

1 **CHAPTER 60**
2 **VIRGINIA STORMWATER MANAGEMENT PROGRAM**
3 **(VSMP) PERMIT REGULATIONS**
4

5 **Part I**

6 **4VAC50-60-10. Definitions.**

7
8
9 The following words and terms used in this chapter have the following meanings unless the
10 context clearly indicates otherwise.

11 "Adequate channel" means a ~~channel~~ watercourse or wetland that will convey the
12 designated frequency storm event without overtopping ~~the channel bank nor~~ its banks or causing
13 erosive damage to the ~~channel-bed, or banks or overbank~~ sections of the same.

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

16 "Applicable standards and limitations" means all state, interstate, and federal standards
17 and limitations to which a discharge or a related activity is subject under the Clean Water Act
18 (CWA) (33 USC §1251 et seq.) and the Act, including effluent limitations, water quality
19 standards, standards of performance, toxic effluent standards or prohibitions, best management
20 practices, and standards for sewage sludge use or disposal under §§301, 302, 303, 304, 306, 307,
21 308, 403 and 405 of CWA.

22 "Approval authority" means the Virginia Soil and Water Conservation Board or their
23 designee.

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

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

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

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

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

39 "Best management practice (~~BMP~~)" or "BMP" means schedules of activities, prohibitions
40 of practices, including both a structural or nonstructural practice, maintenance procedures, and
41 other management practices to prevent or reduce the pollution of surface waters and groundwater
42 systems from the impacts of land-disturbing activities. BMPs also include treatment
43 requirements, operating procedures, and practices to control plant site runoff, spillage or leaks,
44 sludge or waste disposal, or drainage from raw material storage.

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

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

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

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

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

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

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

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

65 "Contiguous zone" means the entire zone established by the United States under Article
66 24 of the Convention on the Territorial Sea and the Contiguous Zone (37 FR 11906).

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

70 "Control measure" means any best management practice or other method used to prevent
71 or reduce the discharge of pollutants to surface waters.

72 "Co-permittee" means a permittee to a VSMP permit that is only responsible for permit
73 conditions relating to the discharge for which it is the operator.

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

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

82 "Daily discharge" means the discharge of a pollutant measured during a calendar day or
83 any 24-hour period that reasonably represents the calendar day for purposes of sampling. For
84 pollutants with limitations expressed in units of mass, the daily discharge is calculated as the
85 total mass of the pollutant discharged over the day. For pollutants with limitations expressed in
86 other units of measurement, the daily discharge is calculated as the average measurement of the
87 pollutant over the day.

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

89 ~~"Development" means a tract of land developed or to be developed as a unit under single~~
90 ~~ownership or unified control which is to be used for any business or industrial purpose or is to~~

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91 ~~contain three or more residential dwelling units~~ land disturbance and the resulting landform
92 associated with the construction of residential, commercial, industrial, institutional, recreation,
93 transportation or utility facilities or structures.

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

95 "Director" means the Director of the Department of Conservation and Recreation or his
96 designee.

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

98 "Discharge of a pollutant" means:

99 1. Any addition of any pollutant or combination of pollutants to surface waters from any point
100 source; or

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

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

109 "Discharge Monitoring Report (DMR)" means the form supplied by the department, or an
110 equivalent form developed by the permittee and approved by the board, for the reporting of self-
111 monitoring results by permittees.

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

117 "Drainage area" means a land and water area on a land disturbing site from which runoff
118 flows to a common outlet point.

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

122 "Effluent limitations guidelines" means a regulation published by the administrator under
123 §304(b) of the CWA to adopt or revise effluent limitations.

124 "Environmental Protection Agency (~~EPA~~)" or "EPA" means the United States
125 Environmental Protection Agency.

126 "Event mean concentration" or "EMC" means the total mass load of a pollutant parameter
127 divided by the total runoff water volume discharged during an individual storm event.

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

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

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

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

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

142 "General permit" means a VSMP permit authorizing a category of discharges under the
143 CWA and the Act within a geographical area.

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

147 "Hazardous substance" means any substance designated under the Code of Virginia and
148 40 CFR Part 116 (2000) pursuant to §311 of the CWA.

149 "Hydrologic Unit Code" or "HUC" means watershed units established in the most recent
150 version of Virginia's 6th Order National Watershed Boundary Dataset.

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

156 "Impervious cover" means a surface composed of any material that significantly impedes
157 or prevents natural infiltration of water into soil. Impervious surfaces include, but are not limited
158 to, roofs, buildings, streets, parking areas, and any conventional concrete, asphalt, or compacted
159 gravel surface.

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

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

169 ~~"Individual control strategy" means a final VSMP permit with supporting documentation
170 showing that effluent limits are consistent with an approved wasteload allocation or other
171 documentation that shows that applicable water quality standards will be met not later than three
172 years after the individual control strategy is established.~~

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

180 "Inspection" means an on-site review of the project's compliance with the permit, the
181 local stormwater management program, and any applicable design criteria, or an on-site review

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182 to obtain information or conduct surveys or investigations necessary in the enforcement of the
183 Act and this chapter.

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

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

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

194 "Large construction activity" means construction activity including clearing, grading and
195 excavation, except operations that result in the disturbance of less than five acres of total land
196 area. Large construction activity also includes the disturbance of less than five acres of total land
197 area that is a part of a larger common plan of development or sale if the larger common plan will
198 ultimately disturb five acres or more.

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

- 201 1. Located in an incorporated place with a population of 250,000 or more as determined by the
202 latest decennial census by the Bureau of Census (40 CFR Part 122 Appendix F (2000));
- 203 2. Located in the counties listed in 40 CFR Part 122 Appendix H (2000), except municipal
204 separate storm sewers that are located in the incorporated places, townships or towns within such
205 counties;
- 206 3. Owned or operated by a municipality other than those described in subdivision 1 or 2 of this
207 definition and that are designated by the board as part of the large or medium municipal separate
208 storm sewer system due to the interrelationship between the discharges of the designated storm
209 sewer and the discharges from municipal separate storm sewers described under subdivision 1 or
210 2 of this definition. In making this determination the board may consider the following factors:
 - 211 a. Physical interconnections between the municipal separate storm sewers;
 - 212 b. The location of discharges from the designated municipal separate storm sewer relative to
213 discharges from municipal separate storm sewers described in subdivision 1 of this definition;
 - 214 c. The quantity and nature of pollutants discharged to surface waters;
 - 215 d. The nature of the receiving waters; and
 - 216 e. Other relevant factors.
- 217 4. The board may, upon petition, designate as a large municipal separate storm sewer system,
218 municipal separate storm sewers located within the boundaries of a region defined by a
219 stormwater management regional authority based on a jurisdictional, watershed, or other
220 appropriate basis that includes one or more of the systems described in this definition.

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

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227 "Local stormwater management program" or "local program" means ~~a statement of the~~
228 various methods employed by a locality or the department to manage the quality and quantity of
229 runoff resulting from land-disturbing activities and shall include such items as local ordinances,
230 permit requirements, policies and guidelines, technical materials, plan review, inspection,
231 enforcement, and evaluation consistent with the Act and this chapter. ~~The ordinance shall~~
232 ~~include provisions to require the control of after development stormwater runoff rate of flow, the~~
233 ~~proper maintenance of stormwater management facilities, and minimum administrative~~
234 ~~procedures.~~

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

236 "Low Impact Development" or "LID" means a design strategy with the goal of
237 maintaining or replicating the pre-development hydrologic regime through the use of design
238 techniques to create a functionally equivalent hydrologic site design. Hydrologic functions of
239 storage, infiltration and ground water recharge, as well as the volume and frequency of
240 discharges are maintained through the use of integrated and distributed micro-scale stormwater
241 retention and detention areas, reduction of impervious surfaces, and the lengthening of runoff
242 flow paths and flow time. Other strategies include the preservation/protection of
243 environmentally sensitive site features such as riparian buffers, wetlands, steep slopes, valuable
244 (mature) trees, flood plains, woodlands, and highly permeable soils.

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

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

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

258 "Manmade" means constructed by man.

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

260 "Medium municipal separate storm sewer system" means all municipal separate storm
261 sewers that are either:

262 1. Located in an incorporated place with a population of 100,000 or more but less than
263 250,000 as determined by the latest decennial census by the Bureau of Census (40 CFR Part 122
264 Appendix G (2000));

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

268 3. Owned or operated by a municipality other than those described in subdivision 1 or 2
269 of this definition and that are designated by the board as part of the large or medium municipal
270 separate storm sewer system due to the interrelationship between the discharges of the
271 designated storm sewer and the discharges from municipal separate storm sewers described

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272 under subdivision 1 or 2 of this definition. In making this determination the board may consider
273 the following factors:

- 274 a. Physical interconnections between the municipal separate storm sewers;
- 275 b. The location of discharges from the designated municipal separate storm sewer
276 relative to discharges from municipal separate storm sewers described in subdivision 1 of
277 this definition;
- 278 c. The quantity and nature of pollutants discharged to surface waters;
- 279 d. The nature of the receiving waters; or
- 280 e. Other relevant factors.

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

286 "Minor modification" means, for the purposes of this chapter, minor modification or
287 amendment of an existing permit before its expiration as specified in 4VAC50-60-640. Minor
288 modification for the purposes of this chapter also means other modifications and amendments
289 not requiring extensive review and evaluation including, but not limited to, changes in EPA
290 promulgated test protocols, increasing monitoring frequency requirements, changes in sampling
291 locations, and changes to compliance dates within the overall compliance schedules. A minor
292 permit modification or amendment does not substantially alter permit conditions, substantially
293 increase or decrease the amount of surface water impacts, increase the size of the operation, or
294 reduce the capacity of the facility to protect human health or the environment.

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

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

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

309 "Municipal Separate Storm Sewer System Management Program" means a management
310 program covering the duration of a permit for a municipal separate storm sewer system that
311 includes a comprehensive planning process that involves public participation and
312 intergovernmental coordination, to reduce the discharge of pollutants to the maximum extent
313 practicable, using management practices, control techniques, and system, design and engineering
314 methods, and such other provisions that are appropriate.

315 "Municipality" means a city, town, county, district, association, or other public body
316 created by or under state law and having jurisdiction over disposal of sewage, industrial wastes,

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317 or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and
318 approved management agency under §208 of the CWA.

319 "National Pollutant Discharge Elimination System (~~NPDES~~)" or "NPDES" means the
320 national program for issuing, modifying, revoking and reissuing, terminating, monitoring and
321 enforcing permits, and imposing and enforcing pretreatment requirements under §§307, 402,
322 318, and 405 of the CWA. The term includes an approved program.

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

- 324 1. From which there is or may be a discharge of pollutants;
325 2. That did not commence the discharge of pollutants at a particular site prior to August
326 13, 1979;
327 3. Which is not a new source; and
328 4. Which has never received a finally effective VPDES or VSMP permit for discharges at
329 that site.

