

1 **4VAC 50-60-10 Definitions**

2 "Local stormwater management program" or "local program" means the various
3 methods employed by a locality or the department to manage the quality and quantity of
4 runoff resulting from land-disturbing activities and shall include such items as local
5 ordinances, permit requirements, policies and guidelines, technical materials, plan
6 review, inspection, enforcement, and evaluation consistent with the Act and this chapter.
7 Upon board approval of a locality-administered program, it shall be recognized as a
8 qualifying local program.

9
10 "Qualifying local stormwater management program" or "qualifying local program"
11 means a ~~local program that~~ stormwater management program, administered by a
12 locality, ~~that has been authorized by the board to issue at least as stringent as the VSMP~~
13 General Permit for Discharges of Stormwater from Construction Activities that has been
14 approved by the board.

15
16 "Stormwater Pollution Prevention Plan" or "SWPPP" means a document that is
17 prepared in accordance with good engineering practices and that identifies potential
18 sources of pollutants that may reasonably be expected to affect the quality of stormwater
19 discharges from the construction site or its associated land-disturbing activities. In
20 addition the document shall identify and require the implementation of control measures,
21 and shall include, but not be limited to the inclusion of, or the incorporation by reference
22 of, an approved erosion and sediment control plan, ~~a post-construction~~ an approved
23 stormwater management plan, a spill prevention control and countermeasure (SPCC)
24 and a pollution prevention plan for regulated land-disturbing activities, ~~and other~~
25 ~~practices that will be used to minimize pollutants in stormwater discharges from land-~~
26 ~~disturbing activities in compliance with the terms and conditions of this chapter. All plans~~
27 ~~incorporated by reference into the SWPPP shall be enforceable under the permit issued~~
28 ~~or general permit coverage authorized. In context with a Qualifying Local Program, a~~
29 ~~SWPPP consists of an approved Erosion and Sediment Control Plan, a stormwater~~
30 ~~pollution prevention plan for during construction activities and a stormwater management~~
31 ~~plan.~~

32
33 **4VAC50-60-30. Applicability.**

34 This chapter is applicable to:

- 35 1. Every private, local, state, or federal entity that establishes a stormwater
36 management program or a MS4 program;
- 37 2. Every local stormwater management program;
- 38 3. The department in its oversight of locally administered programs or in its
39 administration of a local program as required by §10.1-603.12;
- 40 4. Every state agency project regulated under the Act and this chapter; and
- 41 5. Every land-disturbing activity regulated under §10.1-603.8 of the Code of
42 Virginia unless otherwise exempted in § 10.1-603.8 B. Such regulated land
43 disturbing activities generally include:
 - 44 a. One acre or more of disturbed land area;
 - 45 b. 2,500 square feet in jurisdictions subject to the Chesapeake Bay
46 Preservation Act (§ 10.1-2100 et seq.);

47 c. Activities that are part of a larger common plan of development or sale
48 that is one acre or greater of disturbance.

49
50 **Part II ____**

51 **Technical criteria for regulated land-disturbing activities**

52
53 **4VAC50-60-xxx Stormwater Pollution Prevention Plan Content**

54 A SWPPP consists of an approved Erosion and Sediment Control Plan, a pollution
55 prevention plan for regulated land-disturbing activities and a stormwater management
56 plan.

57 A. An erosion and sediment control plan consistent with the requirements of the
58 Virginia Erosion and Sediment Control Law and regulations must be designed and
59 implemented during construction activities. Prior to land disturbance, this plan must be
60 approved by the either the local erosion and sediment control program or the department
61 in accordance with the Virginia Erosion and Sediment Control Law and attendant
62 regulations.

63 B. An stormwater management plan consistent with the requirements of the Virginia
64 Stormwater Management Act and regulations must be designed and implemented during
65 construction activities. Prior to land disturbance, this plan must be approved by the local
66 stormwater management program.

67 C. A pollution prevention plan that identifies potential sources of pollutants that may
68 reasonably be expected to affect the quality of stormwater discharges from the
69 construction site and describe control measures that will be used to minimize pollutants
70 in stormwater discharges from the construction site must be developed before land
71 disturbance commences.

72 **4VAC50-60-xxx. Stormwater Management Plans**

73 A. A stormwater management plan shall be developed and submitted to the local
74 stormwater management program. The stormwater management plan shall be
75 implemented as approved or modified by the local stormwater management program.

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

79 2. ~~The~~ A stormwater management plan shall consider all sources of surface
80 runoff and all sources of subsurface and groundwater flows converted to surface
81 runoff.

