.~~

1263 ~~Requirement: The pollutant discharge after disturbance shall not exceed the existing~~  
 1264 ~~pollutant discharge based on the existing percent impervious cover while served by the existing~~  
 1265 ~~BMP. The existing BMP shall be shown to have been designed and constructed in accordance~~  
 1266 ~~with proper design standards and specifications, and to be in proper functioning condition.~~

1267 ~~C. Technology based criteria. For land disturbing activities, the post developed stormwater~~  
 1268 ~~runoff from the impervious cover shall be treated by an appropriate BMP as required by the~~  
 1269 ~~post developed condition percent impervious cover as specified in Table 1. The selected BMP~~  
 1270 ~~shall be located, designed, and maintained to perform at the target pollutant removal efficiency~~  
 1271 ~~specified in Table 1. Design standards and specifications for the BMPs in Table 1 that meet the~~  
 1272 ~~required target pollutant removal efficiency will be available at the department.~~

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%	

1274 ~~\*Innovative or alternate BMPs not included in this table may be allowed at the discretion of the~~  
 1275 ~~local program administrator or the department. Innovative or alternate BMPs not included in this~~  
 1276 ~~table which target appropriate nonpoint source pollution other than phosphorous may be~~  
 1277 ~~allowed at the discretion of the local program administrator or the department.~~

[ Part II B

Technical Criteria for Regulated Land-Disturbing Activities

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

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

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

[ A. ] In order to protect the quality of state waters and to control nonpoint source pollution [ the discharge of ] stormwater pollutants [ from regulated activities ] , the following minimum [ technical design ] criteria and statewide standards for stormwater management shall be applied to the site [ of a land-disturbing activity ] . The local program shall have discretion to allow for application of the criteria to each drainage area of the site. However, where a site drains to more than one HUC, the pollutant load reduction requirements shall be applied independently within each HUC unless reductions are achieved in accordance with a comprehensive watershed stormwater management plan in accordance with 4VAC50-60-96.

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

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

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

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

1324 ~~land disturbing activities that discharge to watersheds other than the Chesapeake~~  
1325 ~~Bay watershed.~~

1326 ~~c. Upon the completion of the Virginia TMDL Implementation Plan for the~~  
1327 ~~Chesapeake Bay Nutrient and Sediment TMDL approved by EPA, the board shall by~~  
1328 ~~regulatory action establish a water quality design criteria for new development~~  
1329 ~~activities that is consistent with the pollutant loadings called for in the approved~~  
1330 ~~Implementation Plan. ]~~

1331 2. Development on prior developed lands.

1332 ~~a. [ The total phosphorus load of projects a project occurring on prior developed~~  
1333 ~~lands and ] distributing [ For land-disturbing activities ] disturbing greater than or~~  
1334 ~~equal to one acre [ that result in no net increase in impervious cover from the~~  
1335 ~~predevelopment condition, the total phosphorus load ] shall be reduced [ to an~~  
1336 ~~amount ] at least 20% below the predevelopment total phosphorus load.~~

1337 ~~However, the b. [ The total phosphorus load of a project occurring on prior developed~~  
1338 ~~lands and For regulated land-disturbing activities ] disturbing less than one acre [ that~~  
1339 ~~result in no net increase in impervious cover from the predevelopment condition, the~~  
1340 ~~total phosphorus load ] shall be reduced [ to an amount ] at least 10% below the~~  
1341 ~~predevelopment total phosphorus load.~~

1342 ~~c. [ For land-disturbing activities that result in a net increase in impervious cover over~~  
1343 ~~the predevelopment condition, the design criteria for new development shall be~~  
1344 ~~applied to the increased impervious area. Depending on the area of disturbance, the~~  
1345 ~~criteria of subdivisions a or b above, shall be applied to the remainder of the site.~~

1346 ~~d. In lieu of subdivision (c), the total phosphorus load of a linear development project~~  
1347 ~~occurring on prior developed lands shall be reduced 20% below the predevelopment~~  
1348 ~~total phosphorus load.~~

1349 ~~e. ] The total phosphorus load shall not be required to be reduced to below 0.28~~  
1350 ~~pounds per acre per year the applicable standard for new development unless a~~  
1351 ~~more stringent standard has been established by a [ qualifying ] local [ stormwater~~  
1352 ~~management ] program.~~

1353 ~~[ 3-B. ] Compliance with [ subdivisions 1 and 2 of this section subsection A above ] shall~~  
1354 ~~be determined in accordance with 4VAC50-60-65 shall constitute compliance with~~  
1355 ~~subdivisions 1 and 2 of this section.~~

1356 ~~[ 4.C. TMDL. In addition to the above requirements, if a specific WLA for a pollutant has~~  
1357 ~~been established in a TMDL and is assigned to stormwater discharges from a~~  
1358 ~~construction activity, necessary control measures must be implemented by the operator~~  
1359 ~~to meet the WLA in accordance with the requirements established in the General Permit~~  
1360 ~~for Discharges of Stormwater from Construction Activities or an individual permit , which~~  
1361 ~~address both construction and postconstruction discharges. Upon completion of the~~  
1362 ~~2017 Chesapeake Bay Phase III Watershed Implementation Plan, the department shall~~  
1363 ~~review the water quality design criteria standards.~~

1364 ~~5-D. ] Nothing in this section shall prohibit a [ qualifying local stormwater management ]~~  
1365 ~~program from establishing [ a ] more stringent [ standard water quality design criteria~~  
1366 ~~requirements ].~~

1367 **4VAC50-60-65. Water quality compliance.**

1368 A. Compliance with the water quality design criteria set out in subdivisions 1 and 2 of  
1369 4VAC50-60-63 shall be determined by utilizing the Virginia Runoff Reduction Method or another

1370 [ equivalent ] methodology that is [ demonstrated by the qualifying local program to achieve  
 1371 equivalent or more stringent results and is ] approved by the board.

1372 B. The BMPs listed [ in Table 1 below ] or the BMPs [ shall be utilized are approved for use ]  
 1373 as necessary to effectively reduce the phosphorus load [ and runoff volume ] in accordance with  
 1374 the Virginia Runoff Reduction Method. [ Other approved BMPs found on the Virginia Stormwater  
 1375 BMP Clearinghouse Website at <http://www.vwrrc.vt.edu/swc> may also be utilized. ] Design  
 1376 specifications [ and the pollutant removal efficiencies ] for [ the all approved ] BMPs [ listed in  
 1377 Table 1 can be are ] found on the Virginia Stormwater BMP Clearinghouse Website [ at  
 1378 <http://www.vwrrc.vt.edu/swc> ] .

1379

[ 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 %)<sup>5</sup></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 50<sup>1</sup></u>	<u>0</u>	<u>25 or 50<sup>1</sup></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 90<sup>3, 5</sup></u>	<u>0</u>	<u>actual volume x .75 up to 90<sup>3, 5</sup></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 20<sup>1</sup></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 50<sup>1</sup></u>	<u>50-0</u>	<u>25 or 50<sup>1</sup></u>
<u>Sheet Flow to Conserved Filter/ Open Space 2<sup>52</sup></u>	<u>0-50 or 75<sup>1</sup></u>	<u>75-0</u>	<u>50 or 75<sup>1</sup></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 (45<sup>4</sup>)</u>	<u>50 (45<sup>4</sup>)</u>
<u>Wet Pond 2</u>	<u>0</u>	<u>75 (65<sup>4</sup>)</u>	<u>75 (65<sup>4</sup>)</u>

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

<sup>2</sup> 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.

<sup>3</sup> 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%.

<sup>4</sup> Lower nutrient removals in parentheses apply to wet ponds in coastal plain terrain.

<sup>5</sup> ~~See BMP design specification for an explanation of how additional pollutant removal can be achieved.~~

- 1380 1. Vegetated Roof (Version 2.3, March 1, 2011);  
1381 2. Rooftop Disconnection (Version 1.9, March 1, 2011);  
1382 3. Rainwater Harvesting (Version 1.9.5, March 1, 2011);  
1383 4. Soil Amendments (Version 1.8, March 1, 2011);  
1384 5. Permeable Pavement (Version 1.8, March 1, 2011);  
1385 6. Grass Channel (Version 1.9, March 1, 2011);  
1386 7. Bioretention (Version 1.9, March 1, 2011);  
1387 8. Infiltration (Version 1.9, March 1, 2011);  
1388 9. Dry Swale (Version 1.9, March 1, 2011);  
1389 10. Wet Swale (Version 1.9, March 1, 2011);  
1390 11. Sheet Flow to Filter/Open Space (Version 1.9, March 1, 2011);  
1391 12. Extended Detention Pond (Version 1.9, March 1, 2011);  
1392 13. Filtering Practice (Version 1.8, March 1, 2011);  
1393 14. Constructed Wetland (Version 1.9, March 1, 2011); and  
1394 15. Wet Pond (Version 1.9, March 1, 2011).  
1395 Other approved BMPs available on this website may also be utilized. ]  
1396 C. BMPs differing from those listed [ in Table 4 above ] shall be reviewed and approved by  
1397 the director in accordance with procedures established by the BMP Clearinghouse Committee  
1398 and approved by the board.  
1399 D. A [ qualifying ] local [ stormwater management ] program may establish use limitations on  
1400 the use of specific BMPs following the submission of the proposed use limitation and written  
1401 justification to the department.  
1402 E. [ Where the land-disturbing activity only occurs on a portion of the site, the local program  
1403 may review the stormwater management plan based upon the portion of the site that is  
1404 proposed to be developed, provided that the local program has established guidance for such a  
1405 review . Such portion shall be deemed to include any area left undeveloped pursuant to any  
1406 local requirement or proffer accepted by a locality. Any such guidance shall be provided to the  
1407 department.  
1408 F. ] If a comprehensive watershed stormwater management plan has been adopted  
1409 pursuant to 4VAC50-60-96 for the watershed within which a project is located, then the  
1410 qualifying local program may allow offsite controls in accordance with the plan to achieve the  
1411 postdevelopment pollutant load water quality technical criteria set out in subdivisions 1 and 2 of  
1412 4VAC50-60-63. Such offsite controls shall achieve the required pollutant reductions either  
1413 completely offsite in accordance with the plan or in a combination of onsite and offsite controls.  
1414 The [ local stormwater ] program [ administrative authority ] shall have the discretion to allow for  
1415 application of the [ design ] criteria to each drainage area of the site. However, where a site  
1416 drains to more than one HUC, the pollutant load reduction requirements shall be applied  
1417 independently within each HUC unless reductions are achieved in accordance with a  
1418 comprehensive watershed stormwater management plan in accordance with 4VAC50-60-92.

1419 ~~G. Where no plan exists pursuant to subsection F of this section, offsite controls may be~~  
1420 ~~used to meet the postdevelopment pollutant load water quality technical criteria set out in~~  
1421 ~~subdivisions 1 and 2 of 4VAC50-60-63 provided:~~

- 1422 ~~1. The local program allows for offsite controls;~~
- 1423 ~~2. The applicant demonstrates to the satisfaction of the local program that offsite~~  
1424 ~~reductions equal to or greater than those that would otherwise be required for the site~~  
1425 ~~are achieved;~~
- 1426 ~~3. The applicant demonstrates to the satisfaction of the local program that the~~  
1427 ~~development's runoff and the runoff from any offsite treatment area shall be controlled in~~  
1428 ~~accordance with 4VAC50-60-66;~~
- 1429 ~~4. Offsite controls must be located within the same HUC or the adjacent downstream~~  
1430 ~~HUC to the land-disturbing site; and~~
- 1431 ~~5. The applicant demonstrates to the satisfaction of the local program that the right to~~  
1432 ~~utilize the offsite control area and any necessary easements has been obtained and~~  
1433 ~~maintenance agreements for the stormwater management facilities have been~~  
1434 ~~established pursuant to 4VAC50-60-124.~~

1435 ~~H. Alternatively, the local program may waive the requirements of subdivisions 1 and 2 of~~  
1436 ~~4VAC50-60-63 through the granting of an exception pursuant to 4VAC50-60-122. [ G.F. ] Offsite~~  
1437 ~~alternatives where allowed in accordance with 4VAC50-60-69 may be utilized to meet the~~  
1438 ~~design criteria of [ subdivisions 1 and 2 subsection A ] of 4VAC50-60-63.~~

1439 **4VAC50-60-66. Water quantity.**

1440 ~~A. Channel protection and flood protection shall be addressed in accordance with the~~  
1441 ~~minimum standards set out in this section, which are established pursuant to the requirements~~  
1442 ~~of subdivision 7 of § 10.1-603.4 of the Code of Virginia. Nothing in this section shall prohibit a~~  
1443 ~~[ qualifying ] local [ stormwater management ] program from establishing a more stringent~~  
1444 ~~standard. [ Compliance with the minimum standards set out in this section shall be deemed to~~  
1445 ~~satisfy the requirements of 4VAC50-30-40.19 (Minimum Standard 19 of the Virginia Erosion and~~  
1446 ~~Sediment Control Regulations). ]~~

1447 ~~B. Channel protection. Concentrated stormwater flow [ from the site and offsite contributing~~  
1448 ~~areas ] shall be released into a stormwater conveyance system [ and shall meet one of the~~  
1449 ~~following criteria as demonstrated by use of accepted hydrologic and hydraulic methodologies:~~

- 1450 ~~1. Concentrated stormwater flow to manmade stormwater conveyance systems. The~~  
1451 ~~point of discharge releases stormwater into a manmade stormwater conveyance system~~  
1452 ~~that, following the land-disturbing activity, conveys the postdevelopment peak flow rate~~  
1453 ~~from the two year 24-hour storm without causing erosion of the system.~~
- 1454 ~~2. Concentrated stormwater flow to restored stormwater conveyance systems. The point~~  
1455 ~~of discharge releases stormwater into a stormwater conveyance system that (i) has been~~  
1456 ~~restored and is functioning as designed or (ii) will be restored. The applicant must~~  
1457 ~~demonstrate that the runoff following the land-disturbing activity, in combination with~~  
1458 ~~other existing stormwater runoff, will not exceed the design of the restored stormwater~~  
1459 ~~conveyance system nor result in instability of the system.~~
- 1460 ~~3. Concentrated stormwater flow to stable natural stormwater conveyance systems. The~~  
1461 ~~point of discharge releases stormwater into a natural stormwater conveyance system~~  
1462 ~~that is stable and, following the land-disturbing activity, (i) will not become unstable as a~~  
1463 ~~result of the discharge from the one year 24-hour storm, and (ii) provides a peak flow~~  
1464 ~~rate from the one year 24-hour storm calculated as follows or in accordance with another~~

1465 methodology that is demonstrated by the local program to achieve equivalent results and  
1466 is approved by the board:

1467  $Q_{Developed} * RV_{Developed} \leq Q_{Pre-Developed} * RV_{Pre-Developed}$ , where

1468  $Q_{Developed}$  = The allowable peak flow rate of runoff from the developed site. Such peak  
1469 flow rate must be less than or equal to  $Q_{Pre-developed}$ .

1470  $Q_{Pre-Developed}$  = The peak flow rate of runoff from the site in the predeveloped  
1471 condition.

1472  $RV_{Pre-Developed}$  = The volume of runoff from the site in the predeveloped condition.

1473  $RV_{Developed}$  = The volume of runoff from the developed site.

1474 4. ] Concentrated [ Except as set out in subdivision 5 of this subsection, concentrated  
1475 stormwater flow to unstable natural stormwater conveyance systems. Where the point of  
1476 discharge releases stormwater into a natural stormwater conveyance system that is  
1477 unstable, stormwater runoff following a land disturbing activity shall be released into a  
1478 channel at or below a peak flow rate ( $Q_{Developed}$ ) based on the one-year 24-hour storm,  
1479 calculated as follows or in accordance with another methodology that is demonstrated by  
1480 the local program to achieve equivalent or more stringent results and is approved by the  
1481 board:

1482  $Q_{Developed} * RV_{Developed} \leq Q_{Forested} [ Good Pasture * RV ]_{Forested} [ Good Pasture ]$ , where

1483  $Q_{Developed}$  = The allowable peak flow rate from the developed site. Such peak flow  
1484 rate must be less than or equal to  $Q_{Good Pasture}$ .

1485  $Q_{Forested} [ Good Pasture ]$  = The peak flow rate from the site in a ] forested [ good pasture  
1486 condition.

1487  $RV_{Forested} [ Good Pasture ]$  = The volume of runoff from the site in a ] forested [ good  
1488 pasture condition.

1489  $RV_{Developed}$  = The volume of runoff from the developed site.

1490 However, in the case that the predeveloped condition is forested, ] both the peak flow  
1491 rate and the volume of runoff from the developed site shall be held to the forested  
1492 condition [ the forested condition shall be utilized instead of the good pasture condition in  
1493 all instances in the calculation above.

1494 5. This subdivision shall apply to concentrated stormwater flow to unstable natural  
1495 stormwater conveyance systems from (i) a land disturbing activity less than five acres on  
1496 prior developed lands, or (ii) a regulated land disturbing activity less than one acre for  
1497 new development. Where the point of discharge releases stormwater into a natural  
1498 stormwater conveyance system that is unstable, stormwater runoff following a land-  
1499 disturbing activity shall provide a peak flow rate from the one-year 24-hour storm,  
1500 calculated as follows or in accordance with another methodology that is demonstrated by  
1501 the local program to achieve equivalent or more stringent results and is approved by the  
1502 board:

1503  $Q_{Developed} * RV_{Developed} \leq Q_{Pre-Developed} * RV_{Pre-Developed}$ , where

1504  $Q_{Developed}$  = The allowable peak flow rate from the developed site. Such peak flow  
1505 rate must be less than  $Q_{Pre-Developed}$ .