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

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

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

- 342 1. After promulgation of standards of performance under §306 of the CWA that are
343 applicable to such source; or
344 2. After proposal of standards of performance in accordance with §306 of the CWA that
345 are applicable to such source, but only if the standards are promulgated in accordance with §306
346 of the CWA within 120 days of their proposal.

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

350 "Nonpoint source pollutant runoff load" or "pollutant discharge" means the average
351 amount of a particular pollutant measured in pounds per year or other standard reportable unit as
352 appropriate, delivered in a diffuse manner by stormwater runoff.

353 "Operator" means the owner or operator of any facility or activity subject to regulation
354 under the VSMP ~~program~~. In the context of stormwater associated with a large or small
355 construction activity, operator means any person associated with a construction project that
356 meets either of the following two criteria: (i) the person has direct operational control over
357 construction plans and specifications, including the ability to make modifications to those plans
358 and specifications or (ii) the person has day-to-day operational control of those activities at a
359 project that are necessary to ensure compliance with a stormwater pollution prevention plan for
360 the site or other permit conditions (i.e., they are authorized to direct workers at a site to carry out
361 activities required by the stormwater pollution prevention plan or comply with other permit
362 conditions).

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

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

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

380 "Percent impervious" means the impervious area within the site divided by the area of the
381 site multiplied by 100.

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

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

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

391 "Person" means any individual, corporation partnership, firm, association, joint venture,
392 public or private or municipal corporation, trust, estate, commission, board, public or private
393 institution, utility, cooperative, county, city, town or other political subdivision of the
394 Commonwealth, any interstate or governmental body or any other legal entity.

395 "Planning area" means a ~~designated~~ portion of the parcel on which the land ~~development~~
396 ~~project disturbing activity~~ is located, as approved by the local program. ~~Planning areas shall be~~
397 The planning area is established by delineation shall be delineated on a master comprehensive
398 watershed stormwater management plan or stormwater management plan. ~~Once established,~~
399 ~~planning areas shall be applied consistently for all future projects.~~

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

405 "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash,
406 sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive
407 materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC

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408 §2011 et seq.)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial,
409 municipal, and agricultural waste discharged into water. It does not mean:

410 1. Sewage from vessels; or

411 2. Water, gas, or other material that is injected into a well to facilitate production of oil or
412 gas, or water derived in association with oil and gas production and disposed of in a well if the
413 well used either to facilitate production or for disposal purposes is approved by the board and if
414 the board determines that the injection or disposal will not result in the degradation of ground or
415 surface water resources.

416 "Pollution" means such alteration of the physical, chemical or biological properties of
417 any state waters as will or is likely to create a nuisance or render such waters (a) harmful or
418 detrimental or injurious to the public health, safety or welfare, or to the health of animals, fish or
419 aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources
420 of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or
421 other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological
422 property of state waters, or a discharge or deposit of sewage, industrial wastes or other wastes to
423 state waters by any owner which by itself is not sufficient to cause pollution, but which, in
424 combination with such alteration of or discharge or deposit to state waters by other owners, is
425 sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state
426 waters; and (iii) contributing to the contravention of standards of water quality duly established
427 by the State Water Control Board, are "pollution" for the terms and purposes of this chapter.

428 "Post-development" refers to conditions that reasonably may be expected or anticipated
429 to exist after completion of the land development activity on a specific site or tract of land.

430 "Pre-development" refers to the conditions that exist at the time that plans for the land
431 development of a tract of land are approved by the plan approval authority. Where phased
432 development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing
433 conditions at the time prior to the first item being approved or permitted shall establish pre-
434 development conditions.

435 "Prior developed lands" means land that has been previously disturbed for
436 "development" as defined herein.

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

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

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

450 "Qualifying local stormwater management program" or "qualifying local program" means
451 a local program that is administered by a locality that has been authorized by the board to issue
452 coverage under the VSMP General Permit for Discharges of Stormwater from Construction
453 Activities (4 VAC 50-60-1170).

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454 "Recommencing discharger" means a source that recommences discharge after
455 terminating operations.

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

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

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

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

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

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

471 "Runoff characteristics" include, but are not limited to velocity, peak flow rate, volume,
472 and time of concentration, and their influence on channel morphology including sinuosity,
473 channel cross-sectional area, and channel slope.

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

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

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

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

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

489 "Significant materials" means, but is not limited to: raw materials; fuels; materials such
490 as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw
491 materials used in food processing or production; hazardous substances designated under
492 §101(14) of CERCLA (42 USC §9601(14)); any chemical the facility is required to report
493 pursuant to §313 of Title III of SARA (42 USC §11023); fertilizers; pesticides; and waste
494 products such as ashes, slag and sludge that have the potential to be released with stormwater
495 discharges.

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

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498 "Site" means the land or water area where any facility or activity is physically located or
499 conducted, a parcel of land being developed, or a designated planning area in which the land
500 development project is located.

501 "Site hydrology" means the movement of water on and off the site as determined by
502 parameters including, but not limited to, soil types, soil permeability, vegetative cover, seasonal
503 water tables, slopes, and impervious cover.

504 "Small construction activity" means:

505 1. Construction activities including clearing, grading, and excavating that results in land
506 disturbance of equal to or greater than one acre, or equal to or greater than 2,500 square feet in
507 all areas of the jurisdictions designated as subject to the Chesapeake Bay Preservation Area
508 Designation and Management Regulations adopted pursuant to the Chesapeake Bay Preservation
509 Act, and less than five acres. Small construction activity also includes the disturbance of less
510 than one acre of total land area that is part of a larger common plan of development or sale if the
511 larger common plan will ultimately disturb equal to or greater than one and less than five acres.
512 Small construction activity does not include routine maintenance that is performed to maintain
513 the original line and grade, hydraulic capacity, or original purpose of the facility. The board may
514 waive the otherwise applicable requirements in a general permit for a stormwater discharge from
515 construction activities that disturb less than five acres where stormwater controls are not needed
516 based on a "total maximum daily load" (TMDL) approved or established by EPA that addresses
517 the pollutant(s) of concern or, for nonimpaired waters that do not require TMDLs, an equivalent
518 analysis that determines allocations for small construction sites for the pollutant(s) of concern or
519 that determines that such allocations are not needed to protect water quality based on
520 consideration of existing in-stream concentrations, expected growth in pollutant contributions
521 from all sources, and a margin of safety. For the purpose of this subdivision, the pollutant(s) of
522 concern include sediment or a parameter that addresses sediment (such as total suspended solids,
523 turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of
524 any water body that will receive a discharge from the construction activity. The operator must
525 certify to the board that the construction activity will take place, and stormwater discharges will
526 occur, within the drainage area addressed by the TMDL or equivalent analysis.

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

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

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

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544 "State" means the Commonwealth of Virginia.

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

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

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

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

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

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

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

570 "Stormwater discharge associated with large construction activity" means the discharge of
571 stormwater from large construction activities.

572 "Stormwater discharge associated with small construction activity" means the discharge
573 of stormwater from small construction activities.

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

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

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

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

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

594 "Stormwater management standards" means the minimum criteria for stormwater
595 management programs and land-disturbing activities as set out in Part II of these regulations.

596 "Stormwater Pollution Prevention Plan" (SWPPP) or "plan SWPPP" means a document
597 that is prepared in accordance with good engineering practices and that identifies potential
598 sources of pollution that may reasonably be expected to affect the quality of stormwater
599 discharges from the construction site or its associated land-disturbing activities. In addition the
600 document shall describe and ensure the implementation of best management practices, and shall
601 include, but not be limited to the inclusion of, or the incorporation by reference of, an erosion
602 and sediment control plan, a post-construction stormwater management plan, a spill prevention
603 control and countermeasure (SPCC) plan, and other practices that will be used to reduce
604 pollutants in stormwater discharges from land-disturbing activities and to assure compliance with
605 the terms and conditions of this chapter. All plans incorporated by reference into the SWPPP
606 shall be enforceable under the permit issued or general permit coverage authorized.

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

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

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

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

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

620 "Surface waters" means:

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

624 2. All interstate waters, including interstate wetlands;

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

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

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

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

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

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

637 6. The territorial sea; and

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

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

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

647 "Toxic pollutant" means any pollutant listed as toxic under §307(a)(1) of the CWA or, in
648 the case of sludge use or disposal practices, any pollutant identified in regulations implementing
649 §405(d) of the CWA.

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

655 "Variance" means any mechanism or provision under §301 or §316 of the CWA or under
656 40 CFR Part 125 (2000), or in the applicable effluent limitations guidelines that allows
657 modification to or waiver of the generally applicable effluent limitation requirements or time
658 deadlines of the CWA. This includes provisions that allow the establishment of alternative
659 limitations based on fundamentally different factors or on §301(c), §301(g), §301(h), §301(i), or
660 §316(a) of the CWA.

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

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

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

672 "Virginia Stormwater BMP Clearinghouse website" means a website that contains
673 detailed design standards and specifications for BMPs that may be used in Virginia to comply
674 with requirements of the Virginia Stormwater Management Act and associated regulations and
675 that is jointly created by the department and the Virginia Water Resources Research Center
676 subject to advice from a permanent stakeholder advisory committee.

677 "Virginia Stormwater Management Handbook" means a collection of pertinent
678 information that provides general guidance for compliance with the Virginia Stormwater

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679 Management Act and associated regulations and is developed by the department with advice
680 from a stakeholder advisory committee.

681 "Virginia Stormwater Management Program (VSMP)" or "VSMP" means the Virginia
682 program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing
683 permits, and imposing and enforcing requirements pursuant to the federal Clean Water Act, the
684 Virginia Stormwater Management Act, this chapter, and associated guidance documents.

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

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

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

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

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

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

705

706 **4VAC50-60-20. Purposes.**

707 The purposes of this chapter are to provide a framework for the administration,
708 implementation and enforcement of the Act and to delineate the procedures and requirements to
709 be followed in connection with VSMP permits issued by the board or its designee pursuant to the
710 Clean Water Act and the Virginia Stormwater Management Act, while at the same time
711 providing flexibility for innovative solutions to stormwater management issues. The chapter also
712 establishes the board's procedures for the authorization of a qualifying local program, board and
713 department oversight authorities for an authorized qualifying local program, the board's
714 procedures for utilization by the department in administering a local program in localities where
715 no qualifying local program is authorized, and the components of a stormwater management
716 program including but not limited to stormwater management standards.

