

Part I  
Definitions, Purpose, and Applicability

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

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

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

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

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

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

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

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

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

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

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

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

"Channel" means a natural or manmade waterway

"Chesapeake Bay Preservation Act Land-Disturbing Activity" means a land-disturbing activity including clearing, grading, or excavation that results in a land disturbance equal to or greater than 2,500 square feet and less than one acre in all areas of jurisdictions designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulations adopted pursuant to the Chesapeake Bay Preservation Act.

"Chesapeake Bay watershed" means all land areas draining to the following Virginia river basins: Potomac River Basin, James River Basin, Rappahannock River Basin, Chesapeake Bay and its small coastal basins, and York River Basin.

"Common plan of development or sale" means a contiguous area where separate and distinct construction activities may be taking place at different times on different schedules.

"Comprehensive stormwater management plan" means a plan, which may be integrated with other land use plans or regulations, that specifies how the water quality components, quantity components, or both of stormwater are to be managed on the basis of an entire

46 watershed or a portion thereof. The plan may also provide for the remediation of erosion,  
47 flooding, and water quality and quantity problems caused by prior development.

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

50 "Contiguous zone" means the entire zone established by the United States under Article 24  
51 of the Convention on the Territorial Sea and the Contiguous Zone (37 FR 11906 June 15,  
52 1972).

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

56 "Control measure" means any BMP, stormwater facility, or other method used to minimize  
57 the discharge of pollutants to state waters.

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

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

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

68 "Daily discharge" means the discharge of a pollutant measured during a calendar day or any  
69 24-hour period that reasonably represents the calendar day for purposes of sampling. For  
70 pollutants with limitations expressed in units of mass, the daily discharge is calculated as the  
71 total mass of the pollutant discharged over the day. For pollutants with limitations expressed in  
72 other units of measurement, the daily discharge is calculated as the average measurement of  
73 the pollutant over the day.

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

75 "Development" means land disturbance and the resulting landform associated with the  
76 construction of residential, commercial, industrial, institutional, recreation, transportation, or  
77 utility facilities or structures or the clearing of land for nonagricultural or nonsilvicultural  
78 purposes. The regulation of discharges from development, for purposes of these regulations,  
79 does not include the exemptions found in 4VAC50-60-300.

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

81 "Director" means the Director of the Department of Conservation and Recreation or his  
82 designee.

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

84 "Discharge of a pollutant" means:

- 85 1. Any addition of any pollutant or combination of pollutants to state waters from any  
86 point source; or
- 87 2. Any addition of any pollutant or combination of pollutants to the waters of the  
88 contiguous zone or the ocean from any point source other than a vessel or other floating  
89 craft which is being used as a means of transportation.

90 This definition includes additions of pollutants into surface waters from: surface runoff that is  
91 collected or channeled by man; discharges through pipes, sewers, or other conveyances owned

92 by a state, municipality, or other person that do not lead to a treatment works; and discharges  
93 through pipes, sewers, or other conveyances, leading into privately owned treatment works.  
94 This term does not include an addition of pollutants by any indirect discharger.

95 "Discharge Monitoring Report" or "DMR" means the form supplied by the department, or an  
96 equivalent form developed by the operator and approved by the board, for the reporting of self-  
97 monitoring results by operators.

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

103 "Drainage area" means a land area, water area, or both from which runoff flows to a  
104 common point.

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

108 "Effluent limitations guidelines" means a regulation published by the administrator under §  
109 304(b) of the CWA to adopt or revise effluent limitations.

110 "Environmental Protection Agency " or "EPA" means the United States Environmental  
111 Protection Agency.

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

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

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

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

123 "Flood fringe" means the portion of the floodplain outside the floodway that is usually  
124 covered with water from the 100-year flood or storm event. This includes, but is not limited to,  
125 the flood or floodway fringe designated by the Federal Emergency Management Agency.

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

129 "Floodplain" means the area adjacent to a channel, river, stream, or other water body that is  
130 susceptible to being inundated by water normally associated with the 100-year flood or storm  
131 event. This includes, but is not limited to, the floodplain designated by the Federal Emergency  
132 Management Agency.

133 "Flood-prone area" means the component of a natural or restored stormwater conveyance  
134 system that is outside the main channel. Flood-prone areas may include, but are not limited to,  
135 the floodplain, the floodway, the flood fringe, wetlands, riparian buffers or other areas adjacent  
136 to the main channel.

137 "Floodway" means the channel of a river or other watercourse and the adjacent land areas,  
138 usually associated with flowing water, that must be reserved in order to discharge the 100-year  
139 flood or storm event without cumulatively increasing the water surface elevation more than one  
140 foot . This includes, but is not limited to, the floodway designated by the Federal Emergency  
141 Management Agency.

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

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

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

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

153 "Impervious cover" means a surface composed of material that significantly impedes or  
154 prevents natural infiltration of water into soil.

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

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

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

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

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

174 "Karst area" means any land area predominantly underlain at the surface or shallow  
175 subsurface by limestone, dolomite, or other soluble bedrock regardless of any obvious surface  
176 karst features.

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

179 "Land disturbance" or "land-disturbing activity" means a manmade change to the land  
180 surface that potentially changes its runoff characteristics including any clearing, grading, or  
181 excavation associated with a construction activity regulated pursuant to the CWA, the Act, and

182 this chapter or with a Chesapeake Bay Preservation Act land-disturbing activity regulated  
183 pursuant to the Act and this chapter.

184 "Large construction activity" means construction activity including clearing, grading and  
185 excavation, except operations that result in the disturbance of less than five acres of total land  
186 area. Large construction activity also includes the disturbance of less than five acres of total  
187 land area that is a part of a larger common plan of development or sale if the larger common  
188 plan will ultimately disturb five acres or more. Large construction activity does not include  
189 routine maintenance that is performed to maintain the original line and grade, hydraulic  
190 capacity, or original purpose of the facility.

191 "Large municipal separate storm sewer system" means all municipal separate storm sewers  
192 that are either:

193 1. Located in an incorporated place with a population of 250,000 or more as determined  
194 by the 1990 decennial census by the Bureau of Census (40 CFR Part 122 Appendix F  
195 (2000));

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

199 3. Owned or operated by a municipality other than those described in subdivision 1 or 2  
200 of this definition and that are designated by the board as part of the large or medium  
201 municipal separate storm sewer system due to the interrelationship between the  
202 discharges of the designated storm sewer and the discharges from municipal separate  
203 storm sewers described under subdivision 1 or 2 of this definition. In making this  
204 determination the board may consider the following factors:

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

206 b. The location of discharges from the designated municipal separate storm sewer  
207 relative to discharges from municipal separate storm sewers described in subdivision  
208 1 of this definition;

209 c. The quantity and nature of pollutants discharged to surface waters;

210 d. The nature of the receiving surface waters; and

211 e. Other relevant factors.

212 4. The board may, upon petition, designate as a large municipal separate storm sewer  
213 system, municipal separate storm sewers located within the boundaries of a region  
214 defined by a stormwater management regional authority based on a jurisdictional,  
215 watershed, or other appropriate basis that includes one or more of the systems  
216 described in this definition.

217 "Layout" means a conceptual drawing sufficient to provide for the specified stormwater  
218 management facilities required at the time of approval.

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

225 "Local stormwater management program" or "local program" means the various methods  
226 employed by a locality to manage the quality and quantity of runoff resulting from land-disturbing  
227 activities and shall include such items as local ordinances, permit requirements, policies and

228 guidelines, technical materials, plan review, inspection, enforcement, and evaluation consistent  
229 with the Act and this chapter. Upon board approval of a local stormwater management program,  
230 it shall be recognized as a qualifying local program.

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

232 "Localized flooding" refers to smaller scale flooding that may occur outside of a stormwater  
233 conveyance system. This may include high water, ponding or standing water from stormwater  
234 runoff, which is likely to cause property damage or unsafe conditions.

235 "Main channel" means the portion of the stormwater conveyance system that contains the  
236 base flow and small frequent storm events.

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

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

242 "Major municipal separate storm sewer outfall " or "major outfall" means a municipal  
243 separate storm sewer outfall that discharges from a single pipe with an inside diameter of 36  
244 inches or more or its equivalent (discharge from a single conveyance other than circular pipe  
245 which is associated with a drainage area of more than 50 acres); or for municipal separate  
246 storm sewers that receive stormwater from lands zoned for industrial activity (based on  
247 comprehensive zoning plans or the equivalent), with an outfall that discharges from a single  
248 pipe with an inside diameter of 12 inches or more or from its equivalent (discharge from other  
249 than a circular pipe associated with a drainage area of two acres or more).

250 "Manmade" means constructed by man.

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

252 "Maximum extent practicable" or "MEP" means the technology-based discharge standard for  
253 municipal separate storm sewer systems established by CWA § 402(p). MEP is achieved, in  
254 part, by selecting and implementing effective structural and nonstructural best management  
255 practices (BMPs) and rejecting ineffective BMPs and replacing them with effective best  
256 management practices (BMPs). MEP is an iterative standard, which evolves over time as urban  
257 runoff management knowledge increases. As such, the operator's MS4 program must  
258 continually be assessed and modified to incorporate improved programs, control measures,  
259 BMPs, etc., to attain compliance with water quality standards.

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

262 1. Located in an incorporated place with a population of 100,000 or more but less than  
263 250,000 as determined by the 1990 decennial census by the Bureau of Census (40 CFR  
264 Part 122 Appendix G (2000));

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

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

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

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

286 "Minor modification" means, for the purposes of this chapter, minor modification or  
287 amendment of an existing permit before its expiration for the reasons listed at 40 CFR 122.63  
288 and as specified in 4VAC50-60-640. Minor modification for the purposes of this chapter also  
289 means other modifications and amendments not requiring extensive review and evaluation  
290 including, but not limited to, changes in EPA promulgated test protocols, increasing monitoring  
291 frequency requirements, changes in sampling locations, and changes to compliance dates  
292 within the overall compliance schedules. A minor permit modification or amendment does not  
293 substantially alter permit conditions, substantially increase or decrease the amount of surface  
294 water impacts, increase the size of the operation, or reduce the capacity of the facility to protect  
295 human health or the environment.

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

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

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

311 "Municipal Separate Storm Sewer System Management Program" or "MS4 Program" means  
312 a management program covering the duration of a permit for a municipal separate storm sewer  
313 system that includes a comprehensive planning process that involves public participation and  
314 intergovernmental coordination, to reduce the discharge of pollutants to the maximum extent  
315 practicable, to protect water quality, and to satisfy the appropriate water quality requirements of  
316 the CWA and regulations and the Act and attendant regulations, using management practices,  
317 control techniques, and system, design and engineering methods, and such other provisions  
318 that are appropriate.

319 "Municipality" means a city, town, county, district, association, or other public body created  
320 by or under state law and having jurisdiction over disposal of sewage, industrial wastes, or other  
321 wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and  
322 approved management agency under § 208 of the CWA.

323 "National Pollutant Discharge Elimination System " or "NPDES" means the national program  
324 for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits,  
325 and imposing and enforcing pretreatment requirements under §§ 307, 402, 318, and 405 of the  
326 CWA. The term includes an approved program.

327 "Natural channel design concepts" means the utilization of engineering analysis based on  
328 fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance  
329 system for the purpose of creating or recreating a stream that conveys its bankfull storm event  
330 within its banks and allows larger flows to access its floodplain.

331 "Natural stream" means a tidal or nontidal watercourse that is part of the natural topography.  
332 It usually maintains a continuous or seasonal flow during the year and is characterized as being  
333 irregular in cross-section with a meandering course. Constructed channels such as drainage  
334 ditches or swales shall not be considered natural streams; however, channels designed utilizing  
335 natural channel design concepts may be considered natural streams.