1506  $Q_{Pre-Developed}$  = The peak flow rate from the site in pre-development condition.

1507  $RV_{Pre-Developed}$  = The volume of runoff from the site in pre-development condition.

- 1508 RV<sub>Developed</sub> = The volume of runoff from the developed site. ] Such volume must be  
1509 less than RV<sub>Pre-Developed</sub>.
- 1510 [ and shall meet criteria 1, 2 or 3 of this subsection, where applicable, from the point of  
1511 discharge to a point to the limits of analysis in subsection 4.
- 1512 1. Manmade stormwater conveyance systems. When stormwater from a development is  
1513 discharged to a manmade stormwater conveyance system, following the land-disturbing  
1514 activity, either:
- 1515 a. The manmade stormwater conveyance system shall convey the postdevelopment  
1516 peak flow rate from the two-year 24-hour storm event without causing erosion of the  
1517 system. Detention of stormwater or downstream improvements may be incorporated  
1518 into the approved land-disturbing activity to meet this criterion, at the discretion of the  
1519 stormwater program administrative authority; or
- 1520 b. The peak discharge requirements for concentrated stormwater flow to natural  
1521 stormwater conveyance systems in subsection 3 shall be met.
- 1522 2. Restored stormwater conveyance systems. When stormwater from a development is  
1523 discharged to a restored stormwater conveyance system that has been restored using  
1524 natural design concepts, following the land-disturbing activity, either:
- 1525 a. The development shall be consistent, in combination with other stormwater runoff,  
1526 with the design parameters of the restored stormwater conveyance system that is  
1527 functioning in accordance with the design objectives; or
- 1528 b. The peak discharge requirements for concentrated stormwater flow to natural  
1529 stormwater conveyance systems in subsection 3 shall be met.
- 1530 3. Natural stormwater conveyance systems. When stormwater from a development is  
1531 discharged to a natural stormwater conveyance system, the maximum peak flow rate  
1532 from the one-year 24-hour storm following the land-disturbing activity shall be calculated  
1533 either:
- 1534 a. In accordance with the following methodology:
- 1535  $Q_{Developed} \leq I.F. * (Q_{Pre-developed} * RV_{Pre-Developed}) / RV_{Developed}$
- 1536 Under no condition shall  $Q_{Developed}$  be greater than  $Q_{Pre-Developed}$  nor shall  $Q_{Developed}$  be  
1537 required to be less than that calculated in the equation  $(Q_{Forest} * RV_{Forest}) / RV_{Developed}$ ;  
1538 where
- 1539 I.F. (Improvement Factor) equals 0.8 for sites > 1 acre or 0.9 for sites ≤ 1 acre.
- 1540  $Q_{Developed}$  = The allowable peak flow rate of runoff from the developed site.
- 1541  $RV_{Developed}$  = The volume of runoff from the site in the developed condition.
- 1542  $Q_{Pre-Developed}$  = The peak flow rate of runoff from the site in the pre-developed  
1543 condition.
- 1544  $RV_{Pre-Developed}$  = The volume of runoff from the site in pre-developed condition.
- 1545  $Q_{Forest}$  = The peak flow rate of runoff from the site in a forested condition.
- 1546  $RV_{Forest}$  = The volume of runoff from the site in a forested condition; or
- 1547 b. In accordance with another methodology that is demonstrated by the local  
1548 stormwater management program to achieve equivalent results and is approved by  
1549 the board.

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1550 4. Limits of analysis. Unless subsection 3 is utilized to show compliance with the channel  
1551 protection criteria, stormwater conveyance systems shall be analyzed for compliance  
1552 with channel protection criteria to a point where either:

1553 a. Based on land area, the site's contributing drainage area is less than or equal to  
1554 1.0% of the total watershed area; or

1555 b. Based on peak flow rate, the site's peak flow rate from the one-year 24-hour storm  
1556 is less than or equal to 1.0% of the existing peak flow rate from the one-year 24-hour  
1557 storm prior to the implementation of any stormwater quantity control measures. ]

1558 C. Flood protection. Concentrated stormwater flow shall be released into a stormwater  
1559 conveyance system and shall meet one of the following criteria as demonstrated by use of  
1560 [ ~~accepted~~ acceptable ] hydrologic and hydraulic methodologies:

1561 1. Concentrated stormwater flow to [ ~~manmade~~ ] stormwater conveyance systems [ that  
1562 currently do not experience localized flooding during the 10-year 24-hour storm event: ]  
1563 The point of discharge releases stormwater into a [ ~~manmade~~ ] stormwater conveyance  
1564 system that, following the land-disturbing activity, confines the postdevelopment peak  
1565 flow rate from the 10-year 24-hour storm [ event ] within the [ ~~manmade~~ ] stormwater  
1566 conveyance system. [ Detention of stormwater or downstream improvements may be  
1567 incorporated into the approved land-disturbing activity to meet this criterion, at the  
1568 discretion of the stormwater program administrative authority. ]

1569 2. Concentrated stormwater flow to [ ~~restored~~ ] stormwater conveyance systems [ that  
1570 currently experience localized flooding during the 10-year 24-hour storm event: ]  
1571 The point of discharge [ either: ~~releases stormwater into a stormwater conveyance system~~  
1572 that (i) has been restored and is functioning as designed or (ii) will be restored. The  
1573 applicant must demonstrate that the peak flow rate from the 10-year 24-hour storm  
1574 following the land-disturbing activity will be confined within the system.

1575 a. Confines the postdevelopment peak flow rate from the 10-year 24-hour storm  
1576 event within the stormwater conveyance system to avoid the localized flooding.  
1577 Detention of stormwater or downstream improvements may be incorporated into the  
1578 approved land-disturbing activity to meet this criterion, at the discretion of the  
1579 stormwater program administrative authority; or

1580 b. Releases a postdevelopment peak flow rate for the 10-year 24-hour storm event  
1581 that is less than the predevelopment peak flow rate from the 10-year 24-hour storm  
1582 event. Downstream stormwater conveyance systems do not require any additional  
1583 analysis to show compliance with flood protection criteria if this option is utilized. ]

1584 3. [ ~~Concentrated stormwater flow to natural stormwater conveyance systems. The point~~  
1585 of discharge releases stormwater into a natural stormwater conveyance system that  
1586 currently does not flood during the 10-year 24-hour storm and, following the land-  
1587 disturbing activity, confines the postdevelopment peak flow rate from the 10-year 24-  
1588 hour storm within the system Limits of analysis. Unless 2b above is utilized to comply  
1589 with the flood protection criteria, stormwater conveyance systems shall be analyzed for  
1590 compliance with flood protection criteria to a point where:

1591 a. The site's contributing drainage area is less than or equal to 1.0% of the total  
1592 watershed area draining to a point of analysis in the downstream stormwater  
1593 conveyance system;

1594 b. Based on peak flow rate, the site's peak flow rate from the 10-year 24-hour storm  
1595 event is less than or equal to 1.0% of the existing peak flow rate from the 10-year 24-

1596 hour storm event prior to the implementation of any stormwater quantity control  
1597 measures; or

1598 c. The stormwater conveyance system enters a mapped floodplain or other flood-  
1599 prone area, adopted by ordinance, of any locality ] .

1600 [ 4. Concentrated stormwater flow to natural stormwater conveyance systems where  
1601 localized flooding exists during the 10-year 24-hour storm. The point of discharge  
1602 releases a postdevelopment peak flow rate for the 10-year 24-hour storm that shall not  
1603 exceed the predevelopment peak flow rate from the 10-year 24-hour storm based on  
1604 forested good pasture conditions, unless the predeveloped condition is forested, in  
1605 which case the peak flow rate from the developed site shall be held to the forested  
1606 condition.

1607 5. ] A local program may adopt alternate flood protection design criteria that (i) achieve  
1608 equivalent or more stringent results, (ii) are based upon geographic, land use,  
1609 topographic, geologic, or other downstream conveyance factors, and (iii) are approved  
1610 by the board. [ Subdivision C 4 of this subsection notwithstanding, this subdivision shall  
1611 apply to concentrated stormwater flow to natural stormwater conveyance systems where  
1612 localized flooding exists during the 10-year 24-hour storm from (i) a land disturbing  
1613 activity less than five acres on prior developed lands, or (ii) a regulated land disturbing  
1614 activity less than one acre for new development. The point of discharge releases a  
1615 postdevelopment peak flow rate for the 10-year 24-hour storm that is less than the  
1616 predevelopment peak flow rate from the 10-year 24-hour storm. ]

1617 D. [ One percent rule. If either of the following criteria are met, subsections A B and B C of  
1618 this section do not apply, nor is the analysis of subsection H required:

1619 1. Based on area. Prior to any land disturbance, the site's contributing drainage area to a  
1620 point of discharge from the site is less than or equal to 1.0% of the total watershed area  
1621 draining to that point of discharge; or

1622 2. Based on peak flow rate. Based on the postdevelopment land cover conditions prior to  
1623 the implementation of any stormwater quantity control measures, the development of the  
1624 site results in an increase in the peak flow rate from the one-year 24-hour storm that is  
1625 less than 1.0% of the existing peak flow rate from the one-year 24-hour storm generated  
1626 by the total watershed area draining to that point of discharge.

1627 E. ] Increased volumes of sheet flow resulting from pervious or disconnected impervious  
1628 areas, or from physical spreading of concentrated flow through level spreaders, must be  
1629 identified and evaluated for potential impacts on down-gradient properties or resources.  
1630 Increased volumes of sheet flow that will cause or contribute to erosion, sedimentation, or  
1631 flooding of down gradient properties or resources shall be diverted to a detention stormwater  
1632 management facility or a stormwater conveyance system that conveys the runoff without  
1633 causing down-gradient erosion, sedimentation, or flooding. If all runoff from the site is sheet flow  
1634 and the conditions of this subsection are met, no further water quantity controls are required.

1635 [ F. E. ] For purposes of computing predevelopment runoff [ from prior developed sites] , all  
1636 pervious lands on the site shall be assumed to be in good hydrologic condition in accordance  
1637 with the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS)  
1638 standards, regardless of conditions existing at the time of computation. Predevelopment runoff  
1639 calculations utilizing other hydrologic conditions may be utilized provided that it is demonstrated  
1640 to and approved by the [ local stormwater ] program [ administrative authority ] that actual site  
1641 conditions warrant such considerations.

1642 ~~[ G. F. ] Predevelopment [ and postdevelopment ] runoff characteristics and site hydrology~~  
1643 ~~shall be verified by site inspections, topographic surveys, available soil mapping or studies, and~~  
1644 ~~calculations consistent with good engineering practices in accordance with guidance. Guidance~~  
1645 ~~provided in the Virginia Stormwater Management Handbook [ and by the ]-qualifying local~~  
1646 ~~program [ Virginia Stormwater BMP Clearinghouse ] shall be considered appropriate [ standards~~  
1647 ~~practices ].~~

1648 ~~[ H. Except where the compliance options under subdivisions B 4 and 5 and C 4 and 5 of~~  
1649 ~~this section are utilized, flooding and channel erosion impacts to stormwater conveyance~~  
1650 ~~systems shall be analyzed for each point of discharge in accordance with channel analysis~~  
1651 ~~guidance provided in Technical Bulletin # 1, Stream Channel Erosion Control, or in accordance~~  
1652 ~~with more stringent channel analysis guidance established by the qualifying local program and~~  
1653 ~~provided to the department. Such analysis shall include estimates of runoff from the developed~~  
1654 ~~site and the entire upstream watershed that contributes to that point of discharge. Good~~  
1655 ~~engineering practices and calculations in accordance with department guidance shall be used to~~  
1656 ~~evaluate postdevelopment runoff characteristics and site hydrology, and flooding and channel~~  
1657 ~~erosion impacts.~~

1658 ~~If the downstream owner or owners refuse to give permission to access the property for the~~  
1659 ~~collection of data, evidence of this refusal shall be given and arrangements made satisfactory to~~  
1660 ~~the local program to provide an alternative method for the collection of data to complete the~~  
1661 ~~analysis, such as through the use of photos, aerial surveys, "as built" plans, topographic maps,~~  
1662 ~~soils maps, and any other relevant information. ]~~

1663 **4VAC50-60-69. Offsite compliance options.**

1664 ~~A. [ A qualifying local program shall have the authority to consider the use of the following~~  
1665 ~~offsite [ Offsite ] compliance options [ ; that a stormwater program administrative authority may~~  
1666 ~~allow an operator to use to meet required phosphorus nutrient reductions include the following: ]~~

1667 ~~1. [ If Offsite controls utilized in accordance with ] a comprehensive [ watershed ]~~  
1668 ~~stormwater management plan [ has been ] adopted pursuant to 4VAC50-60-92 for the~~  
1669 ~~local watershed within which a project is located [ , then the qualifying local program may~~  
1670 ~~allow offsite controls in accordance with the plan to achieve the water quality reductions,~~  
1671 ~~quantity reductions, or both required for a site by this chapter. Such offsite controls shall~~  
1672 ~~achieve the required reductions either completely offsite in accordance with the plan or~~  
1673 ~~by a combination of on site and offsite controls.; ]~~

1674 ~~2. A [ locality pollutant loading ] pro rata [ fee in accordance with share program~~  
1675 ~~established pursuant to ] § 15.2-2243 of the Code of Virginia or similar local funding~~  
1676 ~~mechanism [ through which the water quality and quantity reductions required for a site~~  
1677 ~~by this chapter may be achieved by the payment of a fee sufficient to fund improvements~~  
1678 ~~necessary to adequately achieve offsite reductions equal to or greater than those that~~  
1679 ~~would otherwise be required for the site.; ]~~

1680 ~~3. The nonpoint nutrient offset program established [ by pursuant to ] § 10.1-603.8:1 of~~  
1681 ~~the Code of Virginia [ ; ]~~

1682 ~~4 [ Where no comprehensive watershed stormwater management plan or pro rata fee~~  
1683 ~~exists, or where a qualifying local program otherwise elects to allow the use of this~~  
1684 ~~subdivision, offsite stormwater management facilities may be used by the operator of a~~  
1685 ~~land disturbing activity to meet the water quality reductions required for a site by this~~  
1686 ~~chapter provided:~~

1687 a. The operator demonstrates to the satisfaction of the local program that offsite  
1688 reductions equal to or greater than those that would otherwise be required for the  
1689 site are achieved;

1690 b. The operator demonstrates to the satisfaction of the local program that the  
1691 development's runoff and the runoff from any offsite treatment area shall be  
1692 controlled in accordance with 4VAC50-60-66;

1693 c. Offsite stormwater management facilities must be located within the HUC or within  
1694 the upstream HUCs in the watershed that the land-disturbing activity directly  
1695 discharges to or within the same watershed, as determined by the local program;  
1696 and

1697 d. The operator demonstrates to the satisfaction of the local program that the right to  
1698 utilize the offsite area and any necessary easements have been obtained and  
1699 maintenance agreements for the stormwater management facilities have been  
1700 established pursuant to 4VAC50-60-124.

1701 Any other offsite options approved by an applicable state agency or state board; and

1702 5. When an operator has additional properties available within the same HUC or  
1703 upstream HUC that the land-disturbing activity directly discharges to or within the same  
1704 watershed as determined by the stormwater program administrative authority, offsite  
1705 stormwater management facilities on those properties may be utilized to meet the  
1706 required phosphorus nutrient reductions from the land-disturbing activity. ]

1707 B. [ Should the board establish by regulatory action a standard more stringent than 0.45  
1708 pounds per acre per year in the Chesapeake Bay watershed, the offsite compliance option  
1709 provided by this subsection shall be available as follows. Where the offsite options of subsection  
1710 A of this section are not available for use, where the fee established by a qualifying local  
1711 program to offset a pound of phosphorus removal onsite pursuant to subdivision A 2 exceeds  
1712 \$23,900, or where a qualifying local program otherwise elects to allow the use of this  
1713 subsection, offsite compliance may be achieved through a payment in accordance with the  
1714 following:

1715 1. When the land-disturbing activity is in an urban development area the payment shall  
1716 be \$15,000 per pound of phosphorus and shall be calculated based on the poundage  
1717 not treated on site. In all other cases the payment shall be \$23,900 per pound of  
1718 phosphorus. Payment amounts shall be determined based upon the nearest 0.01 of a  
1719 pound of phosphorus.

1720 2. All payments shall be deposited and utilized in accordance with the following:

1721 a. Payments shall be made prior to commencement of the land-disturbing activity  
1722 and shall be deposited to the Virginia Stormwater Management Fund and held in a  
1723 subaccount.

1724 b. The board shall establish priorities for the use of these funds by December 1 of  
1725 each year. Payments held in the fund shall be promptly applied to ensure that  
1726 nutrient reduction practices are being implemented. Priorities for the funds shall be  
1727 established in accordance with the following:

1728 (1) At least 50% of the funds shall be utilized for projects to address local stormwater  
1729 quality issues related to the impacts of development activities including but not  
1730 limited to urban retrofits, urban stream restorations, and reduction of impervious  
1731 areas.