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

83 a. 1. Information on the type of and location of stormwater discharges,
84 information on the features to which stormwater is being discharged including
85 surface waters or karst features if present, and predevelopment and
86 postdevelopment drainage areas;

87 b. 2. Contact information including the name, address, and telephone number of
88 the owner and the tax reference number and parcel number of the property or
89 properties affected;

90 e. 3. A narrative that includes a description of current site conditions and final site
91 conditions or if allowed by the local stormwater management program, the
92 information provided and documented during the review process that address the
93 current and final site conditions;

94 ~~d. 4.~~ A general description of the proposed stormwater management facilities and
95 the mechanism through which the facilities will be operated and maintained after
96 construction is complete;

97 ~~e. 5.~~ The location and design of the proposed stormwater management facilities;

98 ~~f. 6.~~ Hydrologic and hydraulic computations;

99 ~~g. 7.~~ ~~Good engineering practices, documentation,~~ Documentation and
100 calculations verifying compliance with the water quality and quantity
101 requirements;

102 ~~h. 8.~~ A map or maps of the site that depicts the topography of the site and
103 includes:

104 (1) ~~a.~~ All contributing drainage areas;

105 (2) ~~b.~~ Existing streams, ponds, culverts, ditches, wetlands, and other water
106 bodies;

107 (3) ~~c.~~ Soil types, geologic formations if karst features are present in the area,
108 forest cover, and other vegetative areas;

109 (4) ~~d.~~ Current land use including existing structures, roads, and locations of
110 known utilities and easements;

111 (5) ~~e.~~ Sufficient information on adjoining parcels to assess the impacts of
112 stormwater from the site on these parcels;

113 (6) ~~f.~~ The limits of clearing and grading, and the proposed drainage patterns
114 on the site;

115 (7) ~~g.~~ Proposed buildings, roads, parking areas, utilities, and stormwater
116 management facilities; and

117 (8) ~~h.~~ Proposed land use with tabulation of the percentage of surface area to
118 be adapted to various uses, including but not limited to planned locations of
119 utilities, roads, and easements.

120 ~~i. 9.~~ If payment of a fee is required with the stormwater management plan
121 submission by the local stormwater management program, the fee and the
122 required fee form in accordance with Part 13 must have been submitted.

123 ~~j.~~ ~~The applicant must have submitted executed right-of-entry agreements or~~
124 ~~easements, in a form acceptable to the local program from the owner for~~
125 ~~purposes of inspection and maintenance and proposed maintenance~~
126 ~~agreements, including inspection schedules, where required in accordance with~~
127 ~~4VAC50-60-124.~~

128 2-C. Elements of the stormwater management plans shall be appropriately sealed
129 and signed by a professional registered in the Commonwealth of Virginia.

130 ~~C. Notwithstanding the requirements of subsection A of this section, if allowed by the~~
131 ~~qualifying local program, an initial stormwater management plan may be submitted for~~
132 ~~review and approval. Prior to any grading, building or other permit being issued for a~~
133 ~~property, proof of VSMP coverage and a certification stating that all land clearing,~~
134 ~~construction, disturbance, land development and drainage will be done according to the~~
135 ~~approved permit conditions shall be provided.~~

136 ~~D. Prior to the release to the portion of any performance bond or surety associated with~~
137 ~~the stormwater management facility, a A construction record drawing for permanent~~
138 stormwater management facilities shall be submitted to the local stormwater
139 management program. The construction record drawing shall be appropriately sealed
140 and signed by a professional registered in the Commonwealth of Virginia, certifying that
141 the stormwater management facilities have been constructed in general accordance with
142 the approved plan and will function as designed.

143

144 **4VAC50-60-xxx. Pollution Prevention Plans**

145 ~~A. In addition to an approved erosion and sediment control plan, a A plan for~~
146 implementing stormwater pollution prevention measures during construction activities
147 shall be developed and implemented. The stormwater pollution prevention plan shall
148 detail the design, installation, implementation and maintenance of effective pollution
149 prevention measures to minimize the discharge of pollutants. At a minimum, such
150 measures must be designed, installed, implemented and maintained to:

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

155 2. Minimize the exposure of building materials, building products, construction
156 wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents,
157 sanitary waste and other materials present on the site to precipitation and to
158 stormwater; and

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

161 ~~C.B.~~ The stormwater pollution prevention plan shall include effective best
162 management practices to prohibit the following discharges:

163 1. Wastewater from washout of concrete, unless managed by an appropriate
164 control;

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

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

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

170

171 **4VAC50-60-xxx. Exceptions**

172 A request for an exception for Part IIA ~~and~~ or Part IIB, including the reasons for making
173 the request, may be submitted in writing to the local stormwater management program.
174 Economic hardship alone is not a sufficient reason to request an exception from the
175 requirements of this chapter. The request for an exception will be reviewed pursuant to
176 4VAC50-60-xxx.(Local stormwater management program exceptions). A request for an
177 An exception to the requirement that the land disturbing activity obtain a permit will not
178 be granted by the local stormwater management program.

