

VIRGINIA SOIL AND WATER CONSERVATION BOARD
4VAC50-60, Stormwater Management Regulations (Proposed)

Amend Parts I, II, and III of the Virginia Stormwater Management Program Permit Regulations

Part I
Definitions, Purpose, and Applicability

4VAC50-60-10. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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47 activities. BMPs also include treatment requirements, operating procedures, and
48 practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or
49 drainage from raw material storage.

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

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

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

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

59 "Channel" means a natural stream or manmade waterway watercourse with defined
60 bed and banks that conducts continuously or periodically flowing water.

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

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

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

71 "Contiguous zone" means the entire zone established by the United States under
72 Article 24 of the Convention on the Territorial Sea and the Contiguous Zone (37 FR
73 11906).

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

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

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

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

86 "CWA and regulations" means the Clean Water Act (CWA) and applicable
87 regulations promulgated thereunder. For the purposes of this chapter, it includes state
88 program requirements.

89 "Daily discharge" means the discharge of a pollutant measured during a calendar
90 day or any 24-hour period that reasonably represents the calendar day for purposes of
91 sampling. For pollutants with limitations expressed in units of mass, the daily discharge
92 is calculated as the total mass of the pollutant discharged over the day. For pollutants

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- 93 with limitations expressed in other units of measurement, the daily discharge is
94 calculated as the average measurement of the pollutant over the day.
- 95 "Department" means the Department of Conservation and Recreation.
- 96 "Development" means ~~a tract of land developed or to be developed as a unit under~~
97 ~~single ownership or unified control which is to be used for any business or industrial~~
98 ~~purpose or is to contain three or more residential dwelling units~~ land disturbance and the
99 resulting landform associated with the construction of residential, commercial, industrial,
100 institutional, recreation, transportation or utility facilities or structures.
- 101 "Direct discharge" means the discharge of a pollutant.
- 102 "Director" means the Director of the Department of Conservation and Recreation or
103 his designee.
- 104 "Discharge," when used without qualification, means the discharge of a pollutant.
- 105 "Discharge of a pollutant" means:
- 106 1. Any addition of any pollutant or combination of pollutants to surface waters
107 from any point source; or
- 108 2. Any addition of any pollutant or combination of pollutants to the waters of the
109 contiguous zone or the ocean from any point source other than a vessel or other
110 floating craft which is being used as a means of transportation.
- 111 This definition includes additions of pollutants into surface waters from: surface
112 runoff that is collected or channeled by man; discharges through pipes, sewers, or other
113 conveyances owned by a state, municipality, or other person that do not lead to a
114 treatment works; and discharges through pipes, sewers, or other conveyances, leading
115 into privately owned treatment works. This term does not include an addition of
116 pollutants by any indirect discharger.
- 117 "Discharge Monitoring Report" or "DMR" means the form supplied by the
118 department, or an equivalent form developed by the operator and approved by the
119 board, for the reporting of self-monitoring results by operators.
- 120 "Draft permit" means a document indicating the board's tentative decision to issue or
121 deny, modify, revoke and reissue, terminate, or reissue a permit. A notice of intent to
122 terminate a permit, and a notice of intent to deny a permit are types of draft permits. A
123 denial of a request for modification, revocation and reissuance, or termination is not a
124 draft permit. A proposed permit is not a draft permit.
- 125 "Drainage area" means a land and water area on a land-disturbing site from which
126 runoff flows to a common outlet point.
- 127 "Effluent limitation" means any restriction imposed by the board on quantities,
128 discharge rates, and concentrations of pollutants which are discharged from point
129 sources into surface waters, the waters of the contiguous zone, or the ocean.
- 130 "Effluent limitations guidelines" means a regulation published by the administrator
131 under §304(b) of the CWA to adopt or revise effluent limitations.
- 132 "Environmental Protection Agency (~~EPA~~)" or "EPA" means the United States
133 Environmental Protection Agency.
- 134 "Existing permit" means for the purposes of this chapter a permit issued by the
135 permit-issuing authority and currently held by a permit applicant.
- 136 "Existing source" means any source that is not a new source or a new discharger.

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

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

146 "Flood fringe" is the portion of the floodplain outside the floodway, usually associated
147 with standing rather than flowing water, which is covered by floodwater during the 100-
148 year discharge.

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

152 "Floodplain" means any land area adjoining a channel, river, stream, or other water
153 body that is susceptible to being inundated by water. It includes the floodway and flood
154 fringe areas.

155 "Floodway" means the channel of a river or other watercourse and the adjacent land
156 areas, usually associated with flowing water, that must be reserved in order to discharge
157 the base flood without cumulatively increasing the water surface elevation more than
158 one foot or as otherwise designated by the Federal Emergency Management Agency.

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

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

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

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

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

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

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

180 "Indian country" means (i) all land within the limits of any Indian reservation under
181 the jurisdiction of the United States government, notwithstanding the issuance of any
182 patent, and including rights-of-way running through the reservation; (ii) all dependent
183 Indian communities with the borders of the United States whether within the originally or

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184 subsequently acquired territory thereof, and whether within or without the limits of a
185 state; and (iii) all Indian allotments, the Indian titles to which have not been extinguished,
186 including rights-of-way running through the same.

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

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

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

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

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

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

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

215 "Large municipal separate storm sewer system" means all municipal separate storm
216 sewers that are either:

217 1. Located in an incorporated place with a population of 250,000 or more as
218 determined by the 1990 decennial census by the Bureau of Census (40 CFR Part
219 122 Appendix F (2000));

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

223 3. Owned or operated by a municipality other than those described in subdivision
224 1 or 2 of this definition and that are designated by the board as part of the large
225 or medium municipal separate storm sewer system due to the interrelationship
226 between the discharges of the designated storm sewer and the discharges from
227 municipal separate storm sewers described under subdivision 1 or 2 of this
228 definition. In making this determination the board may consider the following
229 factors:

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

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- 231 b. The location of discharges from the designated municipal separate storm
232 sewer relative to discharges from municipal separate storm sewers described
233 in subdivision 1 of this definition;
- 234 c. The quantity and nature of pollutants discharged to surface waters;
- 235 d. The nature of the receiving surface waters; and
- 236 e. Other relevant factors.
- 237 4. The board may, upon petition, designate as a large municipal separate storm
238 sewer system, municipal separate storm sewers located within the boundaries of
239 a region defined by a stormwater management regional authority based on a
240 jurisdictional, watershed, or other appropriate basis that includes one or more of
241 the systems described in this definition.
- 242 "Linear development project" means a land-disturbing activity that is linear in nature
243 such as, but not limited to, (i) the construction of electric and telephone utility lines, and
244 natural gas pipelines; (ii) construction of tracks, rights-of-way, bridges, communication
245 facilities and other related structures of a railroad company; and (iii) highway
246 construction projects.
- 247 "Local stormwater management program" or "local program" means ~~a statement of~~
248 the various methods employed by a locality or the department to manage the quality and
249 quantity of runoff resulting from land-disturbing activities and shall include such items as
250 local ordinances, permit requirements, policies and guidelines, technical materials, plan
251 review, inspection, enforcement, and evaluation consistent with the Act and this chapter.
252 ~~The ordinance shall include provisions to require the control of after-development~~
253 ~~stormwater runoff rate of flow, the proper maintenance of stormwater management~~
254 ~~facilities, and minimum administrative procedures.~~
- 255 "Locality" means a county, city, or town.
- 256 "Major facility" means any VSMP facility or activity classified as such by the regional
257 administrator in conjunction with the board.
- 258 "Major modification" means, for the purposes of this chapter, the modification or
259 amendment of an existing permit before its expiration that is not a minor modification as
260 defined in this regulation.
- 261 "Major municipal separate storm sewer outfall ~~(or major outfall)~~" or "major outfall"
262 means a municipal separate storm sewer outfall that discharges from a single pipe with
263 an inside diameter of 36 inches or more or its equivalent (discharge from a single
264 conveyance other than circular pipe which is associated with a drainage area of more
265 than 50 acres); or for municipal separate storm sewers that receive stormwater from
266 lands zoned for industrial activity (based on comprehensive zoning plans or the
267 equivalent), with an outfall that discharges from a single pipe with an inside diameter of
268 12 inches or more or from its equivalent (discharge from other than a circular pipe
269 associated with a drainage area of two acres or more).
- 270 "Manmade" means constructed by man.
- 271 "Manmade stormwater conveyance system" means a pipe, ditch, vegetated swale, or
272 other conveyance constructed by man.
- 273 "Maximum daily discharge limitation" means the highest allowable daily discharge.
- 274 "Maximum extent practicable" or "MEP" means the technology-based discharge
275 standard for municipal separate storm sewer systems established by CWA §402(p).
276 MEP is achieved, in part, by selecting and implementing effective structural and

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277 nonstructural best management practices (BMPs) and rejecting ineffective BMPs and
278 replacing them with effective best management practices (BMPs). MEP is an iterative
279 standard, which evolves over time as urban runoff management knowledge increases.
280 As such, the operator's MS4 program must continually be assessed and modified to
281 incorporate improved programs, control measures, BMPs, etc., to attain compliance with
282 water quality standards.

283 "Medium municipal separate storm sewer system" means all municipal separate
284 storm sewers that are either:

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

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

291 3. Owned or operated by a municipality other than those described in subdivision
292 1 or 2 of this definition and that are designated by the board as part of the large
293 or medium municipal separate storm sewer system due to the interrelationship
294 between the discharges of the designated storm sewer and the discharges from
295 municipal separate storm sewers described under subdivision 1 or 2 of this
296 definition. In making this determination the board may consider the following
297 factors:

- 298 a. Physical interconnections between the municipal separate storm sewers;
299 b. The location of discharges from the designated municipal separate storm
300 sewer relative to discharges from municipal separate storm sewers described
301 in subdivision 1 of this definition;
302 c. The quantity and nature of pollutants discharged to surface waters;
303 d. The nature of the receiving surface waters; or
304 e. Other relevant factors.

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

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

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

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- 324 1. Owned or operated by a federal, state, city, town, county, district, association,
325 or other public body, created by or pursuant to state law, having jurisdiction or
326 delegated authority for erosion and sediment control and stormwater
327 management, or a designated and approved management agency under §208 of
328 the CWA that discharges to surface waters;
- 329 2. Designed or used for collecting or conveying stormwater;
- 330 3. That is not a combined sewer; and
- 331 4. That is not part of a publicly owned treatment works.
- 332 "Municipal separate storm sewer system" or "MS4" means all separate storm sewers
333 that are defined as "large" or "medium" or "small" municipal separate storm sewer
334 systems or designated under 4VAC50-60-380 A 1.
- 335 "Municipal Separate Storm Sewer System Management Program" or "MS4 Program"
336 means a management program covering the duration of a permit for a municipal
337 separate storm sewer system that includes a comprehensive planning process that
338 involves public participation and intergovernmental coordination, to reduce the discharge
339 of pollutants to the maximum extent practicable, to protect water quality, and to satisfy
340 the appropriate water quality requirements of the CWA and regulations and the Virginia
341 Stormwater Management Act and attendant regulations, using management practices,
342 control techniques, and system, design and engineering methods, and such other
343 provisions that are appropriate.
- 344 "Municipality" means a city, town, county, district, association, or other public body
345 created by or under state law and having jurisdiction over disposal of sewage, industrial
346 wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or
347 a designated and approved management agency under §208 of the CWA.
- 348 "National Pollutant Discharge Elimination System (NPDES)" or "NPDES" means the
349 national program for issuing, modifying, revoking and reissuing, terminating, monitoring
350 and enforcing permits, and imposing and enforcing pretreatment requirements under
351 §§307, 402, 318, and 405 of the CWA. The term includes an approved program.
- 352 "Natural channel design concepts" means the utilization of engineering analysis and
353 fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open
354 conveyance system for the purpose of creating or recreating a stream that conveys its
355 bankfull storm event within its banks and allows larger flows to access its floodplain.
- 356 "Natural stormwater conveyance system" means the main channel of a natural
357 stream, in combination with the floodway and flood fringe, which compose the
358 floodplain.
- 359 "Natural stream" means a tidal or nontidal watercourse that is part of the natural
360 topography. It usually maintains a continuous or seasonal flow during the year and is
361 characterized as being irregular in cross-section with a meandering course. Constructed
362 channels such as drainage ditches or swales shall not be considered natural streams.
- 363 "New discharger" means any building, structure, facility, or installation:
- 364 1. From which there is or may be a discharge of pollutants;
- 365 2. That did not commence the discharge of pollutants at a particular site prior to
366 August 13, 1979;
- 367 3. Which is not a new source; and
- 368 4. Which has never received a finally effective VPDES or VSMP permit for
369 discharges at that site.