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- 1732 (2) Priority use for the remaining funds shall be for the acquisition of certified  
1733 nonpoint nutrient offsets at a rate not to exceed \$23,900 per pound of phosphorus.  
1734 Any remaining funds shall be utilized to fund long-term contracts for agricultural best  
1735 management practices no less than 20 years in duration or long term best  
1736 management practices including but not limited to stream fencing, alternative water  
1737 supplies, and riparian buffers in accordance with practice standards established  
1738 within the Virginia Agricultural BMP Cost Share Program administered by the  
1739 department.
- 1740 (3) In establishing priorities, the board shall consider targeting equivalent reductions  
1741 in the same local watershed as where the payment came from; implementing urban  
1742 practices/retrofits that address TMDLs; securing permanent practices; and achieving  
1743 measurable reductions. When purchasing agricultural best management practices,  
1744 the board shall consider purchasing practices beyond the baseline established under  
1745 the Chesapeake Bay Watershed Nutrient Credit Exchange Program (§ 62.1-44.19:12  
1746 et seq. of the Code of Virginia).
- 1747 c. The department shall track the payment amount, the associated poundage of  
1748 phosphorus purchased, the jurisdiction where the payment originated, the regulated  
1749 MS4 name, if any, and the HUC for the land disturbing activity. The department shall  
1750 additionally track the annual expenditure of the funds including the locality and  
1751 regulated MS4 name, if any, where the moneys are expended, the associated  
1752 poundage of phosphorus reduced, and the cost per pound for phosphorus reductions  
1753 associated with the nutrient reduction practices.
- 1754 d. The department may annually utilize up to 6.0% of the payments to administer the  
1755 stormwater management program.
- 1756 e. The board shall periodically review the payment amount, at least every five years  
1757 or in conjunction with the development of a new construction general permit, and  
1758 shall evaluate the performance of the fund and the sufficiency of the payment rate in  
1759 achieving the needed offsite pollution reductions. The board shall adjust the payment  
1760 amount based upon this analysis.
- 1761 3. Utilization of a payment to achieve compliance with the water quality technical criteria  
1762 shall be subject to the following limitations:
- 1763 a. A new development project disturbing greater than or equal to one acre in the  
1764 Chesapeake Bay watershed must reduce its phosphorus discharge to a level of 0.45  
1765 pounds per acre per year of phosphorus on site, or less, and then may achieve all or  
1766 a portion of the remaining required phosphorus reductions through a payment.
- 1767 b. A new development project disturbing less than one acre in the Chesapeake Bay  
1768 watershed may achieve all necessary phosphorus reductions through a payment.
- 1769 c. A new development project outside of the Chesapeake Bay watershed must  
1770 achieve all necessary phosphorus reductions on site.
- 1771 d. Development on prior developed lands disturbing greater than or equal to one  
1772 acre must achieve at least a 10% reduction from the predevelopment total  
1773 phosphorus load on site and then may achieve the remaining required phosphorus  
1774 reductions through a payment.
- 1775 e. Development on prior developed lands disturbing less than one acre may achieve  
1776 all necessary phosphorus reductions through a payment.

1777 ~~4. Nitrogen or other pollutant reductions achieved through payments into the fund must~~  
1778 ~~be retired and shall not be made available to other parties.~~

1779 Notwithstanding subsection A, and pursuant to §10.1-603.8:1, operators shall be allowed to  
1780 utilize offsite options identified in subsection A under any of the following conditions:

1781 1. Less than five acres of land will be disturbed;

1782 2. The postconstruction phosphorus control requirement is less than 10 pounds per year;  
1783 or

1784 3. At least 75% of the required phosphorus nutrient reductions are achieved on-site. If at  
1785 least 75% of the required phosphorus nutrient reductions can not be met on-site, and the  
1786 operator can demonstrate to the satisfaction of the stormwater program administrative  
1787 authority that (i) alternative site designs have been considered that may accommodate  
1788 on-site best management practices, (ii) on-site best management practices have been  
1789 considered in alternative site designs to the maximum extent practicable, (iii) appropriate  
1790 on-site best management practices will be implemented, and (iv) full compliance with  
1791 postdevelopment nonpoint nutrient runoff compliance requirements cannot practicably  
1792 be met on-site, then the required phosphorus nutrient reductions may be achieved, in  
1793 whole or in part, through the use of off-site compliance options. ]

1794 ~~C. [ Where the department is administering a local program, only offsite options set out in~~  
1795 ~~subdivisions A 3 and A 4, and, when available, subsection B of this section shall be available.~~  
1796 Notwithstanding subsections A and B, offsite options shall not be allowed:

1797 1. Unless the selected offsite option achieves the necessary nutrient reductions prior to  
1798 the commencement of the operator's land-disturbing activity. In the case of a phased  
1799 project, the operator may acquire or achieve offsite nutrient reductions prior to the  
1800 commencement of each phase of land-disturbing activity in an amount sufficient for each  
1801 phase.

1802 2. In contravention of local water quality-based limitations at the point of discharge that  
1803 are (i) consistent with the determinations made pursuant to subsection B of § 62.1-  
1804 44.19:7, (ii) contained in a municipal separate storm sewer system (MS4) program plan  
1805 approved by the department, or (iii) as otherwise may be established or approved by the  
1806 board.

1807 D. In order to meet the requirements of 4VAC50-60-66, offsite options 1 and 2 of subsection  
1808 A above may be utilized. ]

1809 **4VAC50-60-70. Stream channel erosion. (Repealed.)**

1810 ~~A. Properties and receiving waterways downstream of any land disturbing activity shall be~~  
1811 ~~protected from erosion and damage due to changes in runoff rate of flow and hydrologic~~  
1812 ~~characteristics, including but not limited to, changes in volume, velocity, frequency, duration,~~  
1813 ~~and peak flow rate of stormwater runoff in accordance with the minimum design standards set~~  
1814 ~~out in this section.~~

1815 ~~B. The permit issuing authority shall require compliance with subdivision 19 of 4VAC50-30-~~  
1816 ~~40 of the Erosion and Sediment Control Regulations, promulgated pursuant to Article 4 (§ 10.1-~~  
1817 ~~560 et seq.) of Chapter 5 of Title 10.1 of the Code of Virginia.~~

1818 ~~C. The permit issuing authority may determine that some watersheds or receiving stream~~  
1819 ~~systems require enhanced criteria in order to address the increased frequency of bankfull flow~~  
1820 ~~conditions (top of bank) brought on by land disturbing activities. Therefore, in lieu of the~~  
1821 ~~reduction of the two year post developed peak rate of runoff as required in subsection B of this~~

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1822 section, the land development project being considered shall provide 24-hour extended  
1823 detention of the runoff generated by the one-year, 24-hour duration storm.

1824 D. In addition to subsections B and C of this section permit-issuing authorities, by local  
1825 ordinance may, or the board by state regulation may, adopt more stringent channel analysis  
1826 criteria or design standards to ensure that the natural level of channel erosion, to the maximum  
1827 extent practicable, will not increase due to the land-disturbing activities. These criteria may  
1828 include, but are not limited to, the following:

1829 1. Criteria and procedures for channel analysis and classification.

1830 2. Procedures for channel data collection.

1831 3. Criteria and procedures for the determination of the magnitude and frequency of  
1832 natural sediment transport loads.

1833 4. Criteria for the selection of proposed natural or man-made channel linings.

1834 **4VAC50-60-72. Design storms and hydrologic methods.**

1835 A. Unless otherwise specified, the prescribed design storms are the one-year, two-year, and  
1836 10-year 24-hour storms using the site-specific rainfall precipitation frequency data  
1837 recommended by the U.S. National Oceanic and Atmospheric Administration (NOAA) Atlas 14.  
1838 Partial duration time series shall be used for the precipitation data.

1839 B. All Unless otherwise specified, all hydrologic analyses shall be based on the existing  
1840 watershed characteristics and [ how ] the ultimate development condition of the subject project  
1841 [ will be addressed ] .

1842 C. The U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS)  
1843 synthetic 24-hour rainfall distribution and models, including, but not limited to TR-55 and TR-20;  
1844 hydrologic and hydraulic methods developed by the U.S. Army Corps of Engineers; or other  
1845 standard hydrologic and hydraulic methods, shall be used to conduct the analyses described in  
1846 this part.

1847 D. [ The local For drainage areas of 200 acres or less, the stormwater ] program  
1848 [ administrative authority ] may allow for the use of the Rational Method for evaluating peak  
1849 discharges [ or the Modified Rational Method for evaluating volumetric flows to stormwater  
1850 conveyances with drainage areas of 200 acres or less ] .

1851 [ E. For drainage areas of 200 acres or less, the stormwater program administrative  
1852 authority may allow for the use of the Modified Rational Method for evaluating volumetric flows  
1853 to stormwater conveyances. ]

1854 **4VAC50-60-74. Stormwater harvesting.**

1855 In accordance with § 10.1-603.4 of the Code of Virginia, stormwater harvesting is  
1856 encouraged for the purposes of landscape irrigation systems, fire protection systems, flushing  
1857 water closets and urinals, and other water handling systems to the extent such systems are  
1858 consistent with federal, state, and local [ regulatory authorities regulations ] .

1859 **4VAC50-60-76. Linear development projects.**

1860 Unless exempt pursuant to § 10.1-603.8 B of the Code of Virginia, linear development  
1861 projects shall control postdevelopment stormwater runoff in accordance with a site-specific  
1862 stormwater management plan or a comprehensive watershed stormwater management plan  
1863 developed in accordance with these regulations.

1864 **4VAC50-60-80. Flooding. (Repealed.)**

1865 A. Downstream properties and waterways shall be protected from damages from localized  
1866 flooding due to changes in runoff rate of flow and hydrologic characteristics, including but not

1867 limited to, changes in volume, velocity, frequency, duration, and peak flow rate of stormwater  
1868 runoff in accordance with the minimum design standards set out in this section.

1869 ~~B. The 10-year post-developed peak rate of runoff from the development site shall not~~  
1870 ~~exceed the 10-year pre-developed peak rate of runoff.~~

1871 ~~C. In lieu of subsection B of this section, localities may, by ordinance, adopt alternate design~~  
1872 ~~criteria based upon geographic, land use, topographic, geologic factors or other downstream~~  
1873 ~~conveyance factors as appropriate.~~

1874 ~~D. Linear development projects shall not be required to control post-developed stormwater~~  
1875 ~~runoff for flooding, except in accordance with a watershed or regional stormwater management~~  
1876 ~~plan.~~

1877 **4VAC50-60-85. Stormwater management impoundment structures or facilities.**

1878 ~~A. [ Construction of stormwater management impoundment structures or facilities within tidal~~  
1879 ~~or nontidal wetlands and perennial streams is not recommended.~~

1880 ~~B. Construction of stormwater management impoundment structures or facilities within a~~  
1881 ~~Federal Emergency Management Agency (FEMA) designated 100-year floodplain is not~~  
1882 ~~recommended.~~

1883 ~~C. ] Stormwater management wet ponds and extended detention ponds that are not covered~~  
1884 ~~by the Impounding Structure Regulations (4VAC50-20) shall, at a minimum, be engineered for~~  
1885 ~~structural integrity and spillway design for the 100-year storm event.~~

1886 ~~[ D.B. ] Construction of stormwater management impoundment structures or facilities may~~  
1887 ~~occur in karst areas only after a geological study of the geology and hydrology of the area has~~  
1888 ~~been conducted to determine the presence or absence of karst features that may be impacted~~  
1889 ~~by stormwater runoff and BMP placement.~~

1890 ~~[ E.C. ] Discharge of stormwater runoff to a karst feature shall meet the water quality criteria~~  
1891 ~~set out in 4VAC50-60-63 and the water quantity criteria set out in 4VAC50-60-66. Permanent~~  
1892 ~~stormwater management impoundment structures or facilities shall only be constructed in karst~~  
1893 ~~features after completion of a geotechnical investigation that identifies any necessary~~  
1894 ~~modifications to the BMP to ensure its structural integrity and maintain its water quality and~~  
1895 ~~quantity efficiencies. The person responsible for the land-disturbing activity is encouraged to~~  
1896 ~~screen for known existence of heritage resources in the karst features. Any Class V~~  
1897 ~~Underground Injection Control Well registration statements for stormwater discharges to~~  
1898 ~~improved sinkholes shall be included in the SWPPP.~~

1899 **4VAC50-60-90. Regional (watershed-wide) stormwater management plans. (Repealed.)**

1900 ~~This section enables localities to develop regional stormwater management plans. State~~  
1901 ~~agencies intending to develop large tracts of land such as campuses or prison compounds are~~  
1902 ~~encouraged to develop regional plans where practical.~~

1903 ~~The objective of a regional stormwater management plan is to address the stormwater~~  
1904 ~~management concerns in a given watershed with greater economy and efficiency by installing~~  
1905 ~~regional stormwater management facilities versus individual, site-specific facilities. The result~~  
1906 ~~will be fewer stormwater management facilities to design, build and maintain in the affected~~  
1907 ~~watershed. It is also anticipated that regional stormwater management facilities will not only help~~  
1908 ~~mitigate the impacts of new development, but may also provide for the remediation of erosion,~~  
1909 ~~flooding or water quality problems caused by existing development within the given watershed.~~

1910 ~~If developed, a regional plan shall, at a minimum, address the following:~~

1911 ~~1. The specific stormwater management issues within the targeted watersheds.~~

- 1912 2. ~~The technical criteria in 4VAC50-60-40 through 4VAC50-60-80 as needed based on~~  
1913 ~~subdivision 1 of this section.~~
- 1914 3. ~~The implications of any local comprehensive plans, zoning requirements, local~~  
1915 ~~ordinances pursuant to the Chesapeake Bay Preservation Area Designation and~~  
1916 ~~Management Regulations adopted pursuant to the Chesapeake Bay Preservation Act,~~  
1917 ~~and other planning documents.~~
- 1918 4. ~~Opportunities for financing a watershed plan through cost sharing with neighboring~~  
1919 ~~agencies or localities, implementation of regional stormwater utility fees, etc.~~
- 1920 5. ~~Maintenance of the selected stormwater management facilities.~~
- 1921 6. ~~Future expansion of the selected stormwater management facilities in the event that~~  
1922 ~~development exceeds the anticipated level.~~

1923 **4VAC50-60-92. Comprehensive [ watershed ] stormwater management plans.**

1924 ~~A. [ Qualifying local Local stormwater management ] programs may develop comprehensive~~  
1925 ~~[ watershed ] stormwater management plans to be approved by the department that meet the~~  
1926 ~~water quality objectives, quantity objectives, or both of this chapter:~~

- 1927 ~~1. Such plans shall ensure that offsite reductions equal to or greater than those that~~  
1928 ~~would be required on each contributing [ land-disturbing ] site are achieved within the~~  
1929 ~~same HUC or within another locally designated watershed. Pertaining to water quantity~~  
1930 ~~objectives, the plan may provide for implementation of a combination of channel~~  
1931 ~~improvement, stormwater detention, or other measures that are satisfactory to the~~  
1932 ~~[ qualifying ] local [ stormwater management ] program to prevent downstream erosion~~  
1933 ~~and flooding.~~
- 1934 ~~2. If the land use assumptions upon which the plan was based change or if any other~~  
1935 ~~amendments are deemed necessary by the [ qualifying ] local [ stormwater management~~  
1936 ~~] program, [ the qualifying local such ] program shall provide plan amendments to the~~  
1937 ~~[ board department ] for review and approval.~~
- 1938 ~~3. During the plan's implementation, the [ qualifying ] local [ stormwater management ]~~  
1939 ~~program shall [ account for document ] nutrient reductions accredited to the BMPs~~  
1940 ~~specified in the plan.~~
- 1941 ~~4. State and federal agencies may develop comprehensive stormwater management~~  
1942 ~~plans, and may participate in locality-developed comprehensive [ watershed ]~~  
1943 ~~stormwater management plans where practicable and permitted by the [ qualifying ] local~~  
1944 ~~[ stormwater management ] program.~~

1945 **4VAC50-60-93. Stormwater management plan development. (Reserved.)**

1946 ~~A. A stormwater management plan for a land-disturbing activity shall apply these stormwater~~  
1947 ~~management technical criteria to the entire land-disturbing activity.~~

1948 ~~B. Individual lots or planned phases of developments shall not be considered separate land-~~  
1949 ~~disturbing activities, but rather the entire development shall be considered a single land-~~  
1950 ~~disturbing activity.~~

1951 ~~C. The stormwater management plan shall consider all sources of surface runoff and all~~  
1952 ~~sources of subsurface and groundwater flows converted to surface runoff.~~

1953 [ Part II C Technical Criteria for Regulated Land-Disturbing Activities: Grandfathered Projects  
1954 and Projects Subject to the Provisions of 4VAC50-60-47.1 ]

1955 [ **4VAC50-60-93.1. Definitions.**

1956 For the purposes of Part II C only, the following words and terms have the following  
1957 meanings unless the context clearly indicates otherwise:

1958 "Adequate channel" means a channel that will convey the designated frequency storm event  
1959 without overtopping the channel bank nor causing erosive damage to the channel bed or banks.

1960 "Aquatic bench" means a 10- to 15-foot wide bench around the inside perimeter of a  
1961 permanent pool that ranges in depth from zero to 12 inches. Vegetated with emergent plants,  
1962 the bench augments pollutant removal, provides habitats, conceals trash and water level  
1963 fluctuations, and enhances safety.

1964 "Average land cover condition" means a measure of the average amount of impervious  
1965 surfaces within a watershed, assumed to be 16%. Note that a locality may opt to calculate  
1966 actual watershed-specific values for the average land cover condition based upon [4VAC50-60-](#)  
1967 [110](#).

1968 "Bioretention basin" means a water quality BMP engineered to filter the water quality volume  
1969 through an engineered planting bed, consisting of a vegetated surface layer (vegetation, mulch,  
1970 ground cover), planting soil, and sand bed, and into the in-situ material.

1971 "Bioretention filter" means a bioretention basin with the addition of a sand filter collector pipe  
1972 system beneath the planting bed.