179

180 **4VAC50-60-xxx. Maintenance Agreements Responsibility for long term**
181 **maintenance of stormwater management facilities**

182 ~~A. A maintenance agreement shall be provided to the local stormwater management~~
183 ~~program and shall be recorded in the property deed. The maintenance agreement shall~~
184 ~~require the following:~~

185 ~~1. the submittal of written inspection and maintenance reports, in accordance with~~
186 ~~the inspection and maintenance schedule, to the local stormwater management program~~
187 ~~documenting that the facility is being properly maintained;~~

188 ~~2. notification of the local stormwater management program of any transfer or~~
189 ~~conveyance of conveyance of ownership or responsibility for maintenance of a~~
190 ~~stormwater management facility; and~~

191 ~~3. right of entry agreements or easements providing access to the property for~~
192 ~~purposes of inspection and maintenance.~~

193 A. The local stormwater management program shall require the provision of long-term
194 responsibility for and maintenance of stormwater management control devices and other
195 techniques specified to manage the quality and quantity of runoff. Such requirements
196 shall be set forth in an instrument recorded in the local land records prior to permit
197 termination and shall, at a minimum:

198 a. be submitted to the local stormwater management program for review and
199 approval prior to the approval of the stormwater management plan;

200 b. be stated to run with the land;

201 c. provide for all necessary access to the property for purposes of maintenance
202 and regulatory inspections;

203 d. provide for inspections and maintenance and the submission of inspection and
204 maintenance reports to the local stormwater management program; and

205 e. be enforceable by all appropriate governmental parties.

206 ~~B. At the discretion of the local stormwater management program, maintenance~~
207 ~~agreements Such recorded instruments, at the discretion of the local program, may need~~
208 ~~not be required for stormwater management facilities designed to treat stormwater runoff~~
209 ~~primarily from an individual residential lot on which they are located, provided it is~~
210 ~~demonstrated to the satisfaction of the local stormwater management program that~~
211 ~~future maintenance of such facilities will be addressed through a deed restriction or other~~
212 ~~an enforceable mechanism at the discretion of the local stormwater management~~
213 ~~program.~~

214

215 **4VAC50-60-xxx Applying for VSMP permit coverage**

216 The operator must submit a complete and accurate registration statement (VSMP
217 General Permit for Discharges of Stormwater from Construction Activities (VAR10) -

218 Registration Statement, DCR 199-146 (03/09)) to a local stormwater management
219 program in order to apply for VSMP permit coverage. The registration statement must
220 be signed by the operator in accordance with 4VAC50-60-370.

221

222

Part III

223 **4VAC50-60-101. Purpose**

224 This part specifies the minimum ~~technical~~ criteria for local stormwater management
225 programs, including those operated by the Department ~~where no qualifying local~~
226 ~~program is authorized, and the minimum technical criteria for qualifying local programs.~~
227 Such criteria include but are not limited to administration, plan review, inspection, and
228 enforcement. This part also includes the board's procedures for the oversight of local
229 stormwater management programs ~~and qualifying local program.~~

230

231 **4VAC50-60-102. Authority.**

232 If a locality has adopted a local stormwater management program in accordance with
233 the Virginia Stormwater Management Act (§ 10.1-603.2 et seq. of the Code of Virginia)
234 and the board has deemed such program adoption consistent with the Virginia
235 Stormwater Management Act and these regulations in accordance with § 10.1-603.3 F of
236 the Code of Virginia, the board may authorize a locality to administer a local stormwater
237 management program. Pursuant to § 10.1-603.4, the board is required to establish
238 standards and procedures for such an authorization.

239 This part specifies the minimum ~~technical~~ criteria and the local government
240 ordinance requirements for a local stormwater management program ~~to be considered a~~
241 ~~qualifying local program.~~

242

243

244

Part III A. Local Stormwater Management Programs

245

246 **4VAC50-60-104. ~~Technical criteria~~ Criteria for local stormwater management** 247 **programs**

248 A. All local stormwater management programs shall require compliance with the
249 provisions of Part II ~~as applicable~~ (4VAC50-60-40 et seq.) of this chapter.

250 B. Nothing in this part shall be construed as authorizing a locality to regulate, or to
251 require prior approval by the locality for a state or federal project unless authorized by
252 separate statute.