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

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

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

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

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

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

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

396 "Operator" means the owner or operator of any facility or activity subject to regulation
397 under the VSMP program. In the context of stormwater associated with a large or small
398 construction activity, operator means any person associated with a construction project
399 that meets either of the following two criteria: (i) the person has direct operational control
400 over construction plans and specifications, including the ability to make modifications to
401 those plans and specifications or (ii) the person has day-to-day operational control of
402 those activities at a project that are necessary to ensure compliance with a stormwater
403 pollution prevention plan for the site or other permit conditions (i.e., they are authorized
404 to direct workers at a site to carry out activities required by the stormwater pollution
405 prevention plan or comply with other permit conditions). In the context of stormwater
406 discharges from Municipal Separate Storm Sewer Systems (MS4s), operator means the
407 operator of the regulated MS4 system.

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

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

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

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

428 "Percent impervious" means the impervious area within the site divided by the area
429 of the site multiplied by 100.

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

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

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

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

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

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

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

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

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

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

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

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

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

487 "Pre-development" refers to the conditions that exist at the time that plans for the
488 land development of a tract of land are ~~approved by~~ submitted to the plan approval
489 authority. Where phased development or plan approval occurs (preliminary grading,
490 roads and utilities, etc.), the existing conditions at the time prior to the first item being
491 ~~approved~~ submitted ~~or permitted~~ shall establish pre-development conditions.

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

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

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

503 "Publicly owned treatment works (~~POTW~~)" or "POTW" means a treatment works as
504 defined by §212 of the CWA that is owned by a state or municipality (as defined by
505 §502(4) of the CWA). This definition includes any devices and systems used in the
506 storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes
507 of a liquid nature. It also includes sewers, pipes, and other conveyances only if they
508 convey wastewater to a POTW treatment plant. The term also means the municipality as
509 defined in §502(4) of the CWA, that has jurisdiction over the indirect discharges to and
510 the discharges from such a treatment works.

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511 "Qualifying local stormwater management program" or "qualifying local program"
512 means a local program that is administered by a locality that has been authorized by the
513 board to issue coverage under the VSMP General Permit for Discharges of Stormwater
514 from Construction Activities (4VAC50-60-1170).

515 "Recommencing discharger" means a source that recommences discharge after
516 terminating operations.

517 "Regional administrator" means the Regional Administrator of Region III of the
518 Environmental Protection Agency or the authorized representative of the regional
519 administrator.

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

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

529 "Restored stormwater conveyance system" means a stormwater conveyance system
530 that has been designed and constructed using natural channel design concepts,
531 including the main channel, floodway, and flood fringe.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

577 "Small construction activity" means:

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

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- 603 activity will take place, and stormwater discharges will occur, within the drainage
604 area addressed by the TMDL or equivalent analysis.
- 605 2. Any other construction activity designated by the either the board or the EPA
606 regional administrator, based on the potential for contribution to a violation of a
607 water quality standard or for significant contribution of pollutants to surface
608 waters.
- 609 "Small municipal separate storm sewer system" or "small MS4" means all separate
610 storm sewers that are (i) owned or operated by the United States, a state, city, town,
611 borough, county, parish, district, association, or other public body (created by or
612 pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes,
613 stormwater, or other wastes, including special districts under state law such as a sewer
614 district, flood control district or drainage district, or similar entity, or an Indian tribe or an
615 authorized Indian tribal organization, or a designated and approved management
616 agency under §208 of the CWA that discharges to surface waters and (ii) not defined as
617 "large" or "medium" municipal separate storm sewer systems or designated under
618 4VAC50-60-380 A 1. This term includes systems similar to separate storm sewer
619 systems in municipalities, such as systems at military bases, large hospital or prison
620 complexes, and highway and other thoroughfares. The term does not include separate
621 storm sewers in very discrete areas, such as individual buildings.
- 622 "Source" means any building, structure, facility, or installation from which there is or
623 may be a discharge of pollutants.
- 624 "Stable" means, in the context of channels, a channel that has developed an
625 established dimension, pattern, and profile such that over time, these features are
626 maintained.
- 627 "State" means the Commonwealth of Virginia.
- 628 "State/EPA agreement" means an agreement between the regional administrator
629 and the state that coordinates EPA and state activities, responsibilities and programs
630 including those under the CWA and the Act.
- 631 "State project" means any land development project that is undertaken by any state
632 agency, board, commission, authority or any branch of state government, including
633 state-supported institutions of higher learning.
- 634 "State Water Control Law" means Chapter 3.1 (§62.1-44.2 et seq.) of Title 62.1 of
635 the Code of Virginia.
- 636 "State waters" means all water, on the surface and under the ground, wholly or
637 partially within or bordering the Commonwealth or within its jurisdiction, including
638 wetlands.
- 639 "Stormwater" means precipitation that is discharged across the land surface or
640 through conveyances to one or more waterways and that may include stormwater runoff,
641 snow melt runoff, and surface runoff and drainage.
- 642 "Stormwater conveyance system" means any of the following, either within or
643 downstream of the land disturbing activity: (i) a manmade stormwater conveyance
644 system; (ii) a natural stormwater conveyance system; or (iii) a restored stormwater
645 conveyance system.
- 646 ~~"Stormwater detention basin" or "detention basin" means a stormwater management~~
647 ~~facility that temporarily impounds runoff and discharges it through a hydraulic outlet~~
648 ~~structure to a downstream conveyance system. While a certain amount of outflow may~~
649 ~~also occur via infiltration through the surrounding soil, such amounts are negligible when~~

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650 ~~compared to the outlet structure discharge rates and are, therefore, not considered in~~
651 ~~the facility's design. Since a detention facility impounds runoff only temporarily, it is~~
652 ~~normally dry during nonrainfall periods.~~

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

659 "Stormwater discharge associated with large construction activity" means the
660 discharge of stormwater from large construction activities.

661 "Stormwater discharge associated with small construction activity" means the
662 discharge of stormwater from small construction activities.

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

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

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

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

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

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

688 "Stormwater Pollution Prevention Plan" (SWPPP) or "plan" means a document that is
689 prepared in accordance with good engineering practices and that identifies potential
690 sources of pollution that may reasonably be expected to affect the quality of stormwater
691 discharges from the construction site or its associated land-disturbing activities. In
692 addition the document shall describe and ensure the implementation of best
693 management practices, and shall include, but not be limited to the inclusion of, or the
694 incorporation by reference of, an erosion and sediment control plan, a post-construction
695 stormwater management plan, a spill prevention control and countermeasure (SPCC)
696 plan, and other practices that will be used to reduce pollutants in stormwater discharges

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697 from land-disturbing activities and to assure compliance with the terms and conditions of
698 this chapter. All plans incorporated by reference into the SWPPP shall be enforceable
699 under the permit issued.

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

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

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

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

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

713 "Surface waters" means:

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

717 2. All interstate waters, including interstate wetlands;

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

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

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

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

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

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

731 6. The territorial sea; and

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

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

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

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

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

749 "Unstable" means, in the context of channels, a channel that is not stable.

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

756 "Variance" means any mechanism or provision under §301 or §316 of the CWA or
757 under 40 CFR Part 125 (2000), or in the applicable effluent limitations guidelines that
758 allows modification to or waiver of the generally applicable effluent limitation
759 requirements or time deadlines of the CWA. This includes provisions that allow the
760 establishment of alternative limitations based on fundamentally different factors or on
761 §301(c), §301(g), §301(h), §301(i), or §316(a) of the CWA.

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

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

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

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

778 "Virginia Stormwater Management Program ~~(VSMP)~~ or "VSMP" means the Virginia
779 program for issuing, modifying, revoking and reissuing, terminating, monitoring and
780 enforcing permits, and imposing and enforcing requirements pursuant to the ~~federal~~
781 ~~Clean Water Act CWA~~, the Virginia Stormwater Management Act, this chapter, and
782 associated guidance documents.

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

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

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

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

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

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

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

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

814 **4VAC50-60-20. Purposes.**

815 The purposes of this chapter are to provide a framework for the administration,
816 implementation and enforcement of the Virginia Stormwater Management Act (Act) and
817 to delineate the procedures and requirements to be followed in connection with VSMP
818 permits issued by the board or its designee pursuant to the Clean Water Act (CWA) and
819 the Virginia Stormwater Management Act, while at the same time providing flexibility for
820 innovative solutions to stormwater management issues. The chapter also establishes the
821 board's procedures for the authorization of a qualifying local program, board and
822 department oversight authorities for an authorized qualifying local program, the board's
823 procedures for utilization by the department in administering a local program in localities
824 where no qualifying local program is authorized, and the components of a stormwater
825 management program including but not limited to stormwater management standards.

826 **4VAC50-60-30. Applicability.**

827 This chapter is applicable to:

- 828 1. Every private, local, state, or federal entity that establishes a stormwater
829 management program or a MS4 program;
- 830 2. The department in its oversight of locally administered programs or in its
831 administration of a local program;
- 832 ~~2.~~ 3. Every state agency project regulated under the Act and this chapter; and

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

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

883 ~~G. Outflows from a stormwater management facility or stormwater conveyance~~
884 ~~system, shall be discharged to an adequate channel.~~

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

891 ~~I. All stormwater management facilities shall have an inspection and maintenance~~
892 ~~plan that identifies the owner and the responsible party for carrying out the inspection~~
893 ~~and maintenance plan.~~

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

899 ~~K. Natural channel characteristics shall be preserved to the maximum extent~~
900 ~~practicable.~~

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

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

911 **4VAC50-60-53. General requirements.**

912 The physical, chemical, biological and hydrologic characteristics and the water
913 quality and quantity of the receiving state waters shall be maintained, protected, or
914 improved in accordance with the requirements of this part. Objectives include, but are
915 not limited to, supporting state designated uses and water quality standards. All control
916 measures used shall be employed in a manner which minimizes impacts on receiving
917 state waters.

918 **4VAC50-60-56. Applicability of other laws and regulations.**

919 Nothing in this chapter shall be construed as limiting the applicability of other laws
920 and regulations, including, but not limited to, the CWA, Virginia Stormwater Management
921 Act, Virginia Erosion and Sediment Control Law, and the Chesapeake Bay Preservation
922 Act except as provided in §10.1-603.3 subsection I and all applicable regulations
923 adopted in accordance with those laws, or the rights of other federal agencies, state

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924 agencies, or local governments to impose more stringent technical criteria or other
925 requirements as allowed by law.