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

- 337 1. From which there is or may be a discharge of pollutants;  
338 2. That did not commence the discharge of pollutants at a particular site prior to August  
339 13, 1979;  
340 3. Which is not a new source; and  
341 4. Which has never received a finally effective VPDES or VSMP permit for discharges at  
342 that site.

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

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

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

- 355 1. After promulgation of standards of performance under § 306 of the CWA that are  
356 applicable to such source; or  
357 2. After proposal of standards of performance in accordance with § 306 of the CWA that  
358 are applicable to such source, but only if the standards are promulgated in accordance  
359 with § 306 of the CWA within 120 days of their proposal.

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

363 "Operator" means the owner or operator of any facility or activity subject to the VSMP permit  
364 regulation. In the context of stormwater associated with a large or small construction activity,

365 operator means any person associated with a construction project that meets either of the  
366 following two criteria: (i) the person has direct operational control over construction plans and  
367 specifications, including the ability to make modifications to those plans and specifications or (ii)  
368 the person has day-to-day operational control of those activities at a project that are necessary  
369 to ensure compliance with a stormwater pollution prevention plan for the site or other permit  
370 conditions (i.e., they are authorized to direct workers at a site to carry out activities required by  
371 the stormwater pollution prevention plan or comply with other permit conditions). In the context  
372 of stormwater discharges from Municipal Separate Storm Sewer Systems (MS4s), operator  
373 means the operator of the regulated MS4 system.

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

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

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

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

393 "Percent impervious" means the impervious area within the site divided by the area of the  
394 site multiplied by 100.

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

399 "Permit-issuing authority" means the board, the department, or a locality that is delegated  
400 authority by the board to issue, deny, revoke, terminate, or amend stormwater permits under the  
401 provisions of the Act and this chapter.

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

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

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

408 "Point source" means any discernible, confined, and discrete conveyance including, but not  
409 limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock,  
410 concentrated animal feeding operation, landfill leachate collection system, vessel, or other

411 floating craft from which pollutants are or may be discharged. This term does not include return  
412 flows from irrigated agriculture or agricultural stormwater runoff.

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

418 1. Sewage from vessels; or

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

424 "Pollutant discharge" means the average amount of a particular pollutant measured in  
425 pounds per year or other standard reportable unit as appropriate, delivered by stormwater  
426 runoff.

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

440 "Postdevelopment" refers to conditions that reasonably may be expected or anticipated to  
441 exist after completion of the land development activity on a specific site .

442 "Predevelopment" refers to the conditions that exist at the time that plans for the land  
443 development of a tract of land are submitted to the plan approval authority. Where phased  
444 development or plan approval occurs (preliminary grading, demolition of existing structures,  
445 roads and utilities, etc.), the existing conditions at the time prior to the first item being submitted  
446 shall establish predevelopment conditions.

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

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

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

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

464 "Qualified personnel" means a person knowledgeable in the principles and practice of  
465 erosion and sediment controls who possesses the skills to assess conditions at the construction  
466 site for the operator that could impact stormwater quality and to assess the effectiveness of any  
467 sediment and erosion control measures selected to control the quality of stormwater discharges  
468 from the construction activity. This may include a licensed professional engineer, responsible  
469 land disturber, or other person who holds a certificate of competency from the board in the area  
470 of project inspection or combined administrator.

471 "Qualifying local stormwater management program" or "qualifying local program" means a  
472 local stormwater management program , administered by a locality, that has been authorized by  
473 the board. To authorize a qualifying local program, the board must find that the ordinances  
474 adopted by the locality are consistent with the VSMP General Permit for Discharges of  
475 Stormwater from Construction Activities.

476 "Recommencing discharger" means a source that recommences discharge after terminating  
477 operations.

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

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

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

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

486 "Runoff characteristics" include maximum velocity, peak flow rate, volume, and flow duration  
487 .

488 "Runoff volume" means the volume of water that runs off the site from a prescribed design  
489 storm.

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

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

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

498 "Significant materials" means, but is not limited to: raw materials; fuels; materials such as  
499 solvents, detergents, and plastic pellets; finished materials such as metallic products; raw  
500 materials used in food processing or production; hazardous substances designated under §  
501 101(14) of CERCLA (42 USC § 9601(14)); any chemical the facility is required to report  
502 pursuant to § 313 of Title III of SARA (42 USC § 11023); fertilizers; pesticides; and waste

503 products such as ashes, slag and sludge that have the potential to be released with stormwater  
504 discharges.

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

507 "Site" means the land or water area where any facility or land-disturbing activity is physically  
508 located or conducted, including adjacent land used or preserved in connection with the facility or  
509 land-disturbing activity. Areas channelward of mean low water in tidal Virginia shall not be  
510 considered part of a site.

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

514 "Small construction activity" means:

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

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

540 "Small municipal separate storm sewer system" or "small MS4" means all separate storm  
541 sewers that are (i) owned or operated by the United States, a state, city, town, borough, county,  
542 parish, district, association, or other public body (created by or pursuant to state law) having  
543 jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including  
544 special districts under state law such as a sewer district, flood control district or drainage district,  
545 or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated  
546 and approved management agency under § 208 of the CWA that discharges to surface waters  
547 and (ii) not defined as "large" or "medium" municipal separate storm sewer systems or  
548 designated under 4VAC50-60-380 A 1. This term includes systems similar to separate storm  
549 sewer systems in municipalities, such as systems at military bases, large hospital or prison

**550** complexes, and highway and other thoroughfares. The term does not include separate storm  
**551** sewers in very discrete areas, such as individual buildings.

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

**554** "State" means the Commonwealth of Virginia.

**555** "State/EPA agreement" means an agreement between the EPA regional administrator and  
**556** the state that coordinates EPA and state activities, responsibilities and programs including those  
**557** under the CWA and the Act.

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

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

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

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

**568** "Stormwater conveyance system" means a combination of drainage components that are  
**569** used to convey stormwater discharge, either within or downstream of the land-disturbing  
**570** activity. This includes:

**571** (i) "Manmade stormwater conveyance system " means a pipe, ditch, vegetated swale, or  
**572** other stormwater conveyance system constructed by man except for restored stormwater  
**573** conveyance systems;

**574** (ii) "Natural stormwater conveyance system " means the main channel of a natural stream  
**575** and the flood-prone area adjacent to the main channel; or

**576** (iii) "Restored stormwater conveyance system " means a stormwater conveyance system  
**577** that has been designed and constructed using natural channel design concepts. Restored  
**578** stormwater conveyance systems include the main channel and the flood-prone area adjacent to  
**579** the main channel.

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

**585** "Stormwater discharge associated with large construction activity" means the discharge of  
**586** stormwater from large construction activities.

**587** "Stormwater discharge associated with small construction activity" means the discharge of  
**588** stormwater from small construction activities.

**589** "Stormwater management facility" means a control measure that controls stormwater runoff  
**590** and changes the characteristics of that runoff including, but not limited to, the quantity and  
**591** quality, the period of release or the velocity of flow.

**592** "Stormwater management plan" means a document(s) containing material for describing  
**593** methods for complying with the requirements of the local program or this chapter.

**594** "Stormwater Management Program" means a program established by a locality that is  
**595** consistent with the requirements of the Act, this chapter and associated guidance documents.

596 "Stormwater Pollution Prevention Plan" or "SWPPP" means a document that is prepared in  
597 accordance with good engineering practices and that identifies potential sources of pollutants  
598 that may reasonably be expected to affect the quality of stormwater discharges from the  
599 construction site. In addition the document shall identify and require the implementation of  
600 control measures, and shall include, but not be limited to the inclusion of, or the incorporation by  
601 reference of, an approved erosion and sediment control plan, an approved stormwater  
602 management plan, and a pollution prevention plan .

603 "Stormwater Program Administrative Authority" means a local stormwater management  
604 program or the department, as the permit-issuing authority, in the absence of a local stormwater  
605 management program, which administers the Virginia Stormwater Management Program.

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

607 "Surface waters" means:

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

611 2. All interstate waters, including interstate wetlands;

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

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

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

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

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

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

624 6. The territorial sea; and

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

627 Waste treatment systems, including treatment ponds or lagoons designed to meet the  
628 requirements of the CWA and the law, are not surface waters. Surface waters do not include  
629 prior converted cropland. Notwithstanding the determination of an area's status as prior  
630 converted cropland by any other agency, for the purposes of the CWA , the final authority  
631 regarding the CWA jurisdiction remains with the EPA.

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

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

639 "Toxic pollutant" means any pollutant listed as toxic under § 307(a)(1) of the CWA or, in the  
640 case of sludge use or disposal practices, any pollutant identified in regulations implementing §  
641 405(d) of the CWA.

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

647 "Variance" means any mechanism or provision under § 301 or § 316 of the CWA or under  
648 40 CFR Part 125 (2000), or in the applicable federal effluent limitations guidelines that allows  
649 modification to or waiver of the generally applicable effluent limitation requirements or time  
650 deadlines of the CWA. This includes provisions that allow the establishment of alternative  
651 limitations based on fundamentally different factors or on § 301(c), § 301(g), § 301(h), § 301(i),  
652 or § 316(a) of the CWA.

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

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

659 "Virginia Stormwater BMP Clearinghouse website" means a website that contains detailed  
660 design standards and specifications for control measures that may be used in Virginia to comply  
661 with the requirements of the Virginia Stormwater Management Act and associated regulations  
662 and that is jointly created by the department and the Virginia Water Resources Research Center  
663 subject to advice to the director from a permanent stakeholder advisory committee.

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

667 "Virginia Stormwater Management Program " or "VSMP" means the Virginia program for  
668 issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and  
669 imposing and enforcing requirements pursuant to the CWA, the Act, this chapter, and  
670 associated guidance documents.

671 "Virginia Stormwater Management Program permit" or "VSMP permit" means a document  
672 issued by the permit-issuing authority pursuant to the Virginia Stormwater Management Act and  
673 this chapter authorizing, under prescribed conditions, the potential or actual discharge of  
674 pollutants from a point source to surface waters. Under the approved state program, a VSMP  
675 permit is equivalent to a NPDES permit.

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

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

682 "Water quality standards" or "WQS" means provisions of state or federal law that consist of  
683 a designated use or uses for the waters of the Commonwealth and water quality criteria for such  
684 waters based on such uses. Water quality standards are to protect the public health or welfare,  
685 enhance the quality of water, and serve the purposes of the State Water Control Law (§ 62.1-  
686 44.2 et seq. of the Code of Virginia), the Act (§ 10.1-603.1 et seq. of the Code of Virginia), and  
687 the CWA (33 USC § 1251 et seq.).

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

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

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

698 **4VAC50-60-20. Purposes.**

699 The purposes of this chapter are to provide a framework for the administration,  
700 implementation and enforcement of the Virginia Stormwater Management Act (Act) and to  
701 delineate the procedures and requirements to be followed in connection with VSMP permits  
702 issued by the board or its designee pursuant to the Clean Water Act (CWA) and the Virginia  
703 Stormwater Management Act, while at the same time providing flexibility for innovative solutions  
704 to stormwater management issues. The chapter also establishes the board's procedures for the  
705 authorization of a qualifying local program, the board's procedures for approving the  
706 administration of a local stormwater management program by an authorized qualifying local  
707 program, board and department oversight authorities for an authorized qualifying local program,  
708 the board's procedures for utilization by the department in administering the Virginia Stormwater  
709 Management Program in localities where no qualifying local program is authorized, and the  
710 required technical criteria for stormwater management for land-disturbing activities.

