

Draft Regulations – November 9, 2010

4VAC 50-60-10 Definitions

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

4VAC50-60-30. Applicability.

This chapter is applicable to:

1. Every private, local, state, or federal entity that establishes a stormwater management program or a MS4 program;
2. Every local stormwater management program]
3. The department in its oversight of locally administered programs or in its administration of a local program [as required by §10.1-603.12;
4. Every state agency project regulated under the Act and this chapter; and
5. Every land-disturbing activity regulated under § 10.1-603.8 of the Code of Virginia unless otherwise exempted in § 10.1-603.8 B.

Part II

4VAC50-60-xxx. Erosion and Sediment Control Plans and Pollution Prevention Plans

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

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

1. Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;
 2. Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to stormwater; and
 3. Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.
- C. The stormwater pollution prevention plan shall include effective best management practices to prohibit the following discharges:
1. Wastewater from washout of concrete, unless managed by an appropriate control;
 2. Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials;
 3. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and
 4. Soaps or solvents used in vehicle and equipment washing.

4VAC50-60-xxx. Stormwater Management Plans

A stormwater management plan shall be developed and submitted to the local stormwater management program. The stormwater management plan shall be implemented as approved by the local stormwater management program.

1. A stormwater management plan for a land-disturbing activity shall apply the stormwater management technical criteria to the entire land-disturbing activity.
 2. The stormwater management plan shall consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to surface runoff.
- B. A complete stormwater management plan shall include the following elements:
- a. Information on the type of and location of stormwater discharges, information on the features to which stormwater is being discharged including surface waters or karst features if present, and predevelopment and postdevelopment drainage areas;
 - b. Contact information including the name, address, and telephone number of the owner and the tax reference number and parcel number of the property or properties affected;
 - c. A narrative that includes a description of current site conditions and final site conditions;
 - d. A general description of the proposed stormwater management facilities and the mechanism through which the facilities will be operated and maintained after construction is complete ;
 - e. The location and design of the proposed stormwater management facilities;
 - f. Hydrologic and hydraulic computations;

g. Good engineering practices (strike or keep?), documentation, and calculations verifying compliance with the water quality and quantity requirements;

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

(1) All contributing drainage areas;

(2) Existing streams, ponds, culverts, ditches, wetlands, and other water bodies;

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

(4) Current land use including existing structures, roads, and locations of known utilities and easements;

(5) Sufficient information on adjoining parcels to assess the impacts of stormwater from the site;

(6) The limits of clearing and grading, and the proposed drainage patterns on the site;

(7) Proposed buildings, roads, parking areas, utilities, and stormwater management facilities; and

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

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

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

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

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

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

4VAC50-60-xxx. Exceptions

A request for an exception for Part IIA and Part IIB, including the reasons for making the request, may be submitted in writing to the local stormwater management program. Economic hardship alone is not a sufficient reason to request an exception from the requirements of this chapter. A request for an exception to the requirement that the land disturbing activity obtain a permit will not be granted by the local stormwater management program.

4VAC50-60-xxx. Maintenance Agreements

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

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

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

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

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

Part III

4VAC50-60-101. Purpose

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

4VAC50-60-102. Authority.

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

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

Part III A. Local Stormwater Management Programs

4VAC50-60-104. Technical criteria for local stormwater management programs

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

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

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

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

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

As per 4 VAC50-60-460L, in addition to a local stormwater management program's technical criteria found in 4VAC50-60-104, in order to be considered a qualifying local program under the VSMP General Permit for Discharges of Stormwater from Construction Activities, a local stormwater management program shall also

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

B. Adopt by ordinance, inspect and enforce requirements to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality including any specific requirements required by the VSMP General Permit.

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

4VAC50-60-108. Local program stormwater management plan review.

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

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

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

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

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

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

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

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

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

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

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

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

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

2. Based on an inspection, the local stormwater management program may require amendments to the approved stormwater management plan to address the deficiencies and notify the permittee of the required modifications.