717

718 **4VAC50-60-30. Applicability.**

719 This chapter is applicable to:

720 1. Every private, local, state, or federal entity that establishes a stormwater management
721 program or a MS4 Program;

722 2. The department in its oversight of locally administered programs or in its
723 administration of a local program;

724 ~~2.~~ 3. Every state agency project regulated under the Act and this chapter; and

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725 ~~3.~~ 4. Every land-disturbing activity regulated under § 10.1-603.8 of the Code of Virginia
726 unless otherwise exempted in 10.1-603.8 subsection B.

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Part II Stormwater Management Program Technical Criteria

4VAC50-60-40. Authority and applicability.

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

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

In accordance with the board’s authority, this part establishes the minimum technical criteria and stormwater management standards that shall be employed by a local or state-administered stormwater management program or state agency to protect the quality and quantity of state waters from the potential harm of unmanaged stormwater runoff resulting from land disturbing activities.

4VAC50-60-50. General. Repeal

4VAC50-60-53. General Requirements

The physical, chemical, biological and hydrologic characteristics and the water quality and quantity of the receiving state waters shall be maintained, protected, or improved. Objectives include, but are not limited to, supporting state designated uses and water quality standards.

4VAC50-60-56. Applicability of other laws and regulations

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

4VAC50-60-60. Water quality. Repeal

4VAC50-60-63. Water Quality Criteria Requirements

A. In order to protect the quality of state waters and to control nonpoint source pollution, the following minimum technical 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

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773 drains to more than one HUC, the pollutant load reduction requirements shall be applied
774 independently within each HUC.

775 1. New development projects and projects occurring on prior developed lands that result in
776 the total percent impervious cover of a site being less than or equal to 40% shall implement
777 BMPs selected and designed to achieve a post-development pollutant load from the site that does
778 not exceed 0.28 pounds of total phosphorus per acre per year.

779 2. New development projects that result in the total percent impervious cover of a site
780 being greater than 40% shall implement BMPs selected and designed to achieve a post-
781 development pollutant load from the site that does not exceed 2.68 pounds of total nitrogen per
782 acre per year.

783 3. Projects occurring on prior developed lands that result in the impervious cover of a site
784 being greater than 40% shall implement BMPs selected and designed to achieve a reduction of
785 total nitrogen of at least 28% below the post-development total nitrogen load. However, under
786 no circumstance shall the total nitrogen load be required to be reduced to below 2.68 pounds per
787 acre per year.

788 4. Where the land disturbing activity only occurs on a portion of the development site, the
789 local program has the discretion to consider the portion of the site subject to land disturbance as
790 a planning area and to review the stormwater management plan on that basis. In such case, the
791 post-development and pre-development imperviousness will be based only on the total area of
792 the planning area.

793 5. In addition to the above requirements, if a TMDL wasteload allocation for phosphorus or
794 nitrogen has been established by the Commonwealth and approved by the EPA for a segment of
795 a state water where a land disturbing activity is discharging, additional control measures shall be
796 implemented as necessary to be consistent with any phosphorus and nitrogen requirements of the
797 TMDL implementation plan.

798 6. Total nitrogen and total phosphorus loads shall be calculated in accordance with the
799 Simple Method and Event Mean Concentrations set out in Table 1 or another methodology that
800 is demonstrated to achieve equivalent results and is approved by the board.

801
802 Table 1

803
804 Flow-Weighted Mean Concentrations (C) for Virginia in milligrams/liter (mg/L) and Simple
805 Method Calculation.

	<u>Total Phosphorus (TP)</u>	<u>Total Nitrogen (TN)</u>
<u>Low Impervious Sites (<40% impervious)</u>	<u>0.28mg/L</u>	<u>NA</u>
<u>High Impervious Sites (>40% impervious)</u>	<u>NA</u>	<u>1.12 mg/L</u>

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Simple Method calculation:

$$L = P \times P_i \times R_v \times C \times A \times 2.72/12$$

Where:

L = total post-development pollutant load (pounds/ year)

P = average annual rainfall depth (inches) = 43 inches for Virginia

P_i = fraction of rainfall events that produce runoff = 0.9

R_v = runoff coefficient = {0.05 + (0.009 x I)}

where: I = percent impervious cover, expressed as whole number

C = flow-weighted mean concentration of pollutant in urban runoff (mg/L)

A = area of the development site (acres)

2.72 and 12 are unit conversion factors

806

807 B. If a comprehensive watershed stormwater management plan has been adopted pursuant
808 to 4VAC50-60-96 for the watershed within which a project is located, then the local program
809 may allow off-site controls in accordance with the plan to achieve the post-development
810 pollutant load water quality technical criteria set out in subsection A. Such off-site controls shall
811 achieve the required pollutant reductions either completely off-site in accordance with the plan
812 or in a combination of on-site and off-site controls. In either case, such controls shall be within
813 the same HUC or the adjacent downstream HUC or within HUCs approved by the board.

814 C. Where no plan exists pursuant to subsection B, off-site controls may be used to meet the
815 post-development pollutant load water quality technical criteria set out in subsection A provided:

816 1. The local program allows for off-site controls;

817 2. The applicant demonstrates to the satisfaction of the local program that off-site
818 reductions equal to or greater than those that would otherwise be required for the site are
819 achieved, utilizing the performance-based approach;

820 3. The development's runoff will not result in flooding or channel erosion impacts
821 downstream of the site or any off-site treatment area;

822 4. Off-site controls must be located within the same HUC or the adjacent downstream HUC
823 to the land disturbing site; and

824 5. The right to utilize the off-site control area has been obtained and maintenance
825 agreements for the stormwater management facilities have been established pursuant to
826 4VAC50-60-108.

827 Alternatively, the local program may choose to implement the provisions of this subsection
828 through an exception granted pursuant to 4VAC50-60-122 in order to implement off-site
829 treatment.

830 D. The percent of imperviousness may be adjusted through implementation of LID
831 practices as set out in Table 2, allowing for an adjusted pollution removal rate requirement. The
832 method to be utilized for crediting LID practices toward impervious area and load removal
833 requirement adjustments is set out in spreadsheets incorporated by reference. The local program
834 may limit the use of specific LID practices listed in Table 2. Subsequent to the original program
835 submittal, a locality shall report any LID practices that are disallowed in writing to the
836 department.

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Table 2

DESCRIPTION OF LID CREDITS

<u>Credit</u>	<u>Volume Reduction Credit</u>	<u>Application</u>
<u>1. Reforesting Riparian Area</u>	<p><u>Unit:</u> <u>Acres reforested</u></p> <p><u>Credit:</u> <u>50%</u></p>	<p>a. <u>If Resource Protection Area (RPA) is already required, credit is for reforesting RPA that is currently in grass/turf and/or developed</u></p> <p>b. <u>If RPA is not required, credit is for reforesting a minimum 35' stream buffer along perennial or intermittent streams that is currently in grass/turf and/or developed</u></p> <p>c. <u>Areas receiving credits must be covered by protective easement and maintenance plan</u></p> <p>d. <u>All flow to buffer must be converted to sheet flow – no short-circuiting</u></p> <p>e. <u>Signage provided</u></p>
<u>2. Expanding & Protecting Riparian Area</u>	<p><u>Unit:</u> <u>Acres of expanded riparian area</u></p> <p><u>Credit:</u> <u>50%</u></p>	<p>a. <u>If RPA is required, credit is for expanding minimum width to include any or all of the following: non-RPA wetlands, adjacent slopes, flood plains, significant forest patches, intermittent streams, and/or other critical habitat features</u></p> <p>b. <u>If RPA is not required, credit is for protecting a stream buffer along a perennial or intermittent stream where the existing condition is forest and/or well vegetated. The stream buffer must have a minimum width of 35' and can include wetlands, adjacent slopes, significant forest patches, and/or other critical habitat features</u></p> <p>c. <u>Areas receiving credits must be covered by protective easement and maintenance plan</u></p> <p>d. <u>All flow to buffer must be converted to sheet flow – no short-circuiting</u></p> <p>e. <u>Signage provided</u></p>

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Credit	Volume Reduction Credit	Application
<u>3. Open Space Conservation</u>	<p><u>Unit:</u> <u>Acres conserved</u></p> <p><u>Credit:</u> <u>75% for A/B Soils</u> <u>50% for C/D Soils</u></p>	<p><u>a. Credit for non-riparian open space area. Area does not have to receive or treat site runoff</u></p> <p><u>b. Area covered by protective easement and maintenance plan</u></p> <p><u>c. Area to be maintained with natural vegetative cover, preferably forest. Maintained turf does not qualify.</u></p> <p><u>d. Signage provided</u></p>
<u>4. Open Space Conservation With Hydrologic Function</u>	<p><u>Unit:</u> <u>Acres conserved</u></p> <p><u>Credit:</u> <u>100% for A/B Soils</u> <u>75% for C/D Soils</u></p>	<p><u>a. Credit for non-riparian open space area that is configured to capture site runoff, including natural drainage features (swales) and “designed” open space</u></p> <p><u>b. Energy dissipation, flow path, and slope guidelines to be followed for any runoff entering area</u></p> <p><u>c. Area covered by protective easement and maintenance plan</u></p> <p><u>d. Area to be reforested if currently not in forested condition</u></p> <p><u>e. Signage provided</u></p>
<u>5. On-Lot Rain Garden, Dry Well, Infiltration Practice</u>	<p><u>Unit:</u> <u>Acres of rooftop, yard, & driveway treated</u></p> <p><u>Credit:</u> <u>100% for A/B Soils</u> <u>50% for C/D Soils</u></p>	<p><u>a. Credit is for practices that effectively disconnect the rooftop and driveway from other site impervious areas and reduce overall runoff volume</u></p> <p><u>b. Practice must follow sizing and design guidelines</u></p> <p><u>c. Practices on C/D soils include underdrain</u></p>
<u>6. Rainwater Harvesting</u>	<p><u>Unit:</u> <u>Acres of rooftop & other impervious area treated</u></p> <p><u>Credit:</u> <u>10% for rain barrel</u> <u>25% for larger storage, such as cisterns</u></p>	<p><u>a. Credit is for practices that store rainwater from rooftops or other impervious surfaces for reuse</u></p> <p><u>b. Practices must follow sizing and design guidelines</u></p> <p><u>c. Maintenance plan provided to ensure that water is used and regularly drained out (e.g., winter)</u></p>
<u>7. On-Lot Soil Amendments</u>	<p><u>Unit:</u> <u>Acres amended</u></p> <p><u>Credit:</u> <u>25% for just soil amended</u> <u>50% when combined with impervious disconnection (rooftop, driveway, etc.)</u></p>	<p><u>a. Credit for amendment of soils, especially if soils are in hydrologic groups C or D, OR if existing soils are removed or disturbed</u></p> <p><u>b. To qualify for credit, lot disturbance must be reduced to minimum necessary to construct house, driveway, utilities</u></p> <p><u>c. Soil amendment and placement must meet specifications</u></p>