711 **4VAC50-60-30. Applicability.**

712 This chapter is applicable to:

- 713 1. Every locality that administers a local stormwater management program ;
- 714 2. The department in its oversight of locally administered programs or in its  
715 administration of the Virginia Stormwater Management Program;
- 716 3. Every MS4 program;
- 717 4. Every state agency project regulated under the Act and this chapter; and
- 718 5. Every land-disturbing activity regulated under § 10.1-603.8 of the Code of Virginia  
719 unless otherwise exempted in § 10.1-603.8 B.

720 Part II

721 **4VAC50-60-40. Authority.**

722 Pursuant to the Virginia Stormwater Management Act (§ 10.1-603.2 et seq. of the Code of  
723 Virginia), the board is required to take actions ensuring the general health, safety, and welfare  
724 of the citizens of the Commonwealth as well as protecting the quality and quantity of state  
725 waters from the potential harm of unmanaged stormwater. In addition to other authority granted  
726 to the board under the Stormwater Management Act, the board is authorized pursuant to §§  
727 10.1-603.2:1 and 10.1-603.4 to adopt regulations that specify standards and procedures for  
728 local stormwater management programs and the Virginia Stormwater Management Program, to  
729 establish statewide standards for stormwater management for land-disturbing activities, and to  
730 protect properties, the quality and quantity of state waters, the physical integrity of stream  
731 channels, and other natural resources.

**732 4VAC50-60-45. Implementation date.**

**733** The technical criteria in Part II A and Part II B shall be implemented by a stormwater program  
**734** administrative authority when a VSMP General Permit for Discharges of Stormwater from  
**735** Construction Activities has been issued that incorporates such criteria. Until that time, the  
**736** required technical criteria shall be found in Part II C.

**737 4VAC50-60-46. General objectives.**

**738** The physical, chemical, biological, and hydrologic characteristics and the water quality and  
**739** quantity of the receiving state waters shall be maintained, protected, or improved in accordance  
**740** with the requirements of this part. Objectives include, but are not limited to, supporting state  
**741** designated uses and water quality standards. All control measures used shall be employed in a  
**742** manner that minimizes impacts on receiving state waters.

**743 4VAC50-60-47. Applicability of other laws and regulations.**

**744** Nothing in this chapter shall be construed as limiting the applicability of other laws and  
**745** regulations, including, but not limited to, the CWA, Virginia Stormwater Management Act,  
**746** Virginia Erosion and Sediment Control Law, and the Chesapeake Bay Preservation Act, except  
**747** as provided in § [10.1-603.3](#) I of the Code of Virginia, and all applicable regulations adopted in  
**748** accordance with those laws, or the rights of other federal agencies, state agencies, or local  
**749** governments to impose more stringent technical criteria or other requirements as allowed by  
**750** law.

**751 4VAC50-60-47.1. Time limits on applicability of approved design criteria.**

**752** Beginning with the VSMP General Permit for Discharges of Stormwater from Construction  
**753** Activities issued July 1, 2009, all land-disturbing activities that receive general permit coverage  
**754** shall be conducted in accordance with the Part II B or Part II C technical criteria in place at the  
**755** time of initial permit coverage and shall remain subject to those criteria for an additional two  
**756** permit cycles, except as provided for in subsection D of 4VAC50-60-48. After the two additional  
**757** permit cycles have passed, or should permit coverage not be maintained, portions of the project  
**758** not under construction shall become subject to any new technical criteria adopted since original  
**759** permit coverage was issued. For land-disturbing projects issued coverage under the July 1,  
**760** 2009 permit and for which coverage was maintained, such projects shall remain subject to the  
**761** technical criteria of Part II C for an additional two permits.

**762 4VAC50-60-48. Grandfathering.**

**763** A. Until June 30, 2019, any land-disturbing activity for which a currently valid proffered or  
**764** conditional zoning plan, preliminary or final subdivision plat, preliminary or final site plan or  
**765** zoning with a plan of development, or any document determined by the locality as being  
**766** equivalent thereto, was approved by a locality prior to July 1, 2012, and for which no coverage  
**767** under the VSMP General Permit for Discharges of Stormwater from Construction Activities has  
**768** been issued prior to July 1, 2014, shall be considered grandfathered by the stormwater program  
**769** administrative authority and shall not be subject to the technical criteria of Part II B, but shall be  
**770** subject to the technical criteria of Part II C for those areas that were included in the approval,  
**771** provided that the stormwater program administrative authority finds that such proffered or  
**772** conditional zoning plan, preliminary or final subdivision plat, preliminary or final site plan or  
**773** zoning with a plan of development, or any document determined by the locality as being  
**774** equivalent thereto, (i) provides for a layout; and (ii) the resulting land-disturbing activity will be  
**775** compliant with the requirements of Part II C. In the event that the locality-approved document is  
**776** subsequently modified or amended in a manner such that there is no increase over the  
**777** previously approved plat or plan in the amount of phosphorus leaving each point of discharge of  
**778** the land-disturbing activity through stormwater runoff, and such that there is no increase over

779 the previously approved plat or plan in the volume or rate of runoff, the grandfathering shall  
780 continue as before.

781 B. Until June 30, 2019, for locality, state, and federal projects for which there has been an  
782 obligation of locality, state, or federal funding, in whole or in part, prior to July 1, 2012, or for  
783 which the department has approved a stormwater management plan prior to July 1, 2012, such  
784 projects shall be considered grandfathered by the stormwater program administrative authority  
785 and shall not be subject to the technical criteria of Part II B, but shall be subject to the technical  
786 criteria of Part II C for those areas that were included in the approval.

787 C. For land-disturbing activities grandfathered under subsections A and B above,  
788 construction must be completed by June 30, 2019 or portions of the project not under  
789 construction shall become subject to the technical criteria of Part II B.

790 D. In cases where governmental bonding or public debt financing has been issued for a  
791 project prior to July 1, 2012, such project shall be subject to the technical criteria of Part II C.

792 E. Nothing in this section shall preclude an operator from constructing to a more stringent  
793 standard at their discretion.

794 **4VAC50-60-50. (Repealed.)**

795 **4VAC50-60-51. Chesapeake Bay Preservation Act land-disturbing activity.**

796 In order to protect the quality of state waters and to control the discharge of stormwater  
797 pollutants from land-disturbing activities, runoff associated with Chesapeake Bay Preservation  
798 Act land-disturbing activities shall be controlled. Such land-disturbing activities shall not require  
799 completion of a registration statement or require coverage under the VSMP General Permit for  
800 Discharges of Stormwater from Construction Activities but shall be subject to the following  
801 technical criteria and program and administrative requirements:

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

807 B. A stormwater plan consistent with the requirements of the Virginia Stormwater  
808 Management Act and regulations must be designed and implemented during the land-  
809 disturbing activity. The stormwater management plan shall be developed and submitted  
810 in accordance with 4VAC50-60-55. Prior to land disturbance, this plan must be approved  
811 by the stormwater program administrative authority.

812 C. Exceptions may be requested in accordance with 4VAC50-60-57.

813 D. Long-term maintenance of stormwater management facilities shall be provided for  
814 and conducted in accordance with 4VAC50-60-58.

815 E. Water quality design criteria in 4VAC50-60-63 shall be applied to the site.

816 F. Water quality compliance shall be achieved in accordance with 4VAC50-60-65.

817 G. Channel protection and flood protection shall be achieved in accordance with  
818 4VAC50-60-66.

819 H. Offsite compliance options in accordance with 4VAC50-60-69 shall be available to  
820 Chesapeake Bay Preservation Act land-disturbing activities.

821 I. Such land-disturbing activities shall be subject to the design storm and hydrologic  
822 methods set out in 4VAC50-60-72, linear development controls in 4VAC50-60-76, and  
823 criteria associated with stormwater impoundment structures or facilities in 4VAC50-60-  
824 85.

825  
826  
827  
828  
829  
830  
831  
832  
833  
834  
835  
836  
837  
838  
839  
840  
841  
842  
843  
844  
845  
846  
847  
848  
849  
850  
851  
852  
853  
854  
855  
856  
857  
858  
859  
860  
861  
862  
863  
864  
865  
866  
867  
868  
869

Part II A

General Administrative Criteria for Regulated Land-Disturbing Activities

**4VAC50-60-53. Applicability .**

This Part applies to all regulated land-disturbing activities.

**4VAC50-60-54. Stormwater pollution prevention plan requirements.**

A. A stormwater pollution prevention plan shall include, but not be limited to, an approved erosion and sediment control plan, an approved stormwater management plan, a pollution prevention plan for regulated land-disturbing activities, and a description of any additional control measures necessary to address a TMDL pursuant to subsection E.

B. 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 either the local erosion and sediment control program or the department in accordance with the Virginia Erosion and Sediment Control Law and attendant regulations.

C. A stormwater management plan consistent with the requirements of the Virginia Stormwater Management Act and regulations must be designed and implemented during construction activities. Prior to land disturbance, this plan must be approved by the stormwater program administrative authority.

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

E. In addition to the above requirements, if a specific WLA for a pollutant has been established in a TMDL and is assigned to stormwater discharges from a construction activity, additional control measures must be identified and implemented by the operator so that discharges are consistent with the assumptions and requirements of the WLA in a State Water Control Board approved TMDL.

F. The stormwater pollution prevention plan must address the following requirements, to the extent otherwise required by state law or regulations and any applicable requirements of a VSMP permit:

1. Control stormwater volume and velocity within the site to minimize soil erosion;
2. Control stormwater discharges, including both peak flow rates and total stormwater volume, to minimize erosion at outlets and to minimize downstream channel and stream bank erosion;
3. Minimize the amount of soil exposed during construction activity;
4. Minimize the disturbance of steep slopes;
5. Minimize sediment discharges from the site. The design, installation and maintenance of erosion and sediment controls must address factors such as the amount, frequency, intensity and duration of precipitation, the nature of resulting stormwater runoff, and soil characteristics, including the range of soil particle sizes expected to be present on the site;
6. Provide and maintain natural buffers around surface waters, direct stormwater to vegetated areas to increase sediment removal and maximize stormwater infiltration, unless infeasible;
7. Minimize soil compaction and, unless infeasible, preserve topsoil; and

870 8. Stabilization of disturbed areas must, at a minimum, be initiated immediately  
871 whenever any clearing, grading, excavating or other earth disturbing activities have  
872 permanently ceased on any portion of the site, or temporarily ceased on any portion of  
873 the site and will not resume for a period exceeding 14 calendar days. Stabilization must  
874 be completed within a period of time determined by the stormwater program  
875 administrative authority. In arid, semiarid, and drought-stricken areas where initiating  
876 vegetative stabilization measures immediately is infeasible, alternative stabilization  
877 measures must be employed as specified by the stormwater program administrative  
878 authority.

879 G. The SWPPP shall be amended whenever there is a change in design, construction,  
880 operation, or maintenance that has a significant effect on the discharge of pollutants to state  
881 waters and that has not been previously addressed in the SWPPP. The SWPPP must be  
882 maintained at a central location onsite. If an onsite location is unavailable, notice of the  
883 SWPPP's location must be posted near the main entrance at the construction site.

884 **4VAC50-60-55. Stormwater management plans.**

885 A. A stormwater management plan shall be developed and submitted to the stormwater  
886 program administrative authority. The stormwater management plan shall be implemented as  
887 approved or modified by the stormwater program administrative authority and shall be  
888 developed in accordance with the following:

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

892 2. A stormwater management plan shall consider all sources of surface runoff and all  
893 sources of subsurface and groundwater flows converted to surface runoff.