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

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

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

A. Local stormwater management programs shall require maintenance agreements in accordance with 4VAC50-60-xxx (maintenance agreements). The local stormwater management program shall ensure, through the use of maintenance agreements, that unless assumed by a governmental agency, the responsibility for the operation and maintenance of stormwater management facilities remains with the property owner or other legally established entity and shall pass to any successor.

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

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

4VAC50-60-xxx. Inspections.

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

1. compliance with the approved erosion and sediment control plan
2. compliance with the approved stormwater management plan; and
3. the development and implementation of a current (updated) pollution prevention plan.

B. A local stormwater management program shall establish an inspection program that ensures that the stormwater management facilities are being maintained as designed after completion of all construction activities. Any inspection program shall be:

1. Approved by the board;

2. Ensures that each stormwater management facility is inspected by the qualifying local program or its designee, not to include the owner, except as provided in subsections C and D of this section, at least once every five years; and

3. Documented by inspection records.

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

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

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

4VAC50-60-116. Enforcement.

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

1. Informal and formal administrative enforcement procedures including:

a. Verbal warnings and inspection reports;

b. Notices of corrective action;

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

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

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

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

g. Public notice and comment periods pursuant to 4VAC50-60-660.

2. Civil and criminal judicial enforcement procedures including:

a. Schedule of civil penalties as permitted by law;

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

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

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

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

Make general table

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)	-

~~* Each stormwater BMP or E&S control that is either not installed or improperly installed or maintained is a separate violation.~~

~~** The frequency of occurrence is per event unless otherwise noted.~~

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

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

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

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

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

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

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

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

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

Local stormwater management programs shall ensure that any permit applicant or permittee shall have a right to a hearing pursuant to § 10.1-603.12:6 of the Code of Virginia and shall ensure that all hearings held under this chapter shall be conducted in accordance with § 10.1-603.12:7 of the Code of Virginia or as otherwise provided by law.

4VAC50-60-126. Report and recordkeeping.

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

1. Information on each permanent stormwater management facility completed during the fiscal year to include type of stormwater management facility,

coordinates, acres treated, and the surface waters or karst features into which the stormwater management facility will discharge;

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

3. Number of exceptions applied for and the number granted or denied during the fiscal year.

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

1. Stormwater maintenance facility inspection reports shall be kept for five years from the date of inspection.

2. Stormwater maintenance agreements, design standards and specifications, and construction record drawings shall be maintained in perpetuity or until a stormwater management facility is removed.

Part III C

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

4VAC50-60-156. Authority and applicability.

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

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

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

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

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

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

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

4. A general accounting of the receipt of fees received and the costs of running the locally administered program required by these regulations;

5. An inspection of regulated activities; and

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

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

D. The department shall provide its recommendations to the board within 90 days of the completion of a review. Such recommendations shall be provided to the locality at least two weeks in advance of the meeting.

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

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

Part III D

Virginia Soil and Water Conservation Board Authorization for Qualifying Local Programs

4VAC50-60-158. Authority and applicability.

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

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

- A. A local stormwater management program shall provide for the following:
1. Identification of the authority accepting complete registration statements and for the authorities completing plan review, plan approval, inspection and enforcement.
 2. Submission and approval of erosion and sediment control plans in accordance with the Virginia Erosion and Sediment Control Law and attendant regulations and the submission and approval of stormwater management plans;
 3. Requirements to ensure compliance with 4VAC50-60-xxx (Erosion and Sediment Control Plans and Pollution Prevention Plans)
 4. Inspection and monitoring of construction activities for compliance with local ordinances;
 5. Long-term inspection and maintenance of stormwater management facilities;
 6. Collection, distribution and expenditure of fees;
 7. Enforcement procedures and civil penalties;
 8. Policies and procedures for the collection and release of bonds, if applicable;
- and

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

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

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

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

1. The draft local stormwater management program ordinance(s) as required in 4VAC50-60-xxx (local stormwater management program administrative requirements);
2. A funding and staffing plan; and
3. The policies and procedures, including but not limited to, agreements with Soil and Water Conservation Districts, adjacent localities, or other entities, for the administration, plan review, inspection, and enforcement components of the program.

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

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

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

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

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

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

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

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