253 C. When a locality operating a local stormwater management program has adopted
254 requirements more stringent than those imposed by this chapter in accordance with §
255 10.1-603.7 of the Code of Virginia or implemented a comprehensive stormwater
256 management plan, the department shall consider such requirements in its review of state
257 and federal projects within that locality in accordance with Part IV (4VAC50-60-160 et
258 seq.) of this chapter.

259 D. A local stormwater management program may require the submission of a
260 reasonable performance bond or other financial surety and provide for the release of
261 such sureties in accordance with the criteria set forth in § 10.1-603.8 of the Code of
262 Virginia.

263

264 **4VAC50-60-xxx. Additional Technical Requirements for ~~Locality-operated~~ Locality-**
265 **administered Local Stormwater Management Programs to be Qualifying Local**
266 **Programs under the VSMP General Permit for Discharges of Stormwater from**
267 **Construction Activities.**

268 ~~A. As per 4 VAC50-60-460L, in addition to a local stormwater management~~
269 ~~program's criteria found in 4VAC50-60-104, in~~ In order to be considered a qualifying
270 local program under the VSMP General Permit for Discharges of Stormwater from
271 Construction Activities, a locality-administered local stormwater management program
272 shall adopt ordinances that ensure compliance with the requirements set forth in
273 4VAC50-60-460L.

274 ~~A. Adopt by ordinance, inspect and enforce requirements for implementation of~~
275 ~~appropriate erosion and sediment control best management practices during~~
276 ~~construction activities. Ordinances shall be consistent with the Virginia Erosion and~~
277 ~~Sediment Control Law and any more stringent erosion and sediment control~~
278 ~~requirements required by the VSMP General Permit.~~

279 ~~B. Adopt by ordinance, inspect and enforce requirements to control waste such as~~
280 ~~discarded building materials, concrete truck washout, chemicals, litter, and sanitary~~
281 ~~waste at the construction site that may cause adverse impacts to water quality including~~
282 ~~any specific requirements required by the VSMP General Permit. [Can make this more~~
283 ~~general? — put specifics in Part 2]~~

284 ~~C. Adopt by ordinance, inspect and enforce requirements for development,~~
285 ~~implementation and maintenance of a stormwater pollution prevention plan. A~~
286 ~~stormwater pollution prevention plan includes site descriptions; descriptions of~~
287 ~~appropriate control measures; copies of approved state, tribal or local requirements;~~
288 ~~maintenance procedures; inspection procedures; and identification of nonstormwater~~
289 ~~discharges.~~

290 B. The locality shall adopt ordinances at least as stringent as the provisions of the
291 General Virginia Stormwater Management Program (VSMP) Permit for Discharges of
292 Stormwater from Construction Activities.

293
294 **4VAC50-60-108. Local ~~program~~ stormwater management program plan review.**

295 ~~A. A local stormwater management program shall require review and approve~~
296 ~~stormwater management plans to be submitted for review and be approved prior to~~
297 ~~commencement of land-disturbing activities.~~

298 ~~B. A local stormwater management program shall approve or disapprove a~~
299 ~~stormwater management plan according to the following:~~

300 1. The local stormwater management program shall determine the completeness
301 of a plan in accordance with 4VAC50-60-xxx (stormwater management plans),
302 and shall notify the applicant of any determination, within 15 calendar days of
303 receipt. Where available to the applicant, electronic communication may be
304 considered communication in writing.

305 a. If within those 15 days the plan is deemed to be incomplete ~~based on the~~
306 ~~criteria set out in this subsection~~, the applicant shall be notified in writing of
307 the reasons the plan is deemed incomplete.

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

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

315 d. The local stormwater management program shall ~~act~~ review within 45 days
316 ~~on~~ any plan that has been previously disapproved and resubmitted

317 ~~3.~~ 2. During the review period, the plan shall be approved or disapproved and the
318 decision communicated in writing to the person responsible for the land-
319 disturbing activity or his designated agent. If the plan is not approved, the
320 reasons for not approving the plan shall be provided in writing. Approval or denial
321 shall be based on the plan's compliance with the requirements of this chapter
322 and of the local stormwater management program. Where available to the
323 applicant, electronic communication may be considered communication in
324 writing.

325 ~~4.~~ 3. If a plan meeting all requirements of this chapter and of the local stormwater
326 management program is submitted and no action is taken within the time
327 specified above, the plan shall be deemed approved.