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

895 1. Information on the type of and location of stormwater discharges, information on the  
896 features to which stormwater is being discharged including surface waters or karst  
897 features if present, and predevelopment and postdevelopment drainage areas;

898 2. Contact information including the name, address, and telephone number of the owner  
899 and the tax reference number and parcel number of the property or properties affected;

900 3. A narrative that includes a description of current site conditions and final site  
901 conditions or if allowed by the stormwater program administrative authority, the  
902 information provided and documented during the review process that addresses the  
903 current and final site conditions;

904 4. A general description of the proposed stormwater management facilities and the  
905 mechanism through which the facilities will be operated and maintained after  
906 construction is complete;

907 5. Information on the proposed stormwater management facilities, including the type of  
908 facilities, location, including geographic coordinates, acres treated, and the surface  
909 waters or karst features into which the facility will discharge;

910 6. Hydrologic and hydraulic computations, including runoff characteristics;

911 7. Documentation and calculations verifying compliance with the water quality and  
912 quantity requirements of these regulations;

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

914 a. All contributing drainage areas;

- 915 b. Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and  
916 floodplains;  
917 c. Soil types, geologic formations if karst features are present in the area, forest  
918 cover, and other vegetative areas;  
919 d. Current land use including existing structures, roads, and locations of known  
920 utilities and easements;  
921 e. Sufficient information on adjoining parcels to assess the impacts of stormwater  
922 from the site on these parcels;  
923 f. The limits of clearing and grading, and the proposed drainage patterns on the site;  
924 g. Proposed buildings, roads, parking areas, utilities, and stormwater management  
925 facilities; and  
926 h. Proposed land use with tabulation of the percentage of surface area to be adapted  
927 to various uses, including but not limited to planned locations of utilities, roads, and  
928 easements.

929 9. If an operator intends to meet the requirements established in 4VAC50-60-60 or  
930 4VAC50-60-66 through the use of off-site compliance options, where applicable, then a  
931 letter of availability from the off-site provider must be included.

932 10. If payment of a fee is required with the stormwater management plan submission by  
933 the stormwater program administrative authority, the fee and the required fee form in  
934 accordance with Part XIII must have been submitted.

935 C. Elements of the stormwater management plans that include activities regulated under  
936 Chapter 4 of Title 54.1 shall be appropriately sealed and signed by a professional registered in  
937 the Commonwealth of Virginia pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title  
938 54.1.

939 D. A construction record drawing for permanent stormwater management facilities shall be  
940 submitted to the stormwater program administrative authority in accordance with 4VAC50-60-  
941 108 and 4VAC50-60-112. The construction record drawing shall be appropriately sealed and  
942 signed by a professional registered in the Commonwealth of Virginia, certifying that the  
943 stormwater management facilities have been constructed in accordance with the approved plan.

944 **4VAC50-60-56. Pollution prevention plans.**

945 [ A. A plan for implementing pollution prevention measures during construction activities  
946 shall be developed, implemented and updated as necessary. The pollution prevention plan shall  
947 detail the design, installation, implementation and maintenance of effective pollution prevention  
948 measures to minimize the discharge of pollutants. At a minimum, such measures must be  
949 designed, installed, implemented and maintained to:

- 950 1. Minimize the discharge of pollutants from equipment and vehicle washing, wheel  
951 wash water, and other wash waters. Wash waters must be treated in a sediment basin  
952 or alternative control that provides equivalent or better treatment prior to discharge;  
953 2. Minimize the exposure of building materials, building products, construction wastes,  
954 trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste  
955 and other materials present on the site to precipitation and to stormwater; and  
956 3. Minimize the discharge of pollutants from spills and leaks and implement chemical  
957 spill and leak prevention and response procedures.

958 B. The pollution prevention plan shall include effective best management practices to  
959 prohibit the following discharges:

- 960 1. Wastewater from washout of concrete, unless managed by an appropriate control;

- 961 2. Wastewater from washout and cleanout of stucco, paint, form release oils, curing  
962 compounds and other construction materials;  
963 3. Fuels, oils, or other pollutants used in vehicle and equipment operation and  
964 maintenance; and  
965 4. Soaps or solvents used in vehicle and equipment washing.

966 C. Discharges from dewatering activities, including discharges from dewatering of trenches  
967 and excavations, are prohibited unless managed by appropriate controls.

968 **4VAC50-60-57. Requesting an exception.**

969 A request for an exception for Part II B or Part II C, including the reasons for making the  
970 request, may be submitted in writing to the stormwater program administrative authority.  
971 Economic hardship alone is not a sufficient reason to request an exception from the  
972 requirements of this chapter. The request for an exception will be reviewed pursuant to  
973 4VAC50-60-122. An exception to the requirement that the land disturbing activity obtain a  
974 VSMP permit will not be granted by the stormwater program administrative authority.

975 **4VAC50-60-58. Responsibility for long-term maintenance of permanent stormwater  
976 management facilities.**

977 A recorded instrument shall be submitted to the stormwater program administrative authority  
978 in accordance with 4VAC50-60-112.

979 **4VAC50-60-59. Applying for VSMP permit coverage.**

980 The operator must submit a complete and accurate registration statement on the official  
981 department form to the stormwater program administrative authority in order to apply for VSMP  
982 permit coverage. The registration statement must be signed by the operator in accordance with  
983 4VAC50-60-370.

984 **4VAC50-60-60. (Repealed.)**

985 Part II B

986 Technical Criteria for Regulated Land-Disturbing Activities

987 **4VAC50-60-62. Applicability.**

988 In accordance with the board's authority, and except as provided in 4VAC50-60-48, this part  
989 establishes the minimum technical criteria that shall be employed by a state agency in  
990 accordance with an implementation schedule set by the board, or by a stormwater program  
991 administrative authority that has been approved by the board, to protect the quality and quantity  
992 of state waters from the potential harm of unmanaged stormwater runoff resulting from land-  
993 disturbing activities.

994 **4VAC50-60-63. Water quality design criteria requirements.**

995 A. In order to protect the quality of state waters and to control the discharge of stormwater  
996 pollutants from regulated activities, the following minimum design criteria and statewide  
997 standards for stormwater management shall be applied to the site.

- 998 1. New development. The total phosphorus load of new development projects shall not  
999 exceed 0.41 pounds per acre per year, as calculated pursuant to 4VAC50-60-65.  
1000 2. Development on prior developed lands.  
1001 a. For land-disturbing activities disturbing greater than or equal to one acre that  
1002 result in no net increase in impervious cover from the predevelopment condition, the  
1003 total phosphorus load shall be reduced at least 20% below the predevelopment total  
1004 phosphorus load.

1005 b. For regulated land-disturbing activities disturbing less than one acre that result in  
1006 no net increase in impervious cover from the predevelopment condition, the total  
1007 phosphorus load shall be reduced at least 10% below the predevelopment total  
1008 phosphorus load.

1009 c. For land-disturbing activities that result in a net increase in impervious cover over  
1010 the predevelopment condition, the design criteria for new development shall be  
1011 applied to the increased impervious area. Depending on the area of disturbance, the  
1012 criteria of subdivisions a or b above, shall be applied to the remainder of the site.

1013 d. In lieu of subdivision (c), the total phosphorus load of a linear development project  
1014 occurring on prior developed lands shall be reduced 20% below the predevelopment  
1015 total phosphorus load.

1016 e. The total phosphorus load shall not be required to be reduced to below the  
1017 applicable standard for new development unless a more stringent standard has been  
1018 established by a local stormwater management program.

1019 B. Compliance with subsection A above shall be determined in accordance with  
1020 4VAC50-60-65.

1021 C. Upon completion of the 2017 Chesapeake Bay Phase III Watershed Implementation  
1022 Plan, the department shall review the water quality design criteria standards.

1023 D. Nothing in this section shall prohibit a local stormwater management program from  
1024 establishing more stringent water quality design criteria requirements.

1025 **4VAC50-60-65. Water quality compliance.**

1026 A. Compliance with the water quality design criteria set out in subdivisions 1 and 2 of  
1027 4VAC50-60-63 shall be determined by utilizing the Virginia Runoff Reduction Method or another  
1028 equivalent methodology that is approved by the board.

1029 B. The BMPs listed below are approved for use as necessary to effectively reduce the  
1030 phosphorus load and runoff volume in accordance with the Virginia Runoff Reduction Method.  
1031 Other approved BMPs found on the Virginia Stormwater BMP Clearinghouse Website at  
1032 <http://www.vwrrc.vt.edu/swc> may also be utilized. Design specifications and the pollutant  
1033 removal efficiencies for all approved BMPs are found on the Virginia Stormwater BMP  
1034 Clearinghouse Website.

- 1035 1. Vegetated Roof (Version 2.3, March 1, 2011);
- 1036 2. Rooftop Disconnection (Version 1.9, March 1, 2011);
- 1037 3. Rainwater Harvesting (Version 1.9.5, March 1, 2011);
- 1038 4. Soil Amendments (Version 1.8, March 1, 2011);
- 1039 5. Permeable Pavement (Version 1.8, March 1, 2011);
- 1040 6. Grass Channel (Version 1.9, March 1, 2011);
- 1041 7. Bioretention (Version 1.9, March 1, 2011);
- 1042 8. Infiltration (Version 1.9, March 1, 2011);
- 1043 9. Dry Swale (Version 1.9, March 1, 2011);
- 1044 10. Wet Swale (Version 1.9, March 1, 2011);
- 1045 11. Sheet Flow to Filter/Open Space (Version 1.9, March 1, 2011);
- 1046 12. Extended Detention Pond (Version 1.9, March 1, 2011);
- 1047 13. Filtering Practice (Version 1.8, March 1, 2011);
- 1048 14. Constructed Wetland (Version 1.9, March 1, 2011); and

1049 15. Wet Pond (Version 1.9, March 1, 2011).

1050 C. BMPs differing from those listed above shall be reviewed and approved by the director in  
1051 accordance with procedures established by the BMP Clearinghouse Committee and approved  
1052 by the board.

1053 D. A local stormwater management program may establish limitations on the use of specific  
1054 BMPs following the submission of the proposed limitation and written justification to the  
1055 department.

1056 E. The stormwater program administrative authority shall have the discretion to allow for  
1057 application of the design criteria to each drainage area of the site. However, where a site drains  
1058 to more than one HUC, the pollutant load reduction requirements shall be applied independently  
1059 within each HUC unless reductions are achieved in accordance with a comprehensive  
1060 watershed stormwater management plan in accordance with 4VAC50-60-92.

1061 F. Offsite alternatives where allowed in accordance with 4VAC50-60-69 may be utilized to  
1062 meet the design criteria of subsection A of 4VAC50-60-63.

1063 **4VAC50-60-66. Water quantity.**

1064 A. Channel protection and flood protection shall be addressed in accordance with the  
1065 minimum standards set out in this section, which are established pursuant to the requirements  
1066 of subdivision 7 of § 10.1-603.4 of the Code of Virginia. Nothing in this section shall prohibit a  
1067 local stormwater management program from establishing a more stringent standard.  
1068 Compliance with the minimum standards set out in this section shall be deemed to satisfy the  
1069 requirements of 4VAC50-30-40.19 (Minimum Standard 19 of the Virginia Erosion and Sediment  
1070 Control Regulations).

1071 B. Channel protection. Concentrated stormwater flow shall be released into a stormwater  
1072 conveyance system and shall meet criteria 1, 2 or 3 of this subsection, where applicable, from  
1073 the point of discharge to a point to the limits of analysis in subsection 4.

1074 1. Manmade stormwater conveyance systems. When stormwater from a development is  
1075 discharged to a manmade stormwater conveyance system, following the land-disturbing  
1076 activity, either:

1077 a. The manmade stormwater conveyance system shall convey the postdevelopment  
1078 peak flow rate from the two-year 24-hour storm event without causing erosion of the  
1079 system. Detention of stormwater or downstream improvements may be incorporated  
1080 into the approved land-disturbing activity to meet this criterion, at the discretion of the  
1081 stormwater program administrative authority; or

1082 b. The peak discharge requirements for concentrated stormwater flow to natural  
1083 stormwater conveyance systems in subsection 3 shall be met.