1973 "Constructed wetlands" means areas intentionally designed and created to emulate the  
1974 water quality improvement function of wetlands for the primary purpose of removing pollutants  
1975 from stormwater.

1976 "Development" means a tract of land developed or to be developed as a unit under single  
1977 ownership or unified control which is to be used for any business or industrial purpose or is to  
1978 contain three or more residential dwelling units.

1979 "Grassed swale" means an earthen conveyance system which is broad and shallow with  
1980 erosion resistant grasses and check dams, engineered to remove pollutants from stormwater  
1981 runoff by filtration through grass and infiltration into the soil.

1982 "Infiltration facility" means a stormwater management facility that temporarily impounds  
1983 runoff and discharges it via infiltration through the surrounding soil. While an infiltration facility  
1984 may also be equipped with an outlet structure to discharge impounded runoff, such discharge is  
1985 normally reserved for overflow and other emergency conditions. Since an infiltration facility  
1986 impounds runoff only temporarily, it is normally dry during nonrainfall periods. Infiltration basin,  
1987 infiltration trench, infiltration dry well, and porous pavement shall be considered infiltration  
1988 facilities.

1989 "Nonpoint source pollutant runoff load" or "pollutant discharge" means the average amount  
1990 of a particular pollutant measured in pounds per year, delivered in a diffuse manner by  
1991 stormwater runoff.

1992 "Planning area" means a designated portion of the parcel on which the land development  
1993 project is located. Planning areas shall be established by delineation on a master plan. Once  
1994 established, planning areas shall be applied consistently for all future projects.

1995 "Sand filter" means a contained bed of sand that acts to filter the first flush of runoff. The  
1996 runoff is then collected beneath the sand bed and conveyed to an adequate discharge point or  
1997 infiltrated into the in-situ soils.

1998 "Shallow marsh" means a zone within a stormwater extended detention basin that exists  
1999 from the surface of the normal pool to a depth of six to 18 inches, and has a large surface area  
2000 and, therefore, requires a reliable source of baseflow, groundwater supply, or a sizeable  
2001 drainage area, to maintain the desired water surface elevations to support emergent vegetation.

2002 "Stormwater detention basin" or "detention basin" means a stormwater management facility  
2003 that temporarily impounds runoff and discharges it through a hydraulic outlet structure to a  
2004 downstream conveyance system. While a certain amount of outflow may also occur via  
2005 infiltration through the surrounding soil, such amounts are negligible when compared to the  
2006 outlet structure discharge rates and are, therefore, not considered in the facility's design. Since  
2007 a detention facility impounds runoff only temporarily, it is normally dry during nonrainfall periods.

2008 "Stormwater extended detention basin" or "extended detention basin" means a stormwater  
2009 management facility that temporarily impounds runoff and discharges it through a hydraulic  
2010 outlet structure over a specified period of time to a downstream conveyance system for the  
2011 purpose of water quality enhancement or stream channel erosion control. While a certain  
2012 amount of outflow may also occur via infiltration through the surrounding soil, such amounts are  
2013 negligible when compared to the outlet structure discharge rates and, therefore, are not  
2014 considered in the facility's design. Since an extended detention basin impounds runoff only  
2015 temporarily, it is normally dry during nonrainfall periods.

2016 "Stormwater extended detention basin-enhanced" or "extended detention basin-enhanced"  
2017 means an extended detention basin modified to increase pollutant removal by providing a  
2018 shallow marsh in the lower stage of the basin.

2019 "Stormwater retention basin" or "retention basin" means a stormwater management facility  
2020 that includes a permanent impoundment, or normal pool of water, for the purpose of enhancing  
2021 water quality and, therefore, is normally wet, even during nonrainfall periods. Storm runoff  
2022 inflows may be temporarily stored above this permanent impoundment for the purpose of  
2023 reducing flooding, or stream channel erosion.

2024 "Stormwater retention basin I" or "retention basin I" means a retention basin with the volume  
2025 of the permanent pool equal to three times the water quality volume.

2026 "Stormwater retention basin II" or "retention basin II" means a retention basin with the  
2027 volume of the permanent pool equal to four times the water quality volume.

2028 "Stormwater retention basin III" or "retention basin III" means a retention basin with the  
2029 volume of the permanent pool equal to four times the water quality volume with the addition of  
2030 an aquatic bench.

2031 "Vegetated filter strip" means a densely vegetated section of land engineered to accept  
2032 runoff as overland sheet flow from upstream development. It shall adopt any natural vegetated  
2033 form, from grassy meadow to small forest. The vegetative cover facilitates pollutant removal  
2034 through filtration, sediment deposition, infiltration and absorption, and is dedicated for that  
2035 purpose.

2036 "Water quality volume" means the volume equal to the first 1/2 inch of runoff multiplied by  
2037 the impervious surface of the land development project.

2038 [ Part II B  
2039 Stormwater Management Program Technical Criteria: Grandfathered Projects ]

2040 **4VAC50-60-94. Applicability.**

2041 This part specifies the technical criteria for regulated land-disturbing activities that are not  
2042 subject to the technical criteria of [ Part II A Part II B ] in accordance with 4VAC 50-60-48.

2043 **4VAC50-60-95. General.**

2044 A. Determination of flooding and channel erosion impacts to receiving streams due to land-  
2045 disturbing activities shall be measured at each point of discharge from the land disturbance and  
2046 such determination shall include any runoff from the balance of the watershed that also  
2047 contributes to that point of discharge.

2048 B. The specified design storms shall be defined as either a 24-hour storm using the rainfall  
2049 distribution recommended by the U.S. Department of Agriculture's Natural Resources  
2050 Conservation Service (NRCS) when using NRCS methods or as the storm of critical duration  
2051 that produces the greatest required storage volume at the site when using a design method  
2052 such as the Modified Rational Method.

2053 C. For purposes of computing runoff, all pervious lands in the site shall be assumed prior to  
2054 development to be in good condition (if the lands are pastures, lawns, or parks), with good cover  
2055 (if the lands are woods), or with conservation treatment (if the lands are cultivated); regardless  
2056 of conditions existing at the time of computation.

2057 D. Construction of stormwater management facilities or modifications to channels shall  
2058 comply with all applicable laws [ ~~and~~ ] regulations [ , and ordinances ] . Evidence of approval of  
2059 all necessary permits shall be presented.

2060 E. Impounding structures that are not covered by the Impounding Structure Regulations  
2061 (4VAC50-20) shall be engineered for structural integrity during the 100-year storm event.

2062 F. Predevelopment and postdevelopment runoff rates shall be verified by calculations that  
2063 are consistent with good engineering practices.

2064 G. Outflows from a stormwater management facility or stormwater conveyance system shall  
2065 be discharged to an adequate channel.

2066 H. Proposed residential, commercial, or industrial subdivisions shall apply these stormwater  
2067 management criteria to the land disturbance as a whole. Individual lots in new subdivisions shall  
2068 not be considered separate land-disturbing activities, but rather the entire subdivision shall be  
2069 considered a single land development project. Hydrologic parameters shall reflect the ultimate  
2070 land disturbance and shall be used in all engineering calculations.

2071 I. All stormwater management facilities shall have an inspection and maintenance plan that  
2072 identifies the owner and the responsible party for carrying out the inspection and maintenance  
2073 plan.

2074 J. Construction of stormwater management impoundment structures within a Federal  
2075 Emergency Management Agency (FEMA) designated 100-year floodplain shall be avoided to  
2076 the extent possible. When this is unavoidable, all stormwater management facility construction  
2077 shall be in compliance with all applicable regulations under the National Flood Insurance  
2078 Program, 44 CFR Part 59.

2079 K. Natural channel characteristics shall be preserved to the maximum extent practicable.

2080 L. Land-disturbing activities shall comply with the Virginia Erosion and Sediment Control  
2081 Law (§ 10.1-560 et seq. of the Code of Virginia) and attendant regulations.

2082 M. Flood control and stormwater management facilities that drain or treat water from multiple  
2083 development projects or from a significant portion of a watershed may be allowed in resource  
2084 protection areas defined in the Chesapeake Bay Preservation Act, provided that (i) the local  
2085 government has conclusively established that the location of the facility within the resource  
2086 protection area is the optimum location; (ii) the size of the facility is the minimum necessary to  
2087 provide necessary flood control, stormwater treatment, or both; and (iii) the facility must be

2088 consistent with a stormwater management program that has been approved by the board, the  
2089 Chesapeake Bay Local Assistance Board, or the Board of Conservation and Recreation.

2090 **4VAC50-60-96. Comprehensive watershed stormwater management plans Water quality.**

2091 A. Local programs may develop comprehensive watershed stormwater management plans  
2092 to be approved by the department that meet the water quality objectives, quantity objectives, or  
2093 both of this chapter:

2094 1. Such plans shall ensure that offsite reductions equal to or greater than those that would  
2095 be required on each contributing land-disturbing site are achieved within the same HUC or  
2096 within another locally designated watershed. Pertaining to water quantity objectives, the plan  
2097 may provide for implementation of a combination of channel improvement, stormwater  
2098 detention, or other measures that are satisfactory to the local program to prevent downstream  
2099 erosion and flooding.

2100 2. If the land use assumptions upon which the plan was based change or if any other  
2101 amendments are deemed necessary by the local program, the local program shall provide plan  
2102 amendments to the board for review and approval.

2103 3. During the plan's implementation, the local program shall account for nutrient reductions  
2104 accredited to the BMPs specified in the plan.

2105 4. State and federal agencies may participate in comprehensive watershed stormwater  
2106 management plans where practicable and permitted by the local program.

2107 A. Compliance with the water quality criteria may be achieved by applying the performance-  
2108 based criteria or the technology-based criteria to either the site or a planning area.

2109 B. If the qualifying local program allows for a pro rata fee in accordance with § 15.2-2243 of  
2110 the Code of Virginia, then the reductions required for a site by this chapter may be achieved by  
2111 the payment of a pro rata fee sufficient to fund improvements necessary to adequately achieve  
2112 those requirements in accordance with that section of the Code of Virginia and this chapter.  
2113 Performance-based criteria. For land-disturbing activities, the calculated postdevelopment  
2114 nonpoint source pollutant runoff load shall be compared to the calculated predevelopment load  
2115 based upon the average land cover condition or the existing site condition. A BMP shall be  
2116 located, designed, and maintained to achieve the target pollutant removal efficiencies specified  
2117 in [ Table 2 Table 1 ] of this section to effectively reduce the pollutant load to the required level  
2118 based upon the following four applicable land development situations for which the performance  
2119 criteria apply:

2120 1. Situation 1 consists of land-disturbing activities where the existing percent impervious  
2121 cover is less than or equal to the average land cover condition and the proposed  
2122 improvements will create a total percent impervious cover that is less than the average  
2123 land cover condition.

2124 Requirement: No reduction in the after disturbance pollutant discharge is required.

2125 2. Situation 2 consists of land-disturbing activities where the existing percent impervious  
2126 cover is less than or equal to the average land cover condition and the proposed  
2127 improvements will create a total percent impervious cover that is greater than the  
2128 average land cover condition.

2129 Requirement: The pollutant discharge after disturbance shall not exceed the existing  
2130 pollutant discharge based on the average land cover condition.

2131 3. Situation 3 consists of land-disturbing activities where the existing percent impervious  
2132 cover is greater than the average land cover condition.

2133 Requirement: The pollutant discharge after disturbance shall not exceed (i) the pollutant  
 2134 discharge based on existing conditions less 10% or (ii) the pollutant discharge based on  
 2135 the average land cover condition, whichever is greater.

2136 4. Situation 4 consists of land-disturbing activities where the existing percent impervious  
 2137 cover is served by an existing stormwater management BMP that addresses water  
 2138 quality.

2139 Requirement: The pollutant discharge after disturbance shall not exceed the existing  
 2140 pollutant discharge based on the existing percent impervious cover while served by the  
 2141 existing BMP. The existing BMP shall be shown to have been designed and constructed  
 2142 in accordance with proper design standards and specifications, and to be in proper  
 2143 functioning condition.

2144 C. Technology-based criteria. For land-disturbing activities, the postdeveloped stormwater  
 2145 runoff from the impervious cover shall be treated by an appropriate BMP as required by the  
 2146 postdeveloped condition percent impervious cover as specified in [ ~~Table 2~~ Table 1 ] of this  
 2147 section. The selected BMP shall be located, designed, and maintained to perform at the target  
 2148 pollutant removal efficiency specified in [ ~~Table 2~~ Table 1 ] or those found in 4VAC50-60-65.  
 2149 Design standards and specifications for the BMPs in [ ~~Table 2~~ Table 1 ] that meet the required  
 2150 target pollutant removal efficiency are available in the 1990 Virginia Stormwater Management  
 2151 Handbook. Other approved BMPs available on the Virginia Stormwater BMP Clearinghouse  
 2152 website at <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</u>		

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

2153 **4VAC50-60-97. Stream channel erosion.**

2154 A. Properties and receiving waterways downstream of any land-disturbing activity shall be  
2155 protected from erosion and damage due to changes in runoff rate of flow and hydrologic  
2156 characteristics, including, but not limited to, changes in volume, velocity, frequency, duration,  
2157 and peak flow rate of stormwater runoff in accordance with the minimum design standards set  
2158 out in this section.

2159 B. The [ ~~permit-issuing stormwater program administrative~~ ] ~~authority shall require~~  
2160 compliance with subdivision 19 of 4VAC50-30-40 of the Erosion and Sediment Control  
2161 Regulations, promulgated pursuant to Article 4 (§ 10.1-560 et seq.) of Chapter 5 of Title 10.1 of  
2162 the Code of Virginia.

2163 C. The [ ~~permit-issuing authority local stormwater management program~~ ] ~~may determine~~  
2164 that some watersheds or receiving stream systems require enhanced criteria in order to address  
2165 the increased frequency of bankfull flow conditions (top of bank) brought on by land-disturbing  
2166 activities. Therefore, in lieu of the reduction of the two-year postdeveloped peak rate of runoff as  
2167 required in subsection B of this section, the land development project being considered shall  
2168 provide 24-hour extended detention of the runoff generated by the one-year, 24-hour duration  
2169 storm.

2170 D. In addition to subsections B and C of this section, [ ~~permit-issuing authorities local~~  
2171 stormwater management programs ] , by local ordinance may, or the board by state regulation  
2172 may, adopt more stringent channel analysis criteria or design standards to ensure that the  
2173 natural level of channel erosion, to the maximum extent practicable, will not increase due to the  
2174 land-disturbing activities. These criteria may include, but are not limited to, the following:

- 2175 1. Criteria and procedures for channel analysis and classification.  
2176 2. Procedures for channel data collection.  
2177 3. Criteria and procedures for the determination of the magnitude and frequency of  
2178 natural sediment transport loads.  
2179 4. Criteria for the selection of proposed natural or manmade channel linings.

2180 **4VAC50-60-98. Flooding.**

2181 A. Downstream properties and waterways shall be protected from damages from localized  
2182 flooding due to changes in runoff rate of flow and hydrologic characteristics, including, but not  
2183 limited to, changes in volume, velocity, frequency, duration, and peak flow rate of stormwater  
2184 runoff in accordance with the minimum design standards set out in this section.

2185 B. The 10-year postdeveloped peak rate of runoff from the development site shall not  
2186 exceed the 10-year predeveloped peak rate of runoff.

2187 C. In lieu of subsection B of this section, localities may, by ordinance, adopt alternate design  
2188 criteria based upon geographic, land use, topographic, geologic factors, or other downstream  
2189 conveyance factors as appropriate.

2190 D. Linear development projects shall not be required to control postdeveloped stormwater  
2191 runoff for flooding, except in accordance with a watershed or regional stormwater management  
2192 plan.

2193 **4VAC50-60-99. Regional (watershedwide) (watershed-wide) stormwater management**  
2194 **plans.**

2195 Water quality [ requirements ] and where allowed, water quantity [ requirements ] , may be  
2196 achieved in accordance with sections 4VAC50-60-69 and 4VAC50-60-92.

2197 Part III  
2198 Local Programs  
2199 [ Part III ]

2200 **4VAC50-60-100. [ Applicability. (Repealed.)**

2201 This part specifies technical criteria, minimum ordinance requirements, and administrative  
2202 procedures for all localities operating local stormwater management programs. establishes the  
2203 board's procedures for the authorization of a qualifying local program, the board's procedures  
2204 for the administration of a local stormwater management program by an authorized qualifying  
2205 local program, board and department oversight authorities for an authorized qualifying local  
2206 program, and the board's procedures for utilization by the department in administering the  
2207 Virginia Stormwater Management Program in localities where no qualifying local program is  
2208 authorized. ]

2209 [ Part III A  
2210 Local Programs. ]

2211 **4VAC50-60-102. Authority [ and applicability ] .**

2212 If a locality has adopted a local stormwater management program in accordance with the  
2213 Virginia Stormwater Management Act (§ 10.1-603.2 et seq. of the Code of Virginia) and the  
2214 board has deemed such program adoption consistent with the Virginia Stormwater Management  
2215 Act and these regulations in accordance with § 10.1-603.3 F of the Code of Virginia, the board  
2216 may authorize a locality to administer a qualifying local program. Pursuant to § 10.1-603.4, the  
2217 board is required to establish standards and procedures for such an authorization.