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Credit	Volume Reduction Credit	Application
<u>8. Pervious Parking</u>	<p><u>Unit:</u> <u>Acres of pervious parking</u> <u>Acres of impervious area that drain to pervious parking</u></p> <p><u>Credit:</u> <u>100% for A/B Soils, infiltration design</u> <u>50% for C/D Soils, underdrain design</u> <u>25% for impervious areas that drain to pervious parking</u></p>	<p><u>a. Credit for paver blocks or other pervious surfaces</u> <u>b. If infiltration is not feasible, then system may have underdrain in storage layer below surface</u> <u>c. Pervious parking must meet design specifications</u> <u>d. Preferably, pervious parking area configured to capture runoff from upslope parking and travelways – must meet drainage area/pervious parking area ratio. Also, storage must be increased to account for additional areas.</u></p>
<u>9. Green Roof</u>	<p><u>Unit:</u> <u>Acres of green roof</u></p> <p><u>Credit:</u> <u>75% for Intensive design</u> <u>50% for Extensive design</u></p>	<p><u>a. Green roof must meet design specifications</u></p>
<u>10. Grass Channels</u>	<p><u>Unit:</u> <u>Impervious acres draining to grass channels</u></p> <p><u>Credit:</u> <u>75% for grass channels in A/B Soils</u> <u>50% for grass channels in C/D Soils</u></p>	<p><u>a. Credit for non-VDOT grass channels used as part of overall BMP system.</u> <u>b. Grass channels can be on property lines, edge of pavement, in open space, etc.</u> <u>c. Channels must meet design specifications</u></p>
<u>11. Other Impervious Disconnection</u>	<p><u>Unit:</u> <u>Impervious acres treated</u></p> <p><u>Credit:</u> <u>50% for disconnection to A/B Soils</u> <u>20% for disconnection to C/D Soils</u></p>	<p><u>a. Credit for impervious disconnection for rooftops, parking lots, and other impervious surfaces when not addressed through another credit</u> <u>b. Contributing drainage area, length of flow path, slopes, soils, and other design features must meet specifications</u> <u>c. Vegetated filter strips may qualify for this credit</u></p>

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Credit	Volume Reduction Credit	Application
<p>Note:</p> <p><u>Group A: Soils with low runoff potential due to high infiltration rates, even when thoroughly wetted. These soils consist primarily of deep, well to excessively drained sands and gravels with high water transmission rates (0.30 in./hr.). Group A soils include sand, loamy sand, or sandy loam.</u></p> <p><u>Group B: Soils with moderately low runoff potential due to moderate infiltration rates when thoroughly wetted. These soils consist primarily of moderately deep to deep, and moderately well to well-drained soils. Group B soils have moderate water transmission rates (0.15-0.30 in./hr.) and include silt loam or loam.</u></p> <p><u>Group C: Soils with moderately high runoff potential due to slow infiltration rates when thoroughly wetted. These soils typically have a layer near the surface that impedes the downward movement of water or soils. Group C soils have low water transmission rates (0.05-0.15 in./hr.) and include sandy clay loam.</u></p> <p><u>Group D: Soils with high runoff potential due to very slow infiltration rates. These soils consist primarily of clays with high swelling potential, soils with permanently high water tables, soils with a claypan or clay layer at or near the surface, and shallow soils over nearly impervious parent material. Group D soils have very low water transmission rates (0-0.05 in./hr.) and include clay loam, silty clay loam, sandy clay, silty clay, or clay.</u></p>		

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4VAC50-60-65. Water Quality Compliance

A. Technology-based criteria set out in subsection B shall be utilized to achieve compliance with the water quality criteria requirements set out in 4VAC 50-60-63 subsection A unless the performance-based approach is approved by the local program or off-site controls are approved pursuant to 4 VAC50-60-63 subsection C.

Additionally, where a TMDL wasteload allocation for phosphorus or nitrogen has been established by the Commonwealth and approved by the EPA for a segment of a state water where a land disturbing activity is discharging, the performance-based criteria shall be utilized to incorporate measures and controls that are consistent with the assumptions and requirements of such TMDL and to meet the water quality criteria requirements set out in 4VAC 50-60-63 subsection A.

B. Technology-based criteria. For land-disturbing activities, the post-development pollutant load shall be treated by an appropriate BMP(s) as specified in Table 3 below. In addition to the BMPs listed in Table 3, BMPs made available on the Virginia Stormwater BMP Clearinghouse website may be utilized to achieve the target nutrient pollutant removal requirements. The selected BMP(s) shall be located, designed, and maintained to perform at the target pollutant removal requirement based on site imperviousness specified in Table 3 below.

Table 3

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<u>Post-Development Impervious Cover Range</u>	<u>Pollutant Removal Rate Required for Total Phosphorus (TP) and Total Nitrogen (TN)</u>	<u>Acceptable BMPs (Preferred volume reduction BMPs are denoted with asterisks)</u>	<u>Acceptable BMPs that can be used to meet pollutant removal requirement WHEN COMBINED WITH LID CREDITS¹ (Preferred volume reduction BMPs are denoted with asterisks)</u>
LOW IMPERVIOUS (less than or equal to 40% impervious cover):			
<u>Low Impervious #1</u> <u>I = 0 - 10%</u>	<u>TP = 20%</u>	<u>1. Good Rural Site Design Principles (no structural BMPs required)</u>	<u>N/A</u>
		<u>2. Extended Detention</u>	<u>N/A</u>
<u>Low Impervious #2</u> <u>I = 11 - 15%</u>	<u>TP = 40%</u>	<u>1. Infiltration #1 *</u>	<u>1. Extended Detention</u>
		<u>2. Bioretention #1 *</u>	
		<u>3. Wetland #1</u>	
		<u>4. Wet Pond #1</u>	
<u>Low Impervious #3</u> <u>I = 16 - 20%</u>	<u>TP = 50%</u>	<u>1. Infiltration #1 *</u>	<u>1. Extended Detention</u>
		<u>2. Bioretention #1 *</u>	
		<u>3. Wetland #1</u>	
		<u>4. Wet Pond #1</u>	
<u>Low Impervious #4</u> <u>I = 21 - 25%</u>	<u>TP = 60%</u>	<u>1. Infiltration #1 *</u>	<u>1. Bioretention #1 *</u>
		<u>2. Bioretention #2 *</u>	<u>2. Wetland #1</u>
		<u>3. Wetland #2</u>	<u>3. Wet Pond #1</u>
		<u>4. Wet Pond #2</u>	<u>4. Extended Detention</u>
<u>Low Impervious #5</u> <u>I = 26 - 30%</u>	<u>TP = 65%</u>	<u>1. Infiltration #1 *</u>	<u>1. Bioretention #1 *</u>
		<u>2. Bioretention #2 *</u>	<u>2. Wetland #1</u>
		<u>3. Wetland #2</u>	<u>3. Wet Pond #1</u>
		<u>4. Wet Pond #2</u>	
		<u>5. Filtering Practice #1</u>	
<u>Low Impervious #6</u> <u>I = 31 - 40%</u>	<u>TP = 70%</u>	<u>1. Infiltration #1 *</u>	<u>1. Bioretention #1 *</u>
		<u>2. Bioretention #2 *</u>	<u>2. Wetland #1</u>
		<u>3. Wetland #2</u>	<u>3. Wet Pond #1</u>
		<u>4. Wet Pond #2</u>	<u>4. Filtering Practice #1</u>
		<u>5. Filtering Practice #2</u>	
HIGH IMPERVIOUS (greater than 40% impervious cover):			
<u>High Impervious #1</u> <u>I = 41 - 50%</u>	<u>TN = 45%</u>	<u>1. Infiltration #1 *</u>	<u>1. Wetland #1</u>
		<u>2. Bioretention #2 *</u>	<u>2. Wet Pond #1</u>

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		<u>3. Wetland #2</u>	<u>3. Filtering Practice #1</u>
		<u>4. Wet Pond #2</u>	
		<u>5. Filtering Practice #2</u>	
<u>High Impervious #2</u> <u>I = 51 - 60%</u>	<u>TN = 55%</u>	<u>1. Infiltration #2 *</u>	<u>1. Infiltration #1 *</u>
		<u>2. Bioretention #2 *</u>	<u>2. Bioretention #1 *</u>
		<u>3. Wetland #2</u>	<u>3. Wet Pond #1 or #2</u>
		<u>4. Filtering Practice #2</u>	<u>4. Filtering Practice #1</u>
<u>High Impervious #3</u> <u>I = 61 - 75%</u>	<u>TN = 60%</u>	<u>1. Infiltration #2 *</u>	<u>1. Infiltration #1 *</u>
		<u>2. Bioretention #2 *</u>	<u>2. Bioretention #1 *</u>
		<u>3. Wetland #2</u>	<u>3. Wet Pond #2</u>
			<u>4. Filtering Practice #2</u>
<u>High Impervious #4</u> <u>I > 75%</u>	<u>TN = 70%</u>	<u>1. Infiltration #2 *</u>	<u>1. Infiltration #1 *</u>
			<u>2. Bioretention #2 *</u>
			<u>3. Wetland #2</u>
			<u>4. Wet Pond #2</u>
			<u>5. Filtering Practice #2</u>
<p><u>1. LID Credits reduce the site’s “adjusted impervious cover” and result in an “adjusted pollutant removal requirement,” which is less stringent than the removal rates listed in the Table for the various land use categories/ impervious cover ranges. The different BMPs listed as acceptable for use with LID Credits will require varying levels of LID Credit application. BMPs with lower pollutant removal efficiencies will require more ambitious application of LID Credits to achieve overall site compliance. BMPs with higher pollutant removal efficiencies may only require a modest application of LID Credits.</u></p>			

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C. Performance-based criteria may be utilized to achieve compliance with the water quality criteria requirements set out in 4VAC 50-60-63 subsection A if approved by the local program or where a TMDL wasteload allocation for phosphorus or nitrogen has been established by the Commonwealth and approved by the EPA for a segment of a state water to which a land disturbing activity is discharging.

1. For land-disturbing activities, the calculated post-development nonpoint source pollutant runoff load shall be compared to the applicable water quality requirement identified in 4 VAC 50-60-63 subsection A based upon the post-development total percent impervious cover of the site. A BMP(s) shall be located, designed, and maintained to achieve the target nutrient pollutant removal efficiencies to effectively reduce the pollutant load to the required level. Pollutant load calculations shall be performed in accordance with the Simple Method and Event Mean Concentrations set out in Table 1 of 4VAC50-60-63 or another methodology that is demonstrated to achieve equivalent results and is approved by the board.

2. For the purposes of subdivision 1, BMPs selected must be contained within Table 4 or on the Virginia Stormwater BMP Clearinghouse website.