926 **4VAC50-60-60. Water quality. (Repealed.)**

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

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

937 ~~1. Situation 1 consists of land-disturbing activities where the existing percent~~
938 ~~impervious cover is less than or equal to the average land cover condition and~~
939 ~~the proposed improvements will create a total percent impervious cover which is~~
940 ~~less than the average land cover condition.~~

941 ~~Requirement: No reduction in the after disturbance pollutant discharge is~~
942 ~~required.~~

943 ~~2. Situation 2 consists of land-disturbing activities where the existing percent~~
944 ~~impervious cover is less than or equal to the average land cover condition and~~
945 ~~the proposed improvements will create a total percent impervious cover which is~~
946 ~~greater than the average land cover condition.~~

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

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

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

954 ~~4. Situation 4 consists of land-disturbing activities where the existing percent~~
955 ~~impervious cover is served by an existing stormwater management BMP that~~
956 ~~addresses water quality.~~

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

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

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Table 1*

Water Quality BMP*	Target Phosphorus Removal Efficiency	Percent Impervious Cover
Vegetated filter strip	10%	16-21%
Grassed Swale	15%	
Constructed wetlands	20%	22-37%
Extended detention (2 x WQ Vol)	35%	
Retention basin I (3 x WQ Vol)	40%	
Bioretention basin	50%	38-66%
Bioretention filter	50%	
Extended detention enhanced	50%	
Retention basin II (4 x WQ Vol)	50%	
Infiltration (1 x WQ Vol)	50%	
Sand filter	65%	67-100%
Infiltration (2 x WQ Vol)	65%	
Retention basin III (4 x WQ Vol with aquatic bench)	65%	

970 ~~*Innovative or alternate BMPs not included in this table may be allowed at the discretion~~
 971 ~~of the local program administrator or the department. Innovative or alternate BMPs not~~
 972 ~~included in this table which target appropriate nonpoint source pollution other than~~
 973 ~~phosphorous may be allowed at the discretion of the local program administrator or the~~
 974 ~~department.~~

975 **4VAC50-60-63. Water quality criteria requirements.**

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

984 1. New development. The total phosphorus load of new development projects
 985 shall not exceed 0.28 pounds per acre per year, as calculated pursuant to
 986 4VAC50-60-65.

987 2. Development on prior developed lands. The total phosphorus load of projects
 988 occurring on prior developed lands shall be reduced to an amount at least 20%
 989 below the pre-development total phosphorus load. However, the total
 990 phosphorus load shall not be required to be reduced to below 0.28 pounds per
 991 acre per year unless a more stringent standard has been established by a
 992 qualifying local program.

993 3. Compliance with 4VAC50-60-65 shall constitute compliance with subdivisions
 994 A 1 and A 2.

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995 4. TMDL. In addition to the above requirements, if a specific WLA for a pollutant
 996 has been established in a TMDL and is assigned to stormwater discharges from
 997 a construction activity, necessary control measures must be implemented by the
 998 operator to meet the WLA in accordance with the requirements established in the
 999 General Permit for Discharges of Stormwater from Construction Activities or an
 1000 individual permit, which address both construction and post-construction
 1001 discharges.

1002 **4VAC50-60-65. Water quality compliance.**

1003 A. Compliance with the water quality criteria set out in subdivisions A 1 and 2 of
 1004 4VAC50-60-63 shall be determined by utilizing the Virginia Runoff Reduction Method or
 1005 another methodology that is demonstrated by the qualifying local program to achieve
 1006 equivalent or more stringent results and is approved by the board.

1007 B. The BMPs listed in Table 1 or the BMPs available on the Virginia Stormwater
 1008 BMP Clearinghouse website shall be utilized as necessary to effectively reduce the
 1009 phosphorus load in accordance with the Virginia Runoff Reduction Method. Design
 1010 specifications for the BMPs listed in Table 1 can be found at
 1011 <http://www.vwrrc.vt.edu/swc>.

TABLE 1
 BMP Pollutant Removal Efficiencies

<u>Practice</u>	<u>Removal of Total Phosphorus by Runoff Volume Reduction (RR, as %) (based upon 1 inch of rainfall -- 90% storm)</u>	<u>Removal of Total Phosphorus by Treatment -- Pollutant Concentration Reduction (PR, as %)</u>	<u>Total Removal of Total Phosphorus (TR, as %)</u>
<u>Green Roof 1</u>	<u>45</u>	<u>0</u>	<u>45</u>
<u>Green Roof 2</u>	<u>60</u>	<u>0</u>	<u>60</u>
<u>Rooftop Disconnection 1</u>	<u>25</u>	<u>0</u>	<u>25</u>
<u>Rooftop Disconnection 2</u>	<u>50</u>	<u>0</u>	<u>50</u>
<u>Rain Tanks/Cisterns 1</u>	<u>actual volume x .75</u>	<u>0</u>	<u>actual volume x .75</u>
<u>Soil Amendments 1</u>	<u>50</u>	<u>0</u>	<u>50</u>
<u>Soil Amendments 2</u>	<u>75</u>	<u>0</u>	<u>75</u>
<u>Permeable Pavement 1</u>	<u>45</u>	<u>25</u>	<u>59</u>
<u>Permeable Pavement 2</u>	<u>75</u>	<u>25</u>	<u>81</u>
<u>Grass Channel 1</u>	<u>10</u>	<u>15</u>	<u>23</u>

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<u>Grass Channel 2</u>	<u>20</u>	<u>15</u>	<u>32</u>
<u>Bioretention 1</u>	<u>40</u>	<u>25</u>	<u>55</u>
<u>Bioretention 2</u>	<u>80</u>	<u>50</u>	<u>90</u>
<u>Infiltration 1</u>	<u>50</u>	<u>25</u>	<u>63</u>
<u>Infiltration 2</u>	<u>90</u>	<u>25</u>	<u>93</u>
<u>Dry Swale 1</u>	<u>40</u>	<u>20</u>	<u>52</u>
<u>Dry Swale 2</u>	<u>60</u>	<u>40</u>	<u>76</u>
<u>Wet Swale 1</u>	<u>0</u>	<u>20</u>	<u>20</u>
<u>Wet Swale 2</u>	<u>0</u>	<u>40</u>	<u>40</u>
<u>Sheet Flow to Conserved Open Space 1</u>	<u>0</u>	<u>50</u>	<u>50</u>
<u>Sheet Flow to Conserved Open Space 2</u>	<u>0</u>	<u>75</u>	<u>75</u>
<u>Extended Detention Pond 1</u>	<u>0</u>	<u>15</u>	<u>15</u>
<u>Extended Detention Pond 2</u>	<u>15</u>	<u>15</u>	<u>28</u>
<u>Filtering Practice 1</u>	<u>0</u>	<u>60</u>	<u>60</u>
<u>Filtering Practice 2</u>	<u>0</u>	<u>65</u>	<u>65</u>
<u>Constructed Wetland 1</u>	<u>0</u>	<u>50</u>	<u>50</u>
<u>Constructed Wetland 2</u>	<u>0</u>	<u>75</u>	<u>75</u>
<u>Wet Pond 1</u>	<u>0</u>	<u>50</u>	<u>50</u>
<u>Wet Pond 2</u>	<u>0</u>	<u>75</u>	<u>75</u>

1012 C. BMPs differing from those listed in Table 1 shall be reviewed and approved by the
1013 director in accordance with procedures established by the BMP Clearinghouse
1014 Committee and approved by the board.

1015 D. A qualifying local program may establish use limitations on specific BMPs
1016 following the submission of the proposed use limitation and written justification to the
1017 department.

1018 E. Where the land-disturbing activity only occurs on a portion of the site, the local
1019 program may review the stormwater management plan based upon the portion of the
1020 site that is proposed to be developed, provided that the local program has established
1021 guidance for such a review. Such portion shall be deemed to include any area left

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1022 undeveloped pursuant to any local requirement or proffer accepted by a locality. Any
1023 such guidance shall be provided to the department.

1024 F. If a comprehensive watershed stormwater management plan has been adopted
1025 pursuant to 4VAC50-60-96 for the watershed within which a project is located, then the
1026 qualifying local program may allow off-site controls in accordance with the plan to
1027 achieve the post-development pollutant load water quality technical criteria set out in
1028 subdivisions A 1 and A 2 of 4VAC50-60-63. Such off-site controls shall achieve the
1029 required pollutant reductions either completely off-site in accordance with the plan or in a
1030 combination of on-site and off-site controls.

1031 G. Where no plan exists pursuant to subsection F, off-site controls may be used to
1032 meet the post-development pollutant load water quality technical criteria set out in
1033 subdivisions A 1 and A 2 of 4VAC50-60-63 provided:

- 1034 1. The local program allows for off-site controls;
1035 2. The applicant demonstrates to the satisfaction of the local program that off-site
1036 reductions equal to or greater than those that would otherwise be required for the
1037 site are achieved;
1038 3. The applicant demonstrates to the satisfaction of the local program that the
1039 development's runoff and the runoff from any off-site treatment area shall be
1040 controlled in accordance with 4VAC50-60-66;
1041 4. Off-site controls must be located within the same HUC or the adjacent
1042 downstream HUC to the land-disturbing site; and
1043 5. The applicant demonstrates to the satisfaction of the local program that the
1044 right to utilize the off-site control area and any necessary easements have been
1045 obtained and maintenance agreements for the stormwater management facilities
1046 have been established pursuant to 4VAC50-60-124.

1047 H. Alternatively, the local program may waive the requirements of subdivisions A 1
1048 and A 2 of 4VAC50-60-63 through the granting of an exception pursuant to 4VAC50-60-
1049 122.

1050 **4VAC50-60-66. Water quantity.**

1051 Channel protection and flood protection shall be addressed in accordance with the
1052 minimum standards set out in this section, which are established pursuant to the
1053 requirements of §10.1-603.4(7).

1054 A. Channel protection. Concentrated stormwater flow from the site and off-site
1055 contributing areas shall be released into a stormwater conveyance system and shall
1056 meet one of the following criteria as demonstrated by use of accepted hydrologic and
1057 hydraulic methodologies:

1058 1. Concentrated stormwater flow to manmade stormwater conveyance systems.
1059 The point of discharge releases stormwater into a manmade stormwater
1060 conveyance system that, following the land-disturbing activity, conveys the post-
1061 development peak flow rate from the 2-year 24-hour storm without causing
1062 erosion of the system.

1063 2. Concentrated stormwater flow to restored stormwater conveyance systems.
1064 The point of discharge releases stormwater into a stormwater conveyance
1065 system that (i) has been restored and is functioning as designed or (ii) will be
1066 restored. The applicant must demonstrate that the runoff following the land-
1067 disturbing activity, in combination with other existing stormwater runoff, will not

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1068 exceed the design of the restored stormwater conveyance system nor result in
1069 instability of the system.

1070 3. Concentrated stormwater flow to stable natural stormwater conveyance
1071 systems. The point of discharge releases stormwater into a natural stormwater
1072 conveyance system that is stable and, following the land-disturbing activity, (i)
1073 will not become unstable as a result of the discharge from the one-year 24-hour
1074 storm, and (ii) provides a peak flow rate from the one-year 24-hour storm
1075 calculated as follows or in accordance with another methodology that is
1076 demonstrated by the local program to achieve equivalent results and is approved
1077 by the board:

1078 $Q_{\text{Developed}} * RV_{\text{Developed}} \leq Q_{\text{Pre-Developed}} * RV_{\text{Pre-Developed}}$, where

1079 $Q_{\text{Developed}}$ = The allowable peak flow rate of runoff from the developed site.

1080 $Q_{\text{Pre-Developed}}$ = The peak flow rate of runoff from the site in the pre-developed
1081 condition.

1082 $RV_{\text{Pre-Developed}}$ = The volume of runoff from the site in the pre-developed
1083 condition.