2218 [ This part specifies the minimum technical criteria and the local government ordinance  
2219 requirements for a local program to be considered a qualifying local program. Such criteria  
2220 include but are not limited to administration, plan review, issuance of coverage under the  
2221 Virginia Stormwater Management Program (VSMP) General Permit for Discharges of  
2222 Stormwater from Construction Activities, inspection, and enforcement. ]

2223 **[ 4VAC50-60-103. Stormwater program administrative authority requirements for**  
2224 **Chesapeake Bay Preservation Act land-disturbing activities.**

2225 A. A stormwater program administrative authority shall regulate runoff associated with  
2226 Chesapeake Bay Preservation Act land-disturbing activities in accordance with the following:

2227 1. Such land-disturbing activities shall not require completion of a registration statement  
2228 or require coverage under the VSMP General Permit for Discharges of Stormwater from  
2229 Construction Activities but shall be subject to the technical criteria and program and  
2230 administrative requirements set out in 4VAC50-60-51.

2231 2. A permit shall be issued permitting the land-disturbing activity.

2232 3. The stormwater program administrative authority shall regulate such land-disturbing  
2233 activities in compliance with the:

2234 a. Program requirements in 4VAC50-60-104;

2235 b. Plan review requirements in 4VAC50-60-108 with the exception of subsection D;

2236 c. Long-term stormwater management facility requirements of 4VAC50-60-112;

- 2237 d. Inspection requirements of 4VAC50-60-114 with the exception of subsection A3  
2238 and A4;  
2239 e. Enforcement components of 4VAC50-60-116;  
2240 f. Hearing requirements of 4VAC50-60-118;  
2241 g. Exception conditions of 4VAC50-60-122 excluding subsection C which is not  
2242 applicable; and  
2243 h. Reporting and recordkeeping requirements of 4VAC50-60-126 with the exception  
2244 of subsection B3.

2245 B. A local stormwater management program shall adopt an ordinance that incorporates the  
2246 components of this section.

2247 C. In accordance with §10.1-603.4 subsection 5, a stormwater program administrative  
2248 authority may collect a permit issuance fee from the applicant of \$290 and an annual  
2249 maintenance fee of \$50 for such land-disturbing activities.

2250 [ Part III A

2251 Programs Operated by a Stormwater Program Administrative Authority ]

2252 **4VAC50-60-104. [ ~~Technical criteria~~ Criteria ] for [ ~~qualifying local~~ ] programs [ ~~operated~~**  
2253 **by a stormwater program administrative authority ] .**

2254 A. All [ ~~qualifying local programs~~ stormwater program administrative authorities] shall require  
2255 compliance with the provisions of [ Part II Part II A and Part II B as applicable ] (4VAC50-60-40  
2256 et seq.) of this chapter [ ~~unless an exception is granted pursuant to 4VAC50-60-122 and shall~~  
2257 comply with the requirements of 4VAC50-60-460 L ] .

2258 B. When a [ ~~locality operating a qualifying~~ ] local [ ~~stormwater management~~ ] program has  
2259 adopted requirements more stringent than those imposed by this chapter in accordance with §  
2260 10.1-603.7 of the Code of Virginia or implemented a comprehensive stormwater management  
2261 plan, the department shall consider such requirements in its review of state projects within that  
2262 locality in accordance with Part IV (4VAC50-60-160 et seq.) of this chapter.

2263 C. Nothing in this part shall be construed as authorizing a locality to regulate, or to require  
2264 prior approval by the locality for, a state [ or federal ] project [ , unless authorized by separate  
2265 statute ] .

2266 [ D. A stormwater program administrative authority may require the submission of a  
2267 reasonable performance bond or other financial surety and provide for the release of such  
2268 sureties in accordance with the criteria set forth in § 10.1-603.8 of the Code of Virginia. ]

2269 **4VAC50-60-106. [ ~~Qualifying local program administrative~~ Additional ] requirements [ for**  
2270 **local stormwater management programs ] .**

2271 A. [ ~~A qualifying local program shall provide for the following:~~

2272 1. ~~Identification of the authority authorizing coverage under the VSMP General Permit for~~  
2273 ~~Discharges of Stormwater from Construction Activities, the plan reviewing authority, the~~  
2274 ~~plan approving authority, the inspection authority, and the enforcement authority;~~

2275 2. ~~Technical criteria to be used in the qualifying local program;~~

2276 3. ~~Procedures for the submission and approval of plans;~~

2277 4. ~~Inspection and monitoring of land disturbing activities covered by a permit for~~  
2278 ~~compliance;~~

2279 5. ~~Procedures or policies for long-term inspection and maintenance of stormwater~~  
2280 ~~management facilities Enforcement; and~~

2281 ~~6. Enforcement Procedures or policies for long term inspection and maintenance of~~  
2282 ~~stormwater management facilities.~~

2283 ~~B. A locality qualifying local program shall adopt an ordinance(s) that incorporates the~~  
2284 ~~components set out in subdivisions 1 through 5 of subsection A of this section and consent to~~  
2285 ~~follow procedures provided by the department for the issuance, denial, revocation, termination,~~  
2286 ~~reissuance, transfer, or modifications of coverage under the VSMP General Permit for~~  
2287 ~~Discharges of Stormwater from Construction Activities.~~

2288 ~~C. A qualifying local program shall report to the department information related to the~~  
2289 ~~administration and implementation of the qualifying local program in accordance with 4VAC50-~~  
2290 ~~60-126.~~

2291 ~~D. A qualifying local program may require the submission of a reasonable performance bond~~  
2292 ~~or other financial surety and provide for the release of such sureties in accordance with the~~  
2293 ~~criteria set forth in § 10.1-603.8 of the Code of Virginia. A local stormwater management~~  
2294 ~~program shall adopt ordinances that ensure compliance with the requirements set forth in~~  
2295 ~~4VAC50-60-460L.~~

2296 ~~B. The local stormwater management program shall adopt ordinances at least as stringent~~  
2297 ~~as the provisions of the Virginia Stormwater Management Program (VSMP) General Permit for~~  
2298 ~~Discharges of Stormwater from Construction Activities. ]~~

2299 ~~**4VAC50-60-108. [ Qualifying local program stormwater Stormwater ] management plan**~~  
2300 ~~**review.**~~

2301 ~~A. A [ qualifying local stormwater ] program [ administrative authority ] shall [ require review~~  
2302 ~~and approve ] stormwater management plans [ to be submitted for review and be approved prior~~  
2303 ~~to commencement of land disturbing activities ] . [ In addition to the other requirements of this~~  
2304 ~~chapter, a stormwater management plan must be developed in accordance with the following:~~

2305 ~~1. A stormwater management plan for a land-disturbing activity shall apply the~~  
2306 ~~stormwater management technical criteria to the entire land-disturbing activity.~~

2307 ~~2. At the discretion of the qualifying local program, individual lots or planned phases of~~  
2308 ~~developments shall not be considered separate land-disturbing activities, but rather the~~  
2309 ~~entire development shall be considered a single land-disturbing activity.~~

2310 ~~3. The stormwater management plan shall consider all sources of surface runoff and all~~  
2311 ~~sources of subsurface and groundwater flows converted to surface runoff. ]~~

2312 ~~B. A [ qualifying local stormwater ] program [ administrative authority ] shall approve or~~  
2313 ~~disapprove a stormwater management plan [ and required accompanying information ]~~  
2314 ~~according to the following:~~

2315 ~~1. [ Stormwater management plan review shall begin upon submission of a complete~~  
2316 ~~plan. A complete plan shall include the following elements:~~

2317 ~~a. The location of all points of stormwater discharge, receiving surface waters or~~  
2318 ~~karst features into which the stormwater discharges, and predevelopment and~~  
2319 ~~postdevelopment conditions for drainage areas, including final drainage patterns and~~  
2320 ~~changes to existing contours;~~

2321 ~~b. Contact information including the name, address, and telephone number of the~~  
2322 ~~property owner and the tax reference number and parcel number of the property or~~  
2323 ~~properties affected;~~

2324 ~~c. A narrative that includes a description of current site conditions and proposed~~  
2325 ~~development and final site conditions, including proposed stormwater management~~

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- 2326 ~~facilities and the mechanism, including an identification of financially responsible~~  
2327 ~~parties, through which the facilities will be operated and maintained during and after~~  
2328 ~~construction activity;~~
- 2329 ~~d. The location and the design of the proposed stormwater management facilities;~~  
2330 ~~e. Information identifying the hydrologic characteristics and structural properties of~~  
2331 ~~soils utilized with the installation of stormwater management facilities;~~
- 2332 ~~f. Hydrologic and hydraulic computations of the predevelopment and~~  
2333 ~~postdevelopment runoff conditions for the required design storms;~~
- 2334 ~~g. Good engineering practices and calculations verifying compliance with the water~~  
2335 ~~quality and quantity requirements of this chapter;~~
- 2336 ~~h. A map or maps of the site that depicts the topography of the site and includes:~~  
2337 ~~(1) All contributing drainage areas;~~  
2338 ~~(2) Receiving surface waters or karst features into which stormwater will be~~  
2339 ~~discharged;~~  
2340 ~~(3) Existing streams, ponds, culverts, ditches, wetlands, and other water bodies;~~  
2341 ~~(4) Soil types, geologic formations, forest cover, and other vegetative areas;~~  
2342 ~~(5) Current land use including existing structures, roads, and locations of known~~  
2343 ~~utilities and easements;~~  
2344 ~~(6) Sufficient information on adjoining parcels to assess the impacts of stormwater~~  
2345 ~~from the site;~~  
2346 ~~(7) The limits of clearing and grading, and the proposed drainage patterns on the~~  
2347 ~~site;~~  
2348 ~~(8) Proposed buildings, roads, parking areas, utilities, and stormwater management~~  
2349 ~~facilities; and~~  
2350 ~~(9) Proposed land use with tabulation of the percentage of surface area to be~~  
2351 ~~adapted to various uses, including but not limited to planned locations of utilities,~~  
2352 ~~roads, and easements.~~
- 2353 ~~i. No more than 50% of the required base fee in accordance with 4VAC50-60-820,~~  
2354 ~~and the required fee form must have been submitted.~~
- 2355 ~~2. Elements of the stormwater management plans shall be appropriately sealed and~~  
2356 ~~signed by a professional in adherence to all minimum standards and requirements~~  
2357 ~~pertaining to the practice of that profession in accordance with Chapter 4 (§ 54.1-400 et~~  
2358 ~~seq.) of Title 54.1 of the Code of Virginia and attendant regulations. ]~~
- 2359 ~~[ 3. Completeness The stormwater program administrative authority shall determine the~~  
2360 ~~completeness ] of a plan [ and required accompanying information shall be determined~~  
2361 ~~by the qualifying local program in accordance with 4VAC50-60-55 ] , and [ shall notify ]~~  
2362 ~~the applicant [ shall be notified ] of any determination, within 15 calendar days of receipt.~~  
2363 ~~[ Where available to the applicant, electronic communication may be considered~~  
2364 ~~communication in writing. ]~~
- 2365 ~~a. If within those 15 [ calendar ] days the plan is deemed to be incomplete [ based on~~  
2366 ~~the criteria set out in this subsection-] , the applicant shall be notified in writing of the~~  
2367 ~~reasons the plan is deemed incomplete.~~

2368 b. If a determination of completeness is made and communicated to the applicant  
2369 within the 15 calendar days, an additional 60 calendar days from the date of the  
2370 communication will be allowed for the review of the plan.

2371 c. If a determination of completeness is not made and communicated to the applicant  
2372 within the 15 calendar days, the plan shall be deemed complete as of the date of  
2373 submission and a total of 60 calendar days from the date of submission will be  
2374 allowed for the review of the plan.

2375 d. The [ ~~qualifying local~~ stormwater ] program [ administrative authority ] shall [ ~~act~~  
2376 review, ] within 45 [ calendar ] days [ ~~on~~ of the date of resubmission ] any plan that  
2377 has been previously disapproved [ ~~and resubmitted~~ ] .

2378 [ 4.2. ] During the review period, the plan shall be approved or disapproved and the  
2379 decision communicated in writing to the person responsible for the land-disturbing  
2380 activity or his designated agent. If the plan is not approved, the reasons for not  
2381 approving the plan shall be provided in writing. Approval or denial shall be based on the  
2382 plan's compliance with the requirements of this chapter and of the [ ~~qualifying local~~  
2383 stormwater ] program [ administrative authority ] . Where available to the applicant,  
2384 electronic communication may be considered communication in writing.

2385 [ 5.3. ] If a plan meeting all requirements of this chapter and of the [ ~~qualifying local~~  
2386 stormwater ] program [ administrative authority ] is submitted and no action is taken  
2387 within the time specified above, the plan shall be deemed approved.

2388 C. [ ~~Notwithstanding the requirements of subsection A of this section, if allowed by the~~  
2389 qualifying local program, an initial stormwater management plan may be submitted for review  
2390 and approval when it is accompanied by an erosion and sediment control plan, preliminary  
2391 stormwater design for the current and future site work, fee form, and no more than 50% of the  
2392 base fee required by 4VAC50-60-820. Such plans shall be limited to the initial clearing and  
2393 grading of the site unless otherwise allowed by the qualifying local program. Approval by the  
2394 qualifying local program of an initial plan does not supersede the need for the submittal and  
2395 approval of a complete stormwater management plan and the updating of the SWPPP prior to  
2396 the commencement of activities beyond initial clearing and grading and other activities approved  
2397 by the local program. The initial plan shall include information detailed in subsection B of this  
2398 section to the extent required by the qualifying local program and such other information as may  
2399 be required by the qualifying local program.

2400 ~~D.~~ ] Each approved plan may be modified in accordance with the following:

2401 1. Modifications to an approved stormwater management plan shall be allowed only after  
2402 review and written approval by the [ ~~qualifying local~~ stormwater ] program  
2403 [ administrative authority ] . The [ ~~qualifying local~~ stormwater ] program [ administrative  
2404 authority ] shall have 60 calendar days to respond in writing either approving or  
2405 disapproving such requests.

2406 2. Based on an inspection, the [ ~~qualifying local~~ stormwater ] program [ administrative  
2407 authority ] may require amendments to the approved stormwater management plan to  
2408 address [ ~~the noted any~~ ] deficiencies [ ~~and notify the permittee of the required~~  
2409 modifications within a time frame set by the stormwater program administrative  
2410 authority ] .

2411 [ D. A stormwater program administrative authority shall not provide authorization to begin  
2412 land disturbance until provided evidence of VSMP permit coverage.

2413 E. The stormwater program administrative authority shall require the submission of a  
2414 construction record drawing for permanent stormwater management facilities in accordance with  
2415 4VAC50-60-55. A stormwater program administrative authority may elect not to require  
2416 construction record drawings for stormwater management facilities for which maintenance  
2417 agreements are not required pursuant to 4VAC50-60-112. ]

2418 **4VAC50-60-110. Technical criteria for local programs. (Repealed.)**

2419 ~~A. All local stormwater management programs shall comply with the general technical~~  
2420 ~~criteria as outlined in 4VAC50-60-50.~~

2421 ~~B. All local stormwater management programs which contain provisions for stormwater~~  
2422 ~~runoff quality shall comply with 4VAC50-60-60. A locality may establish criteria for selecting~~  
2423 ~~either the site or a planning area on which to apply the water quality criteria. A locality may opt~~  
2424 ~~to calculate actual watershed specific or locality wide values for the average land cover~~  
2425 ~~condition based upon:~~

2426 ~~1. Existing land use data at time of local Chesapeake Bay Preservation Act Program or~~  
2427 ~~department stormwater management program adoption, whichever was adopted first;~~

2428 ~~2. Watershed or locality size; and~~

2429 ~~3. Determination of equivalent values of impervious cover for nonurban land uses which~~  
2430 ~~contribute nonpoint source pollution, such as agriculture, forest, etc.~~

2431 ~~C. All local stormwater management programs which contain provisions for stream channel~~  
2432 ~~erosion shall comply with 4VAC50-60-70.~~

2433 ~~D. All local stormwater management programs must contain provisions for flooding and shall~~  
2434 ~~comply with 4VAC50-60-80.~~

2435 ~~E. All local stormwater management programs which contain provisions for watershed or~~  
2436 ~~regional stormwater management plans shall comply with 4VAC50-60-110.~~

2437 ~~F. A locality that has adopted more stringent requirements or implemented a regional~~  
2438 ~~(watershed wide) stormwater management plan may request, in writing, that the department~~  
2439 ~~consider these requirements in its review of state projects within that locality.~~

2440 ~~G. Nothing in this part shall be construed as authorizing a locality to regulate, or to require~~  
2441 ~~prior approval by the locality for, a state project.~~

2442 **4VAC50-60-112. [ Qualifying local program authorization of coverage under the VSMP**  
2443 **General Permit for Discharges of Stormwater from Construction Activities Long-term**  
2444 **maintenance of permanent stormwater management facilities ] .**

2445 ~~A. [ Coverage shall be authorized by the qualifying local program under the VSMP General~~  
2446 ~~Permit for Discharges of Stormwater from Construction Activities in accordance with the~~  
2447 ~~following:~~

2448 ~~1. The applicant must have an approved initial stormwater management plan or an~~  
2449 ~~approved stormwater management plan for the land disturbing activity.~~

2450 ~~2. The applicant must have submitted proposed right of entry agreements or easements~~  
2451 ~~from the owner for purposes of inspection and maintenance and proposed maintenance~~  
2452 ~~agreements, including inspection schedules, where required in accordance with~~  
2453 ~~4VAC50-60-124.~~

2454 ~~3. The applicant must have an approved registration statement for the VSMP General~~  
2455 ~~Permit for Discharges of Stormwater from Construction Activities.~~

2456 ~~4. The applicant must have submitted the required fee form and total fee required by~~  
2457 ~~4VAC50-60-820.~~