1084 2. Restored stormwater conveyance systems. When stormwater from a development is  
1085 discharged to a restored stormwater conveyance system that has been restored using  
1086 natural design concepts, following the land-disturbing activity, either:

1087 a. The development shall be consistent, in combination with other stormwater runoff,  
1088 with the design parameters of the restored stormwater conveyance system that is  
1089 functioning in accordance with the design objectives; or

1090 b. The peak discharge requirements for concentrated stormwater flow to natural  
1091 stormwater conveyance systems in subsection 3 shall be met.

1092 3. Natural stormwater conveyance systems. When stormwater from a development is  
1093 discharged to a natural stormwater conveyance system, the maximum peak flow rate

1094 from the one-year 24-hour storm following the land-disturbing activity shall be calculated  
1095 either:

1096 a. In accordance with the following methodology:

1097 
$$Q_{\text{Developed}} \leq \text{I.F.} \cdot (Q_{\text{Pre-developed}} \cdot \text{RV}_{\text{Pre-Developed}}) / \text{RV}_{\text{Developed}}$$

1098 Under no condition shall  $Q_{\text{Developed}}$  be greater than  $Q_{\text{Pre-Developed}}$  nor shall  $Q_{\text{Developed}}$  be  
1099 required to be less than that calculated in the equation  $(Q_{\text{Forest}} \cdot \text{RV}_{\text{Forest}}) / \text{RV}_{\text{Developed}}$ ;  
1100 where

1101 I.F. (Improvement Factor) equals 0.8 for sites > 1 acre or 0.9 for sites  $\leq$  1 acre.

1102  $Q_{\text{Developed}}$  = The allowable peak flow rate of runoff from the developed site.

1103  $\text{RV}_{\text{Developed}}$  = The volume of runoff from the site in the developed condition.

1104  $Q_{\text{Pre-Developed}}$  = The peak flow rate of runoff from the site in the pre-developed  
1105 condition.

1106  $\text{RV}_{\text{Pre-Developed}}$  = The volume of runoff from the site in pre-developed condition.

1107  $Q_{\text{Forest}}$  = The peak flow rate of runoff from the site in a forested condition.

1108  $\text{RV}_{\text{Forest}}$  = The volume of runoff from the site in a forested condition; or

1109 b. In accordance with another methodology that is demonstrated by the local  
1110 stormwater management program to achieve equivalent results and is approved by  
1111 the board.

1112 4. Limits of analysis. Unless subsection 3 is utilized to show compliance with the channel  
1113 protection criteria, stormwater conveyance systems shall be analyzed for compliance  
1114 with channel protection criteria to a point where either:

1115 a. Based on land area, the site's contributing drainage area is less than or equal to  
1116 1.0% of the total watershed area; or

1117 b. Based on peak flow rate, the site's peak flow rate from the one-year 24-hour storm  
1118 is less than or equal to 1.0% of the existing peak flow rate from the one-year 24-hour  
1119 storm prior to the implementation of any stormwater quantity control measures.

1120 C. Flood protection. Concentrated stormwater flow shall be released into a stormwater  
1121 conveyance system and shall meet one of the following criteria as demonstrated by use of  
1122 acceptable hydrologic and hydraulic methodologies:

1123 1. Concentrated stormwater flow to stormwater conveyance systems that currently do  
1124 not experience localized flooding during the 10-year 24-hour storm event: The point of  
1125 discharge releases stormwater into a stormwater conveyance system that, following the  
1126 land-disturbing activity, confines the postdevelopment peak flow rate from the 10-year  
1127 24-hour storm event within the stormwater conveyance system. Detention of stormwater  
1128 or downstream improvements may be incorporated into the approved land-disturbing  
1129 activity to meet this criterion, at the discretion of the stormwater program administrative  
1130 authority.

1131 2. Concentrated stormwater flow to stormwater conveyance systems that currently  
1132 experience localized flooding during the 10-year 24-hour storm event: The point of  
1133 discharge either:

1134 a. Confines the postdevelopment peak flow rate from the 10-year 24-hour storm  
1135 event within the stormwater conveyance system to avoid the localized flooding.  
1136 Detention of stormwater or downstream improvements may be incorporated into the  
1137 approved land-disturbing activity to meet this criterion, at the discretion of the  
1138 stormwater program administrative authority; or

1139 b. Releases a postdevelopment peak flow rate for the 10-year 24-hour storm event  
1140 that is less than the predevelopment peak flow rate from the 10-year 24-hour storm  
1141 event. Downstream stormwater conveyance systems do not require any additional  
1142 analysis to show compliance with flood protection criteria if this option is utilized.

1143 3. Limits of analysis. Unless 2b above is utilized to comply with the flood protection  
1144 criteria, stormwater conveyance systems shall be analyzed for compliance with flood  
1145 protection criteria to a point where:

1146 a. The site's contributing drainage area is less than or equal to 1.0% of the total  
1147 watershed area draining to a point of analysis in the downstream stormwater  
1148 conveyance system;

1149 b. Based on peak flow rate, the site's peak flow rate from the 10-year 24-hour storm  
1150 event is less than or equal to 1.0% of the existing peak flow rate from the 10-year 24-  
1151 hour storm event prior to the implementation of any stormwater quantity control  
1152 measures; or

1153 c. The stormwater conveyance system enters a mapped floodplain or other flood-  
1154 prone area, adopted by ordinance, of any locality.

1155 D. Increased volumes of sheet flow resulting from pervious or disconnected impervious  
1156 areas, or from physical spreading of concentrated flow through level spreaders, must be  
1157 identified and evaluated for potential impacts on down-gradient properties or resources.  
1158 Increased volumes of sheet flow that will cause or contribute to erosion, sedimentation, or  
1159 flooding of down gradient properties or resources shall be diverted to a stormwater  
1160 management facility or a stormwater conveyance system that conveys the runoff without  
1161 causing down-gradient erosion, sedimentation, or flooding. If all runoff from the site is sheet flow  
1162 and the conditions of this subsection are met, no further water quantity controls are required.

1163 E. For purposes of computing predevelopment runoff ] , all pervious lands on the site shall  
1164 be assumed to be in good hydrologic condition in accordance with the U.S. Department of  
1165 Agriculture's Natural Resources Conservation Service (NRCS) standards, regardless of  
1166 conditions existing at the time of computation. Predevelopment runoff calculations utilizing other  
1167 hydrologic conditions may be utilized provided that it is demonstrated to and approved by the  
1168 stormwater program administrative authority that actual site conditions warrant such  
1169 considerations.

1170 F. Predevelopment and postdevelopment runoff characteristics and site hydrology shall be  
1171 verified by site inspections, topographic surveys, available soil mapping or studies, and  
1172 calculations consistent with good engineering practices. Guidance provided in the Virginia  
1173 Stormwater Management Handbook and by the Virginia Stormwater BMP Clearinghouse shall  
1174 be considered appropriate practices.

1175 **4VAC50-60-69. Offsite compliance options.**

1176 A. Offsite compliance options that a stormwater program administrative authority may allow  
1177 an operator to use to meet required phosphorus nutrient reductions include the following:

1178 1. Offsite controls utilized in accordance with a comprehensive watershed stormwater  
1179 management plan adopted pursuant to 4VAC50-60-92 for the local watershed within  
1180 which a project is located;

1181 2. A locality pollutant loading pro rata share program established pursuant to § 15.2-  
1182 2243 of the Code of Virginia or similar local funding mechanism;

1183 3. The nonpoint nutrient offset program established pursuant to § 10.1-603.8:1 of the  
1184 Code of Virginia;

- 1185 4. Any other offsite options approved by an applicable state agency or state board; and  
1186 5. When an operator has additional properties available within the same HUC or  
1187 upstream HUC that the land-disturbing activity directly discharges to or within the same  
1188 watershed as determined by the stormwater program administrative authority, offsite  
1189 stormwater management facilities on those properties may be utilized to meet the  
1190 required phosphorus nutrient reductions from the land-disturbing activity.

1191 B. Notwithstanding subsection A, and pursuant to §10.1-603.8:1, operators shall be allowed  
1192 to utilize offsite options identified in subsection A under any of the following conditions:

- 1193 1. Less than five acres of land will be disturbed;  
1194 2. The postconstruction phosphorus control requirement is less than 10 pounds per year;  
1195 or  
1196 3. At least 75% of the required phosphorus nutrient reductions are achieved on-site. If at  
1197 least 75% of the required phosphorus nutrient reductions can not be met on-site, and the  
1198 operator can demonstrate to the satisfaction of the stormwater program administrative  
1199 authority that (i) alternative site designs have been considered that may accommodate  
1200 on-site best management practices, (ii) on-site best management practices have been  
1201 considered in alternative site designs to the maximum extent practicable, (iii) appropriate  
1202 on-site best management practices will be implemented, and (iv) full compliance with  
1203 postdevelopment nonpoint nutrient runoff compliance requirements cannot practicably  
1204 be met on-site, then the required phosphorus nutrient reductions may be achieved, in  
1205 whole or in part, through the use of off-site compliance options.

1206 C. Notwithstanding subsections A and B, offsite options shall not be allowed:

- 1207 1. Unless the selected offsite option achieves the necessary nutrient reductions prior to  
1208 the commencement of the operator's land-disturbing activity. In the case of a phased  
1209 project, the operator may acquire or achieve offsite nutrient reductions prior to the  
1210 commencement of each phase of land-disturbing activity in an amount sufficient for each  
1211 phase.  
1212 2. In contravention of local water quality-based limitations at the point of discharge that  
1213 are (i) consistent with the determinations made pursuant to subsection B of § 62.1-  
1214 44.19:7, (ii) contained in a municipal separate storm sewer system (MS4) program plan  
1215 approved by the department, or (iii) as otherwise may be established or approved by the  
1216 board.

1217 D. In order to meet the requirements of 4VAC50-60-66, offsite options 1 and 2 of subsection  
1218 A above may be utilized.

1219 **4VAC50-60-70. (Repealed.)**

1220 **4VAC50-60-72. Design storms and hydrologic methods.**

1221 A. Unless otherwise specified, the prescribed design storms are the one-year, two-year, and  
1222 10-year 24-hour storms using the site-specific rainfall precipitation frequency data  
1223 recommended by the U.S. National Oceanic and Atmospheric Administration (NOAA) Atlas 14.  
1224 Partial duration time series shall be used for the precipitation data.

1225 B. Unless otherwise specified, all hydrologic analyses shall be based on the existing  
1226 watershed characteristics and how the ultimate development condition of the subject project will  
1227 be addressed.

1228 C. The U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS)  
1229 synthetic 24-hour rainfall distribution and models, including, but not limited to TR-55 and TR-20;  
1230 hydrologic and hydraulic methods developed by the U.S. Army Corps of Engineers; or other

1231 standard hydrologic and hydraulic methods, shall be used to conduct the analyses described in  
1232 this part.

1233 D. For drainage areas of 200 acres or less, the stormwater program administrative authority  
1234 may allow for the use of the Rational Method for evaluating peak discharges .

1235 E. For drainage areas of 200 acres or less, the stormwater program administrative authority  
1236 may allow for the use of the Modified Rational Method for evaluating volumetric flows to  
1237 stormwater conveyances.

1238 **4VAC50-60-74. Stormwater harvesting.**

1239 In accordance with § 10.1-603.4 of the Code of Virginia, stormwater harvesting is  
1240 encouraged for the purposes of landscape irrigation systems, fire protection systems, flushing  
1241 water closets and urinals, and other water handling systems to the extent such systems are  
1242 consistent with federal, state, and local regulations .