1084 $RV_{\text{Developed}}$ = The volume of runoff from the developed site.

1085 4. Concentrated stormwater flow to unstable natural stormwater conveyance
1086 systems. Where the point of discharge releases stormwater into a natural
1087 stormwater conveyance system that is unstable, stormwater runoff following a
1088 land-disturbing activity shall be released into a channel at or below a peak flow
1089 rate ($Q_{\text{Developed}}$) based on the one year 24-hour storm, calculated as follows or in
1090 accordance with another methodology that is demonstrated by the local program
1091 to achieve equivalent or more stringent results and is approved by the board:

1092 $Q_{\text{Developed}} * RV_{\text{Developed}} \leq Q_{\text{Forested}} * RV_{\text{Forested}}$, where

1093 $Q_{\text{Developed}}$ = The allowable peak flow rate from the developed site.

1094 Q_{Forested} = The peak flow rate from the site in a forested condition.

1095 RV_{Forested} = The volume of runoff from the site in a forested condition.

1096 $RV_{\text{Developed}}$ = The volume of runoff from the developed site.

1097 B. Flood protection. Concentrated stormwater flow shall be released into a
1098 stormwater conveyance system and shall meet one of the following criteria, as
1099 demonstrated by use of accepted hydrologic and hydraulic methodologies:

1100 1. Concentrated stormwater flow to manmade stormwater conveyance systems.
1101 The point of discharge releases stormwater into a manmade stormwater
1102 conveyance system that, following the land-disturbing activity, confines the post-
1103 development peak flow rate from the 10-year 24-hour storm within the manmade
1104 stormwater conveyance system.

1105 2. Concentrated stormwater flow to restored stormwater conveyance systems.
1106 The point of discharge releases stormwater into a stormwater conveyance
1107 system that (i) has been restored and is functioning as designed or (ii) will be
1108 restored. The applicant must demonstrate that the peak flow rate from the 10-
1109 year 24-hour storm following the land-disturbing activity will be confined within
1110 the system.

1111 3. Concentrated stormwater flow to natural stormwater conveyance systems. The
1112 point of discharge releases stormwater into a natural stormwater conveyance
1113 system that currently does not flood during the 10-year 24-hour storm and,

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- 1114 following the land-disturbing activity, confines the post-development peak flow
1115 rate from the 10-year 24-hour storm within the system.
- 1116 4. Concentrated stormwater flow to natural stormwater conveyance systems
1117 where localized flooding exists during the 10-year 24-hour storm. The point of
1118 discharge releases a post-development peak flow rate for the 10-year 24-hour
1119 storm that shall not exceed the pre-development peak flow rate from the 10-year
1120 24-hour storm based on forested conditions.
- 1121 5. A local program may adopt alternate flood protection design criteria that (i)
1122 achieve equivalent or more stringent results, (ii) are based upon geographic, land
1123 use, topographic, geologic or other downstream conveyance factors, and (iii) are
1124 approved by the board.
- 1125 C. One percent rule. If either of the following criteria are met, subsections A and B do
1126 not apply:
- 1127 1. Based on area. Prior to any land disturbance, the site's contributing drainage
1128 area to a point of discharge from the site is less than or equal to 1.0% of the total
1129 watershed area draining to that point of discharge; or
- 1130 2. Based on peak flow rate. Based on the post-development land cover
1131 conditions prior to the implementation of any stormwater quantity control
1132 measures, the development of the site results in an increase in the peak flow rate
1133 from the one-year 24-hour storm that is less than 1.0% of the existing peak flow
1134 rate from the one-year 24-hour storm generated by the total watershed area
1135 draining to that point of discharge.
- 1136 D. Increased volumes of sheet flow resulting from pervious or disconnected
1137 impervious areas, or from physical spreading of concentrated flow through level
1138 spreaders, must be identified and evaluated for potential impacts on down gradient
1139 properties or resources. Increased volumes of sheet flow that will cause or contribute to
1140 erosion, sedimentation, or flooding of down gradient properties or resources shall be
1141 diverted to a detention facility or a stormwater conveyance system that conveys the
1142 runoff without causing down gradient erosion, sedimentation, or flooding. If all runoff
1143 from the site is sheet flow and the conditions of this subsection are met, no further water
1144 quantity controls are required.
- 1145 E. For purposes of computing predevelopment runoff from prior developed sites, all
1146 pervious lands on the site shall be assumed to be in good hydrologic condition in
1147 accordance with NRCS standards, regardless of conditions existing at the time of
1148 computation. Predevelopment runoff calculations utilizing other hydrologic conditions
1149 may be utilized provided that it is demonstrated to and approved by the local program
1150 that actual site conditions warrant such considerations.
- 1151 F. Pre-development runoff characteristics and site hydrology shall be verified by site
1152 inspections, topographic surveys, available soil mapping or studies, and calculations
1153 consistent with good engineering practices in accordance with guidance provided in the
1154 Virginia Stormwater Management Handbook and by the qualifying local program.
- 1155 G. Except where the compliance options under subdivisions A 4 and B 4 of this
1156 section are utilized, flooding and channel erosion impacts to stormwater conveyance
1157 systems shall be analyzed for each point of discharge in accordance with channel
1158 analysis guidance provided in Technical Bulletin # 1, Stream Channel Erosion Control,
1159 or in accordance with more stringent channel analysis guidance established by the
1160 qualifying local program and provided to the department. Such analysis shall include

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1161 estimates of runoff from the developed site and the entire upstream watershed which
1162 contributes to that point of discharge. Good engineering practices and calculations in
1163 accordance with department guidance shall be used to evaluate post development runoff
1164 characteristics and site hydrology, and flooding and channel erosion impacts.

1165 If the downstream owner or owners refuse to give permission to access the property
1166 for the collection of data, evidence of this refusal shall be given and arrangements made
1167 satisfactory to the local program to provide an alternative method for the collection of
1168 data to complete the analysis, such as through the use of photos, aerial surveys, "as
1169 built" plans, topographic maps, soils maps, and any other relevant information.

1170 **4VAC50-60-70. Stream channel erosion. (Repealed.)**

1171 ~~A. Properties and receiving waterways downstream of any land-disturbing activity~~
1172 ~~shall be protected from erosion and damage due to changes in runoff rate of flow and~~
1173 ~~hydrologic characteristics, including but not limited to, changes in volume, velocity,~~
1174 ~~frequency, duration, and peak flow rate of stormwater runoff in accordance with the~~
1175 ~~minimum design standards set out in this section.~~

1176 ~~B. The permit-issuing authority shall require compliance with subdivision 19 of~~
1177 ~~4VAC50-30-40 of the Erosion and Sediment Control Regulations, promulgated pursuant~~
1178 ~~to Article 4 (§10.1-560 et seq.) of Chapter 5 of Title 10.1 of the Code of Virginia.~~

1179 ~~C. The permit-issuing authority may determine that some watersheds or receiving~~
1180 ~~stream systems require enhanced criteria in order to address the increased frequency of~~
1181 ~~bankfull flow conditions (top of bank) brought on by land-disturbing activities. Therefore,~~
1182 ~~in lieu of the reduction of the two-year post-developed peak rate of runoff as required in~~
1183 ~~subsection B of this section, the land development project being considered shall~~
1184 ~~provide 24-hour extended detention of the runoff generated by the one-year, 24-hour~~
1185 ~~duration storm.~~

1186 ~~D. In addition to subsections B and C of this section permit-issuing authorities, by~~
1187 ~~local ordinance may, or the board by state regulation may, adopt more stringent channel~~
1188 ~~analysis criteria or design standards to ensure that the natural level of channel erosion,~~
1189 ~~to the maximum extent practicable, will not increase due to the land-disturbing activities.~~
1190 ~~These criteria may include, but are not limited to, the following:~~

- 1191 ~~1. Criteria and procedures for channel analysis and classification.~~
- 1192 ~~2. Procedures for channel data collection.~~
- 1193 ~~3. Criteria and procedures for the determination of the magnitude and frequency~~
1194 ~~of natural sediment transport loads.~~
- 1195 ~~4. Criteria for the selection of proposed natural or man-made channel linings.~~

1196 **4VAC50-60-72. Design storms and hydrologic methods.**

1197 A. Unless otherwise specified, the prescribed design storms are the 1-year, 2-year,
1198 and 10-year 24-hour storms using the site-specific rainfall precipitation frequency data
1199 recommended by the U.S. National Oceanic and Atmospheric Administration (NOAA)
1200 Atlas 14. Partial duration time series shall be used for the precipitation data.

1201 B. All hydrologic analyses shall be based on the existing watershed characteristics
1202 and the ultimate development condition of the subject project.

1203 C. The U.S. Department of Agriculture's Natural Resources Conservation Service
1204 (NRCS) synthetic 24-hour rainfall distribution and models, including, but not limited to
1205 TR-55 and TR-20; hydrologic and hydraulic methods developed by the U.S. Army Corps

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1206 of Engineers; or other standard hydrologic and hydraulic methods, shall be used to
1207 conduct the analyses described in this part.

1208 D. The local program may allow for the use of the Rational Method for evaluating
1209 peak discharges or the Modified Rational Method for evaluating volumetric flows to
1210 stormwater conveyances with drainage areas of 200 acres or less.

1211 **4VAC50-60-74. Stormwater harvesting.**

1212 In accordance with §10.1-603.4 of the Code of Virginia, stormwater harvesting is
1213 encouraged for the purposes of landscape irrigation systems, fire protection systems,
1214 flushing water closets and urinals, and other water handling systems to the extent such
1215 systems are consistent with federal, state and local regulatory authorities.

1216 **4VAC50-60-76. Linear development projects.**

1217 Unless exempt pursuant to §10.1-603.8 subsection B, linear development projects
1218 shall control post-development stormwater runoff in accordance with a site-specific
1219 stormwater management plan or a comprehensive watershed stormwater management
1220 plan developed in accordance with these regulations.

1221 **4VAC50-60-80. Flooding. (Repealed.)**

1222 ~~A. Downstream properties and waterways shall be protected from damages from~~
1223 ~~localized flooding due to changes in runoff rate of flow and hydrologic characteristics,~~
1224 ~~including but not limited to, changes in volume, velocity, frequency, duration, and peak~~
1225 ~~flow rate of stormwater runoff in accordance with the minimum design standards set out~~
1226 ~~in this section.~~

1227 ~~B. The 10-year post-developed peak rate of runoff from the development site shall~~
1228 ~~not exceed the 10-year pre-developed peak rate of runoff.~~

1229 ~~C. In lieu of subsection B of this section, localities may, by ordinance, adopt alternate~~
1230 ~~design criteria based upon geographic, land use, topographic, geologic factors or other~~
1231 ~~downstream conveyance factors as appropriate.~~

1232 ~~D. Linear development projects shall not be required to control post-developed~~
1233 ~~stormwater runoff for flooding, except in accordance with a watershed or regional~~
1234 ~~stormwater management plan.~~

1235 **4VAC50-60-85. Stormwater management impoundment structures or facilities.**

1236 A. Construction of stormwater management impoundment structures or facilities
1237 within tidal or nontidal wetlands and perennial streams is not recommended.

1238 B. Construction of stormwater management impoundment structures or facilities
1239 within a Federal Emergency Management Agency (FEMA) designated 100-year
1240 floodplain is not recommended.

1241 C. Stormwater management wet ponds and extended detention ponds that are not
1242 covered by the Impounding Structure Regulations (4VAC50-20) shall be engineered for
1243 structural integrity and spillway design for the 100-year storm event.