328 ~~5.~~ 4. A local stormwater management program may consider the entire site a
329 single land-disturbing activity, rather than individual lots or planned phases of
330 developments

331 ~~C. Notwithstanding the requirements of subsection A of this section, if allowed by the~~
332 ~~local stormwater management program, an initial stormwater management plan may be~~
333 ~~submitted for review and approval. Prior to any grading, building or other permit being~~
334 ~~issued for a property, proof of VSMP coverage and a certification stating that all land~~
335 ~~clearing, construction, disturbance, land development and drainage will be done~~
336 ~~according to the approved permit conditions shall be required.~~

337 ~~D-C.~~ Each approved plan may be modified in accordance with the following:

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

342 2. Based on an inspection, the local stormwater management program may
343 require amendments to the approved stormwater management plan to address
344 the any deficiencies and notify the permittee of the required modifications found
345 within a time frame set by the local stormwater management program.

346 ~~E. D.~~ A local stormwater management program shall not provide authorization to
347 begin land disturbing activities until provided evidence of VSMP permit coverage.

348 ~~F.E.~~ Prior to the release to the portion of any performance bond or surety associated
349 with the stormwater management facility, the The local stormwater management
350 program shall require the submission of a construction record drawing for permanent
351 stormwater management facilities in accordance with 4VAC50-60xxx (stormwater
352 management plans). A local stormwater management program may elect not to require
353 construction record drawings for stormwater management facilities for which
354 maintenance agreements are not required pursuant to 4VAC50-60-124.

355

356 **4VAC50-60-xxx. Local stormwater management program facility maintenance.**

357 ~~A.~~ Local stormwater management programs shall require ~~maintenance agreements~~
358 recorded instruments in accordance with 4VAC50-60-xxx (long-term maintenance). The

359 ~~local stormwater management program recorded instrument~~ shall ensure, through the
360 ~~use of maintenance agreements,~~ that unless assumed by a governmental agency, the
361 responsibility for the operation and maintenance of stormwater management facilities
362 remains with the property owner or other legally established entity and shall pass to any
363 successor.

364 ~~B. In addition to the requirements listed in 4VAC50-60-xxx, the local stormwater~~
365 ~~management program may require provisions specifying that, where maintenance or~~
366 ~~repair of a stormwater management facility located on the owner's property is neglected,~~
367 ~~or the stormwater management facility becomes a public health or safety concern and~~
368 ~~the owner has failed to perform the necessary maintenance and repairs after receiving~~
369 ~~notice from the locality, the may perform the necessary maintenance and repairs and~~
370 ~~recover the costs from the owner. In the specific case of a public health or safety danger,~~
371 ~~the agreement may provide that the written notice may be waived by the locality.~~

372 ~~C. At the discretion of the local stormwater management program, maintenance~~
373 ~~agreements may not be required for stormwater management facilities designed to treat~~
374 ~~stormwater runoff primarily from an individual residential lot on which they are located,~~
375 ~~provided it is demonstrated to the satisfaction of the local stormwater management~~
376 ~~program that future maintenance of such facilities will be addressed through a deed~~
377 ~~restriction or other enforceable mechanism~~

378

379 **4VAC50-60-xxx. Inspections.**

380 A. The local stormwater management program shall inspect the land-disturbing
381 activity during construction for:

- 382 1. compliance with the approved erosion and sediment control plan;
- 383 2. compliance with the approved stormwater management plan; and
- 384 3. the development, updating, and implementation of a ~~current (updated)~~ pollution
385 prevention plan.

386 B. A local stormwater management program shall establish an inspection program
387 that ensures that the stormwater management facilities are being adequately maintained
388 as designed after completion of all construction activities. ~~Any inspection program~~
389 Inspection programs shall:

- 390 1. ~~Approved~~ Be approved by the board;
- 391 2. Ensures that each stormwater management facility is inspected by the
392 ~~qualifying local program~~ local stormwater management program or its designee,
393 not to include the owner, except as provided in subsections C and D of this
394 section, at least once every five years; and
- 395 3. ~~Documented~~ Be documented by ~~inspection~~ records.

396 C. A local stormwater management program may utilize the ~~written inspection and~~
397 ~~maintenance reports required under a maintenance agreement~~ 4VAC50-60-xxx (long-
398 term maintenance section) as part of a consistent board-approved inspection program
399 established under subsection B of this section if the inspection is conducted by a person
400 who is licensed as a professional engineer, architect, landscape architect, or land
401 surveyor pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 or who holds
402 a an appropriate certificate of competence from the board. ~~The reports, if so utilized,~~
403 ~~must be kept on file with the qualifying local program.~~

404 D. A If a recorded instrument is not required pursuant to 4VAC50-60- xxx (long-term
405 maintenance section), a local stormwater management program shall develop a strategy