2458 ~~5. Applicants submitting registration statements deemed to be incomplete must be~~  
2459 ~~notified within 15 working days of receipt by the qualifying local program that the~~  
2460 ~~registration statement is not complete and be notified (i) of what material needs to be~~  
2461 ~~submitted to complete the registration statement, and (ii) that the land-disturbing activity~~  
2462 ~~does not have coverage under the VSMP General Permit for Discharges of Stormwater~~  
2463 ~~from Construction Activities. The stormwater program administrative authority shall~~  
2464 ~~require the provision of long-term responsibility for and maintenance of stormwater~~  
2465 ~~management facilities and other techniques specified to manage the quality and quantity~~  
2466 ~~of runoff. Such requirements shall be set forth in an instrument recorded in the local land~~  
2467 ~~records prior to permit termination or earlier as required by the stormwater program~~  
2468 ~~administrative authority and shall, at a minimum:~~

2469 ~~1. Be submitted to the stormwater program administrative authority for review and~~  
2470 ~~approval prior to the approval of the stormwater management plan;~~

2471 ~~2. Be stated to run with the land;~~

2472 ~~3. Provide for all necessary access to the property for purposes of maintenance and~~  
2473 ~~regulatory inspections;~~

2474 ~~4. Provide for inspections and maintenance and the submission of inspection and~~  
2475 ~~maintenance reports to the stormwater program administrative authority; and~~

2476 ~~5. Be enforceable by all appropriate governmental parties. ]~~

2477 ~~B. [ Coverage or termination of coverage shall be authorized through a standardized~~  
2478 ~~database or other method provided by the department. Such database shall include, at a~~  
2479 ~~minimum, permit number, operator name, activity name, acres disturbed, date of permit~~  
2480 ~~coverage, and site address and location as well as date of termination. At the discretion of the~~  
2481 ~~stormwater program administrative authority, such recorded instruments need not be required~~  
2482 ~~for stormwater management facilities designed to treat stormwater runoff primarily from an~~  
2483 ~~individual residential lot on which they are located, provided it is demonstrated to the~~  
2484 ~~satisfaction of the stormwater program administrative authority that future maintenance of such~~  
2485 ~~facilities will be addressed through an enforceable mechanism at the discretion of the~~  
2486 ~~stormwater program administrative authority.~~

2487 ~~C. Coverage information pertaining to the VSMP General Permit for Discharges of~~  
2488 ~~Stormwater from Construction Activities shall be reported to the department in accordance with~~  
2489 ~~4VAC50-60-126 by the qualifying local program.~~

2490 ~~D. The applicant shall be notified of authorization of permit coverage by the qualifying local~~  
2491 ~~program. ]~~

2492 **4VAC50-60-114. Inspections.**

2493 ~~A. The [ qualifying local stormwater ] program [ or its designee administrative authority ] shall~~  
2494 ~~inspect the land-disturbing activity during construction for [ compliance :~~

2495 ~~1. Compliance ] with the [ VSMP General Permit for Discharges of Stormwater from~~  
2496 ~~Construction Activities. approved erosion and sediment control plan;~~

2497 ~~2. Compliance with the approved stormwater management plan;~~

2498 ~~3. Development, updating, and implementation of a pollution prevention plan; and~~

2499 ~~4. Development and implementation of any additional control measures necessary to~~  
2500 ~~address a TMDL. ]~~

2501 ~~B. [ The person responsible for the development project or their designated agent shall~~  
2502 ~~submit to a qualifying local program a construction record drawing for permanent stormwater~~

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2503 ~~management facilities, appropriately sealed, and signed by a professional in accordance with all~~  
2504 ~~minimum standards and requirements pertaining to the practice of that profession pursuant to~~  
2505 ~~Chapter 4 (§ 54.1-400 et seq.) of Title 54.1 of the Code of Virginia and attendant regulations,~~  
2506 ~~certifying that the stormwater management facilities have been constructed in accordance with~~  
2507 ~~the approved plan. The qualifying local program shall have the construction record drawing and~~  
2508 ~~certification on file prior to the release of the portion of the any performance bond or surety~~  
2509 ~~associated with the stormwater management facility. The qualifying local program may elect not~~  
2510 ~~to require construction record drawings for stormwater management facilities for which~~  
2511 ~~maintenance agreements are not required pursuant to 4VAC50-60-124. The stormwater~~  
2512 ~~program administrative authority shall establish an inspection program that ensures that~~  
2513 ~~stormwater management facilities are being adequately maintained as designed after~~  
2514 ~~completion of land-disturbing activities. Inspection programs shall:~~

- 2515 ~~1. Be approved by the board;~~  
2516 ~~2. Ensure that each stormwater management facility is inspected by the stormwater~~  
2517 ~~program administrative authority, or its designee, not to include the owner, except as~~  
2518 ~~provided in subsections C and D of this section, at least once every five years; and~~  
2519 ~~3. Be documented by records. ]~~

2520 ~~C. The owners [ owner of a stormwater management ] facilities [ facility for which a~~  
2521 ~~maintenance agreement is required pursuant to 4VAC50-60-124 shall be required to conduct~~  
2522 ~~inspections in accordance with an inspection schedule in a the recorded maintenance~~  
2523 ~~agreement, and shall submit written inspection and maintenance reports to the qualifying local~~  
2524 ~~program ] upon request. [ Such stormwater program administrative authority may utilize the~~  
2525 ~~inspection ] reports [ , if consistent with a board approved of the owner of a stormwater~~  
2526 ~~management facility as part of an ] inspection program established in subsection D [ E B ] of~~  
2527 ~~this section [ , may be utilized by the qualifying local program. ] if the inspection is conducted by~~  
2528 ~~a person who is licensed as a professional engineer, architect, certified landscape architect, or~~  
2529 ~~land surveyor pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 [ , a person~~  
2530 ~~who works under the direction and oversight of the licensed professional engineer, architect,~~  
2531 ~~landscape architect, or land surveyor, ] or who holds [ a an appropriate ] certificate of~~  
2532 ~~competence from the board. [ The reports, if so utilized, must be kept on file with the qualifying~~  
2533 ~~local program. ]~~

2534 ~~D. [ A qualifying local If a recorded instrument is not required pursuant to 4VAC50-60-112, a~~  
2535 ~~stormwater ] program [ administrative authority ] shall develop a strategy for addressing~~  
2536 ~~maintenance of stormwater management facilities designed to treat stormwater runoff solely~~  
2537 ~~primarily from an individual residential lot on which they are located. Such a strategy may~~  
2538 ~~include periodic inspections, homeowner outreach and education, or other method targeted at~~  
2539 ~~promoting the long-term maintenance of such facilities. Such facilities shall not be subject to the~~  
2540 ~~requirement for an inspection to be conducted by the [ qualifying local stormwater ] program~~  
2541 ~~[ every five years contained within subsection E of this section administrative authority ] .~~

2542 ~~[ E. A qualifying local program shall establish an inspection program that ensures that the~~  
2543 ~~stormwater management facilities are being maintained as designed. Any inspection program~~  
2544 ~~shall be:~~

- 2545 ~~1. Approved by the board prior to implementation;~~  
2546 ~~2. Established in writing;~~  
2547 ~~3. Based on a system of priorities that takes into consideration the purpose and type of~~  
2548 ~~the facility, ownership and the existence of a recorded maintenance agreement and~~

2549 inspection schedule where required, the contributing drainage area, and downstream  
2550 conditions;

2551 4. Demonstrated to be an enforceable inspection program that meets the intent of the  
2552 regulations and ensures that each stormwater management facility is inspected by the  
2553 qualifying local program or its designee, not to include the owner, except as provided in  
2554 subsection subsections C and D of this section, at least every five years; and

2555 5. Documented by inspection records. ]

2556 E. [ F. Inspection reports shall be generated and kept on file in accordance with 4VAC50-60-  
2557 126 for all stormwater management facilities inspected by the qualifying local program. ]

2558 **4VAC50-60-116. [ Qualifying local program enforcement Enforcement ] .**

2559 A. A [ qualifying local stormwater ] program [ may administrative authority shall incorporate  
2560 [ the following ] components [ : from subsection 1 and 2. ]

2561 1. Informal and formal administrative enforcement procedures [ including may include ] :

2562 a. Verbal warnings and inspection reports;

2563 b. Notices of corrective action;

2564 c. Consent special orders and civil charges in accordance with subdivision 7 of §  
2565 10.1-603.2:1 and § 10.1-603.14 D 2 of the Code of Virginia;

2566 d. Notices to comply in accordance with § 10.1-603.11 of the Code of Virginia;

2567 e. Special orders in accordance with subdivision 7 of § 10.1-603.2:1 of the Code of  
2568 Virginia;

2569 f. Emergency special orders in accordance with subdivision 7 of § 10.1-603.2:1 of the  
2570 Code of Virginia; and

2571 g. Public notice and comment periods [ for proposed settlements and consent special  
2572 orders ] pursuant to 4VAC50-60-660.

2573 2. Civil and criminal judicial enforcement procedures [ including may include ] :

2574 a. Schedule of civil penalties [ set out in subsection D of this section in accordance  
2575 with § 10.1-603.14 of the Code of Virginia ] ;

2576 b. Criminal penalties in accordance with § 10.1-603.14 B and C of the Code of  
2577 Virginia; and

2578 c. Injunctions in accordance with §§ 10.1-603.12:4, 10.1-603.2:1 and 10.1-603.14 D  
2579 1 of the Code of Virginia.

2580 B. A [ qualifying local stormwater ] program [ administrative authority ] shall develop policies  
2581 and procedures that outline the steps to be taken regarding enforcement actions under the  
2582 Stormwater Management Act and attendant regulations and [ the ] local [ ordinance ordinances ]  
2583 .

2584 C. [ A qualifying local program may utilize the department's Stormwater Management  
2585 Enforcement Manual as guidance in establishing policies and procedures.

2586 D. A court may utilize as guidance the following Schedule of Civil Penalties set by the board  
2587 in accordance with Pursuant to ] § 10.1-603.14 A of the Code of Virginia [ , the permit-issuing  
2588 authority shall use the following schedule of civil penalties for enforcement actions ] . [ The  
2589 range contained within the schedule reflects the degree of harm caused by the violation, which  
2590 is site specific and may vary greatly from case to case, as may the economic benefit of  
2591 noncompliance to the violator. Each day of violation of each requirement shall constitute a  
2592 separate offense. Assignment of the degree of harm is a qualitative decision subject to the

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2593 ~~court's discretion.~~ ] The court has the discretion to impose a maximum penalty of \$32,500 per  
 2594 violation per day in accordance with § 10.1-603.14 A of the Code of Virginia. [ Such violation  
 2595 may reflect the degree of harm caused by the violation. The court may take into account the  
 2596 economic benefit to the violator from noncompliance. Such violations include, but are not limited  
 2597 to:  
 2598 -

<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&amp;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&amp;S") controls</u>	<u>300 x _____</u>	<u>500 x _____</u>	<u>1,000 x _____</u>	-
<u>Stormwater BMPs or E&amp;S controls improperly installed or maintained</u>	<u>250 x _____</u>	<u>500 x _____</u>	<u>750 x _____</u>	-

	<u>1,000 x _____</u>	<u>2,000 x _____</u>	<u>5,000 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>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>	-
* <u>Each stormwater BMP or E&amp;S control that is either not installed or improperly installed or maintained is a separate violation.</u>				
** <u>The frequency of occurrence is per event unless otherwise noted.</u>				

- 2599      1. No permit registration;
- 2600      2. No SWPPP;
- 2601      3. Incomplete SWPPP;
- 2602      4. SWPPP not available for review;
- 2603      5. No approved erosion and sediment control plan;
- 2604      6. Failure to install stormwater BMPs or erosion and sediment controls;
- 2605      7. Stormwater BMPs or erosion and sediment controls improperly installed or
- 2606      maintained;
- 2607      8. Operational deficiencies;
- 2608      9. Failure to conduct required inspections;

2609 10. Incomplete, improper, or missed inspections.

2610 ~~E. D. ] . Pursuant to subdivision 2 of § 10.1-603.2:1 of the Code of Virginia, authorization to~~  
2611 ~~administer a [ qualifying ] local [ stormwater management ] program shall not remove from the~~  
2612 ~~board the authority to enforce the provisions of the [ Virginia Stormwater Management ] Act and~~  
2613 ~~attendant regulations.~~

2614 ~~[ E. The department may terminate VSMP permit coverage during its term and require~~  
2615 ~~application for an individual permit or deny a permit renewal application for failure to comply with~~  
2616 ~~permit conditions or on its own initiative in accordance with the Act and this chapter. ]~~

2617 ~~F. Pursuant to § 10.1-603.14 A of the Code of Virginia, [ amounts civil penalties ] recovered~~  
2618 ~~by a [ qualifying ] local [ stormwater management ] program shall be paid into the treasury of the~~  
2619 ~~locality in which the violation occurred and are to be used for the purpose of minimizing,~~  
2620 ~~preventing, managing, or mitigating pollution of the waters of the locality and abating~~  
2621 ~~environmental pollution therein in such manner as the court may, by order, direct.~~

2622 ~~[ G. The department may provide additional guidance concerning suggested penalty~~  
2623 ~~amounts in its Stormwater Management Enforcement Manual. ]~~

2624 **4VAC50-60-118. Hearings.**

2625 ~~[ A qualifying local The stormwater ] program [ administrative authority ] shall ensure that~~  
2626 ~~any permit applicant or permittee [ aggrieved by any action of the stormwater program~~  
2627 ~~administrative authority taken without a formal hearing, or by inaction of the stormwater program~~  
2628 ~~administrative authority, ] shall have a right to a hearing pursuant to § 10.1-603.12:6 of the~~  
2629 ~~Code of Virginia and shall ensure that all hearings held under this chapter shall be conducted in~~  
2630 ~~accordance with § 10.1-603.12:7 of the Code of Virginia or as otherwise provided by law.~~

2631 **4VAC50-60-120. Requirements for local program and ordinance. (Repealed.)**

2632 ~~A. At a minimum, the local stormwater management program and implementing ordinance~~  
2633 ~~shall meet the following:~~

2634 ~~1. The ordinance shall identify the plan approving authority and other positions of~~  
2635 ~~authority within the program, and shall include the regulations and technical criteria to be~~  
2636 ~~used in the program.~~

2637 ~~2. The ordinance shall include procedures for submission and approval of plans,~~  
2638 ~~issuance of permits, monitoring and inspections of land development projects. The party~~  
2639 ~~responsible for conducting inspections shall be identified. The local program authority~~  
2640 ~~shall maintain, either on-site or in local program files, a copy of the approved plan and a~~  
2641 ~~record of all inspections for each land development project.~~

2642 ~~B. The department shall periodically review each locality's stormwater management~~  
2643 ~~program, implementing ordinance, and amendments. Subsequent to this review, the department~~  
2644 ~~shall determine if the program and ordinance are consistent with the state stormwater~~  
2645 ~~management regulations and notify the locality of its findings. To the maximum extent~~  
2646 ~~practicable the department will coordinate the reviews with other local government program~~  
2647 ~~reviews to avoid redundancy. The review of a local program shall consist of the following:~~

2648 ~~1. A personal interview between department staff and the local program administrator or~~  
2649 ~~his designee;~~

2650 ~~2. A review of the local ordinance and other applicable documents;~~

2651 ~~3. A review of plans approved by the locality and consistency of application;~~

2652 ~~4. An inspection of regulated activities; and~~

2653 ~~5. A review of enforcement actions.~~

2654 C. Nothing in this chapter shall be construed as limiting the rights of other federal and state  
2655 agencies from imposing stricter technical criteria or other requirements as allowed by law.

2656 **4VAC50-60-122. [ Qualifying local program exceptions Exceptions ] .**

2657 A. A [ qualifying local stormwater ] program [ administrative authority ] may grant exceptions  
2658 to the provisions of Part II (4VAC50-60-40 et seq.) [ Parts II A and II B Part II B or Part II C ] of  
2659 this chapter [ through an administrative process ] . [ A request for an exception, including the  
2660 reasons for making the request, shall be submitted in writing to the qualifying local program. ]  
2661 An exception may be granted provided that (i) the exception is the minimum necessary to afford  
2662 relief, (ii) reasonable and appropriate conditions shall be imposed as necessary upon any  
2663 exception granted so that the intent of the Act and this chapter are preserved, (iii) granting the  
2664 exception will not confer [ on the permittee ] any special privileges that are denied [ to in ] other  
2665 [ permittees who present ] similar circumstances, and (iv) exception requests are not based  
2666 upon conditions or circumstances that are self-imposed or self-created.

2667 B. Economic hardship alone is not sufficient reason to grant an exception from the  
2668 requirements of this chapter.

2669 C. Under no circumstance shall the [ qualifying local stormwater ] program [ administrative  
2670 authority ] grant an exception to the requirement that the land-disturbing activity obtain [ a  
2671 required VSMP permit permits nor approve the use of a BMP not found on the Virginia  
2672 Stormwater BMP Clearinghouse Website ] .

2673 D. [ Any exception to the water quality technical criteria of subdivisions 1 and 2 of 4VAC50-  
2674 60-63 shall require that all available offsite options be utilized before an exception is granted  
2675 and that any necessary phosphorus reductions unable to be achieved on site or through the  
2676 available offsite options of subsection A of 4VAC50-60-69 be achieved through a payment  
2677 made in accordance with subsection B of 4VAC50-60-69, when such payment option is  
2678 available. In the case of the granting of an exception, the minimum on site thresholds of  
2679 subsection B of 4VAC50-60-69 shall not apply. Exceptions to requirements for phosphorus  
2680 reductions shall not be allowed unless offsite options available through 4VAC50-60-69 have  
2681 been considered and found not available. ]

2682 E. A record of all exceptions [ applied for and ] granted shall be maintained by the  
2683 [ qualifying local stormwater ] program [ and reported to the department administrative  
2684 authority ] in accordance with 4VAC50-60-126.