1243 **4VAC50-60-76. Linear development projects.**

1244 Unless exempt pursuant to § 10.1-603.8 B of the Code of Virginia, linear development  
1245 projects shall control postdevelopment stormwater runoff in accordance with a site-specific  
1246 stormwater management plan or a comprehensive watershed stormwater management plan  
1247 developed in accordance with these regulations.

1248 **4VAC50-60-80. (Repealed.)**

1249 **4VAC50-60-85. Stormwater management impoundment structures or facilities.**

1250 A. Stormwater management wet ponds and extended detention ponds that are not covered  
1251 by the Impounding Structure Regulations (4VAC50-20) shall, at a minimum, be engineered for  
1252 structural integrity for the 100-year storm event.

1253 B. Construction of stormwater management impoundment structures or facilities may occur  
1254 in karst areas only after a study of the geology and hydrology of the area has been conducted to  
1255 determine the presence or absence of karst features that may be impacted by stormwater runoff  
1256 and BMP placement.

1257 C. Discharge of stormwater runoff to a karst feature shall meet the water quality criteria set  
1258 out in 4VAC50-60-63 and the water quantity criteria set out in 4VAC50-60-66. Permanent  
1259 stormwater management impoundment structures or facilities shall only be constructed in karst  
1260 features after completion of a geotechnical investigation that identifies any necessary  
1261 modifications to the BMP to ensure its structural integrity and maintain its water quality and  
1262 quantity efficiencies. The person responsible for the land-disturbing activity is encouraged to  
1263 screen for known existence of heritage resources in the karst features. Any Class V  
1264 Underground Injection Control Well registration statements for stormwater discharges to  
1265 improved sinkholes shall be included in the SWPPP.

1266 **4VAC50-60-90. (Repealed.)**

1267 **4VAC50-60-92. Comprehensive stormwater management plans.**

1268 Local stormwater management programs may develop comprehensive stormwater  
1269 management plans to be approved by the department that meet the water quality objectives,  
1270 quantity objectives, or both of this chapter:

1271 1. Such plans shall ensure that offsite reductions equal to or greater than those that  
1272 would be required on each contributing site are achieved within the same HUC or within  
1273 another locally designated watershed. Pertaining to water quantity objectives, the plan  
1274 may provide for implementation of a combination of channel improvement, stormwater  
1275 detention, or other measures that are satisfactory to the local stormwater management  
1276 program to prevent downstream erosion and flooding.

1277 2. If the land use assumptions upon which the plan was based change or if any other  
1278 amendments are deemed necessary by the local stormwater management program,  
1279 such program shall provide plan amendments to the department for review and  
1280 approval.

1281 3. During the plan's implementation, the local stormwater management program shall  
1282 document nutrient reductions accredited to the BMPs specified in the plan.

1283 4. State and federal agencies may develop comprehensive stormwater management  
1284 plans, and may participate in locality-developed comprehensive stormwater  
1285 management plans where practicable and permitted by the local stormwater  
1286 management program.

1287 **4VAC50-60-93. (Reserved.)**

1288 Part II C Technical Criteria for Regulated Land-Disturbing Activities: Grandfathered Projects and  
1289 Projects Subject to the Provisions of 4VAC50-60-47.1

1290 **4VAC50-60-93.1. Definitions.**

1291 For the purposes of Part II C only, the following words and terms have the following  
1292 meanings unless the context clearly indicates otherwise:

1293 "Adequate channel" means a channel that will convey the designated frequency storm event  
1294 without overtopping the channel bank nor causing erosive damage to the channel bed or banks.

1295 "Aquatic bench" means a 10- to 15-foot wide bench around the inside perimeter of a  
1296 permanent pool that ranges in depth from zero to 12 inches. Vegetated with emergent plants,  
1297 the bench augments pollutant removal, provides habitats, conceals trash and water level  
1298 fluctuations, and enhances safety.

1299 "Average land cover condition" means a measure of the average amount of impervious  
1300 surfaces within a watershed, assumed to be 16%. Note that a locality may opt to calculate  
1301 actual watershed-specific values for the average land cover condition based upon [4VAC50-60-](#)  
1302 [110](#).

1303 "Bioretention basin" means a water quality BMP engineered to filter the water quality volume  
1304 through an engineered planting bed, consisting of a vegetated surface layer (vegetation, mulch,  
1305 ground cover), planting soil, and sand bed, and into the in-situ material.

1306 "Bioretention filter" means a bioretention basin with the addition of a sand filter collector pipe  
1307 system beneath the planting bed.

1308 "Constructed wetlands" means areas intentionally designed and created to emulate the  
1309 water quality improvement function of wetlands for the primary purpose of removing pollutants  
1310 from stormwater.

1311 "Development" means a tract of land developed or to be developed as a unit under single  
1312 ownership or unified control which is to be used for any business or industrial purpose or is to  
1313 contain three or more residential dwelling units.

1314 "Grassed swale" means an earthen conveyance system which is broad and shallow with  
1315 erosion resistant grasses and check dams, engineered to remove pollutants from stormwater  
1316 runoff by filtration through grass and infiltration into the soil.

1317 "Infiltration facility" means a stormwater management facility that temporarily impounds  
1318 runoff and discharges it via infiltration through the surrounding soil. While an infiltration facility  
1319 may also be equipped with an outlet structure to discharge impounded runoff, such discharge is  
1320 normally reserved for overflow and other emergency conditions. Since an infiltration facility  
1321 impounds runoff only temporarily, it is normally dry during nonrainfall periods. Infiltration basin,

**1322** infiltration trench, infiltration dry well, and porous pavement shall be considered infiltration  
**1323** facilities.

**1324** "Nonpoint source pollutant runoff load" or "pollutant discharge" means the average amount  
**1325** of a particular pollutant measured in pounds per year, delivered in a diffuse manner by  
**1326** stormwater runoff.

**1327** "Planning area" means a designated portion of the parcel on which the land development  
**1328** project is located. Planning areas shall be established by delineation on a master plan. Once  
**1329** established, planning areas shall be applied consistently for all future projects.

**1330** "Sand filter" means a contained bed of sand that acts to filter the first flush of runoff. The  
**1331** runoff is then collected beneath the sand bed and conveyed to an adequate discharge point or  
**1332** infiltrated into the in-situ soils.

**1333** "Shallow marsh" means a zone within a stormwater extended detention basin that exists  
**1334** from the surface of the normal pool to a depth of six to 18 inches, and has a large surface area  
**1335** and, therefore, requires a reliable source of baseflow, groundwater supply, or a sizeable  
**1336** drainage area, to maintain the desired water surface elevations to support emergent vegetation.

**1337** "Stormwater detention basin" or "detention basin" means a stormwater management facility  
**1338** that temporarily impounds runoff and discharges it through a hydraulic outlet structure to a  
**1339** downstream conveyance system. While a certain amount of outflow may also occur via  
**1340** infiltration through the surrounding soil, such amounts are negligible when compared to the  
**1341** outlet structure discharge rates and are, therefore, not considered in the facility's design. Since  
**1342** a detention facility impounds runoff only temporarily, it is normally dry during nonrainfall periods.

**1343** "Stormwater extended detention basin" or "extended detention basin" means a stormwater  
**1344** management facility that temporarily impounds runoff and discharges it through a hydraulic  
**1345** outlet structure over a specified period of time to a downstream conveyance system for the  
**1346** purpose of water quality enhancement or stream channel erosion control. While a certain  
**1347** amount of outflow may also occur via infiltration through the surrounding soil, such amounts are  
**1348** negligible when compared to the outlet structure discharge rates and, therefore, are not  
**1349** considered in the facility's design. Since an extended detention basin impounds runoff only  
**1350** temporarily, it is normally dry during nonrainfall periods.

**1351** "Stormwater extended detention basin-enhanced" or "extended detention basin-enhanced"  
**1352** means an extended detention basin modified to increase pollutant removal by providing a  
**1353** shallow marsh in the lower stage of the basin.

**1354** "Stormwater retention basin" or "retention basin" means a stormwater management facility  
**1355** that includes a permanent impoundment, or normal pool of water, for the purpose of enhancing  
**1356** water quality and, therefore, is normally wet, even during nonrainfall periods. Storm runoff  
**1357** inflows may be temporarily stored above this permanent impoundment for the purpose of  
**1358** reducing flooding, or stream channel erosion.

**1359** "Stormwater retention basin I" or "retention basin I" means a retention basin with the volume  
**1360** of the permanent pool equal to three times the water quality volume.

**1361** "Stormwater retention basin II" or "retention basin II" means a retention basin with the  
**1362** volume of the permanent pool equal to four times the water quality volume.

**1363** "Stormwater retention basin III" or "retention basin III" means a retention basin with the  
**1364** volume of the permanent pool equal to four times the water quality volume with the addition of  
**1365** an aquatic bench.

**1366** "Vegetated filter strip" means a densely vegetated section of land engineered to accept  
**1367** runoff as overland sheet flow from upstream development. It shall adopt any natural vegetated  
**1368** form, from grassy meadow to small forest. The vegetative cover facilitates pollutant removal

1369 through filtration, sediment deposition, infiltration and absorption, and is dedicated for that  
1370 purpose.

1371 "Water quality volume" means the volume equal to the first 1/2 inch of runoff multiplied by  
1372 the impervious surface of the land development project.

1373 **4VAC50-60-94. Applicability.**

1374 This part specifies the technical criteria for regulated land-disturbing activities that are not  
1375 subject to the technical criteria of Part II B in accordance with 4VAC 50-60-48.

1376 **4VAC50-60-95. General.**

1377 A. Determination of flooding and channel erosion impacts to receiving streams due to land-  
1378 disturbing activities shall be measured at each point of discharge from the land disturbance and  
1379 such determination shall include any runoff from the balance of the watershed that also  
1380 contributes to that point of discharge.

1381 B. The specified design storms shall be defined as either a 24-hour storm using the rainfall  
1382 distribution recommended by the U.S. Department of Agriculture's Natural Resources  
1383 Conservation Service (NRCS) when using NRCS methods or as the storm of critical duration  
1384 that produces the greatest required storage volume at the site when using a design method  
1385 such as the Modified Rational Method.

1386 C. For purposes of computing runoff, all pervious lands in the site shall be assumed prior to  
1387 development to be in good condition (if the lands are pastures, lawns, or parks), with good cover  
1388 (if the lands are woods), or with conservation treatment (if the lands are cultivated); regardless  
1389 of conditions existing at the time of computation.

1390 D. Construction of stormwater management facilities or modifications to channels shall  
1391 comply with all applicable laws regulations, and ordinances. Evidence of approval of all  
1392 necessary permits shall be presented.

1393 E. Impounding structures that are not covered by the Impounding Structure Regulations  
1394 (4VAC50-20) shall be engineered for structural integrity during the 100-year storm event.

1395 F. Predevelopment and postdevelopment runoff rates shall be verified by calculations that  
1396 are consistent with good engineering practices.

1397 G. Outflows from a stormwater management facility or stormwater conveyance system shall  
1398 be discharged to an adequate channel.

1399 H. Proposed residential, commercial, or industrial subdivisions shall apply these stormwater  
1400 management criteria to the land disturbance as a whole. Individual lots in new subdivisions shall  
1401 not be considered separate land-disturbing activities, but rather the entire subdivision shall be  
1402 considered a single land development project. Hydrologic parameters shall reflect the ultimate  
1403 land disturbance and shall be used in all engineering calculations.

1404 I. All stormwater management facilities shall have an inspection and maintenance plan that  
1405 identifies the owner and the responsible party for carrying out the inspection and maintenance  
1406 plan.

1407 J. Construction of stormwater management impoundment structures within a Federal  
1408 Emergency Management Agency (FEMA) designated 100-year floodplain shall be avoided to  
1409 the extent possible. When this is unavoidable, all stormwater management facility construction  
1410 shall be in compliance with all applicable regulations under the National Flood Insurance  
1411 Program, 44 CFR Part 59.