406 for addressing maintenance of stormwater management facilities designed to treat
407 stormwater runoff primarily from an individual residential lot on which they are located.
408 Such a strategy may include periodic inspections, homeowner outreach and education,
409 or other method targeted at promoting the long-term maintenance of such facilities. Such
410 facilities shall not be subject to the requirement for an inspection to be conducted by the
411 ~~qualifying local program~~ local stormwater management program ~~contained within~~
412 ~~subsection E of this section.~~

413 ~~F. Documentation of inspections shall be kept on file in accordance with 4VAC50-60-~~
414 ~~126 for all stormwater management facilities inspected by the local stormwater~~
415 ~~management program.~~

416

417 **4VAC50-60-116. Enforcement.**

418 A. A local stormwater management program may incorporate the following
419 enforcement components:

- 420 1. Informal and formal administrative enforcement procedures including:
- 421 a. Verbal warnings and inspection reports;
 - 422 b. Notices of corrective action;
 - 423 c. Consent special orders and civil charges in accordance with subdivision 7
424 of § 10.1-603.2:1 and § 10.1-603.14 D 2 of the Code of Virginia;
 - 425 d. Notices to comply in accordance with § 10.1-603.11 of the Code of
426 Virginia;
 - 427 e. Special orders in accordance with subdivision 7 of § 10.1-603.2:1 of the
428 Code of Virginia; **[Question: does this provide for stop work orders?]**
 - 429 f. Emergency special orders in accordance with subdivision 7 of § 10.1-
430 603.2:1 of the Code of Virginia; and
 - 431 g. Public notice and comment periods for proposed settlements and consent
432 special orders pursuant to 4VAC50-60-660.
- 433 2. Civil and criminal judicial enforcement procedures including:
- 434 a. Schedule of civil penalties as permitted by law **[need to be more specific?]**;
 - 435 b. Criminal penalties in accordance with § 10.1-603.14 B and C of the Code
436 of Virginia; and
 - 437 c. Injunctions in accordance with §§ 10.1-603.12:4, 10.1-603.2:1 and 10.1-
438 603.14 D 1 of the Code of Virginia.

439 B. Local stormwater management programs shall develop policies and procedures
440 that outline the steps to be taken regarding enforcement actions under the Stormwater
441 Management Act and attendant regulations and ~~the local ordinance~~ ordinances.

442 C. A court may utilize as guidance the following Schedule of Civil Penalties set by
443 the board in accordance with § 10.1-603.14 A of the Code of Virginia. The range
444 contained within the schedule reflects the degree of harm caused by the violation, which
445 is site-specific and may vary greatly from case to case, as may the economic benefit of
446 noncompliance to the violator. Each day of violation of each requirement shall constitute
447 a separate offense. Assignment of the degree of harm is a qualitative decision subject to
448 the court's discretion. The court has the discretion to impose a maximum penalty of
449 \$32,500 per violation per day in accordance with § 10.1-603.14 A of the Code of
450 Virginia.

451

452
453

Table and Section C is under review by Department (some schedule of civil penalties is required by the Act)

1. Gravity-based Component	Marginal	Moderate	Serious	
Violations* and Frequency of Occurrence **	\$\$ x occurrences	\$\$ x occurrences	\$\$ x occurrences	SUBTOTAL
No Permit Registration (each month w/o coverage = 1 occurrence)	500 x _____	1,000 x _____	2,000 x _____	
No SWPPP (No SWPPP components including E&S Plan) (each month of land-disturbing without SWPPP = 1 occurrence)	1,000 x _____	1,500 x _____	2,000 x _____	
Incomplete SWPPP	300 x _____	500 x _____	1,000 x _____	
SWPPP not on site	100 x _____	300 x _____	500 x _____	
No approved Erosion and Sediment Control Plan	500 x _____	1,000 x _____	2,000 x _____	
Failure to install stormwater BMPs or erosion and sediment ("E&S") controls	300 x _____	500 x _____	1,000 x _____	
Stormwater BMPs or E&S controls improperly installed or maintained	250 x _____	500 x _____	750 x _____	

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)	1,000 x _____	2,000 x _____	5,000 x _____	
Failure to conduct required inspections	500 x _____	2,000 x _____	3,000 x _____	
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.)	300 x _____	500 x _____	1,000 x _____	
			Subtotal #1	
2. Estimated Economic Benefit of Noncompliance (if applicable)			Subtotal #2	
3. Recommended civil penalty			Total (#1 and #2)	
<p>* Each stormwater BMP or E&S control that is either not installed or improperly installed or maintained is a separate violation.</p> <p>** The frequency of occurrence is per event unless otherwise noted.</p>				

454 ~~E.~~ D. Pursuant to subdivision 2 of § 10.1-603.2:1 of the Code of Virginia,
455 authorization to administer local stormwater management programs shall not remove
456 from the board the authority to enforce the provisions of the ~~Virginia Stormwater~~
457 ~~Management Act~~ and attendant regulations.