Table 4

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BMP Pollutant Removal Efficiencies

<u>BMP Type</u>	<u>Total Phosphorus Removal Efficiency (percent)</u>	<u>Total Nitrogen Removal Efficiency (percent)</u>	<u>Runoff Reduction Potential</u>
<u>Wet Pond 1</u>	<u>50</u>	<u>30</u>	<u>Low</u>
<u>Wet Pond 2</u>	<u>75</u>	<u>40</u>	<u>Low</u>
<u>Bioretention 1</u>	<u>45</u>	<u>45</u>	<u>Medium</u>
<u>Bioretention 2</u>	<u>55</u>	<u>55</u>	<u>High</u>
<u>Infiltration 1</u>	<u>65</u>	<u>40</u>	<u>High</u>
<u>Infiltration 2</u>	<u>95</u>	<u>65</u>	<u>High</u>
<u>Constructed Wetland 1</u>	<u>45</u>	<u>25</u>	<u>Low</u>
<u>Constructed Wetland 2</u>	<u>75</u>	<u>55</u>	<u>Low</u>
<u>WQ Swale 1</u>	<u>25</u>	<u>45</u>	<u>Medium</u>
<u>WQ Swale 2</u>	<u>45</u>	<u>55</u>	<u>High</u>
<u>Filtering Practice</u>	<u>65</u>	<u>50</u>	<u>Medium</u>
<u>Extended Detention</u>	<u>30</u>	<u>35</u>	<u>Low</u>

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883 **4VAC 50-60-66 Water Quantity**

884 In order to protect state waters from the potential harms of unmanaged quantities of
885 stormwater runoff, the following technical criteria and statewide standards for stormwater
886 management shall apply to land disturbing activities:

887 A. Properties and state waters receiving stormwater runoff from any land-disturbing
888 activity shall be protected from sediment deposition, erosion and damage due to changes in
889 runoff rate of flow and hydrologic characteristics, including but not limited to, changes in
890 volume, velocity, frequency, duration, and peak flow rate of stormwater runoff in accordance
891 with the minimum water quantity standards set out in this section.

892 B. Pursuant to §10.1-603.4 subsection 7, a local program shall require that land disturbing
893 activities:

894 1. Maintain post-development runoff rate of flow and runoff characteristics that replicate,
895 as nearly as practicable, the existing predevelopment runoff characteristics and site hydrology.

896 2. If stream channel erosion or localized flooding exists at the site prior to the proposed
897 land disturbing activity, the project shall improve to the extent practicable upon the contributing
898 share of the existing predevelopment runoff characteristics and site hydrology.

899 C. For the purposes of determining compliance with subsection B, a local program shall
900 require the following:

901 1. Pre-development runoff characteristics and site hydrology shall be verified by physical
902 surveys, geotechnical investigations, and calculations that are consistent with good engineering
903 practices that are acceptable to the local program authority.

904 2. Flooding and channel erosion impacts to receiving streams due to land-disturbing
905 activities shall be calculated for each point of discharge from the land disturbance and such
906 calculations shall include any runoff from the balance of the watershed which also contributes to
907 that point of discharge. Flooding and channel erosion impacts shall be evaluated taking the
908 entire upstream watershed into account, including the modifications from the planned land
909 disturbance. Good engineering practices and calculations shall be used to demonstrate post

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910 development runoff characteristics and site hydrology, and flooding and channel erosion
911 impacts.

912 3. For purposes of computing predevelopment runoff, all pervious lands in the site shall be
913 assumed prior to development to be in good condition (if the lands are pastures, lawns, or parks),
914 with good cover (if the lands are woods), or with conservation treatment (if the lands are
915 cultivated); regardless of conditions existing at the time of computation. Predevelopment runoff
916 calculations utilizing other land cover values may be utilized where stream channel erosion or
917 localized flooding at the site does not exist provided that it is demonstrated to and approved by
918 the local program authority that actual site conditions warrant such considerations.

919 D. Notwithstanding the requirements of subsection C, any land disturbing activity shall be
920 deemed to have satisfied the requirements of subsection B if the practices implemented on the
921 site are designed to:

922 1. Detain the water quality volume and to release it over 48 hours;

923 2. Detain and release over a 24-hour period the expected rainfall resulting from the one
924 year, 24 hour storm; and

925 3. Reduce the allowable peak flow rate resulting from the 1.5, 2, and 10-year, 24-hour
926 storms to a level that is less than or equal to the peak flow rate from the site assuming that it was
927 in good forested condition, achieved through multiplication of the forested peak flow rate by a
928 reduction factor that is equal to the runoff volume from the site when it was in a good forested
929 condition divided by the runoff volume from the site in its proposed condition.

930 Such land disturbing activity shall further be exempt from any flow rate capacity and
931 velocity requirements for natural or manmade channels as defined in any other section of this
932 regulation.

933

934 **4VAC50-60-70. Stream channel erosion. Repeal**

935

936 **4VAC50-60-73. Design Storms**

937 For the purposes of this chapter, unless otherwise specified, the specified design storms
938 shall be defined as the 2 and 10-year 24-hour storms using the site-specific rainfall ~~distribution~~
939 precipitation frequency data recommended by the U.S. National Oceanic and Atmospheric
940 Administration (NOAA) Atlas 14 or the U.S. Department of Agriculture's Natural Resources
941 Conservation Service (NRCS). The local program may allow for the use of the Modified
942 Rational (critical storm duration) Method.

943

944 **4VAC50-60-76. Linear development projects**

945 Unless exempt pursuant to §10.1-603.8 subsection B, linear development projects shall
946 control post-development stormwater runoff in accordance with a site-specific stormwater
947 management plan or a comprehensive watershed stormwater management plan developed in
948 accordance with these regulations.

949

950 **4VAC50-60-80. Flooding. Repeal**

951

952 **4VAC50-60-85. Stormwater management impoundment structures or facilities**

953 A. Construction of stormwater management impoundment structures or facilities within
954 tidal or nontidal wetlands and perennial streams is prohibited unless allowed by the local
955 program and all required permits are obtained.

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956 B. Construction of stormwater management impoundment structures or facilities within a
957 Federal Emergency Management Agency (FEMA) designated 100-year floodplain should be
958 avoided. When this is demonstrated to be unavoidable, all stormwater management facility
959 construction shall be in compliance with all applicable requirements under the National Flood
960 Insurance Program, 44 CFR Part 59 and local floodplain ordinances.

961 C. Stormwater management impoundment structures that are not covered by the
962 Impounding Structure Regulations (4VAC50-20) shall be engineered for structural integrity and
963 spillway design for the 100-year storm event. In no case shall the design standard be less than
964 the 100-year storm event for any stormwater management impoundment structure.

965 D. Construction of stormwater management impoundment structures or facilities may
966 occur in karst areas only after a geological study of the area has been conducted to determine the
967 presence or absence of karst features that may be impacted by stormwater runoff and BMP
968 placement.

969 E. Discharge of stormwater runoff to a karst feature shall meet the water quality criteria
970 set out in 4 VAC 50-60-63 and the water quantity criteria set out in 4 VAC 50-60-66. Permanent
971 stormwater management impoundment structures or facilities shall only be constructed in karst
972 features after completion of a geotechnical investigation that identifies any necessary
973 modifications to the BMP to ensure its structural integrity and maintain its water quality and
974 quantity efficiencies. The person responsible for the land disturbing activity is encouraged to
975 screen for known existence of heritage resources in the karst features. Any Class V
976 Underground Injection Control Well registration statements for stormwater discharges to
977 improved sinkholes shall be included in the SWPPP.

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979 **4VAC50-60-90. Regional (watershed-wide) stormwater management plans .** Repeal

980
981 **4VAC50-60-93. Stormwater Management Plan Development**

982 A. A stormwater management plan for a land disturbing activity shall apply these
983 stormwater management technical criteria to the entire land disturbing activity.

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

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

989
990 **4VAC50-60-96. Comprehensive watershed stormwater management plans**

991 A. Localities may develop comprehensive watershed stormwater management plans to be
992 approved by the board that meet the water quality requirements, quantity requirements, or both
993 of this chapter. Such plans shall ensure that offsite reductions equal to or greater than those that
994 would be required on each contributing land disturbing site are achieved within the same HUC,
995 or within HUCs approved by the board. State and federal agencies intending to develop large
996 tracts of land may develop or participate in comprehensive watershed stormwater management
997 plans where practicable. The local program shall document nutrient reductions achieved during
998 the plan's implementation. If the percent of impervious area upon which the plan was based
999 changes or if any other amendments are deemed necessary by the local program, the local
1000 program shall provide plan amendments to the board for review and approval.

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1001 B. If the local program allows for a pro rata fee in accordance with § 15.2-2243 of the
1002 Code of Virginia, then the reductions required for a site by this chapter may be achieved by the
1003 payment of a pro rata fee sufficient to fund improvements necessary to adequately achieve those
1004 requirements in accordance with that section of the Code and this chapter.

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Part IIIA
Local Programs

4VAC50-60-100. Applicability. Repeal

4VAC50-60-110. Technical criteria for local programs. Repeal

4VAC50-60-120. Requirements for local program and ordinance. Repeal

4VAC50-60-130. Administrative procedures: stormwater management plans. Repeal

4VAC50-60-140. Administrative procedures: exceptions. Repeal

4VAC50-60-150. Administrative procedures: maintenance and inspections. Repeal

4VAC50-60-102. Authority and Applicability.

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

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

4VAC50-60-104. Technical criteria for qualifying local programs.

A. All qualifying local programs shall require compliance with the provisions of Part II (4VAC50-60-40 et seq.) unless an exception is granted pursuant to 4VAC50-60-122 and shall comply with the requirements of 4VAC50-60-460 subsection L.

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

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

4VAC50-60-106. Qualifying local program administrative requirements.

A. A qualifying local program shall provide for the following:

1. Identification of the authority authorizing coverage under the VSMP General Permit for Discharges of Stormwater from Construction Activities (4 VAC 50-60-1170), the plan

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1050 reviewing authority, the plan approving authority, the inspection authority, and the enforcement
1051 authority;

- 1052 2. Regulations and technical criteria to be used in the qualifying local program;
- 1053 3. Procedures for the submission and approval of plans;
- 1054 4. Assessment and collection of fees;
- 1055 5. Inspection and monitoring of land disturbing activities covered by a permit for
1056 compliance;
- 1057 6. Procedures for long-term inspection of stormwater management facilities; and
- 1058 7. Enforcement.

1059 B. A locality shall adopt an ordinance(s) that incorporates the components set out in
1060 subsection A and procedures provided by the department for the issuance, denial, revocation,
1061 termination, reissuance, transfer, or modifications of coverage under the VSMP General Permit
1062 for Discharges of Stormwater from Construction Activities.

1063 C. A qualifying local program shall report to the department information related to the
1064 administration and implementation of the qualifying local program in accordance with 4VAC50-
1065 60-126.