1412 K. Natural channel characteristics shall be preserved to the maximum extent practicable.

1413 L. Land-disturbing activities shall comply with the Virginia Erosion and Sediment Control  
1414 Law (§ 10.1-560 et seq. of the Code of Virginia) and attendant regulations.

1415 M. Flood control and stormwater management facilities that drain or treat water from multiple  
1416 development projects or from a significant portion of a watershed may be allowed in resource  
1417 protection areas defined in the Chesapeake Bay Preservation Act, provided that (i) the local  
1418 government has conclusively established that the location of the facility within the resource  
1419 protection area is the optimum location; (ii) the size of the facility is the minimum necessary to  
1420 provide necessary flood control, stormwater treatment, or both; and (iii) the facility must be  
1421 consistent with a stormwater management program that has been approved by the board, the  
1422 Chesapeake Bay Local Assistance Board, or the Board of Conservation and Recreation.

1423 **4VAC50-60-96. Water quality.**

1424 A. Compliance with the water quality criteria may be achieved by applying the performance-  
1425 based criteria or the technology-based criteria to either the site or a planning area.

1426 B. Performance-based criteria. For land-disturbing activities, the calculated  
1427 postdevelopment nonpoint source pollutant runoff load shall be compared to the calculated  
1428 predevelopment load based upon the average land cover condition or the existing site condition.  
1429 A BMP shall be located, designed, and maintained to achieve the target pollutant removal  
1430 efficiencies specified in Table 1 of this section to effectively reduce the pollutant load to the  
1431 required level based upon the following four applicable land development situations for which  
1432 the performance criteria apply:

1433 1. Situation 1 consists of land-disturbing activities where the existing percent impervious  
1434 cover is less than or equal to the average land cover condition and the proposed  
1435 improvements will create a total percent impervious cover that is less than the average  
1436 land cover condition.

1437 Requirement: No reduction in the after disturbance pollutant discharge is required.

1438 2. Situation 2 consists of land-disturbing activities where the existing percent impervious  
1439 cover is less than or equal to the average land cover condition and the proposed  
1440 improvements will create a total percent impervious cover that is greater than the  
1441 average land cover condition.

1442 Requirement: The pollutant discharge after disturbance shall not exceed the existing  
1443 pollutant discharge based on the average land cover condition.

1444 3. Situation 3 consists of land-disturbing activities where the existing percent impervious  
1445 cover is greater than the average land cover condition.

1446 Requirement: The pollutant discharge after disturbance shall not exceed (i) the pollutant  
1447 discharge based on existing conditions less 10% or (ii) the pollutant discharge based on  
1448 the average land cover condition, whichever is greater.

1449 4. Situation 4 consists of land-disturbing activities where the existing percent impervious  
1450 cover is served by an existing stormwater management BMP that addresses water  
1451 quality.

1452 Requirement: The pollutant discharge after disturbance shall not exceed the existing  
1453 pollutant discharge based on the existing percent impervious cover while served by the  
1454 existing BMP. The existing BMP shall be shown to have been designed and constructed  
1455 in accordance with proper design standards and specifications, and to be in proper  
1456 functioning condition.

1457 C. Technology-based criteria. For land-disturbing activities, the postdeveloped stormwater  
1458 runoff from the impervious cover shall be treated by an appropriate BMP as required by the  
1459 postdeveloped condition percent impervious cover as specified in Table 1 of this section. The  
1460 selected BMP shall be located, designed, and maintained to perform at the target pollutant  
1461 removal efficiency specified in Table 1 or those found in 4VAC50-60-65. Design standards and

1462 specifications for the BMPs in Table 1 that meet the required target pollutant removal efficiency  
 1463 are available in the 1990 Virginia Stormwater Management Handbook. Other approved BMPs  
 1464 available on the Virginia Stormwater BMP Clearinghouse website at  
 1465 <http://www.vwrrc.vt.edu/swc> may also be utilized.

Table 1\*

Water Quality BMP*	Target Phosphorus Removal Efficiency	Percent Impervious Cover
Vegetated filter strip	10%	16-21%
Grassed Swale	15%	
Constructed wetlands	20%	22-37%
Extended detention (2 x WQ Vol)	35%	
Retention basin I (3 x WQ Vol)	40%	
Bioretention basin	50%	38-66%
Bioretention filter	50%	
Extended detention-enhanced	50%	
Retention basin II (4 x WQ Vol)	50%	
Infiltration (1 x WQ Vol)	50%	
Sand filter	65%	67-100%
Infiltration (2 x WQ Vol)	65%	
Retention basin III (4 x WQ Vol with aquatic bench)	65%	
*Innovative or alternate BMPs not included in this table may be allowed at the discretion of the stormwater program administrative authority. Innovative or alternate BMPs not included in this table that target appropriate nonpoint source pollution other than phosphorous may be allowed at the discretion of the stormwater program administrative authority.		

1466 **4VAC50-60-97. Stream channel erosion.**

1467 A. Properties and receiving waterways downstream of any land-disturbing activity shall be  
 1468 protected from erosion and damage due to changes in runoff rate of flow and hydrologic  
 1469 characteristics, including, but not limited to, changes in volume, velocity, frequency, duration,  
 1470 and peak flow rate of stormwater runoff in accordance with the minimum design standards set  
 1471 out in this section.

1472 B. The stormwater program administrative authority shall require compliance with  
 1473 subdivision 19 of 4VAC50-30-40 of the Erosion and Sediment Control Regulations, promulgated  
 1474 pursuant to Article 4 (§ 10.1-560 et seq.) of Chapter 5 of Title 10.1 of the Code of Virginia.

1475 C. The local stormwater management program may determine that some watersheds or  
 1476 receiving stream systems require enhanced criteria in order to address the increased frequency  
 1477 of bankfull flow conditions (top of bank) brought on by land-disturbing activities. Therefore, in  
 1478 lieu of the reduction of the two-year postdeveloped peak rate of runoff as required in subsection

1479 B of this section, the land development project being considered shall provide 24-hour extended  
1480 detention of the runoff generated by the one-year, 24-hour duration storm.

1481 D. In addition to subsections B and C of this section, local stormwater management  
1482 programs, by local ordinance may, or the board by state regulation may, adopt more stringent  
1483 channel analysis criteria or design standards to ensure that the natural level of channel erosion,  
1484 to the maximum extent practicable, will not increase due to the land-disturbing activities. These  
1485 criteria may include, but are not limited to, the following:

- 1486 1. Criteria and procedures for channel analysis and classification.
- 1487 2. Procedures for channel data collection.
- 1488 3. Criteria and procedures for the determination of the magnitude and frequency of  
1489 natural sediment transport loads.
- 1490 4. Criteria for the selection of proposed natural or manmade channel linings.

1491 **4VAC50-60-98. Flooding.**

1492 A. Downstream properties and waterways shall be protected from damages from localized  
1493 flooding due to changes in runoff rate of flow and hydrologic characteristics, including, but not  
1494 limited to, changes in volume, velocity, frequency, duration, and peak flow rate of stormwater  
1495 runoff in accordance with the minimum design standards set out in this section.

1496 B. The 10-year postdeveloped peak rate of runoff from the development site shall not  
1497 exceed the 10-year predeveloped peak rate of runoff.

1498 C. In lieu of subsection B of this section, localities may, by ordinance, adopt alternate design  
1499 criteria based upon geographic, land use, topographic, geologic factors, or other downstream  
1500 conveyance factors as appropriate.

1501 D. Linear development projects shall not be required to control postdeveloped stormwater  
1502 runoff for flooding, except in accordance with a watershed or regional stormwater management  
1503 plan.

1504 **4VAC50-60-99. Regional (watershed-wide) stormwater management plans.**

1505 Water quality requirements and where allowed, water quantity requirements, may be  
1506 achieved in accordance with sections 4VAC50-60-69 and 4VAC50-60-92.

1507 **Part III**

1508 **4VAC50-60-100. Applicability.**

1509 This part establishes the board's procedures for the authorization of a qualifying local  
1510 program, the board's procedures for the administration of a local stormwater management  
1511 program by an authorized qualifying local program, board and department oversight authorities  
1512 for an authorized qualifying local program, and the board's procedures for utilization by the  
1513 department in administering the Virginia Stormwater Management Program in localities where  
1514 no qualifying local program is authorized.

1515 **4VAC50-60-102. Authority .**

1516 If a locality has adopted a local stormwater management program in accordance with the  
1517 Virginia Stormwater Management Act (§ 10.1-603.2 et seq. of the Code of Virginia) and the  
1518 board has deemed such program adoption consistent with the Virginia Stormwater Management  
1519 Act and these regulations in accordance with § 10.1-603.3 F of the Code of Virginia, the board  
1520 may authorize a locality to administer a qualifying local program. Pursuant to § 10.1-603.4, the  
1521 board is required to establish standards and procedures for such an authorization.

**1522 4VAC50-60-103. Stormwater program administrative authority requirements for**  
**1523 Chesapeake Bay Preservation Act land-disturbing activities.**

**1524** A. A stormwater program administrative authority shall regulate runoff associated with  
**1525** Chesapeake Bay Preservation Act land-disturbing activities in accordance with the following:

**1526** 1. Such land-disturbing activities shall not require completion of a registration statement  
**1527** or require coverage under the VSMP General Permit for Discharges of Stormwater from  
**1528** Construction Activities but shall be subject to the technical criteria and program and  
**1529** administrative requirements set out in 4VAC50-60-51.

**1530** 2. A permit shall be issued permitting the land-disturbing activity.

**1531** 3. The stormwater program administrative authority shall regulate such land-disturbing  
**1532** activities in compliance with the:

**1533** a. Program requirements in 4VAC50-60-104;

**1534** b. Plan review requirements in 4VAC50-60-108 with the exception of subsection D;

**1535** c. Long-term stormwater management facility requirements of 4VAC50-60-112;

**1536** d. Inspection requirements of 4VAC50-60-114 with the exception of subsection A3  
**1537** and A4;

**1538** e. Enforcement components of 4VAC50-60-116;

**1539** f. Hearing requirements of 4VAC50-60-118;

**1540** g. Exception conditions of 4VAC50-60-122 excluding subsection C which is not  
**1541** applicable; and

**1542** h. Reporting and recordkeeping requirements of 4VAC50-60-126 with the exception  
**1543** of subsection B3.

**1544** B. A local stormwater management program shall adopt an ordinance that incorporates the  
**1545** components of this section.

**1546** C. In accordance with §10.1-603.4 subsection 5, a stormwater program administrative  
**1547** authority may collect a permit issuance fee from the applicant of \$290 and an annual  
**1548** maintenance fee of \$50 for such land-disturbing activities.

**1549** Part III A

**1550** Programs Operated by a Stormwater Program Administrative Authority

**1551 4VAC50-60-104. Criteria for programs operated by a stormwater program administrative**  
**1552** **authority.**

**1553** A. All stormwater program administrative authorities] shall require compliance with the  
**1554** provisions of Part II (4VAC50-60-40 et seq.) of this chapter.

**1555** B. When a local stormwater management program has adopted requirements more stringent  
**1556** than those imposed by this chapter in accordance with § 10.1-603.7 of the Code of Virginia or  
**1557** implemented a comprehensive stormwater management plan, the department shall consider  
**1558** such requirements in its review of state projects within that locality in accordance with Part IV  
**1559** (4VAC50-60-160 et seq.) of this chapter.

**1560** C. Nothing in this part shall be construed as authorizing a locality to regulate, or to require  
**1561** prior approval by the locality for, a state or federal project, unless authorized by separate  
**1562** statute.