458 ~~F.~~ E. The department may terminate VSMP coverage during its term and require
459 application for an individual permit or deny a permit renewal application for failure to
460 comply with permit conditions or on its own initiative in accordance with the Act and this
461 chapter.

462 ~~G. F.~~ Pursuant to § 10.1-603.14 A of the Code of Virginia, ~~amounts~~ civil penalties
463 recovered by a local stormwater management program shall be paid into the treasury of
464 the locality in which the violation occurred and are to be used for the purpose of
465 minimizing, preventing, managing, or mitigating pollution of the waters of the locality and
466 abating environmental pollution therein in such manner as the court may, by order,
467 direct.

468

469 **4VAC50-60-xxx.-Local stormwater management program exceptions.**

470 A. A local stormwater management program may grant exceptions to the provisions
471 of Parts II A ~~and or~~ II B of this chapter ~~through an administrative process~~. An exception
472 may be granted provided that (i) the exception is the minimum necessary to afford relief,
473 (ii) reasonable and appropriate conditions shall be imposed as necessary upon any
474 exception granted so that the intent of the Act and this chapter are preserved, (iii)
475 granting the exception will not confer any special privileges that are denied to other
476 similar circumstances, and (iv) exception requests are not based upon conditions or
477 circumstances that are self-imposed or self-created.

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

480 C. Under no circumstance shall the qualifying local program grant an exception to
481 the requirement that the land-disturbing activity obtain required permits.

482 ~~E. D.~~ A record of all exceptions applied for and granted shall be maintained by the
483 local stormwater management program in accordance with 4VAC50-60-126.

484

485 **4VAC50-60-118. Hearings.[Appeal?]**

486 Local stormwater management programs shall ensure that any permit applicant or
487 permittee aggrieved by any action of the local stormwater management program taken
488 without a formal hearing, or by inaction of the local stormwater management program,
489 shall have a right to a hearing pursuant to § 10.1-603.12:6 of the Code of Virginia and
490 shall ensure that all hearings held under this chapter shall be conducted in accordance
491 with § 10.1-603.12:7 of the Code of Virginia or as otherwise provided by law [?].

492

493 **4VAC50-60-126. Report Reports and recordkeeping.**

494 A. On a fiscal year basis (July 1 to June 30), local stormwater management
495 programs and qualifying local programs shall report to the department by October 1 of
496 each year. The information to be provided shall include the following:

- 497 1. Information on each permanent stormwater management facility completed
498 during the fiscal year to include type of stormwater management facility,
499 geographic coordinates, acres treated, and the surface waters or karst features
500 into which the stormwater management facility will discharge ;
501 2. Number and type of enforcement actions during the fiscal year; and
502 3. Number of exceptions applied for and the number granted or denied during the
503 fiscal year.

504 B. Local stormwater management programs shall keep records in accordance with
505 the following:

- 506 1. Stormwater ~~maintenance~~ management facility inspection reports shall be kept
507 for five years from the date of inspection.

508 2. Stormwater ~~maintenance agreements~~ recorded instruments required pursuant
509 to 4VAC50-60-xxx (Responsibility for long term maintenance of stormwater
510 management facilities), ~~design standards and specifications,~~ and construction
511 record drawings shall be maintained in perpetuity or until a stormwater
512 management facility is removed.

513

514

Part III C

515 Department of Conservation and Recreation Procedures for Review of Local Stormwater

516

Management Programs

517

4VAC50-60-156. Authority and applicability.

519 This part specifies the criteria that the department will utilize in reviewing a locality's
520 administration of a local stormwater management program pursuant to § 10.1-603.12 of
521 the Code of Virginia following the board's approval of such program in accordance with
522 the Virginia Stormwater Management Act and these regulations.

523

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

525 A. The department shall review each board-approved local stormwater management
526 program at least once every five years on a review schedule approved by the board. The
527 department may review a local stormwater management program on a more frequent
528 basis if deemed necessary by the board and shall notify the local government if such
529 review is scheduled.

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

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

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

535 3. A review of a subset of the plans approved by the ~~qualifying local program~~
536 ~~local stormwater management program~~ and for consistency of application
537 including exceptions granted;

538 4. ~~A general accounting of the receipt of fees received and the costs of running~~
539 ~~the locally administered program required by these regulations~~ review of the
540 funding and staffing plan developed in accordance with 4VAC50-60-159;

541 5. An inspection of regulated activities; and

542 6. A review of enforcement actions and an accounting of amounts recovered
543 through enforcement actions.