1244 D. Construction of stormwater management impoundment structures or facilities may
1245 occur in karst areas only after a geological study of the area has been conducted to
1246 determine the presence or absence of karst features that may be impacted by
1247 stormwater runoff and BMP placement.

1248 E. Discharge of stormwater runoff to a karst feature shall meet the water quality
1249 criteria set out in 4VAC50-60-63 and the water quantity criteria set out in 4VAC50-60-66.
1250 Permanent stormwater management impoundment structures or facilities shall only be
1251 constructed in karst features after completion of a geotechnical investigation that

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1252 identifies any necessary modifications to the BMP to ensure its structural integrity and
1253 maintain its water quality and quantity efficiencies. The person responsible for the land
1254 disturbing activity is encouraged to screen for known existence of heritage resources in
1255 the karst features. Any Class V Underground Injection Control Well registration
1256 statements for stormwater discharges to improved sinkholes shall be included in the
1257 SWPPP.

1258 **4VAC50-60-90. Regional (watershed-wide) stormwater management plans.**
1259 **(Repealed.)**

1260 ~~This section enables localities to develop regional stormwater management plans.~~
1261 ~~State agencies intending to develop large tracts of land such as campuses or prison~~
1262 ~~compounds are encouraged to develop regional plans where practical.~~

1263 ~~The objective of a regional stormwater management plan is to address the~~
1264 ~~stormwater management concerns in a given watershed with greater economy and~~
1265 ~~efficiency by installing regional stormwater management facilities versus individual, site-~~
1266 ~~specific facilities. The result will be fewer stormwater management facilities to design,~~
1267 ~~build and maintain in the affected watershed. It is also anticipated that regional~~
1268 ~~stormwater management facilities will not only help mitigate the impacts of new~~
1269 ~~development, but may also provide for the remediation of erosion, flooding or water~~
1270 ~~quality problems caused by existing development within the given watershed.~~

1271 ~~If developed, a regional plan shall, at a minimum, address the following:~~

- 1272 ~~1. The specific stormwater management issues within the targeted watersheds.~~
- 1273 ~~2. The technical criteria in 4VAC50-60-40 through 4VAC50-60-80 as needed~~
1274 ~~based on subdivision 1 of this section.~~
- 1275 ~~3. The implications of any local comprehensive plans, zoning requirements, local~~
1276 ~~ordinances pursuant to the Chesapeake Bay Preservation Area Designation and~~
1277 ~~Management Regulations adopted pursuant to the Chesapeake Bay~~
1278 ~~Preservation Act, and other planning documents.~~
- 1279 ~~4. Opportunities for financing a watershed plan through cost sharing with~~
1280 ~~neighboring agencies or localities, implementation of regional stormwater utility~~
1281 ~~fees, etc.~~
- 1282 ~~5. Maintenance of the selected stormwater management facilities.~~
- 1283 ~~6. Future expansion of the selected stormwater management facilities in the~~
1284 ~~event that development exceeds the anticipated level.~~

1285 **4VAC50-60-93. Stormwater management plan development.**

1286 A. A stormwater management plan for a land disturbing activity shall apply these
1287 stormwater management technical criteria to the entire land-disturbing activity.

1288 B. Individual lots or planned phases of developments shall not be considered
1289 separate land-disturbing activities, but rather the entire development shall be considered
1290 a single land-disturbing activity.

1291 C. The stormwater management plan shall consider all sources of surface runoff and
1292 all sources of subsurface and groundwater flows converted to surface runoff.

1293 **4VAC50-60-96. Comprehensive watershed stormwater management plans.**

1294 A. Local programs may develop comprehensive watershed stormwater management
1295 plans to be approved by the department that meet the water quality objectives, quantity
1296 objectives, or both of this chapter.

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1297 1. Such plans shall ensure that offsite reductions equal to or greater than those
1298 that would be required on each contributing land-disturbing site are achieved
1299 within the same HUC, or within another locally designated watershed. Pertaining
1300 to water quantity objectives, the plan may provide for implementation of a
1301 combination of channel improvement, stormwater detention, or other measures
1302 which is satisfactory to the local program to prevent downstream erosion and
1303 flooding.

1304 2. If the land use assumptions upon which the plan was based change or if any
1305 other amendments are deemed necessary by the local program, the local
1306 program shall provide plan amendments to the board for review and approval.

1307 3. During the plan's implementation, the local program shall account for nutrient
1308 reductions accredited to the BMPs specified in the plan.

1309 4. State and federal agencies may participate in comprehensive watershed
1310 stormwater management plans where practicable and permitted by the local
1311 program.

1312 B. If the qualifying local program allows for a pro rata fee in accordance with §15.2-
1313 2243 of the Code of Virginia, then the reductions required for a site by this chapter may
1314 be achieved by the payment of a pro rata fee sufficient to fund improvements necessary
1315 to adequately achieve those requirements in accordance with that section of the Code
1316 and this chapter.

1317 Part III
1318 Local Programs

1319 **4VAC50-60-100. Applicability. (Repealed.)**

1320 ~~This part specifies technical criteria, minimum ordinance requirements, and~~
1321 ~~administrative procedures for all localities operating local stormwater management~~
1322 ~~programs.~~

1323 Part IIIA
1324 Local Programs

1325 **4VAC50-60-102. Authority and applicability.**

1326 If a locality has adopted a local stormwater management program in accordance with
1327 the Virginia Stormwater Management Act, §10.1-603.2 et seq. and the board has
1328 deemed such program adoption consistent with the Virginia Stormwater Management
1329 Act and these regulations in accordance with §10.1-603.3 subsection F, the board may
1330 authorize a locality to administer a qualifying local program. Pursuant to §10.1-603.4, the
1331 board is required to establish standards and procedures for such an authorization.

1332 This part specifies the minimum technical criteria and the local government
1333 ordinance requirements for a local program to be considered a qualifying local program.
1334 Such criteria include but are not limited to administration, plan review, issuance of
1335 coverage under the Virginia Stormwater Management Program (VSMP) General Permit
1336 for Discharges of Stormwater from Construction Activities, inspection, and enforcement.

1337 **4VAC50-60-104. Technical criteria for qualifying local programs.**

1338 A. All qualifying local programs shall require compliance with the provisions of Part II
1339 (4VAC50-60-40 et seq.) of these regulations unless an exception is granted pursuant to
1340 4VAC50-60-122 and shall comply with the requirements of 4VAC50-60-460 subsection
1341 L.

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1342 B. When a locality operating a qualifying local program has adopted requirements
1343 more stringent than those imposed by this chapter in accordance with §10.1-603.7 or
1344 implemented a comprehensive stormwater management plan, the department shall
1345 consider such requirements in its review of state projects within that locality in
1346 accordance with Part IV (4VAC50-60-160 et seq.) of these regulations.

1347 C. Nothing in this part shall be construed as authorizing a locality to regulate, or to
1348 require prior approval by the locality for, a state project.

1349 **4VAC50-60-106. Qualifying local program administrative requirements.**

1350 A. A qualifying local program shall provide for the following:

1351 1. Identification of the authority authorizing coverage under the VSMP General
1352 Permit for Discharges of Stormwater from Construction Activities, the plan
1353 reviewing authority, the plan approving authority, the inspection authority, and the
1354 enforcement authority;

1355 2. Technical criteria to be used in the qualifying local program;

1356 3. Procedures for the submission and approval of plans;

1357 4. Inspection and monitoring of land-disturbing activities covered by a permit for
1358 compliance;

1359 5. Procedures or policies for long-term inspection and maintenance of
1360 stormwater management facilities; and

1361 6. Enforcement.

1362 B. A locality shall adopt an ordinance(s) that incorporates the components set out in
1363 subsection A and consent to follow procedures provided by the department for the
1364 issuance, denial, revocation, termination, reissuance, transfer, or modifications of
1365 coverage under the VSMP General Permit for Discharges of Stormwater from
1366 Construction Activities.

1367 C. A qualifying local program shall report to the department information related to the
1368 administration and implementation of the qualifying local program in accordance with
1369 4VAC50-60-126.

1370 D. A qualifying local program may require the submission of a reasonable
1371 performance bond or other financial surety and provide for the release of such sureties
1372 in accordance with the criteria set forth in §10.1-603.8.

1373 **4VAC50-60-108. Qualifying local program stormwater management plan review.**

1374 A. A qualifying local program shall require stormwater management plans to be
1375 submitted for review and be approved prior to commencement of land-disturbing
1376 activities.

1377 B. A qualifying local program shall approve or disapprove a stormwater management
1378 plan and required accompanying information according to the following:

1379 1. Stormwater management plan review shall begin upon submission of a
1380 complete plan. A complete plan shall include the following elements:

1381 a. The location of all points of stormwater discharge, receiving surface waters
1382 or karst features into which the stormwater discharges, and pre-development
1383 and post-development conditions for drainage areas, including final drainage
1384 patterns and changes to existing contours;

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- 1385 b. Contact Information including the name, address, and telephone number of
1386 the property owner and the tax reference number and parcel number of the
1387 property or properties affected;
- 1388 c. A narrative that includes a description of current site conditions and
1389 proposed development and final site conditions, including proposed
1390 stormwater management facilities and the mechanism, including an
1391 identification of financially responsible parties, through which the facilities will
1392 be operated and maintained during and after construction activity;
- 1393 d. The location and the design of the proposed stormwater management
1394 facilities;
- 1395 e. Information identifying the hydrologic characteristics and structural
1396 properties of soils utilized with the installation of stormwater management
1397 facilities;
- 1398 f. Hydrologic and hydraulic computations of the pre-development and post-
1399 development runoff conditions for the required design storms;
- 1400 g. Good engineering practices and calculations verifying compliance with the
1401 water quality and quantity requirements of this chapter;
- 1402 h. A map(s) of the site which depicts the topography of the site and includes:
1403 (1) All contributing drainage areas;
1404 (2) Receiving surface waters or karst features into which stormwater will be
1405 discharged;
1406 (3) Existing streams, ponds, culverts, ditches, wetlands, and other water
1407 bodies;
1408 (4) Soil types, geologic formations, forest cover, and other vegetative areas;
1409 (5) Current land use including existing structures, roads, and locations of
1410 known utilities and easements;
1411 (6) Sufficient information on adjoining parcels to assess the impacts of
1412 stormwater from the site;
1413 (7) The limits of clearing and grading, and the proposed drainage patterns on
1414 the site;
1415 (8) Proposed buildings, roads, parking areas, utilities, and stormwater
1416 management facilities; and
1417 (9) Proposed land use with tabulation of the percentage of surface area to be
1418 adapted to various uses, including but not limited to planned locations of
1419 utilities, roads, and easements.
- 1420 i. 50% of the required fee in accordance with 4VAC50-60-820 and the
1421 required fee form must have been submitted.
- 1422 2. Elements of the stormwater management plans shall be appropriately sealed
1423 and signed by a professional in adherence to all minimum standards and
1424 requirements pertaining to the practice of that profession in accordance with
1425 Chapter 4 of Title 54.1 of the Code of Virginia and attendant regulations.
- 1426 3. Completeness of a plan and required accompanying information shall be
1427 determined by the qualifying local program, and the applicant shall be notified of
1428 any determination, within 15 calendar days of receipt.