2685 **[ 4VAC50-60-124. Qualifying local program stormwater management facility**  
2686 **maintenance.**

2687 A. Responsibility for the operation and maintenance of stormwater management facilities in  
2688 accordance with this chapter, unless assumed by a governmental agency, shall remain with the  
2689 property owner or other legally established entity and shall pass to any successor.

2690 1. The government entity implementing the qualifying local program shall be a party to  
2691 each require a maintenance agreement for each stormwater management facility except  
2692 as provided in subdivision 2. Such maintenance agreement shall include a schedule for  
2693 require the owner to (i) perform inspections by the owner, and, in addition to ensuring  
2694 that each on a specified schedule, (ii) maintain the facility is maintained as designed,  
2695 shall ensure that and (iii) maintain the designed flow and drainage patterns from the site  
2696 to a permanent facility are maintained. Such agreements may also contain provisions  
2697 specifying that, where maintenance or repair of a stormwater management facility  
2698 located on the owner's property is neglected, or the stormwater management facility  
2699 becomes a public health or safety concern and the owner has failed to perform the

2700 ~~necessary maintenance and repairs after receiving notice from the locality, the qualifying~~  
2701 ~~local program may perform the necessary maintenance and repairs and recover the~~  
2702 ~~costs from the owner. In the specific case of a public health or safety danger, the~~  
2703 ~~agreement may provide that the written notice may be waived by the locality.~~

2704 ~~2. Maintenance agreements, at the discretion of the qualifying local program, shall not~~  
2705 ~~be required for stormwater management facilities designed to treat stormwater runoff~~  
2706 ~~solely primarily from an individual residential lot on which they are located, provided it is~~  
2707 ~~demonstrated to the satisfaction of the qualifying local program that future maintenance~~  
2708 ~~of such facilities will be addressed through a deed restriction or other mechanism~~  
2709 ~~enforceable by at the discretion of the qualifying local program.~~

2710 ~~B. The Where a maintenance agreement is required for a stormwater management facility,~~  
2711 ~~the qualifying local program shall be notified of any transfer or conveyance of ownership or~~  
2712 ~~responsibility for maintenance of a stormwater management facility.~~

2713 ~~C. The Where a maintenance agreement is required for a stormwater management facility,~~  
2714 ~~the qualifying local program shall require right of entry agreements or easements from the~~  
2715 ~~property owner for purposes of inspection and maintenance.~~

2716 **4VAC50-60-126. [ Qualifying local program report Reports ] and recordkeeping.**

2717 ~~A. On a fiscal year basis (July 1 to June 30), a [ qualifying ] local [ stormwater management ]~~  
2718 ~~program shall report to the department by October 1 of each year in a format provided by the~~  
2719 ~~department. The information to be provided shall include the following:~~

2720 ~~1. Information on each permanent stormwater management facility completed during the~~  
2721 ~~fiscal year to include type of stormwater management facility, [ geographic ] coordinates,~~  
2722 ~~acres treated, and the surface waters or karst features into which the stormwater~~  
2723 ~~management facility will discharge;~~

2724 ~~2. [ Number of VSMP General Permit for Discharges of Stormwater from Construction~~  
2725 ~~Activities projects inspected and the total number of inspections by acreage categories~~  
2726 ~~determined by the department during the fiscal year;~~

2727 ~~3.-] Number and type of enforcement actions during the fiscal year; and~~  
2728 ~~[ 4.3. ] Number of exceptions [ applied for and the number ] granted [ or denied ] during~~  
2729 ~~the fiscal year.~~

2730 ~~B. [ A qualifying local program shall make information set out in subsection A of this section~~  
2731 ~~available to the department upon request.~~

2732 ~~C. ] A [ qualifying local stormwater ] program [ administrative authority ] shall keep records in~~  
2733 ~~accordance with the following:~~

2734 ~~1. [ Permit files Project records, including approved stormwater management plans, ]~~  
2735 ~~shall be kept for three years after permit termination [ or project completion ] . [ After~~  
2736 ~~three years, the permit file shall be delivered to the department by October 1 of each~~  
2737 ~~year. ]~~

2738 ~~2. Stormwater [ maintenance management ] facility inspection [ reports records ] shall be~~  
2739 ~~[ kept documented and retained ] for [ at least ] five years from the date of inspection.~~

2740 ~~3. [ Stormwater maintenance agreements, design standards and specifications,~~  
2741 ~~postconstruction surveys construction Construction ] record drawings [ , and~~  
2742 ~~maintenance records ] shall be maintained in perpetuity or until a stormwater~~  
2743 ~~management facility is removed [ due to redevelopment of the site ] .~~

2744 [ 4. All registration statements submitted in accordance with 4VAC50-60-59 shall be  
2745 documented and retained for at least three years from the date of project completion or  
2746 permit termination. ]

2747 [ Part III B  
2748 Department of Conservation and Recreation Administered Local Programs

2749 **4VAC50-60-128. Authority and applicability.**

2750 In the absence of a qualifying local program, the department, in accordance with an  
2751 adoption and implementation schedule set by the board and upon board approval, shall  
2752 administer the local stormwater management program in a locality in accordance with § 10.1-  
2753 603.3 C of the Code of Virginia. This part specifies the minimum technical criteria for a  
2754 department administered local stormwater management program in accordance with the  
2755 Virginia Stormwater Management Act (§ 10.1-603.2 et seq. of the Code of Virginia), and the  
2756 standards and criteria established in these regulations by the board pursuant to its authority  
2757 under that article. Such criteria include but are not limited to administration, plan review,  
2758 issuance of coverage under the Virginia Stormwater Management Program (VSMP) General  
2759 Permit for Discharges of Stormwater from Construction Activities, issuance of individual permits,  
2760 inspection, enforcement, and education and outreach components.

2761 **4VAC50-60-130. Administrative procedures: stormwater management plans. (Repealed.)**

2762 A. Localities shall approve or disapprove stormwater management plans according to the  
2763 following:

2764 1. A maximum of 60 calendar days from the day a complete stormwater management  
2765 plan is accepted for review will be allowed for the review of the plan. During the 60-day  
2766 review period, the locality shall either approve or disapprove the plan and communicate  
2767 its decision to the applicant in writing. Approval or denial shall be based on the plan's  
2768 compliance with the locality's stormwater management program.

2769 2. A disapproval of a plan shall contain the reasons for disapproval.

2770 B. Each plan approved by a locality shall be subject to the following conditions:

2771 1. The applicant shall comply with all applicable requirements of the approved plan, the  
2772 local program, this chapter and the Act, and shall certify that all land clearing,  
2773 construction, land development and drainage will be done according to the approved  
2774 plan.

2775 2. The land development project shall be conducted only within the area specified in the  
2776 approved plan.

2777 3. The locality shall be allowed, after giving notice to the owner, occupier or operator of  
2778 the land development project, to conduct periodic inspections of the project.

2779 4. The person responsible for implementing the approved plan shall conduct monitoring  
2780 and submit reports as the locality may require to ensure compliance with the approved  
2781 plan and to determine whether the plan provides effective stormwater management.

2782 5. No changes may be made to an approved plan without review and written approval by  
2783 the locality.

2784 **[ 4VAC50-60-132. Technical criteria.**

2785 A. The department administered local stormwater management programs shall require  
2786 compliance with the provisions of ] Part II [ Part II A and Part II B as applicable (4VAC50-60-40  
2787 et seq.) of this chapter unless an exception is granted pursuant to 4VAC50-60-142 D and shall  
2788 comply with the requirements of 4VAC50-60-460 L.

2789 ~~B. When reviewing a federal project, the department shall apply the provisions of this~~  
2790 ~~chapter.~~

2791 ~~C. Nothing in this chapter shall be construed as limiting the rights of other federal and state~~  
2792 ~~agencies to impose stricter technical criteria or other requirements as allowed by law.~~

2793 **[ 4VAC50-60-134. Administrative authorities.**

2794 ~~A. The department is the permit-issuing authority, plan approving authority, and the~~  
2795 ~~enforcement authority.~~

2796 ~~B. The department or its designee is the plan reviewing authority and the inspection~~  
2797 ~~authority.~~

2798 ~~C. The department shall assess and collect fees.~~

2799 ~~D. The department may require the submission of a reasonable performance bond or other~~  
2800 ~~financial surety in accordance with the criteria set forth in § 10.1-603.8 of the Code of Virginia~~  
2801 ~~prior to the issuance of coverage under the VSMP General Permit for Discharges of Stormwater~~  
2802 ~~from Construction Activities and in accordance with the following:~~

2803 ~~1. The amount of the installation performance security shall be the total estimated~~  
2804 ~~construction cost of the stormwater management BMPs approved under the stormwater~~  
2805 ~~management plan, plus 25%;~~

2806 ~~2. The performance security shall contain forfeiture provisions for failure, after proper~~  
2807 ~~notice, to complete work within the time specified, or to initiate or maintain appropriate~~  
2808 ~~actions that may be required in accordance with the approved stormwater management~~  
2809 ~~plan;~~

2810 ~~3. Upon failure by the applicant to take such action as required, the department may act~~  
2811 ~~and may collect from the applicant the difference should the amount of the reasonable~~  
2812 ~~cost of such action exceed the amount of the security held; and~~

2813 ~~4. Within 60 days of the completion of the requirements and conditions of the VSMP~~  
2814 ~~General Permit for Discharges of Stormwater from Construction Activities and the~~  
2815 ~~department's acceptance of the Notice of Termination, such bond, cash escrow, letter of~~  
2816 ~~credit, or other legal arrangement shall be refunded to the applicant.~~

2817 **[ 4VAC50-60-136. Stormwater management plan review.**

2818 ~~A. Stormwater management plans shall be reviewed and approved by the department prior~~  
2819 ~~to commencement of land-disturbing activities.~~

2820 ~~B. The department shall approve or disapprove a stormwater management plan and~~  
2821 ~~required accompanying information according to the criteria set out for a qualifying local~~  
2822 ~~program in 4VAC50-60-108 B.~~

2823 ~~C. The department shall not ] accept [ review or approve initial stormwater management~~  
2824 ~~plans.~~

2825 ~~D. Each approved stormwater management plan may be modified in accordance with the~~  
2826 ~~criteria set out for a qualifying local program in 4VAC50-60-108 D.~~

2827 **[ 4VAC50-60-138. Issuance of coverage under the VSMP General Permit for Discharges**  
2828 **of Stormwater from Construction Activities.**

2829 ~~The department shall issue coverage under the VSMP General Permit for Discharges of~~  
2830 ~~Stormwater from Construction Activities in accordance with the following:~~

2831 ~~1. The applicant must have a department-approved stormwater management plan for~~  
2832 ~~the land-disturbing activity.~~

2833 ~~2. The applicant must have submitted a complete registration statement for the VSMP~~  
2834 ~~General Permit for Discharges of Stormwater from Construction Activities in accordance~~  
2835 ~~with Part VII (4VAC50-60-360 et seq.) of this chapter and the requirements of the VSMP~~  
2836 ~~General Permit for Discharges of Stormwater from Construction Activities, which~~  
2837 ~~acknowledges that a SWPPP has been developed and will be implemented, and the~~  
2838 ~~registration statement must have been reviewed and approved prior to the~~  
2839 ~~commencement of land disturbance.~~

2840 ~~3. The applicant must have submitted the required fee form and fee for the registration~~  
2841 ~~statement seeking coverage under the VSMP General Permit for Discharges of~~  
2842 ~~Stormwater from Construction Activities.~~

2843 ~~4. Applicants submitting registration statements deemed to be incomplete must be~~  
2844 ~~notified within 15 working days of receipt by the department that the registration~~  
2845 ~~statement is not complete and be notified (i) of what material needs to be submitted to~~  
2846 ~~complete the registration statement, and (ii) that the land-disturbing activity does not~~  
2847 ~~have coverage under the VSMP General Permit for Discharges of Stormwater from~~  
2848 ~~Construction Activities.~~

2849 ~~5. The applicant shall be notified of authorization of permit coverage by the department.~~

2850 ~~6. Individual permits for qualifying land disturbing activities may be issued at the~~  
2851 ~~discretion of the board or its designee pursuant to 4VAC50-60-410 B-3.~~

2852 **4VAC50-60-140. Administrative procedures: exceptions. (Repealed.)**

2853 ~~A. A request for an exception shall be submitted, in writing, to the locality. An exception from~~  
2854 ~~the stormwater management regulations may be granted, provided that: (i) exceptions to the~~  
2855 ~~criteria are the minimum necessary to afford relief and (ii) reasonable and appropriate~~  
2856 ~~conditions shall be imposed as necessary upon any exception granted so that the intent of the~~  
2857 ~~Act and this chapter are preserved.~~

2858 ~~B. Economic hardship is not sufficient reason to grant an exception from the requirements of~~  
2859 ~~this chapter.~~

2860 [ Part III B

2861 Department of Conservation and Recreation Procedures for Review of Local Stormwater  
2862 Management Programs ]

2863 **4VAC50-60-142. [ Inspections, enforcement, hearings, exceptions, and stormwater**  
2864 **management facility maintenance Authority and applicability ]**

2865 ~~[ A. Inspections shall be conducted by the department in accordance with 4VAC50-60-114.~~

2866 ~~B. Enforcement actions shall be conducted by the department in accordance with 4VAC50-~~  
2867 ~~60-116. The department's Stormwater Management Enforcement Manual shall serve as~~  
2868 ~~guidance to be utilized in enforcement actions under the Stormwater Management Act and~~  
2869 ~~attendant regulations. Any amounts assessed by a court as a result of a summons issued by the~~  
2870 ~~board or the department shall be paid into the state treasury and deposited by the State~~  
2871 ~~Treasurer into the Virginia Stormwater Management Fund established pursuant to § 10.1-~~  
2872 ~~603.4:1 of the Code of Virginia.~~

2873 ~~C. Hearings shall be conducted by the department in accordance with 4VAC50-60-118.~~

2874 ~~D. Exceptions may be granted by the department in accordance with 4VAC50-60-122.~~

2875 ~~E. Stormwater management facility maintenance shall be conducted in accordance with~~  
2876 ~~4VAC50-60-124.~~

2877 This part specifies the criteria that the department will utilize in reviewing a locality's  
2878 administration of a local stormwater management program pursuant to § 10.1-603.12 of the  
2879 Code of Virginia following the board's approval of such program in accordance with the Act and  
2880 these regulations. ]

2881 **[ 4VAC50-60-144. Local stormwater management program review.**

2882 A. The department shall review each board-approved local stormwater management  
2883 program at least once every five years on a review schedule approved by the board. The  
2884 department may review a local stormwater management program on a more frequent basis if  
2885 deemed necessary by the board and shall notify the local government if such review is  
2886 scheduled.

2887 B. The review of a board-approved local stormwater management program shall consist of  
2888 the following:

2889 1. An interview between department staff and the local stormwater management  
2890 program administrator or designee;

2891 2. A review of the local ordinance(s) and other applicable documents;

2892 3. A review of a subset of the plans approved by the local stormwater management  
2893 program for consistency of application including exceptions granted and calculations or  
2894 other documentation that demonstrates that required nutrient reductions are achieved  
2895 using appropriate on-site and off-site compliance options;

2896 4. A review of the funding and staffing plan developed in accordance with 4VAC50-60-  
2897 148;

2898 5. An inspection of regulated activities; and

2899 6. A review of enforcement actions and an accounting of amounts recovered through  
2900 enforcement actions.

2901 C. To the extent practicable, the department will coordinate the reviews with its other local  
2902 government program reviews to avoid redundancy.

2903 D. The department shall provide its recommendations to the board within 90 days of the  
2904 completion of a review.

2905 E. The board shall determine if the local stormwater management program and ordinances  
2906 are consistent with the Act and state stormwater management regulations and notify the local  
2907 stormwater management program of its findings. If such findings indicate that the program is  
2908 consistent with the Act and attendant regulations, the findings shall be provided to the local  
2909 stormwater management program at least 21 days in advance of the meeting where the board  
2910 will take action on the locality's program. If such findings indicate that the program is  
2911 inconsistent with the Act and attendant regulations, the findings shall be provided to the local  
2912 stormwater management program at least 35 days in advance of the meeting where the board  
2913 will take action on the locality's program.

2914 F. If the board determines that the deficiencies noted in the review will cause the local  
2915 stormwater management program to be out of compliance with the Stormwater Management  
2916 Act and attendant regulations, the board shall notify the local stormwater management program  
2917 concerning the deficiencies and provide a reasonable period of time for corrective action to be  
2918 taken. If the local stormwater management program agrees to the corrective action approved by  
2919 the board, the local stormwater management program will be considered to be conditionally  
2920 compliant with the Stormwater Management Act and attendant regulations until a subsequent  
2921 finding of compliance is issued by the board. If the local stormwater management program fails

2922 to take the board's required corrective action within the specified time, the board may take  
2923 action pursuant to § 10.1-603.12 of the Code of Virginia. A local stormwater management  
2924 program that fails to take corrective action in accordance with the board requirements shall not  
2925 be considered a qualifying local program for purposes of the Virginia Stormwater Management  
2926 Program permitting regulations.