1066 D. A qualifying local program may require the submission of a reasonable performance
1067 bond or other financial surety and for the release of such sureties in accordance with the criteria
1068 set forth in §10.1-603.8.

1069

1070 **4VAC50-60-108. Qualifying local program stormwater management plan review**

1071 A. A qualifying local program shall require stormwater management plans to be
1072 submitted for review and approval prior to commencement of land disturbing activities.

1073 B. A qualifying local program shall approve or disapprove a stormwater management
1074 plan and required accompanying information according to the following:

1075 1. Stormwater management plan review shall begin upon submission of a complete plan.
1076 A complete plan shall at a minimum include the following elements:

1077 a. The location of all points of stormwater discharge, receiving surface waters or karst
1078 features into which the stormwater discharges, and pre-development and post-development
1079 conditions for drainage areas, including final drainage patterns and changes to existing contours;

1080 b. Contact Information including the name, address, and telephone number of the
1081 property owner and the operator of the construction site and the tax reference number and parcel
1082 number of the property or properties affected;

1083 c. A narrative description of the site, as depicted on the submitted map pursuant to
1084 subsection h, and proposed stormwater management facilities and the mechanism through which
1085 the facilities will be operated and maintained during and after construction activity;

1086 d. The location and the design of the proposed stormwater management facilities;

1087 e. Information identifying the hydrologic characteristics and structural properties of soils
1088 utilized with the installation of stormwater management facilities;

1089 f. Comprehensive hydrologic and hydraulic computations of the pre-development and
1090 post-development runoff conditions for the required design storms;

1091 g. Good engineering practices and calculations verifying compliance with the water
1092 quality and quantity requirements of this chapter;

1093 h. A map(s) of the site which depicts the topography of the site and includes:

1094 (i) all contributing drainage areas;

1095 (ii) receiving surface waters or karst features into which stormwater will be discharged;

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- 1096 (iii) existing streams, ponds, culverts, ditches, and wetlands;
1097 (iv) soil types, forest cover, other vegetative areas;
1098 (v) current land use including all existing structures and locations of utilities, roads, and
1099 easements;
1100 (vi) the location of the natural resources and structures at the site as they exist prior to the
1101 commencement of the project;
1102 (vii) sufficient information on adjoining parcels to assess the impacts of stormwater from
1103 the site;
1104 (viii) the limits of clearing and grading, and the proposed drainage patterns on the site;
1105 (ix) proposed buildings, roads, parking areas, utilities, and stormwater management
1106 facilities; and
1107 (x) proposed land use with tabulation of the percentage of surface area to be adapted to
1108 various uses, including but not limited to planned locations of utilities, roads and easements.
1109 i. Proposed right-of-entry agreements or easements from the owner for purposes of
1110 inspection and maintenance;
1111 j. Proposed maintenance agreements between a qualifying local program and the owner,
1112 which shall contain provisions for fiscal responsibility and inspection schedules. Such
1113 agreements may also contain provisions specifying that, where maintenance or repair of a
1114 stormwater management facility located on the owner's property is neglected, or the stormwater
1115 management facility becomes a public health or safety concern and the owner has failed to
1116 perform the necessary maintenance and repairs after receiving notice from the locality, the
1117 qualifying local program may perform the necessary maintenance and repairs and recover the
1118 costs from the owner. In the specific case of a public health or safety danger, the written notice
1119 may be waived by the locality.
1120 k. A complete registration statement and required fees.
1121 1. Such other information as may be deemed necessary by the qualifying local program.
1122 2. Elements of the stormwater management plans shall be appropriately sealed and signed
1123 by a professional in adherence to all minimum standards and requirements pertaining to the
1124 practice of that profession in accordance with Chapter 4 of Title 54.1 of the Code of Virginia and
1125 attendant regulations, and the person responsible for the land disturbing activity or their
1126 designated agent shall certify that all land clearing, construction, land development and drainage
1127 will be done according to the approved plan.
1128 3. Completeness of a plan and required accompanying information shall be determined
1129 by the qualifying local program, and the applicant shall be notified of any determination, within
1130 15 calendar days of receipt.
1131 a. If within those 15 days the plan is deemed to be incomplete based on the criteria set out
1132 in subsection B of this section, the applicant shall be notified in writing of the reasons the plan is
1133 deemed incomplete.
1134 b. If a determination of completeness is made and communicated to the applicant within
1135 the 15 calendar days, an additional 60 calendar days from the date of the communication will be
1136 allowed for the review of the plan.
1137 c. If a determination of completeness is not made and communicated to the applicant
1138 within the 15 calendar days, the plan shall be deemed complete as of the date of submission and
1139 a total of 60 calendar days from the date of submission will be allowed for the review of the plan.
1140 4. During the review period, the plan shall be approved or disapproved and the decision
1141 communicated in writing to the person responsible for the land disturbing activity or their

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1142 designated agent. If the plan is not approved, the reasons for not approving the plan shall be
1143 provided in writing. Approval or denial shall be based on the plan's compliance with the
1144 requirements of this chapter and of the qualifying local program.

1145 5. If a plan meeting all requirements of this chapter and of the qualifying local program is
1146 submitted and no action is taken within the time specified above, the plan shall be deemed
1147 approved.

1148 C. If allowed by the qualifying local program, an initial stormwater management plan
1149 may be submitted for review and approval when it is accompanied by an erosion and sediment
1150 control plan and preliminary stormwater design for the current and future site work. Such plans
1151 shall be limited to the initial clearing and grading of the site unless otherwise allowed by the
1152 qualifying local program. An initial plan does not supersede the need for the submittal and
1153 approval of a complete stormwater management plan and the updating of the SWPPP prior to the
1154 commencement of activities beyond initial clearing and grading and other activities approved by
1155 the local program. The information in the initial plan shall include information detailed in
1156 subsection B to the extent required by the qualifying local program and such other information as
1157 may be required by the local program.

1158 D. Each approved plan may be modified in accordance with the following:

1159 1. Modifications to an approved stormwater management plan shall be allowed only after
1160 review and written approval by the qualifying local program. The qualifying local program shall
1161 have 60 calendar days to respond in writing either approving or disapproving such requests.

1162 2. Based on an inspection, the qualifying local program may require amendments to the
1163 approved stormwater management plan to address the noted deficiencies and notify the person
1164 responsible for the land disturbing activity of the required modifications.

1165
1166 **4VAC50-60-112. Qualifying local program authorization of coverage under the VSMP**
1167 **General Permit for Discharges of Stormwater from Construction Activities.**

1168 A. Coverage shall be authorized by the qualifying local program under the VSMP
1169 General Permit for Discharges of Stormwater from Construction Activities in accordance with
1170 the following:

1171 1. The applicant must have an approved initial stormwater management plan or an
1172 approved stormwater management plan for the land disturbing activity. Approval of an initial
1173 plan does not supersede the need for the submittal and approval of a complete stormwater
1174 management plan and the updating of the SWPPP prior to the commencement of activities
1175 beyond initial clearing and grading and other activities approved by the local program.

1176 2. The applicant must have an approved registration statement for the VSMP General
1177 Permit for Discharges of Stormwater from Construction Activities.

1178 3. The applicant must have submitted the required fee form and fee for the registration
1179 statement seeking coverage under the VSMP General Permit for Discharges of Stormwater from
1180 Construction Activities prior to initial stormwater management plan or stormwater management
1181 plan review.

1182 4. Applicants submitting registration statements deemed to be incomplete must be
1183 notified within 10 working days of receipt by the qualifying local program that the registration
1184 statement is not complete and be notified (i) of what material needs to be submitted to complete
1185 the registration statement, and (ii) that the land disturbing activity does not have coverage under
1186 the VSMP General Permit for Discharges of Stormwater from Construction Activities.

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1187 B. Coverage or termination of coverage shall be authorized through a standardized
1188 database or other method provided by the department. Such database shall include, at a
1189 minimum, permit number, operator name, activity name, acres disturbed, date of permit
1190 coverage, and site address and location as well as date of termination.

1191 C. Coverage information pertaining to the VSMP General Permit for Discharges of
1192 Stormwater from Construction Activities shall be reported to the department in accordance with
1193 4VAC50-60-126 by the qualifying local program.

1194
1195 **4VAC50-60-114. Qualifying local program inspections.**

1196 A. Inspections of land disturbing activities shall be conducted by a qualifying local
1197 program or its designee during construction to ensure that the activity is in compliance with the
1198 VSMP General Permit for Discharges of Stormwater from Construction Activities.

1199 B. The person responsible for the development project or their designated agent shall
1200 submit an as-built survey for permanent stormwater management facilities, appropriately sealed
1201 and signed by a professional in accordance with all minimum standards and requirements
1202 pertaining to the practice of that profession pursuant to Chapter 4 of Title 54.1 of the Code of
1203 Virginia and attendant regulations, certifying that the stormwater management facilities have
1204 been constructed in accordance with the approved plan. The qualifying local program shall
1205 ensure that an as-built survey is on file and the facilities are properly functioning prior to the
1206 release of any associated performance bond or surety.

1207 C. The operator(s) of stormwater management facilities shall be required to conduct
1208 inspections in accordance with a recorded inspection schedule and maintenance agreement, or on
1209 an annual basis for stormwater management facilities without a recorded inspection schedule and
1210 maintenance agreement, and shall submit written inspection and maintenance reports to the
1211 qualifying local program upon request. Such reports may be utilized by the qualifying local
1212 program to assess the general status of the facilities and to guide the periodic development or
1213 modification of a qualifying local program's alternative inspection schedule.

1214 D. A qualifying local program shall inspect stormwater management facilities on an
1215 annual basis or as established by an alternative inspection program that may allow for a less
1216 frequent inspection but ensures that the stormwater management facilities are functioning as
1217 intended. Any alternative inspection program shall be:

1218 1. Approved by the board prior to implementation;

1219 2. Established in writing;

1220 3. Based on a system of priorities that takes into consideration the purpose and type of the
1221 facility, ownership and the existence of a recorded maintenance agreement and inspection
1222 schedule, the contributing drainage area, and downstream conditions;

1223 4. Demonstrated to be an enforceable inspection program that meets the intent of the
1224 regulations and ensures that each stormwater management facility is inspected by the qualifying
1225 local program or its designee, not to include the owner, at least every five years; and

1226 5. Documented by inspection records.

1227 E. Inspection reports shall be generated and kept on file in accordance with 4VAC50-60-
1228 126 for all stormwater management facilities inspected by the qualifying local program.

1229 F. The operator shall allow a right of entry to a representative of the qualifying local
1230 program to conduct inspections of the project.