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

546 D. The department shall provide its recommendations to the board within 90 days of
547 the completion of a review. Such recommendations shall be provided to ~~the~~ a locality at
548 least two weeks in advance of the meeting where the board will take action on the
549 locality's program.

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

553 F. If the board determines that the deficiencies noted in the review will cause the
554 local stormwater management program to be out of compliance with the Stormwater
555 Management Act and its attendant regulations, the board shall notify the local
556 stormwater management program concerning the deficiencies and provide a reasonable
557 period of time for corrective action to be taken. If the local stormwater management
558 program agrees to the corrective action recommended by the board, the local
559 stormwater management program will be considered to be conditionally compliant with
560 the Stormwater Management Act and its attendant regulations until a subsequent finding
561 of compliance is issued by the board. If the local stormwater management program fails
562 to take the corrective action within the specified time, the board may take action
563 pursuant to § 10.1-603.12 of the Code of Virginia. A local stormwater management
564 program that fails to take corrective action in accordance with the ~~Board~~ board
565 recommendations shall not be considered a qualifying local program for purposes of the
566 Virginia Stormwater Management Program permitting regulations.

567

568

Part III D

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

570

4VAC50-60-158. Authority and applicability.

572 Subdivision 1 of § 10.1-603.4 of the Code of Virginia requires that the board
573 establish standards and procedures for authorizing a locality to administer a stormwater
574 management program. In accordance with that requirement, and with the further
575 authority conferred upon the board by the Virginia Stormwater Management Act (§ 10.1-
576 603.2 et seq. of the Code of Virginia), this part specifies the procedures the board will
577 utilize in authorizing a locality to administer a qualifying local program.

578

4VAC50-60-xxx. Local stormwater management program administrative requirements.

581

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

582

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

585

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

588

3. Requirements to ensure compliance with 4VAC50-60-xxx (Erosion and
589 Sediment Control Plans and Pollution Prevention Plans)

590

4. Inspection and monitoring of construction activities for compliance with local
591 ordinances;

592

5. ~~Long-term~~ Requirements for long-term inspection and maintenance of
593 stormwater management facilities;

594

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

595

7. Enforcement procedures and civil penalties;

596

8. Policies and procedures for the collection and release of bonds, if applicable;
597 and

598

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

600 B. A locality-administered local stormwater management program shall adopt and
601 enforce an ordinance(s) that incorporates the components set out in subdivisions 1
602 through 7 of subsection A of this section.

603

604 **4VAC50-60-159. Authorization procedures for local stormwater management**
605 **programs.**

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

610 1. The draft local stormwater management program ordinance(s) as required in
611 4VAC50-60-xxx (local stormwater management program administrative
612 requirements);

613 2. A funding and staffing plan; and

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

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

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

631 D. A locality required to adopt a local stormwater management program in
632 accordance with § 10.1-603.3 A of the Code of Virginia shall submit a complete
633 application package for the board's review pursuant to a schedule set by the board in
634 accordance with § 10.1-603.3 and shall adopt a local stormwater management program
635 consistent with the Act and this chapter within the timeframe established pursuant to §
636 10.1-603.3.

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

640 1. A locality electing to adopt a local stormwater management program may
641 notify the board of its intention within six months of the effective date of these
642 regulations. Such locality shall submit a complete application package for the
643 board's review pursuant to a schedule set by the board and shall adopt a
644 qualifying local program within the timeframe established by the board.

645 2. A locality electing to adopt a local stormwater management program that does
646 not notify the board within the initial six-month period of its intention may
647 thereafter notify the board at any regular meeting of the board. Such notification

648 shall include a proposed schedule for adoption of a ~~qualifying local program~~ local
649 stormwater management program within a timeframe agreed upon by the board.

650 F. A locality administered local stormwater management program approved by the
651 ~~Board~~ board shall be considered a ~~Qualifying Local Program~~ qualifying local program for
652 purposes of the Virginia Stormwater Management Program permitting regulations.

653 G. The department shall administer the responsibilities of the Act and this chapter in
654 any locality in which a ~~qualifying local program~~ local stormwater management program
655 has not been adopted. The department shall develop a schedule, to be approved by the
656 board, for adoption and implementation of the requirements of this chapter in such
657 localities. Such schedule may include phases of implementation and shall be based
658 upon considerations including the typical number of permitted projects located within a
659 locality, total number of acres disturbed by such permitted projects, and such other
660 considerations as may be deemed necessary by the board.

661