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- 1429 a. If within those 15 days the plan is deemed to be incomplete based on the
1430 criteria set out in subsection B of this section, the applicant shall be notified in
1431 writing of the reasons the plan is deemed incomplete.
- 1432 b. If a determination of completeness is made and communicated to the
1433 applicant within the 15 calendar days, an additional 60 calendar days from
1434 the date of the communication will be allowed for the review of the plan.
- 1435 c. If a determination of completeness is not made and communicated to the
1436 applicant within the 15 calendar days, the plan shall be deemed complete as
1437 of the date of submission and a total of 60 calendar days from the date of
1438 submission will be allowed for the review of the plan.
- 1439 d. The qualifying local program shall act within 45 days on any plan that has
1440 been previously disapproved and resubmitted.
- 1441 4. During the review period, the plan shall be approved or disapproved and the
1442 decision communicated in writing to the person responsible for the land-
1443 disturbing activity or their designated agent. If the plan is not approved, the
1444 reasons for not approving the plan shall be provided in writing. Approval or denial
1445 shall be based on the plan's compliance with the requirements of this chapter
1446 and of the qualifying local program.
- 1447 5. If a plan meeting all requirements of this chapter and of the qualifying local
1448 program is submitted and no action is taken within the time specified above, the
1449 plan shall be deemed approved.
- 1450 C. Notwithstanding the requirements of subsection A, if allowed by the qualifying
1451 local program, an initial stormwater management plan may be submitted for review and
1452 approval when it is accompanied by an erosion and sediment control plan, preliminary
1453 stormwater design for the current and future site work, fee form, and 50% of the fee
1454 required by 4VAC50-60-820. Such plans shall be limited to the initial clearing and
1455 grading of the site unless otherwise allowed by the qualifying local program. Approval by
1456 the qualifying local program of an initial plan does not supersede the need for the
1457 submittal and approval of a complete stormwater management plan and the updating of
1458 the SWPPP prior to the commencement of activities beyond initial clearing and grading
1459 and other activities approved by the local program. The initial plan shall include
1460 information detailed in subsection B to the extent required by the qualifying local
1461 program and such other information as may be required by the qualifying local program.
- 1462 D. Each approved plan may be modified in accordance with the following:
- 1463 1. Modifications to an approved stormwater management plan shall be allowed
1464 only after review and written approval by the qualifying local program. The
1465 qualifying local program shall have 60 calendar days to respond in writing either
1466 approving or disapproving such requests.
- 1467 2. Based on an inspection, the qualifying local program may require amendments
1468 to the approved stormwater management plan to address the noted deficiencies
1469 and notify the permittee of the required modifications.
- 1470 **4VAC50-60-110. Technical criteria for local programs. (Repealed.)**
- 1471 ~~A. All local stormwater management programs shall comply with the general~~
1472 ~~technical criteria as outlined in 4VAC50-60-50.~~
- 1473 ~~B. All local stormwater management programs which contain provisions for~~
1474 ~~stormwater runoff quality shall comply with 4VAC50-60-60. A locality may establish~~
1475 ~~criteria for selecting either the site or a planning area on which to apply the water quality~~

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- 1476 criteria. A locality may opt to calculate actual watershed specific or locality wide values
1477 for the average land cover condition based upon:
- 1478 1. Existing land use data at time of local Chesapeake Bay Preservation Act
1479 Program or department stormwater management program adoption, whichever
1480 was adopted first;
 - 1481 2. Watershed or locality size; and
 - 1482 3. Determination of equivalent values of impervious cover for nonurban land uses
1483 which contribute nonpoint source pollution, such as agriculture, forest, etc.
- 1484 C. All local stormwater management programs which contain provisions for stream
1485 channel erosion shall comply with 4VAC50-60-70.
- 1486 D. All local stormwater management programs must contain provisions for flooding
1487 and shall comply with 4VAC50-60-80.
- 1488 E. All local stormwater management programs which contain provisions for
1489 watershed or regional stormwater management plans shall comply with 4VAC50-60-110.
- 1490 F. A locality that has adopted more stringent requirements or implemented a regional
1491 (watershed-wide) stormwater management plan may request, in writing, that the
1492 department consider these requirements in its review of state projects within that locality.
- 1493 G. Nothing in this part shall be construed as authorizing a locality to regulate, or to
1494 require prior approval by the locality for, a state project.
- 1495 **4VAC50-60-112. Qualifying local program authorization of coverage under the**
1496 **VSMP General Permit for Discharges of Stormwater from Construction Activities.**
- 1497 A. Coverage shall be authorized by the qualifying local program under the VSMP
1498 General Permit for Discharges of Stormwater from Construction Activities in accordance
1499 with the following:
- 1500 1. The applicant must have an approved initial stormwater management plan or
1501 an approved stormwater management plan for the land-disturbing activity.
 - 1502 2. The applicant must have submitted proposed right-of-entry agreements or
1503 easements from the owner for purposes of inspection and maintenance and
1504 proposed maintenance agreements, including inspection schedules, in
1505 accordance with 4VAC50-60-124.
 - 1506 3. The applicant must have an approved registration statement for the VSMP
1507 General Permit for Discharges of Stormwater from Construction Activities.
 - 1508 4. The applicant must have submitted the required fee form and total fee required
1509 by 4VAC50-60-820.
 - 1510 5. Applicants submitting registration statements deemed to be incomplete must
1511 be notified within 15 working days of receipt by the qualifying local program that
1512 the registration statement is not complete and be notified (i) of what material
1513 needs to be submitted to complete the registration statement, and (ii) that the
1514 land-disturbing activity does not have coverage under the VSMP General Permit
1515 for Discharges of Stormwater from Construction Activities.
- 1516 B. Coverage or termination of coverage shall be authorized through a standardized
1517 database or other method provided by the department. Such database shall include, at a
1518 minimum, permit number, operator name, activity name, acres disturbed, date of permit
1519 coverage, and site address and location as well as date of termination.

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1520 C. Coverage information pertaining to the VSMP General Permit for Discharges of
1521 Stormwater from Construction Activities shall be reported to the department in
1522 accordance with 4VAC50-60-126 by the qualifying local program.

1523 D. The applicant shall be notified of authorization of permit coverage by the
1524 qualifying local program.

1525 **4VAC50-60-114. Inspections.**

1526 A. The qualifying local program or its designee shall inspect the land-disturbing
1527 activity during construction for compliance with the VSMP General Permit for Discharges
1528 of Stormwater from Construction Activities.

1529 B. The person responsible for the development project or their designated agent
1530 shall submit to a qualifying local program a construction record drawing for permanent
1531 stormwater management facilities, appropriately sealed and signed by a professional in
1532 accordance with all minimum standards and requirements pertaining to the practice of
1533 that profession pursuant to Chapter 4 of Title 54.1 of the Code of Virginia and attendant
1534 regulations, certifying that the stormwater management facilities have been constructed
1535 in accordance with the approved plan. The qualifying local program shall have the
1536 construction record drawing and certification on file prior to the release of the portion of
1537 the performance bond or surety associated with the stormwater management facility.

1538 C. The owner(s) of stormwater management facilities shall be required to conduct
1539 inspections in accordance with an inspection schedule in a recorded maintenance
1540 agreement, and shall submit written inspection and maintenance reports to the qualifying
1541 local program upon request. Such reports, if consistent with a board approved inspection
1542 program established in subsection D, may be utilized by the qualifying local program if
1543 the inspection is conducted by a person who is licensed as a professional engineer,
1544 architect, certified landscape architect or land surveyor pursuant to Article 1 (§54.1-400
1545 et seq.) of Chapter 4 of Title 54.1 or who holds a certificate of competence from the
1546 board. The reports, if so utilized, must be kept on file with the qualifying local program

1547 D. A qualifying local program shall establish an inspection program that ensures that
1548 the stormwater management facilities are being maintained as designed. Any inspection
1549 program shall be:

- 1550 1. Approved by the board prior to implementation;
1551 2. Established in writing;
1552 3. Based on a system of priorities that takes into consideration the purpose and
1553 type of the facility, ownership and the existence of a recorded maintenance
1554 agreement and inspection schedule, the contributing drainage area, and
1555 downstream conditions;
1556 4. Demonstrated to be an enforceable inspection program that meets the intent
1557 of the regulations and ensures that each stormwater management facility is
1558 inspected by the qualifying local program or its designee, not to include the
1559 owner except as provided in subsection C, at least every five years; and
1560 5. Documented by inspection records.

1561 E. Inspection reports shall be generated and kept on file in accordance with 4VAC50-
1562 60-126 for all stormwater management facilities inspected by the qualifying local
1563 program.

1564 **4VAC50-60-116. Qualifying local program enforcement.**

1565 A. A qualifying local program may incorporate the following components:

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- 1566 1. Informal and formal administrative enforcement procedures including:
 1567 a. Verbal warnings and inspection reports;
 1568 b. Notices of corrective action;
 1569 c. Consent special orders and civil charges in accordance with §§10.1-
 1570 603.2:1 subsection 7 and 10.1-603.14 subsection D2;
 1571 d. Notices to comply in accordance with §10.1-603.11;
 1572 e. Special orders in accordance with §10.1-603.2:1 subsection 7;
 1573 f. Emergency special orders in accordance with §10.1-603.2:1 subsection 7;
 1574 and
 1575 g. Public notice and comment periods pursuant to 4VAC50-60-660.
 1576 2. Civil and criminal judicial enforcement procedures including:
 1577 a. Schedule of civil penalties set out in subsection D;
 1578 b. Criminal penalties in accordance with §10.1-603.14 subsections B and C;
 1579 and
 1580 c. Injunctions in accordance with §§10.1-603.12:4, 10.1-603.2:1 and 10.1-
 1581 603.14 subsection D1.
 1582 B. A qualifying local program shall develop policies and procedures that outline the
 1583 steps to be taken regarding enforcement actions under the Stormwater Management Act
 1584 and attendant regulations and the local ordinance.
 1585 C. A qualifying local program may utilize the department’s Stormwater Management
 1586 Enforcement Manual as guidance in establishing policies and procedures.
 1587 D. A court may utilize as guidance the following Schedule of Civil Penalties set by
 1588 the board in accordance with §10.1-603.14 subsection A. The range contained within the
 1589 schedule reflects the degree of harm caused by the violation, which is site-specific and
 1590 may vary greatly from case to case, as may the economic benefit of noncompliance to
 1591 the violator. Each day of violation of each requirement shall constitute a separate
 1592 offense. Assignment of the degree of harm is a qualitative decision subject to the court’s
 1593 discretion. The court has the discretion to impose a maximum penalty of \$32,500 per
 1594 violation per day in accordance with §10.1-603.14 subsection A.
 1595

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

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

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

1596 E. Pursuant to §10.1-603.2:1 subsection 2, authorization to administer a qualifying
 1597 local program shall not remove from the board the authority to enforce the provisions of
 1598 the Virginia Stormwater Management Act and attendant regulations.

1599 F. Pursuant to §10.1-603.14 subsection A, amounts recovered by a qualifying local
 1600 program shall be paid into the treasury of the locality in which the violation occurred and
 1601 are to be used for the purpose of minimizing, preventing, managing, or mitigating
 1602 pollution of the waters of the locality and abating environmental pollution therein in such
 1603 manner as the court may, by order, direct.

1604 **4VAC50-60-118. Hearings.**

1605 A qualifying local program shall ensure that any permit applicant or permittee shall
 1606 have a right to a hearing pursuant to §10.1-603.12:6 and shall ensure that all hearings
 1607 held under this chapter shall be conducted in accordance with §10.1-603.12:7 or as
 1608 otherwise provided by law.

1609 **4VAC50-60-120. Requirements for local program and ordinance. (Repealed.)**

1610 A. At a minimum, the local stormwater management program and implementing
 1611 ordinance shall meet the following:

1612 1. The ordinance shall identify the plan approving authority and other positions of
 1613 authority within the program, and shall include the regulations and technical
 1614 criteria to be used in the program.

1615 2. The ordinance shall include procedures for submission and approval of plans,
 1616 issuance of permits, monitoring and inspections of land development projects.