1231

1232 **4VAC50-60-116. Qualifying local program enforcement.**

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- 1233 A. A qualifying local program may incorporate the following components:
 1234 1. Informal and formal administrative enforcement procedures including:
 1235 a. Verbal warning and inspection reports;
 1236 b. Notices of corrective action;
 1237 c. Consent special orders and civil charges in accordance with §§10.1-603.2:1 subsection
 1238 7 and 10.1-603.14 subsection D2;
 1239 d. Notices to comply in accordance with §10.1-603.11;
 1240 e. Special orders in accordance with §10.1-603.2:1 subsection 7;
 1241 f. Emergency special orders in accordance with §10.1-603.2:1 subsection 7; and
 1242 g. Public notices and comment periods pursuant to 4VAC50-60-660.
 1243 2. Civil and criminal judicial enforcement procedures including:
 1244 a. Schedule of civil penalties set out in subsection D;
 1245 b. Criminal penalties in accordance with §10.1-603.14 subsections B and C; and
 1246 c. Injunctions in accordance with §§10.1-603.12:4 and 10.1-603.14 subsection D1.
 1247 B. A qualifying local program shall develop policies and procedures that outline the steps
 1248 to be taken regarding enforcement actions under the Stormwater Management Act and attendant
 1249 regulations and the local ordinance.
 1250 C. A qualifying local program may utilize the department’s Stormwater Management
 1251 Enforcement Manual as guidance in establishing policies and procedures.
 1252 D. A court may utilize as guidance the following Schedule of Civil Penalties set by the
 1253 board in accordance with §10.1-603.14 subsection A. The board intends that these civil penalties
 1254 generally be applied after other enforcement remedies have been unsuccessful, in egregious
 1255 situations, or for repeat offenders.
 1256

<u>Violations and Frequency of Occurrence *</u>	<u>Maximum \$\$/occurrence (occur.)/day</u>	<u>Recommended Minimum \$\$/occurrence/day</u>
<u>No Permit Registration</u>	<u>Up to \$32,500/ occur./ day(s)</u>	<u>\$10,000/ occur./ day(s)</u>
<u>No Stormwater Pollution Prevention Plan (SWPPP) [No SWPPP components including erosion and sediment (E&S Control Plan)]</u>	<u>Up to \$32,500/ occur./ day(s)</u>	<u>\$10,000/ occur./ day(s)</u>
<u>No approved E&S Control Plan</u>	<u>Up to \$32,500/ occur./ day(s)</u>	<u>\$10,000/ occur./ day(s)</u>
<u>Failure to install stormwater Best Management Practices (BMPs) or E&S controls**</u>	<u>Up to \$32,500/ occur./ day(s)</u>	<u>\$5,000/ occur./ day(s)</u>
<u>Failure to conduct required inspections</u>	<u>Up to \$32,500/ occur./ day(s)</u>	<u>\$1,000/ occur./ day(s)</u>

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<u>Operational deficiencies (e.g., failure to initiate stabilization measures as soon as practicable; failure to implement control measures for construction debris; incomplete SWPPP; SWPPP not onsite; Stormwater BMPs or erosion and sediment controls improperly installed or maintained; incomplete, improper or missed inspections.)</u>	<u>Up to \$32,500/ occur./ day(s)</u>	<u>\$500/ occur./ day(s)</u>
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1257 * The frequency of occurrence is a maximum of per day per violation.
 1258 ** Each BMP and E&S control not installed constitutes a separate violation
 1259

1260 E. Pursuant to § 10.1-603.2:1 subsection 2, authorization to administer a qualifying local
 1261 program shall not remove from the board the authority to enforce the provisions of the Virginia
 1262 Stormwater Management Act and attendant regulations.

1263 F. All amounts recovered by a qualifying local program shall be used solely to carry out
 1264 the qualifying local program’s responsibilities pursuant to Part II and this part of these
 1265 regulations.

1266
 1267 **4VAC50-60-118. Hearings.**
 1268 A qualifying local program shall ensure that any permit applicant or permittee shall have
 1269 a right to a hearing pursuant to § 10.1-603.12:6 and shall ensure that all hearings held under this
 1270 chapter shall be conducted in accordance with § 10.1-603.12:7 or as otherwise provided by law.

1271
 1272 **4VAC50-60-122. Qualifying local program: exceptions.**
 1273 A. A person may request an exception to the provisions of Part II (4VAC50-60-40 et
 1274 seq.). A qualifying local program may grant exceptions through an administrative process. A
 1275 request for an exception, including the reasons for making the request, shall be submitted, in
 1276 writing, to the qualifying local program. An exception may be granted, provided that: (i) the
 1277 exception is the minimum necessary to afford relief, (ii) reasonable and appropriate conditions
 1278 shall be imposed as necessary upon any exception granted so that the intent of the Act and this
 1279 chapter are preserved, (iii) granting the exception will not confer on the permittee any special
 1280 privileges that are denied to other permittees who present similar circumstances, and (iv)
 1281 exception requests are not based upon conditions or circumstances that are self-imposed or self-
 1282 created.

1283 B. Economic hardship alone is not sufficient reason to grant an exception from the
 1284 requirements of this chapter.

1285 C. Under no circumstance shall the qualifying local program grant an exception to the
 1286 requirement that the land disturbing activity obtain a permit.

1287 D. A record of all exceptions granted shall be maintained by the qualifying local program
 1288 and reported to the department in accordance with 4VAC50-60-126.

1289
 1290 **4VAC50-60-124. Qualifying local program: Stormwater Management Facility**
 1291 **maintenance.**

1292 A. Responsibility for the operation and maintenance of stormwater management facilities
 1293 in accordance with this chapter, unless assumed by a governmental agency, shall remain with the

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1294 property owner and shall pass to any successor. The qualifying local program shall be a party to
1295 each maintenance agreement pursuant to 4VAC50-60-108 subsection j. If portions of the land
1296 are to be transferred or conveyed, legally binding arrangements shall be made to pass
1297 maintenance responsibilities to successors in title. These arrangements shall designate for each
1298 stormwater management facility the property owner, governmental agency, or other legally
1299 established entity that will be permanently responsible for maintenance. These arrangements
1300 shall also preserve the rights of the qualifying local program pursuant to an agreement with the
1301 owner formed under 4VAC50-60-108 subsection j.

1302 B. In the case of developments where lots are to be transferred or conveyed, permanent
1303 arrangements between the seller and the buyer, which are legally binding and satisfactory to the
1304 qualifying local program, shall be made to ensure continued performance in accordance with this
1305 chapter.

1306 C. Where maintenance or repair is neglected, or the stormwater management facility
1307 becomes a public health or safety concern, the qualifying local program may take action pursuant
1308 to an agreement with the owner pursuant to 4VAC50-60-108 subsection j.

1309 D. The qualifying local program shall require right-of-entry agreements or easements
1310 from the operator for purposes of inspection and maintenance.

1311 E. The qualifying local program shall ensure that the flow and drainage patterns
1312 associated with a permanent facility are maintained to the extent allowed by law.

1313

1314 **4VAC50-60-126. Qualifying local program: reporting and record keeping.**

1315 A. On a fiscal year basis (July 1 to June 30), a qualifying local program shall report to the
1316 department by October 1st of each year in a format provided by the department. The information
1317 to be provided shall include but not be limited to the following:

1318 1. Information on each permanent stormwater management facility accepted during the
1319 fiscal year to include type of stormwater management facility, GPS coordinates, acres treated,
1320 and the surface waters or karst features into which the stormwater management facility will
1321 discharge;

1322 2. Number of VSMP General Permit for Discharges of Stormwater from Construction
1323 Activities projects inspected and the total number of inspections by acreage categories
1324 determined by the department during the fiscal year;

1325 3. Number and type of enforcement actions during the fiscal year; and

1326 4. Number of exceptions applied for and the number granted or denied during the fiscal
1327 year.

1328 B. A qualifying local program shall make information set out in subsection A available to
1329 the department upon request.

1330 C. A qualifying local program shall keep records in accordance with the following:

1331 1. Permit files shall be kept for 5 years after permit termination. After 5 years, the
1332 registration statements, notices of coverage and notices of termination shall be archived in
1333 accordance with the regulations of the Library of Virginia.

1334 2. Stormwater maintenance facility inspection reports shall be kept for 5 years from the
1335 date of creation. After 5 years, the reports shall be archived in accordance with the regulations
1336 of the Library of Virginia.

1337 3. Stormwater maintenance agreements, design standards and specifications, post-
1338 construction surveys, and maintenance records shall be maintained in perpetuity.

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1339 4. Other records shall be maintained in accordance with the regulations of the Library of
1340 Virginia.

1341

1342 **Part IIIB**

1343 **Department of Conservation and Recreation administered local**
1344 **programs**

1345

1346 **4VAC50-60-128. Authority and Applicability.**

1347 In the absence of a qualifying local program, the department shall administer the local
1348 stormwater management program in a locality in accordance with §10.1-603.3 subsection C.
1349 This part specifies the minimum technical criteria for a department -administered local
1350 stormwater management program in accordance with the Virginia Stormwater Management Act,
1351 §10.1-603.2 et seq., and the standards and criteria established in these regulations by the board
1352 pursuant to its authority under that article. Such criteria include but are not limited to
1353 administration, plan review, issuance of coverage under the Virginia Stormwater Management
1354 Program (VSMP) General Permit for Discharges of Stormwater from Construction Activities,
1355 issuance of individual permits, inspection, enforcement, and education and outreach components.

1356

1357 **4VAC50-60-132. Technical criteria.**

1358 A. The department administered local stormwater management programs shall require
1359 compliance with the provisions of Part II (4VAC50-60-40 et seq.) unless an exception is granted
1360 pursuant to 4VAC50-60-142 subsection D and shall comply with the requirements of 4VAC50-
1361 60-460 subsection L.

1362 B. When reviewing a federal project, the department shall apply the provisions of this
1363 chapter.

1364 C. Nothing in this chapter shall be construed as limiting the rights of other federal and
1365 state agencies to impose stricter technical criteria or other requirements as allowed by law.

1366

1367 **4VAC50-60-134. Administrative authorities.**

1368 A. The department is the permit issuing authority, plan approving authority, and the
1369 enforcement authority.

1370 B. The department or its designee is the plan reviewing authority and the inspection
1371 authority.

1372 C. The department shall assess and collect fees.

1373 D. The department may require the submission of a reasonable performance bond or
1374 other financial surety in accordance with the criteria set forth in §10.1-603.8 prior to the issuance
1375 of coverage under the VSMP General Permit for Discharges of Stormwater from Construction
1376 Activities and in accordance with the following:

1377 1. The amount of the installation performance security shall be the total estimated
1378 construction cost of the stormwater management BMPs approved under the stormwater
1379 management plan, plus 25%;

1380 2. The performance security shall contain forfeiture provisions for failure, after proper
1381 notice, to complete work within the time specified, or to initiate or maintain appropriate actions
1382 which may be required in accordance with the approved stormwater management plan;

1383 3. Upon failure by the applicant to take such action as required, the department may act

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1384 and may collect from the applicant the difference should the amount of the reasonable cost of
1385 such action exceed the amount of the security held; and

1386 4. Within sixty days of the completion of the requirements and conditions of the VSMP
1387 General Permit for Discharges of Stormwater from Construction Activities and the department's
1388 acceptance of the Notice of Termination, such bond, cash escrow, letter of credit or other legal
1389 arrangement shall be refunded to the applicant.

