

Proposed Amendments to Parts I, II, III, and XIII of the Virginia Stormwater Management Program (VSMP) Regulations



- *State Parks * Soil and Water Conservation * Natural Heritage**
- * Outdoor Recreation Planning * Land Conservation**
- * Dam Safety and Floodplain Management**
- * Chesapeake Bay Local Assistance**

Stormwater Management Pre-2004

- **Administered by four citizen boards and three state agencies**
 - Soil and Water Conservation Board
 - Board of Conservation and Recreation
 - Chesapeake Bay Local Assistance Board
 - State Water Control Board
 - DCR, Chesapeake Bay Local Assistance Department (formerly), and DEQ
- **House Bill 1177 (2004) created the VA Stormwater Management Program (VSMP), which consolidated stormwater management in DCR and the Virginia Soil and Water Conservation Board, with the concept of ultimately authorizing localities to administer construction stormwater management programs.**
 - Chesapeake Bay Preservation Act and MS4 localities required to adopt; others may opt-in or DCR will operate.



Following House Bill 1177

- Existing regulations were initially brought over to allow for immediate program operation by DCR and the Board. These regulations are what are utilized in Virginia's current stormwater management program.
- Long-term, however, amendments to the regulations are necessary in order to allow for the development and implementation of local stormwater management programs. Upgrades to the regulations are also necessary to meet Virginia's water quality goals.

What do amendments to the regulations need to address?

- The requirements for the operation of a local stormwater management program, whether operated by a locality (“qualifying local program”) or DCR.
- Fee levels that will provide sufficient funding for local stormwater management programs and DCR oversight.

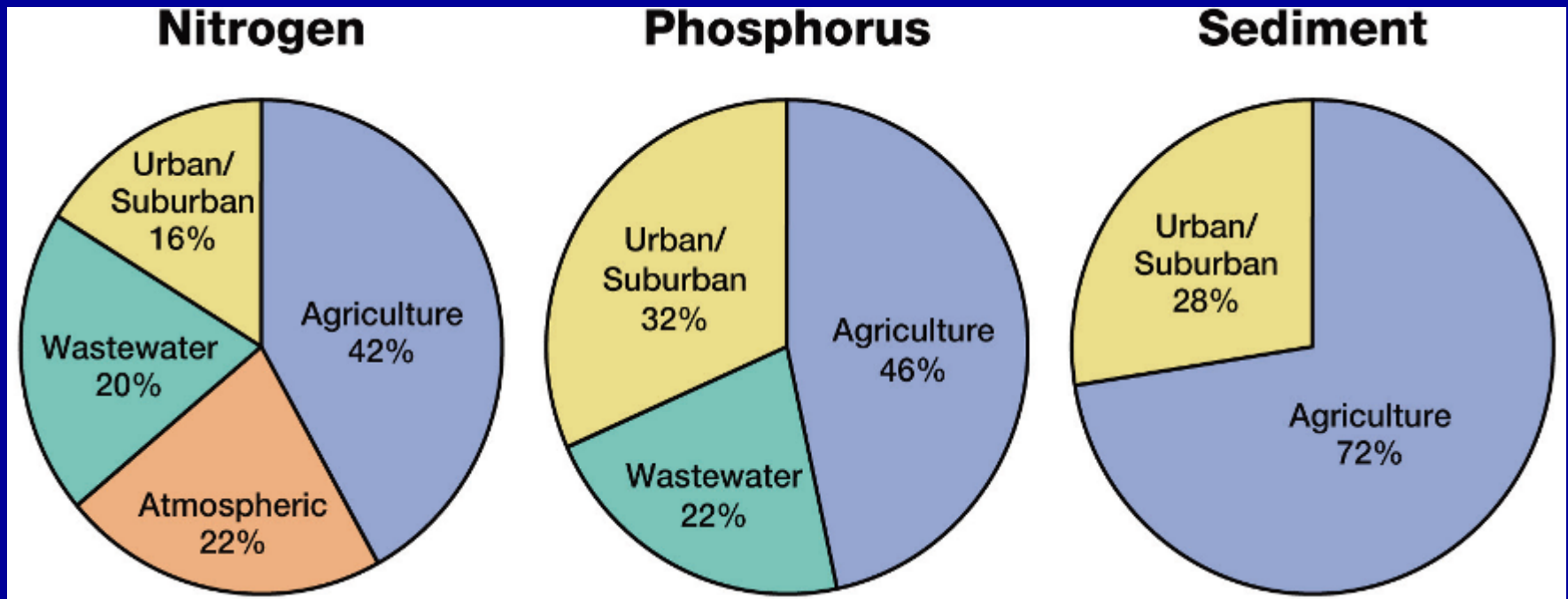


What do amendments to the regulations need to address?

Water quality improvements

- Addressing stormwater management is a key component (along with impacts from agriculture, point sources, and air deposition) to improving water quality in Virginia's rivers, streams, lakes, and Chesapeake Bay.
- 32% of phosphorus loads to the Bay are attributed to urban and suburban sources.
- Pollutant loads from developed and developing lands continue to increase while loads from other sources are decreasing. These increasing loads can lead to greater numbers of impaired waters.