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1617 ~~The party responsible for conducting inspections shall be identified. The local~~
1618 ~~program authority shall maintain, either on-site or in local program files, a copy of~~
1619 ~~the approved plan and a record of all inspections for each land development~~
1620 ~~project.~~

1621 ~~B. The department shall periodically review each locality's stormwater management~~
1622 ~~program, implementing ordinance, and amendments. Subsequent to this review, the~~
1623 ~~department shall determine if the program and ordinance are consistent with the state~~
1624 ~~stormwater management regulations and notify the locality of its findings. To the~~
1625 ~~maximum extent practicable the department will coordinate the reviews with other local~~
1626 ~~government program reviews to avoid redundancy. The review of a local program shall~~
1627 ~~consist of the following:~~

- 1628 ~~1. A personal interview between department staff and the local program~~
1629 ~~administrator or his designee;~~
- 1630 ~~2. A review of the local ordinance and other applicable documents;~~
- 1631 ~~3. A review of plans approved by the locality and consistency of application;~~
- 1632 ~~4. An inspection of regulated activities; and~~
- 1633 ~~5. A review of enforcement actions.~~

1634 ~~C. Nothing in this chapter shall be construed as limiting the rights of other federal~~
1635 ~~and state agencies from imposing stricter technical criteria or other requirements as~~
1636 ~~allowed by law.~~

1637 **4VAC50-60-122. Qualifying local program exceptions.**

1638 A. A qualifying local program may grant exceptions to the provisions of Part II
1639 (4VAC50-60-40 et seq.) through an administrative process. A request for an exception,
1640 including the reasons for making the request, shall be submitted, in writing, to the
1641 qualifying local program. An exception may be granted, provided that: (i) the exception is
1642 the minimum necessary to afford relief, (ii) reasonable and appropriate conditions shall
1643 be imposed as necessary upon any exception granted so that the intent of the Act and
1644 this chapter are preserved, (iii) granting the exception will not confer on the permittee
1645 any special privileges that are denied to other permittees who present similar
1646 circumstances, and (iv) exception requests are not based upon conditions or
1647 circumstances that are self-imposed or self-created.

1648 B. Economic hardship alone is not sufficient reason to grant an exception from the
1649 requirements of this chapter.

1650 C. Under no circumstance shall the qualifying local program grant an exception to
1651 the requirement that the land-disturbing activity obtain a permit.

1652 D. A record of all exceptions granted shall be maintained by the qualifying local
1653 program and reported to the department in accordance with 4VAC50-60-126.

1654 **4VAC50-60-124. Qualifying local program stormwater management facility**
1655 **maintenance.**

1656 A. Responsibility for the operation and maintenance of stormwater management
1657 facilities in accordance with this chapter, unless assumed by a governmental agency,
1658 shall remain with the property owner or other legally established entity and shall pass to
1659 any successor. The government entity implementing the qualifying local program shall
1660 be a party to each maintenance agreement. Such maintenance agreement shall include
1661 a schedule for inspections by the owner, and, in addition to ensuring that each facility is
1662 maintained as designed, shall ensure that the designed flow and drainage patterns from

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1663 the site to a permanent facility are maintained. Such agreements may also contain
1664 provisions specifying that, where maintenance or repair of a stormwater management
1665 facility located on the owner's property is neglected, or the stormwater management
1666 facility becomes a public health or safety concern and the owner has failed to perform
1667 the necessary maintenance and repairs after receiving notice from the locality, the
1668 qualifying local program may perform the necessary maintenance and repairs and
1669 recover the costs from the owner. In the specific case of a public health or safety danger,
1670 the agreement may provide that the written notice may be waived by the locality.

1671 B. The qualifying local program shall be notified of any transfer or conveyance of
1672 ownership or responsibility for maintenance of a stormwater management facility.

1673 C. The qualifying local program shall require right-of-entry agreements or easements
1674 from the property owner for purposes of inspection and maintenance.

1675 **4VAC50-60-126. Qualifying local program report and recordkeeping.**

1676 A. On a fiscal year basis (July 1 to June 30), a qualifying local program shall report to
1677 the department by October 1st of each year in a format provided by the department.
1678 The information to be provided shall include the following:

1679 1. Information on each permanent stormwater management facility completed
1680 during the fiscal year to include type of stormwater management facility,
1681 coordinates, acres treated, and the surface waters or karst features into which
1682 the stormwater management facility will discharge;

1683 2. Number of VSMP General Permit for Discharges of Stormwater from
1684 Construction Activities projects inspected and the total number of inspections by
1685 acreage categories determined by the department during the fiscal year;

1686 3. Number and type of enforcement actions during the fiscal year; and

1687 4. Number of exceptions applied for and the number granted or denied during the
1688 fiscal year.

1689 B. A qualifying local program shall make information set out in subsection A available
1690 to the department upon request.

1691 C. A qualifying local program shall keep records in accordance with the following:

1692 1. Permit files shall be kept for 3 years after permit termination. After 3 years, the
1693 permit file shall be delivered to the department by October 1st of each year.

1694 2. Stormwater maintenance facility inspection reports shall be kept for 5 years
1695 from the date of inspection.

1696 3. Stormwater maintenance agreements, design standards and specifications,
1697 post-construction surveys, and maintenance records shall be maintained in
1698 perpetuity.

1699 Part IIIB

1700 Department of Conservation and Recreation Administered Local Programs

1701 **4VAC50-60-128. Authority and applicability.**

1702 In the absence of a qualifying local program, the department, in accordance with an
1703 adoption and implementation schedule set by the board and upon board approval, shall
1704 administer the local stormwater management program in a locality in accordance with
1705 §10.1-603.3 subsection C. This part specifies the minimum technical criteria for a
1706 department-administered local stormwater management program in accordance with the
1707 Virginia Stormwater Management Act, §10.1-603.2 et seq., and the standards and
1708 criteria established in these regulations by the board pursuant to its authority under that

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1709 article. Such criteria include but are not limited to administration, plan review, issuance
1710 of coverage under the Virginia Stormwater Management Program (VSMP) General
1711 Permit for Discharges of Stormwater from Construction Activities, issuance of individual
1712 permits, inspection, enforcement, and education and outreach components.

1713 **4VAC50-60-130. Administrative procedures: stormwater management plans.**
1714 **(Repealed.)**

1715 ~~A. Localities shall approve or disapprove stormwater management plans according~~
1716 ~~to the following:~~

1717 ~~1. A maximum of 60 calendar days from the day a complete stormwater~~
1718 ~~management plan is accepted for review will be allowed for the review of the~~
1719 ~~plan. During the 60-day review period, the locality shall either approve or~~
1720 ~~disapprove the plan and communicate its decision to the applicant in writing.~~
1721 ~~Approval or denial shall be based on the plan's compliance with the locality's~~
1722 ~~stormwater management program.~~

1723 ~~2. A disapproval of a plan shall contain the reasons for disapproval.~~

1724 ~~B. Each plan approved by a locality shall be subject to the following conditions:~~

1725 ~~1. The applicant shall comply with all applicable requirements of the approved~~
1726 ~~plan, the local program, this chapter and the Act, and shall certify that all land~~
1727 ~~clearing, construction, land development and drainage will be done according to~~
1728 ~~the approved plan.~~

1729 ~~2. The land development project shall be conducted only within the area~~
1730 ~~specified in the approved plan.~~

1731 ~~3. The locality shall be allowed, after giving notice to the owner, occupier or~~
1732 ~~operator of the land development project, to conduct periodic inspections of the~~
1733 ~~project.~~

1734 ~~4. The person responsible for implementing the approved plan shall conduct~~
1735 ~~monitoring and submit reports as the locality may require to ensure compliance~~
1736 ~~with the approved plan and to determine whether the plan provides effective~~
1737 ~~stormwater management.~~

1738 ~~5. No changes may be made to an approved plan without review and written~~
1739 ~~approval by the locality.~~

1740 **4VAC50-60-132. Technical criteria.**

1741 A. The department-administered local stormwater management programs shall
1742 require compliance with the provisions of Part II (4VAC50-60-40 et seq.) unless an
1743 exception is granted pursuant to 4VAC50-60-142 subsection D and shall comply with the
1744 requirements of 4VAC50-60-460 subsection L.

1745 B. When reviewing a federal project, the department shall apply the provisions of this
1746 chapter.

1747 C. Nothing in this chapter shall be construed as limiting the rights of other federal
1748 and state agencies to impose stricter technical criteria or other requirements as allowed
1749 by law.

1750 **4VAC50-60-134. Administrative authorities.**

1751 A. The department is the permit issuing authority, plan approving authority, and the
1752 enforcement authority.

1753 B. The department or its designee is the plan reviewing authority and the inspection
1754 authority.

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- 1755 C. The department shall assess and collect fees.
- 1756 D. The department may require the submission of a reasonable performance bond or
1757 other financial surety in accordance with the criteria set forth in §10.1-603.8 prior to the
1758 issuance of coverage under the VSMP General Permit for Discharges of Stormwater
1759 from Construction Activities and in accordance with the following:
- 1760 1. The amount of the installation performance security shall be the total
1761 estimated construction cost of the stormwater management BMPs approved
1762 under the stormwater management plan, plus 25%;
- 1763 2. The performance security shall contain forfeiture provisions for failure, after
1764 proper notice, to complete work within the time specified, or to initiate or maintain
1765 appropriate actions which may be required in accordance with the approved
1766 stormwater management plan;
- 1767 3. Upon failure by the applicant to take such action as required, the department
1768 may act and may collect from the applicant the difference should the amount of
1769 the reasonable cost of such action exceed the amount of the security held; and
- 1770 4. Within 60 days of the completion of the requirements and conditions of the
1771 VSMP General Permit for Discharges of Stormwater from Construction Activities
1772 and the department's acceptance of the Notice of Termination, such bond, cash
1773 escrow, letter of credit or other legal arrangement shall be refunded to the
1774 applicant.
- 1775 **4VAC50-60-136. Stormwater management plan review.**
- 1776 A. Stormwater management plans shall be reviewed and approved by the
1777 department prior to commencement of land-disturbing activities.
- 1778 B. The department shall approve or disapprove a stormwater management plan and
1779 required accompanying information according to the criteria set out for a qualifying local
1780 program in 4VAC50-60-108 subsection B.
- 1781 C. The department shall not accept initial stormwater management plans.
- 1782 D. Each approved stormwater management plan may be modified in accordance
1783 with the criteria set out for a qualifying local program in 4VAC50-60-108 subsection D.
- 1784 **4VAC50-60-138. Issuance of coverage under the VSMP General Permit for**
1785 **Discharges of Stormwater from Construction Activities.**
- 1786 The department shall issue coverage under the VSMP General Permit for
1787 Discharges of Stormwater from Construction Activities in accordance with the following:
- 1788 1. The applicant must have a department approved stormwater management
1789 plan for the land-disturbing activity.
- 1790 2. The applicant must have submitted a complete registration statement for the
1791 VSMP General Permit for Discharges of Stormwater from Construction Activities
1792 in accordance with Part VII (4VAC50-60-360 et seq.) and the requirements of the
1793 VSMP General Permit for Discharges of Stormwater from Construction Activities,
1794 which acknowledges that a SWPPP has been developed and will be
1795 implemented, and the registration statement must have been reviewed and
1796 approved prior to the commencement of land disturbance.
- 1797 3. The applicant must have submitted the required fee form and fee for the
1798 registration statement seeking coverage under the VSMP General Permit for
1799 Discharges of Stormwater from Construction Activities.