1390
1391 **4VAC50-60-136. Stormwater management plan review**

1392 A. The department shall require stormwater management plans for review and approval
1393 prior to commencement of land disturbing activities.

1394 B. The department shall approve or disapprove a stormwater management plan and
1395 required accompanying information according to the criteria set out for a qualifying local
1396 program in 4VAC50-60-108 subsection B.

1397 C. The department shall not accept initial stormwater management plans.

1398 D. Each approved stormwater management plan may be modified in accordance with the
1399 criteria set out for a qualifying local program in 4VAC50-60-108 subsection D.

1400
1401 **4VAC50-60-138. Issuance of coverage under the VSMP General Permit for Discharges of**
1402 **Stormwater from Construction Activities.**

1403 The department shall issue coverage under the VSMP General Permit for Discharges of
1404 Stormwater from Construction Activities in accordance with the following:

1405 1. The applicant must have a department approved stormwater management plan for the
1406 land disturbing activity.

1407 2. The applicant must have submitted a complete registration statement for the VSMP
1408 General Permit for Discharges of Stormwater from Construction Activities in accordance with
1409 Part VII (4VAC50-60-360 et seq.) and the requirements of the VSMP General Permit for
1410 Discharges of Stormwater from Construction Activities, which acknowledges that a SWPPP has
1411 been developed and will be implemented, and the registration statement must have been
1412 reviewed and approved.

1413 3. The applicant must have submitted the required fee form and fee for the registration
1414 statement seeking coverage under the VSMP General Permit for Discharges of Stormwater from
1415 Construction Activities.

1416 4. Applicants submitting registration statements deemed to be incomplete must be
1417 notified within 10 working days of receipt by the department that the registration statement is not
1418 complete and be notified (i) of what material needs to be submitted to complete the registration
1419 statement, and (ii) that the land disturbing activity does not have coverage under the VSMP
1420 General Permit for Discharges of Stormwater from Construction Activities.

1421 5. Individual permits for qualifying land disturbing activities may be issued at the
1422 discretion of the board or its designee pursuant to 4VAC50-60-410 subsection B3.

1423
1424 **4VAC50-60-142. Inspections, Enforcement, Hearings, Exceptions, and Stormwater**
1425 **Management Facility Maintenance.**

1426 A. Inspections shall be conducted by the department in accordance with 4VAC50-60-
1427 114.

1428 B. Enforcement actions shall be conducted by the department in accordance with
1429 4VAC50-60-116. The department's Stormwater Management Enforcement Manual shall serve

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1430 as guidance to be utilized in enforcement actions under the Stormwater Management Act and
1431 attendant regulations.

1432 C. Hearings shall be conducted by the department in accordance with 4VAC50-60-118.

1433 D. Exceptions may be granted by the department in accordance with 4VAC50-60-122.

1434 E. Stormwater management facility maintenance shall be conducted in accordance with
1435 4VAC50-60-124.

1436

1437 **4VAC50-60-154. Reporting and record keeping.**

1438 A. The department shall maintain a current database of permit coverage information for
1439 all projects that includes permit number, operator name, activity name, acres disturbed, date of
1440 permit coverage, and site address and location.

1441 B. On a fiscal year basis (July 1 to June 30), a local program shall report to the
1442 department by October 1st in accordance with 4VAC50-60-126 subsection A.

1443 C. On a fiscal year basis (July 1 to June 30), the department shall compile information
1444 provided by local programs.

1445 D. Records shall be maintained by the department in accordance with 4VAC50-60-126
1446 subsection C.

1447

1448 **Part III C**

1449 **Department of Conservation and Recreation procedures for review** 1450 **of qualifying local programs**

1451

1452 **4VAC50-60-156. Authority and Applicability.**

1453 This part specifies the criteria that the department will utilize in reviewing a locality's
1454 administration of a qualifying local program pursuant to §10.1-603.12 following the board's
1455 approval of such program in accordance with the Virginia Stormwater Management Act and
1456 these regulations.

1457

1458 **4VAC50-60-157. Stormwater Management Program Review.**

1459 A. The department shall review each board-approved qualifying local program once
1460 every five years on a review schedule approved by the board. The department may review a
1461 qualifying local program on a more frequent basis if deemed necessary.

1462 B. The review of a board-approved qualifying local program shall consist of the
1463 following:

1464 1. A personal interview between department staff and the qualifying local program
1465 administrator or his designee;

1466 2. A review of the local ordinance(s) and other applicable documents;

1467 3. A review of plans approved by the qualifying local program and consistency of
1468 application including exceptions granted;

1469 4. An accounting of fees received and of the financing of the program;

1470 5. An inspection of regulated activities; and

1471 6. A review of enforcement actions and an accounting of amounts recovered through
1472 enforcement actions.

1473 C. To the extent practicable, the department will coordinate the reviews with other local
1474 government program reviews to avoid redundancy.

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1475 D. The department shall provide its recommendations to the board within 90 days of the
1476 completion of a review.

1477 E. The board shall determine if the qualifying local program and ordinance are consistent
1478 with the Act and state stormwater management regulations and notify the qualifying local
1479 program of its findings.

1480 F. If the board determines that the deficiencies noted in the review will cause the
1481 qualifying local program to be inconsistent with the Stormwater Management Act and its
1482 attendant regulations, the board shall notify the qualifying local program concerning the
1483 deficiencies and provide a reasonable period of time for corrective action to be taken. If the
1484 qualifying local program fails to take the corrective action within the specified time, the board
1485 may take action pursuant to §10.1-603.12 of the Code of Virginia.

1486

1487 **Part IID**

1488 **Virginia Soil and Water Conservation Board authorization**
1489 **procedures for qualifying local programs**

1490

1491 **4VAC50-60-158. Authority and Applicability.**

1492 Section 10.1-603.4 subsection 1 requires that the board establish standards and
1493 procedures for authorizing a locality to administer a stormwater management program. In
1494 accordance with that requirement, and with the further authority conferred upon the board by the
1495 Virginia Stormwater Management Act, §10.1-603.2 et seq., this part specifies the procedures the
1496 board will utilize in authorizing a locality to administer a qualifying local program.

1497

1498 **4VAC50-60-159. Authorization Procedures for Qualifying Local Programs..**

1499 A. A locality required to adopt a program in accordance with §10.1-603.3 subsection A
1500 or those electing to seek authorization to administer a qualifying local program must submit to
1501 the board an application package which, at a minimum, contains the following:

- 1502 1. The local program ordinance(s);
1503 2. A funding and staffing plan;
1504 3. The policies and procedures, including but not limited to, agreements with Soil and
1505 Water Conservation Districts, adjacent localities, or other entities, for the administration, plan
1506 review, permit issuance, inspection and enforcement components of the program; and
1507 4. The process by which the locality will collect permit fees and submit for deposit on a
1508 monthly basis to the Virginia Stormwater Management Fund.

1509 B. Any locality seeking authorization to administer a qualifying local program pursuant
1510 to this chapter must be administering an Erosion and Sediment Control program that has been
1511 found by the board to be consistent or conditionally consistent with the Erosion and Sediment
1512 Control Law, § 10.1-560 et seq.

1513 C. Upon receipt of an application package, the board or its designee shall have 20
1514 calendar days to determine the completeness of the application package. If an application
1515 package is deemed to be incomplete based on the criteria set out in subsection A of this section,
1516 the board or its designee must identify in writing the reasons the application package is deemed
1517 deficient.

1518 D. Upon receipt of a complete application package, the board or its designee shall have
1519 90 calendar days for the review of the application package. During the 90-day review period, the

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1520 board or its designee shall either approve or disapprove the application, or notify the locality of a
1521 time extension for the review, and communicate its decision to the locality in writing. If the
1522 application is not approved, the reasons for not approving the application shall be provided to the
1523 locality in writing. Approval or denial shall be based on the application's compliance with the
1524 Virginia Stormwater Management Act and these regulations.

1525 E. A locality required to adopt a qualifying local program in accordance with §10.1-603.3
1526 subsection A shall submit a complete application package for the board's review pursuant to a
1527 schedule set by the board in accordance with § 10.1-603.3 and shall adopt a qualifying local
1528 program consistent with the Act and this chapter within the timeframe established pursuant to §
1529 10.1-603.3.

1530 F. A locality not required to adopt a qualifying local program in accordance with §10.1-
1531 603.3 subsection A but electing to adopt a qualifying local program shall notify the board in
1532 accordance with the following:

1533 1. A locality electing to adopt a qualifying local program may notify the board of its
1534 intention within six months of the effective date of these regulations. Such locality shall submit
1535 a complete application package for the board's review pursuant to a schedule set by the board
1536 and shall adopt a qualifying local program within the timeframe established by the board.

1537 2. A locality electing to adopt a qualifying local program that does not notify the board
1538 within the initial six-month period of its intention may thereafter notify the board at any regular
1539 meeting of the board. Such notification shall include a proposed schedule for adoption of a
1540 qualifying local program within a timeframe agreed upon by the board.

1541 G. The department shall administer the responsibilities of the Act and this chapter in any
1542 locality in which a qualifying local program has not been adopted. The department shall develop
1543 a schedule, to be approved by the board, for implementation of the requirements of this chapter
1544 in such localities. Such schedule may include phases of implementation and shall be based upon
1545 considerations including the typical number of permitted projects located within a locality, total
1546 number of acres disturbed by such permitted projects, and such other considerations as may be
1547 deemed necessary by the board.

1548

1549 **FORMS**

1550

1551 Application Form 1-General Information, Consolidated Permits Program, EPA Form 3510-1
1552 (June 1980) (DCR 199-149).

1553 Department of Conservation and Recreation Permit Application Fee Form, (DCR 199-145)
1554 (09/04).

1555 VSMP General Permit Registration Statement for Construction Activity Stormwater Discharges,
1556 (DCR01), (DCR 199-146) (09/04).

1557 VSMP General Permit Notice of Termination for Construction Activity Stormwater Discharges,
1558 (DCR01), (DCR 199-147) (09/04).

1559 VSMP General Permit Registration Statement for Stormwater Discharges From Small Municipal
1560 Separate Storm Sewer Systems (DCR02), (DCR 199-148) (09/04).

1561 Low Impact Development Water Quality Crediting Spreadsheets (DCR 199-182).

1562