Nutrient and Sediment Sources



*from Chesapeake Bay Program's "State of the Chesapeake Bay Program: Summary Report to the Chesapeake Executive Council" 11/20/08. Wastewater loads based on measured discharges; the rest are based on average-hydrology year. Does not include loads from direct deposition tidal waters, tidal shoreline erosion or the ocean. Data and methods: www.chesapeakebay.net/stats_reducingpollution.aspx

What do amendments to the regulations need to address?

Water quantity

- Today's standards still result in significant flooding and channel erosion.
- MS-19 of the Virginia Erosion and Sediment Control Regulations needs evaluation, E&S and Stormwater should be consistent.



Regulatory Process

- The two current actions were commenced by NOIRAs published on December 26, 2005 (Parts I, II, and III NOIRA was withdrawn, and the new, current NOIRA published on March 17, 2008).
- Approximately 50 public meetings were held during the development of the proposed regulations (including 25 meetings of the technical advisory committee and its associated subcommittees). A series of design charrettes was also held with over 400 attending.
- The Soil and Water Conservation Board proposed these amendments on September 25, 2008. For the purpose of public comment, the regulations as they were proposed on that date are required to be published, although DCR is aware of a number of concerns that will need to be addressed as part of the final revisions.



Regulatory Process



- Working with the Center for Watershed Protection and the Chesapeake Stormwater Network, DCR developed the Runoff Reduction Methodology and developed new, and updated existing, stormwater management practice design specifications.
- Revised the Stormwater Management Handbook.
- Developed the BMP Clearinghouse website with the Virginia Water Resources Center at Virginia Tech. Assembled a clearinghouse advisory committee to consider new innovative strategies through established protocols.
- Contracted with the Department of Agricultural and Applied Economics at Virginia Tech to conduct an economic impact analysis of the regulations.
- Worked with an engineering/ consulting company to run a series of site design analyses.
- Developed guidance to address the use of stormwater nutrient offsets.

Proposed Regulations

- Part I: Definitions
- Part II: Technical Criteria (Water Quality and Water Quantity)
- Part III: Local Programs
- Part XIII: Fees



Part II: Technical Criteria

- Criteria that will be employed by locality-run stormwater programs and by DCR when it administers a program.
 - Two major components:
 - Water quality
 - Water quantity



Part II: Technical Criteria

Water quality

- New Development design standard of .28 lbs per acre per year for phosphorus.
 - Phosphorus used as an “indicator pollutant”.
 - Current standard is .45 lbs/acre/year (generally).
 - Load for a forested condition is ~.11 lbs/acre/year.
 - New standard based on Tributary Strategy goals.
- Redevelopment: 20% reduction below predevelopment load.
 - Current standard is 10% from predevelopment load.
 - Tributary Strategies indicate a need for a 44% reduction.



Part II: Technical Criteria

Water quantity

- Requirements for channel protection and flood protection to alleviate stream channel erosion and downstream flooding.
- Developed with assistance from Water Quantity workgroup and TAC.
- Intended to replace MS19 of the Erosion and Sediment Control Regulations in the future in order to create uniformity.



Part III: Local Programs

- Contains requirements for locality-administered stormwater management programs (“qualifying local programs”) and DCR-administered programs (Parts IIIA and IIIB).
 - Locality adoption projected to occur between October 2011 and April 2012 (all adopted by April 2013).
- Also contains local program authorization and review procedures (Parts IIIC and IIID).

Part III: Local Programs

- All local programs must implement Part II, and contain provisions for:
 - Stormwater management plan review
 - Permit coverage issuance
 - Inspections (during construction and long-term)
 - Enforcement
 - Hearings
 - Exceptions
 - Long-term maintenance of BMPs by owners
 - Reporting and recordkeeping



Part XIII: Fees

- Code of Virginia requires stormwater program to be funded by permit fees.
- Fees proposed to be established at a level sufficient to fully support administration of local programs and oversight by DCR.
- Scaled based on acreage of project.
- Based on real estimates of actual needs for each site.



Remaining Issues

Grandfathering of existing projects

Redevelopment, infill, UDAs

Statewide standard vs. Different standards for Bay and non-Bay regions

Implementation on varying types of sites (residential, commercial, etc.)

Nutrient Offsets

Others



Remaining Process

1. Completion of public comment and public hearings
2. Development of final regulations based on public comment
3. Final Adoption by Soil and Water Conservation Board; EPA approval
4. Development of new construction general permit to implement Part II criteria (will be utilized by qualifying local programs when adopted)
5. Approval of qualifying local programs by Board (October 2011-April 2012) (all by April 2013)



For More Info:

Visit the DCR website:

See the Stormwater Parts 1,2,3, and 13 tab at:
<http://www.dcr.virginia.gov/lawregs.shtml>

Comments may be submitted until August 21st, electronically through the VA Regulatory Townhall (preferred), by mail, or by fax.

Virginia Regulatory TownHall:

<http://www.townhall.virginia.gov/L/comments.cfm?stageid=5070>
(Parts 1, 2, and 3)

and <http://www.townhall.virginia.gov/L/comments.cfm?stageid=5106>
(Part 13)