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1800 4. Applicants submitting registration statements deemed to be incomplete must
1801 be notified within 15 working days of receipt by the department that the
1802 registration statement is not complete and be notified (i) of what material needs
1803 to be submitted to complete the registration statement, and (ii) that the land-
1804 disturbing activity does not have coverage under the VSMP General Permit for
1805 Discharges of Stormwater from Construction Activities.

1806 5. The applicant shall be notified of authorization of permit coverage by the
1807 department.

1808 6. Individual permits for qualifying land-disturbing activities may be issued at the
1809 discretion of the board or its designee pursuant to 4VAC50-60-410 subdivision
1810 B3.

1811 **4VAC50-60-140. Administrative procedures: exceptions. (Repealed.)**

1812 ~~A. A request for an exception shall be submitted, in writing, to the locality. An~~
1813 ~~exception from the stormwater management regulations may be granted, provided that:~~
1814 ~~(i) exceptions to the criteria are the minimum necessary to afford relief and (ii)~~
1815 ~~reasonable and appropriate conditions shall be imposed as necessary upon any~~
1816 ~~exception granted so that the intent of the Act and this chapter are preserved.~~

1817 ~~B. Economic hardship is not sufficient reason to grant an exception from the~~
1818 ~~requirements of this chapter.~~

1819 **4VAC50-60-142. Inspections, enforcement, hearings, exceptions, and stormwater**
1820 **management facility maintenance.**

1821 A. Inspections shall be conducted by the department in accordance with 4VAC50-60-
1822 114.

1823 B. Enforcement actions shall be conducted by the department in accordance with
1824 4VAC50-60-116. The department's Stormwater Management Enforcement Manual shall
1825 serve as guidance to be utilized in enforcement actions under the Stormwater
1826 Management Act and attendant regulations. Any amounts assessed by a court as a
1827 result of a summons issued by the board or the department shall be paid into the state
1828 treasury and deposited by the State Treasurer into the Virginia Stormwater Management
1829 Fund established pursuant to §10.1-603.4:1.

1830 C. Hearings shall be conducted by the department in accordance with 4VAC50-60-
1831 118.

1832 D. Exceptions may be granted by the department in accordance with 4VAC50-60-
1833 122.

1834 E. Stormwater management facility maintenance shall be conducted in accordance
1835 with 4VAC50-60-124.

1836 **4VAC50-60-150. Administrative procedures: maintenance and inspections.**
1837 **(Repealed.)**

1838 ~~A. Responsibility for the operation and maintenance of stormwater management~~
1839 ~~facilities, unless assumed by a governmental agency, shall remain with the property~~
1840 ~~owner and shall pass to any successor or owner. If portions of the land are to be sold,~~
1841 ~~legally binding arrangements shall be made to pass the basic responsibility to~~
1842 ~~successors in title. These arrangements shall designate for each project the property~~
1843 ~~owner, governmental agency, or other legally established entity to be permanently~~
1844 ~~responsible for maintenance.~~

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1845 ~~B. In the case of developments where lots are to be sold, permanent arrangements~~
1846 ~~satisfactory to the locality shall be made to ensure continued performance of this~~
1847 ~~chapter.~~

1848 ~~C. A schedule of maintenance inspections shall be incorporated into the local~~
1849 ~~ordinance. Ordinances shall provide that in cases where maintenance or repair is~~
1850 ~~neglected, or the stormwater management facility becomes a danger to public health or~~
1851 ~~safety, the locality has the authority to perform the work and to recover the costs from~~
1852 ~~the owner.~~

1853 ~~D. Localities may require right-of-entry agreements or easements from the applicant~~
1854 ~~for purposes of inspection and maintenance.~~

1855 ~~E. Periodic inspections are required for all stormwater management facilities.~~
1856 ~~Localities shall either:~~

1857 ~~1. Provide for inspection of stormwater management facilities on an annual basis;~~
1858 ~~or~~

1859 ~~2. Establish an alternative inspection program which ensures that stormwater~~
1860 ~~management facilities are functioning as intended. Any alternative inspection~~
1861 ~~program shall be:~~

1862 ~~a. Established in writing;~~

1863 ~~b. Based on a system of priorities that, at a minimum, considers the purpose~~
1864 ~~of the facility, the contributing drainage area, and downstream conditions; and~~

1865 ~~c. Documented by inspection records.~~

1866 ~~F. During construction of the stormwater management facilities, localities shall make~~
1867 ~~inspections on a regular basis.~~

1868 ~~G. Inspection reports shall be maintained as part of a land development project file.~~

1869 **4VAC50-60-154. Reporting and recordkeeping.**

1870 ~~A. The department shall maintain a current database of permit coverage information~~
1871 ~~for all projects that includes permit number, operator name, activity name, acres~~
1872 ~~disturbed, date of permit coverage, and site address and location.~~

1873 ~~B. On a fiscal year basis (July 1 to June 30), a local program shall report to the~~
1874 ~~department by October 1st in accordance with 4VAC50-60-126 subsection A.~~

1875 ~~C. On a fiscal year basis (July 1 to June 30), the department shall compile~~
1876 ~~information provided by local programs.~~

1877 ~~D. Records shall be maintained by the department in accordance with 4VAC50-60-~~
1878 ~~126 subsection C.~~

1879 Part IIIC

1880 Department of Conservation and Recreation Procedures for Review of Qualifying Local
1881 Programs

1882 **4VAC50-60-156. Authority and applicability.**

1883 ~~This part specifies the criteria that the department will utilize in reviewing a locality's~~
1884 ~~administration of a qualifying local program pursuant to §10.1-603.12 following the~~
1885 ~~board's approval of such program in accordance with the Virginia Stormwater~~
1886 ~~Management Act and these regulations.~~

1887 **4VAC50-60-157. Stormwater management program review.**

1888 ~~A. The department shall review each board-approved qualifying local program at~~
1889 ~~least once every five years on a review schedule approved by the board. The~~

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1890 department may review a qualifying local program on a more frequent basis if deemed
1891 necessary by the board and shall notify the local government if such review is
1892 scheduled.

1893 B. The review of a board-approved qualifying local program shall consist of the
1894 following:

1895 1. An interview between department staff and the qualifying local program
1896 administrator or his designee;

1897 2. A review of the local ordinance(s) and other applicable documents;

1898 3. A review of a subset of the plans approved by the qualifying local program and
1899 consistency of application including exceptions granted;

1900 4. An accounting of the receipt and of the expenditure of fees received;

1901 5. An inspection of regulated activities; and

1902 6. A review of enforcement actions and an accounting of amounts recovered
1903 through enforcement actions.

1904 C. To the extent practicable, the department will coordinate the reviews with other
1905 local government program reviews to avoid redundancy.

1906 D. The department shall provide its recommendations to the board within 90 days of
1907 the completion of a review. Such recommendations shall be provided to the locality in
1908 advance of the meeting.

1909 E. The board shall determine if the qualifying local program and ordinance are
1910 consistent with the Act and state stormwater management regulations and notify the
1911 qualifying local program of its findings.

1912 F. If the board determines that the deficiencies noted in the review will cause the
1913 qualifying local program to be out of compliance with the Stormwater Management Act
1914 and its attendant regulations, the board shall notify the qualifying local program
1915 concerning the deficiencies and provide a reasonable period of time for corrective action
1916 to be taken. If the qualifying local program agrees to the corrective action recommended
1917 by the board, the qualifying local program will be considered to be conditionally
1918 compliant with the Stormwater Management Act and its attendant regulations until a
1919 subsequent finding is issued by the board. If the qualifying local program fails to take the
1920 corrective action within the specified time, the board may take action pursuant to §10.1-
1921 603.12 of the Code of Virginia.

1922 Part IIID

1923 Virginia Soil and Water Conservation Board Authorization for Qualifying Local Programs

1924 **4VAC50-60-158. Authority and applicability.**

1925 Section 10.1-603.4 subsection 1 requires that the board establish standards and
1926 procedures for authorizing a locality to administer a stormwater management program.
1927 In accordance with that requirement, and with the further authority conferred upon the
1928 board by the Virginia Stormwater Management Act, §10.1-603.2 et seq., this part
1929 specifies the procedures the board will utilize in authorizing a locality to administer a
1930 qualifying local program.

1931 **4VAC50-60-159. Authorization procedures for qualifying local programs.**

1932 A. A locality required to adopt a program in accordance with §10.1-603.3 subsection
1933 A or those electing to seek authorization to administer a qualifying local program must
1934 submit to the board an application package which, at a minimum, contains the following:

1935 1. The local program ordinance(s);

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1936 2. A funding and staffing plan based on the projected permitting fees; and
1937 3. The policies and procedures, including but not limited to, agreements with Soil
1938 and Water Conservation Districts, adjacent localities, or other entities, for the
1939 administration, plan review, permit issuance, inspection and enforcement
1940 components of the program.

1941 B Upon receipt of an application package, the board or its designee shall have 20
1942 calendar days to determine the completeness of the application package. If an
1943 application package is deemed to be incomplete based on the criteria set out in
1944 subsection A of this section, the board or its designee must identify in writing the
1945 reasons the application package is deemed deficient.

1946 C Upon receipt of a complete application package, the board or its designee shall
1947 have 90 calendar days for the review of the application package. During the 90-day
1948 review period, the board or its designee shall either approve or disapprove the
1949 application, or notify the locality of a time extension for the review, and communicate its
1950 decision to the locality in writing. If the application is not approved, the reasons for not
1951 approving the application shall be provided to the locality in writing. Approval or denial
1952 shall be based on the application's compliance with the Virginia Stormwater
1953 Management Act and these regulations.

1954 D A locality required to adopt a qualifying local program in accordance with §10.1-
1955 603.3 subsection A shall submit a complete application package for the board's review
1956 pursuant to a schedule set by the board in accordance with §10.1-603.3 and shall adopt
1957 a qualifying local program consistent with the Act and this chapter within the timeframe
1958 established pursuant to §10.1-603.3.

1959 E A locality not required to adopt a qualifying local program in accordance with
1960 §10.1-603.3 subsection A but electing to adopt a qualifying local program shall notify the
1961 board in accordance with the following:

1962 1. A locality electing to adopt a qualifying local program may notify the board of
1963 its intention within six months of the effective date of these regulations. Such
1964 locality shall submit a complete application package for the board's review
1965 pursuant to a schedule set by the board and shall adopt a qualifying local
1966 program within the timeframe established by the board.

1967 2. A locality electing to adopt a qualifying local program that does not notify the
1968 board within the initial six-month period of its intention may thereafter notify the
1969 board at any regular meeting of the board. Such notification shall include a
1970 proposed schedule for adoption of a qualifying local program within a timeframe
1971 agreed upon by the board.

1972 F The department shall administer the responsibilities of the Act and this chapter in
1973 any locality in which a qualifying local program has not been adopted. The department
1974 shall develop a schedule, to be approved by the board, for adoption and implementation
1975 of the requirements of this chapter in such localities. Such schedule may include phases
1976 of implementation and shall be based upon considerations including the typical number
1977 of permitted projects located within a locality, total number of acres disturbed by such
1978 permitted projects, and such other considerations as may be deemed necessary by the
1979 board.

1980 DOCUMENTS INCORPORATED BY REFERENCE

1981 Illicit Discharge Detection and Elimination – A Guidance Manual for Program
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1986 841-B-03-002, December 2003, U.S. Environmental Protection Agency, Office of
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- 1991** Municipal Stormwater Program Evaluation Guidance, EPA-833-R-07-003, January
1992 2007 (field test version), U.S. Environmental Protection Agency, Office of Wastewater
1993 Management, available on the Internet at
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1996 Road, Springfield, VA 22161, telephone 1-800-553-6847 or (703) 605-6000.
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- 1999** Technical Memorandum – The Runoff Reduction Method, April 2008, and beta-
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