2927 [ Part III C  
2928 Virginia Soil and Water Conservation Board Authorization Procedures for Local Stormwater  
2929 Management Programs ]

2930 **[ 4VAC50-60-146. Authority and applicability.**

2931 Subdivision 1 of § 10.1-603.4 of the Code of Virginia requires that the board establish  
2932 standards and procedures for authorizing a locality to administer a stormwater management  
2933 program. In accordance with that requirement, and with the further authority conferred upon the  
2934 board by the Virginia Stormwater Management Act (§ 10.1-603.2 et seq. of the Code of  
2935 Virginia), this part specifies the procedures the board will utilize in authorizing a locality to  
2936 administer a qualifying local program.

2937 **[ 4VAC50-60-148. Local stormwater management program administrative requirements.**

2938 A. A local stormwater management program shall provide for the following:

2939 1. Identification of the authority accepting complete registration statements and for the  
2940 authorities completing plan review, plan approval, inspection and enforcement.

2941 2. Submission and approval of erosion and sediment control plans in accordance with  
2942 the Virginia Erosion and Sediment Control Law and attendant regulations and the  
2943 submission and approval of stormwater management plans;

2944 3. Requirements to ensure compliance with 4VAC50-60-54, 4VAC50-60-55 and  
2945 4VAC50-60-56;

2946 4. Requirements for inspections and monitoring of construction activities by the operator  
2947 for compliance with local ordinances;

2948 5. Requirements for long-term inspection and maintenance of stormwater management  
2949 facilities;

2950 6. Collection, distribution to the state if required, and expenditure of fees;

2951 7. Enforcement procedures and civil penalties;

2952 8. Policies and procedures to obtain and release bonds, if applicable; and

2953 9. Procedures for complying with the applicable reporting and record keeping  
2954 requirements in 4VAC50-60-126.

2955 B. A local stormwater management program shall adopt and enforce an ordinance(s) that  
2956 incorporates the components set out in subdivisions 1 through 5 and 7 of subsection A of this  
2957 section.

2958 ~~**4VAC50-60-150. Administrative procedures: maintenance and inspections. [ (Repealed.)**~~  
2959 ~~**Authorization procedures for local stormwater management programs ]**~~

2960 ~~A. Responsibility for the operation and maintenance of stormwater management facilities,~~  
2961 ~~unless assumed by a governmental agency, shall remain with the property owner and shall pass~~  
2962 ~~to any successor or owner. If portions of the land are to be sold, legally binding arrangements~~  
2963 ~~shall be made to pass the basic responsibility to successors in title. These arrangements shall~~  
2964 ~~designate for each project the property owner, governmental agency, or other legally~~  
2965 ~~established entity to be permanently responsible for maintenance.~~

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4VAC50-60, Stormwater Regulations

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2966 ~~B. In the case of developments where lots are to be sold, permanent arrangements~~  
2967 ~~satisfactory to the locality shall be made to ensure continued performance of this chapter.~~

2968 ~~C. A schedule of maintenance inspections shall be incorporated into the local ordinance.~~  
2969 ~~Ordinances shall provide that in cases where maintenance or repair is neglected, or the~~  
2970 ~~stormwater management facility becomes a danger to public health or safety, the locality has~~  
2971 ~~the authority to perform the work and to recover the costs from the owner.~~

2972 ~~D. Localities may require right of entry agreements or easements from the applicant for~~  
2973 ~~purposes of inspection and maintenance.~~

2974 ~~E. Periodic inspections are required for all stormwater management facilities. Localities shall~~  
2975 ~~either:~~

2976 ~~1. Provide for inspection of stormwater management facilities on an annual basis; or~~  
2977 ~~2. Establish an alternative inspection program which ensures that stormwater~~  
2978 ~~management facilities are functioning as intended. Any alternative inspection program~~  
2979 ~~shall be:~~

2980 ~~a. Established in writing;~~

2981 ~~b. Based on a system of priorities that, at a minimum, considers the purpose of the~~  
2982 ~~facility, the contributing drainage area, and downstream conditions; and~~

2983 ~~c. Documented by inspection records.~~

2984 ~~F. During construction of the stormwater management facilities, localities shall make~~  
2985 ~~inspections on a regular basis.~~

2986 ~~G. Inspection reports shall be maintained as part of a land development project file.~~

2987 ~~[ A. A locality required to adopt a program in accordance with § 10.1-603.3 A of the Code of~~  
2988 ~~Virginia or those electing to seek authorization to administer a qualifying local program must~~  
2989 ~~submit to the board an application package which, at a minimum, contains the following:~~

2990 ~~1. The draft local stormwater management program ordinance(s) as required in~~  
2991 ~~4VAC50-60-148;~~

2992 ~~2. A funding and staffing plan; and~~

2993 ~~3. The policies and procedures, including but not limited to, agreements with Soil and~~  
2994 ~~Water Conservation Districts, adjacent localities, or other entities, for the administration,~~  
2995 ~~plan review, inspection, and enforcement components of the program.~~

2996 ~~B. Upon receipt of an application package, the board or its designee shall have 30 calendar~~  
2997 ~~days to determine the completeness of the application package. If an application package is~~  
2998 ~~deemed to be incomplete based on the criteria set out in subsection A of this section, the board~~  
2999 ~~or its designee must identify to the locality in writing the reasons the application package is~~  
3000 ~~deemed deficient.~~

3001 ~~C. Upon receipt of a complete application package, the board or its designee shall have 120~~  
3002 ~~calendar days for the review of the application package, unless an extension of time is~~  
3003 ~~requested. During the 120-day review period, the board or its designee shall either approve or~~  
3004 ~~disapprove the application, or notify the locality of a time extension for the review, and~~  
3005 ~~communicate its decision to the locality in writing. If the application is not approved, the reasons~~  
3006 ~~for not approving the application shall be provided to the locality in writing. Approval or denial~~  
3007 ~~shall be based on the application's compliance with the Virginia Stormwater Management Act~~  
3008 ~~and these regulations.~~

3009 ~~D. A locality required to adopt a local stormwater management program in accordance with~~  
3010 ~~§ 10.1-603.3 A of the Code of Virginia shall submit a complete application package for the~~

3011 board's review pursuant to a schedule set by the board in accordance with § 10.1-603.3 and  
3012 shall adopt a local stormwater management program consistent with the Act and this chapter  
3013 within the timeframe established pursuant to § 10.1-603.3.

3014 E. A locality not required to adopt a local stormwater management program in accordance  
3015 with § 10.1-603.3 A but electing to adopt a local stormwater management program shall notify  
3016 the board in accordance with the following:

3017 1. A locality electing to adopt a local stormwater management program may notify the  
3018 board of its intention within six months of the effective date of these regulations. Such  
3019 locality shall submit a complete application package for the board's review pursuant to a  
3020 schedule set by the board and shall adopt a local stormwater management program  
3021 within the timeframe established by the board.

3022 2. A locality electing to adopt a local stormwater management program that does not  
3023 notify the board within the initial six-month period of its intention may thereafter notify the  
3024 board at any regular meeting of the board. Such notification shall include a proposed  
3025 schedule for adoption of a local stormwater management program within a timeframe  
3026 agreed upon by the board.

3027 F. A local stormwater management program approved by the board shall be considered a  
3028 qualifying local program for purposes of the Virginia Stormwater Management Program  
3029 permitting regulations.

3030 G. The department shall administer the responsibilities of the Act and this chapter in any  
3031 locality in which a local stormwater management program has not been adopted. The  
3032 department shall develop a schedule, to be approved by the board, for adoption and  
3033 implementation of the requirements of this chapter in such localities. Such schedule may include  
3034 phases of implementation and shall be based upon considerations including the typical number  
3035 of permitted projects located within a locality, total number of acres disturbed by such permitted  
3036 projects, and such other considerations as may be deemed necessary by the board.

3037 **[ 4VAC50-60-154. Reporting and recordkeeping.**

3038 A. The department shall maintain a current database of permit coverage information for all  
3039 projects that includes permit number, operator name, activity name, acres disturbed, date of  
3040 permit coverage, and site address and location.

3041 B. On a fiscal year basis (July 1 to June 30), ] a local program shall report to [ the  
3042 department shall compile a report on the local programs it administers by October 1 in  
3043 accordance with 4VAC50-60-126 A. ]

3044 C. On a fiscal year basis (July 1 to June 30), the department shall compile information  
3045 provided by local programs.

3046 D. [ C. Records shall be maintained by the department in accordance with 4VAC50-60-126

3047 G.

3048 [ Part III C

3049 Department of Conservation and Recreation Procedures for Review of Qualifying Local  
3050 Programs ]

3051 **[ 4VAC50-60-156. Authority and applicability.**

3052 This part specifies the criteria that the department will utilize in reviewing a locality's  
3053 administration of a qualifying local program pursuant to § 10.1-603.12 of the Code of Virginia  
3054 following the board's approval of such program in accordance with the Virginia Stormwater  
3055 Management Act and these regulations.

3056 ~~[ 4VAC50-60-157. Stormwater management program review.~~

3057 ~~A. The department shall review each board approved qualifying local program at least once~~  
3058 ~~every five years on a review schedule approved by the board. The department may review a~~  
3059 ~~qualifying local program on a more frequent basis if deemed necessary by the board and shall~~  
3060 ~~notify the local government if such review is scheduled.~~

3061 ~~B. The review of a board approved qualifying local program shall consist of the following:~~

3062 ~~1. An interview between department staff and the qualifying local program administrator~~  
3063 ~~or his designee;~~

3064 ~~2. A review of the local ordinance(s) and other applicable documents;~~

3065 ~~3. A review of a subset of the plans approved by the qualifying local program and~~  
3066 ~~consistency of application including exceptions granted;~~

3067 ~~4. An accounting of the receipt and of the expenditure of fees received;~~

3068 ~~5. An inspection of regulated activities; and~~

3069 ~~6. A review of enforcement actions and an accounting of amounts recovered through~~  
3070 ~~enforcement actions.~~

3071 ~~C. To the extent practicable, the department will coordinate the reviews with other local~~  
3072 ~~government program reviews to avoid redundancy.~~

3073 ~~D. The department shall provide its recommendations to the board within 90 days of the~~  
3074 ~~completion of a review. Such recommendations shall be provided to the locality in advance of~~  
3075 ~~the meeting.~~

3076 ~~E. The board shall determine if the qualifying local program and ordinance are consistent~~  
3077 ~~with the Act and state stormwater management regulations and notify the qualifying local~~  
3078 ~~program of its findings.~~

3079 ~~F. If the board determines that the deficiencies noted in the review will cause the qualifying~~  
3080 ~~local program to be out of compliance with the Stormwater Management Act and its attendant~~  
3081 ~~regulations, the board shall notify the qualifying local program concerning the deficiencies and~~  
3082 ~~provide a reasonable period of time for corrective action to be taken. If the qualifying local~~  
3083 ~~program agrees to the corrective action recommended by the board, the qualifying local~~  
3084 ~~program will be considered to be conditionally compliant with the Stormwater Management Act~~  
3085 ~~and its attendant regulations until a subsequent finding is issued by the board. If the qualifying~~  
3086 ~~local program fails to take the corrective action within the specified time, the board may take~~  
3087 ~~action pursuant to § 10.1-603.12 of the Code of Virginia.~~

3088 [ Part III D

3089 Virginia Soil and Water Conservation Board Authorization for Qualifying Local Programs ]

3090 ~~[ 4VAC50-60-158. Authority and applicability.~~

3091 ~~Subdivision 1 of § 10.1-603.4 of the Code of Virginia requires that the board establish~~  
3092 ~~standards and procedures for authorizing a locality to administer a stormwater management~~  
3093 ~~program. In accordance with that requirement, and with the further authority conferred upon the~~  
3094 ~~board by the Virginia Stormwater Management Act (§ 10.1-603.2 et seq. of the Code of~~  
3095 ~~Virginia), this part specifies the procedures the board will utilize in authorizing a locality to~~  
3096 ~~administer a qualifying local program.~~

3097 ~~[ 4VAC50-60-159. Authorization procedures for qualifying local programs.~~

3098 ~~A. A locality required to adopt a program in accordance with § 10.1-603.3 A of the Code of~~  
3099 ~~Virginia or those electing to seek authorization to administer a qualifying local program must~~  
3100 ~~submit to the board an application package which, at a minimum, contains the following:~~

- 3101 1. The local program ordinance(s);  
3102 2. A funding and staffing plan based on the projected permitting fees; and  
3103 3. The policies and procedures, including but not limited to, agreements with Soil and  
3104 Water Conservation Districts, adjacent localities, or other entities, for the administration,  
3105 plan review, permit issuance, inspection, and enforcement components of the program.

3106 B. Upon receipt of an application package, the board or its designee shall have ] 20 [ 30  
3107 calendar days to determine the completeness of the application package. If an application  
3108 package is deemed to be incomplete based on the criteria set out in subsection A of this  
3109 section, the board or its designee must identify in writing the reasons the application package is  
3110 deemed deficient.

3111 C. Upon receipt of a complete application package, the board or its designee shall have 90  
3112 calendar days for the review of the application package. During the 90-day review period, the  
3113 board or its designee shall either approve or disapprove the application, or notify the locality of a  
3114 time extension for the review, and communicate its decision to the locality in writing. If the  
3115 application is not approved, the reasons for not approving the application shall be provided to  
3116 the locality in writing. Approval or denial shall be based on the application's compliance with the  
3117 Virginia Stormwater Management Act and these regulations.

3118 D. A locality required to adopt a qualifying local program in accordance with § 10.1-603.3 A  
3119 of the Code of Virginia shall submit a complete application package for the board's review  
3120 pursuant to a schedule set by the board in accordance with § 10.1-603.3 and shall adopt a  
3121 qualifying local program consistent with the Act and this chapter within the timeframe  
3122 established pursuant to § 10.1-603.3.

3123 E. A locality not required to adopt a qualifying local program in accordance with § 10.1-603.3  
3124 A but electing to adopt a qualifying local program shall notify the board in accordance with the  
3125 following:

3126 1. A locality electing to adopt a qualifying local program may notify the board of its  
3127 intention within six months of the effective date of these regulations. Such locality shall  
3128 submit a complete application package for the board's review pursuant to a schedule set  
3129 by the board and shall adopt a qualifying local program within the timeframe established  
3130 by the board.

3131 2. A locality electing to adopt a qualifying local program that does not notify the board  
3132 within the initial six-month period of its intention may thereafter notify the board at any  
3133 regular meeting of the board. Such notification shall include a proposed schedule for  
3134 adoption of a qualifying local program within a timeframe agreed upon by the board.

3135 F. The department shall administer the responsibilities of the Act and this chapter in any  
3136 locality in which a qualifying local program has not been adopted. The department shall develop  
3137 a schedule, to be approved by the board, for adoption and implementation of the requirements  
3138 of this chapter in such localities. Such schedule may include phases of implementation and shall  
3139 be based upon considerations including the typical number of permitted projects located within a  
3140 locality, total number of acres disturbed by such permitted projects, and such other  
3141 considerations as may be deemed necessary by the board.

3142 DOCUMENTS INCORPORATED BY REFERENCE (4VAC50-60)

3143 Illicit Discharge Detection and Elimination – A Guidance Manual for Program Development  
3144 and Technical Assessments, EPA Cooperative Agreement X-82907801-0, October 2004, by  
3145 Center for Watershed Protection and Robert Pitt, University of Alabama, available on the  
3146 Internet at [http://www.cwp.org/idde\\_verify.htm](http://www.cwp.org/idde_verify.htm).

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- 3147** Getting in Step – A Guide for Conducting Watershed Outreach Campaigns, EPA-841-B-03-  
**3148** 002, December 2003, U.S. Environmental Protection Agency, Office of Wetlands, Oceans, and  
**3149** Watersheds, available on the Internet at  
**3150** <http://www.epa.gov/owow/watershed/outreach/documents/getnstep.pdf>, or may be ordered from  
**3151** National Service Center for Environmental Publications, telephone 1-800-490-9198.
- 3152** Municipal Stormwater Program Evaluation Guidance, EPA-833-R-07-003, January 2007  
**3153** (field test version), U.S. Environmental Protection Agency, Office of Wastewater Management,  
**3154** available on the Internet at  
**3155** [http://cfpub.epa.gov/npdes/docs.cfm?program\\_id=6&view=allprog&sort=name#ms4\\_guidance](http://cfpub.epa.gov/npdes/docs.cfm?program_id=6&view=allprog&sort=name#ms4_guidance),  
**3156** or may be ordered from National Technical Information Service, 5285 Port Royal Road,  
**3157** Springfield, VA 22161, telephone 1-800-553-6847 or (703) 605-6000.
- 3158** [ ~~Erosion & Sediment Control Technical Bulletin #1~~ ] [ ~~Stream Channel Erosion Control~~  
**3159** [ ~~Improving Soil Quality in Urbanizing Areas, Virginia Department of Conservation and~~  
**3160** ~~Recreation, 2000.~~ ]
- 3161** [ ~~Technical Memorandum – The Runoff Reduction Method, April 2008, and ] beta version  
**3162** addendum [ ~~addendums.~~ ] September [ ~~December~~ ] 2008 [ ~~2009.~~ ]~~
- 3163** [ ~~Virginia Runoff Reduction Method Worksheet.~~ ] September [ ~~December~~ ] 2008 [ ~~2009.~~ ]
- 3164** [ ~~Virginia Runoff Reduction Method Worksheet – Redevelopment.~~ ] September [ ~~December~~  
**3165** 2009. ]
- 3166** [ Virginia Runoff Reduction Method: Instructions & Documentation, March 28, 2011. ]