**1563** D. A stormwater program administrative authority may require the submission of a  
**1564** reasonable performance bond or other financial surety and provide for the release of such  
**1565** sureties in accordance with the criteria set forth in § 10.1-603.8 of the Code of Virginia.

**1566 4VAC50-60-106. Additional requirements for local stormwater management programs.**

**1567** A local stormwater management program shall adopt ordinances that ensure compliance  
**1568** with the requirements set forth in 4VAC50-60-460L.

**1569** B. The local stormwater management program shall adopt ordinances at least as stringent  
**1570** as the provisions of the Virginia Stormwater Management Program (VSMP) General Permit for  
**1571** Discharges of Stormwater from Construction Activities.

**1572 4VAC50-60-108. Stormwater management plan review.**

**1573** A. A stormwater program administrative authority shall review and approve stormwater  
**1574** management plans.

**1575** B. A stormwater program administrative authority shall approve or disapprove a stormwater  
**1576** management plan according to the following:

**1577** 1. The stormwater program administrative authority shall determine the completeness of  
**1578** a plan in accordance with 4VAC50-60-55, and shall notify the applicant of any  
**1579** determination, within 15 calendar days of receipt. Where available to the applicant,  
**1580** electronic communication may be considered communication in writing.

**1581** a. If within those 15 calendar days the plan is deemed to be incomplete, the  
**1582** applicant shall be notified in writing of the reasons the plan is deemed incomplete.

**1583** b. If a determination of completeness is made and communicated to the applicant  
**1584** within the 15 calendar days, an additional 60 calendar days from the date of the  
**1585** communication will be allowed for the review of the plan.

**1586** c. If a determination of completeness is not made and communicated to the applicant  
**1587** within the 15 calendar days, the plan shall be deemed complete as of the date of  
**1588** submission and a total of 60 calendar days from the date of submission will be  
**1589** allowed for the review of the plan.

**1590** d. The stormwater program administrative authority shall review, within 45 calendar  
**1591** days of the date of resubmission any plan that has been previously disapproved.

**1592** 2. During the review period, the plan shall be approved or disapproved and the decision  
**1593** communicated in writing to the person responsible for the land-disturbing activity or his  
**1594** designated agent. If the plan is not approved, the reasons for not approving the plan  
**1595** shall be provided in writing. Approval or denial shall be based on the plan's compliance  
**1596** with the requirements of this chapter and of the stormwater program administrative  
**1597** authority. Where available to the applicant, electronic communication may be considered  
**1598** communication in writing.

**1599** 3. If a plan meeting all requirements of this chapter and of the stormwater program  
**1600** administrative authority is submitted and no action is taken within the time specified  
**1601** above, the plan shall be deemed approved.

**1602** C. Each approved plan may be modified in accordance with the following:

**1603** 1. Modifications to an approved stormwater management plan shall be allowed only after  
**1604** review and written approval by the stormwater program administrative authority. The  
**1605** stormwater program administrative authority shall have 60 calendar days to respond in  
**1606** writing either approving or disapproving such requests.

**1607** 2. Based on an inspection, the stormwater program administrative authority may require  
**1608** amendments to the approved stormwater management plan to address any deficiencies  
**1609** within a time frame set by the stormwater program administrative authority .

**1610** D. A stormwater program administrative authority shall not provide authorization to begin  
**1611** land disturbance until provided evidence of VSMP permit coverage.

1612 E. The stormwater program administrative authority shall require the submission of a  
1613 construction record drawing for permanent stormwater management facilities in accordance with  
1614 4VAC50-60-55. A stormwater program administrative authority may elect not to require  
1615 construction record drawings for stormwater management facilities for which maintenance  
1616 agreements are not required pursuant to 4VAC50-60-112.

1617 **4VAC50-60-110. (Repealed.)**

1618 **4VAC50-60-112. Long-term maintenance of permanent stormwater management facilities.**

1619 A. The stormwater program administrative authority shall require the provision of long-term  
1620 responsibility for and maintenance of stormwater management facilities and other techniques  
1621 specified to manage the quality and quantity of runoff. Such requirements shall be set forth in an  
1622 instrument recorded in the local land records prior to permit termination or earlier as required by  
1623 the stormwater program administrative authority and shall, at a minimum:

- 1624 1. Be submitted to the stormwater program administrative authority for review and  
1625 approval prior to the approval of the stormwater management plan;
- 1626 2. Be stated to run with the land;
- 1627 3. Provide for all necessary access to the property for purposes of maintenance and  
1628 regulatory inspections;
- 1629 4. Provide for inspections and maintenance and the submission of inspection and  
1630 maintenance reports to the stormwater program administrative authority; and
- 1631 5. Be enforceable by all appropriate governmental parties.

1632 B. At the discretion of the stormwater program administrative authority, such recorded  
1633 instruments need not be required for stormwater management facilities designed to treat  
1634 stormwater runoff primarily from an individual residential lot on which they are located, provided  
1635 it is demonstrated to the satisfaction of the stormwater program administrative authority that  
1636 future maintenance of such facilities will be addressed through an enforceable mechanism at  
1637 the discretion of the stormwater program administrative authority.

1638 **4VAC50-60-114. Inspections.**

1639 A. The stormwater program administrative authority shall inspect the land-disturbing activity  
1640 during construction for :

- 1641 1. Compliance with the approved erosion and sediment control plan;
- 1642 2. Compliance with the approved stormwater management plan;
- 1643 3. Development, updating, and implementation of a pollution prevention plan; and
- 1644 4. Development and implementation of any additional control measures necessary to  
1645 address a TMDL.

1646 B. The stormwater program administrative authority shall establish an inspection program  
1647 that ensures that stormwater management facilities are being adequately maintained as  
1648 designed after completion of land-disturbing activities. Inspection programs shall:

- 1649 1. Be approved by the board;
- 1650 2. Ensure that each stormwater management facility is inspected by the stormwater  
1651 program administrative authority, or its designee, not to include the owner, except as  
1652 provided in subsections C and D of this section, at least once every five years; and
- 1653 3. Be documented by records.

1654 C. The stormwater program administrative authority may utilize the inspection reports of the  
1655 owner of a stormwater management facility as part of an inspection program established in  
1656 subsection B of this section if the inspection is conducted by a person who is licensed as a

1657 professional engineer, architect, landscape architect, or land surveyor pursuant to Article 1 (§  
1658 54.1-400 et seq.) of Chapter 4 of Title 54.1 , a person who works under the direction and  
1659 oversight of the licensed professional engineer, architect, landscape architect, or land surveyor,  
1660 or who holds an appropriate certificate of competence from the board.

1661 D. If a recorded instrument is not required pursuant to 4VAC50-60-112, a stormwater  
1662 program administrative authority shall develop a strategy for addressing maintenance of  
1663 stormwater management facilities designed to treat stormwater runoff primarily from an  
1664 individual residential lot on which they are located. Such a strategy may include periodic  
1665 inspections, homeowner outreach and education, or other method targeted at promoting the  
1666 long-term maintenance of such facilities. Such facilities shall not be subject to the requirement  
1667 for an inspection to be conducted by the stormwater program administrative authority.

1668 **4VAC50-60-116. Enforcement.**

1669 A. A stormwater program administrative authority shall incorporate components from  
1670 subsection 1 and 2.

1671 1. Informal and formal administrative enforcement procedures may include:

1672 a. Verbal warnings and inspection reports;

1673 b. Notices of corrective action;

1674 c. Consent special orders and civil charges in accordance with subdivision 7 of §  
1675 10.1-603.2:1 and § 10.1-603.14 D 2 of the Code of Virginia;

1676 d. Notices to comply in accordance with § 10.1-603.11 of the Code of Virginia;

1677 e. Special orders in accordance with subdivision 7 of § 10.1-603.2:1 of the Code of  
1678 Virginia;

1679 f. Emergency special orders in accordance with subdivision 7 of § 10.1-603.2:1 of the  
1680 Code of Virginia; and

1681 g. Public notice and comment periods for proposed settlements and consent special  
1682 orders pursuant to 4VAC50-60-660.

1683 2. Civil and criminal judicial enforcement procedures may include:

1684 a. Schedule of civil penalties in accordance with § 10.1-603.14 of the Code of  
1685 Virginia;

1686 b. Criminal penalties in accordance with § 10.1-603.14 B and C of the Code of  
1687 Virginia; and

1688 c. Injunctions in accordance with §§ 10.1-603.12:4, 10.1-603.2:1 and 10.1-603.14 D  
1689 1 of the Code of Virginia.

1690 B. A stormwater program administrative authority shall develop policies and procedures that  
1691 outline the steps to be taken regarding enforcement actions under the Stormwater Management  
1692 Act and attendant regulations and local ordinances.

1693 C. Pursuant to § 10.1-603.14 A of the Code of Virginia, the permit-issuing authority shall use  
1694 the following schedule of civil penalties for enforcement actions. The court has the discretion to  
1695 impose a maximum penalty of \$32,500 per violation per day in accordance with § 10.1-603.14 A  
1696 of the Code of Virginia. Such violation may reflect the degree of harm caused by the violation.  
1697 The court may take into account the economic benefit to the violator from noncompliance. Such  
1698 violations include, but are not limited to:

1699 1. No permit registration;

1700 2. No SWPPP;

1701 3. Incomplete SWPPP;

- 1702 4. SWPPP not available for review;  
1703 5. No approved erosion and sediment control plan;  
1704 6. Failure to install stormwater BMPs or erosion and sediment controls;  
1705 7. Stormwater BMPs or erosion and sediment controls improperly installed or  
1706 maintained;  
1707 8. Operational deficiencies;  
1708 9. Failure to conduct required inspections;  
1709 10. Incomplete, improper, or missed inspections.

1710 D.. Pursuant to subdivision 2 of § 10.1-603.2:1 of the Code of Virginia, authorization to  
1711 administer a local stormwater management program shall not remove from the board the  
1712 authority to enforce the provisions of the Act and attendant regulations.

1713 E. The department may terminate VSMP permit coverage during its term and require  
1714 application for an individual permit or deny a permit renewal application for failure to comply with  
1715 permit conditions or on its own initiative in accordance with the Act and this chapter. ]

1716 F. Pursuant to § 10.1-603.14 A of the Code of Virginia, civil penalties recovered by a local  
1717 stormwater management program shall be paid into the treasury of the locality in which the  
1718 violation occurred and are to be used for the purpose of minimizing, preventing, managing, or  
1719 mitigating pollution of the waters of the locality and abating environmental pollution therein in  
1720 such manner as the court may, by order, direct.

1721 G. The department may provide additional guidance concerning suggested penalty amounts  
1722 in its Stormwater Management Enforcement Manual.

1723 **4VAC50-60-118. Hearings.**

1724 The stormwater program administrative authority shall ensure that any permit applicant or  
1725 permittee aggrieved by any action of the stormwater program administrative authority taken  
1726 without a formal hearing, or by inaction of the stormwater program administrative authority, shall  
1727 have a right to a hearing pursuant to § 10.1-603.12:6 of the Code of Virginia and shall ensure  
1728 that all hearings held under this chapter shall be conducted in accordance with § 10.1-603.12:7  
1729 of the Code of Virginia or as otherwise provided by law.

1730 **4VAC50-60-120. (Repealed.)**

1731 **4VAC50-60-122. Exceptions.**

1732 A. A stormwater program administrative authority may grant exceptions to the provisions of  
1733 Part II B or Part II C of this chapter. An exception may be granted provided that (i) the exception  
1734 is the minimum necessary to afford relief, (ii) reasonable and appropriate conditions shall be  
1735 imposed as necessary upon any exception granted so that the intent of the Act and this chapter  
1736 are preserved, (iii) granting the exception will not confer any special privileges that are denied in  
1737 other similar circumstances, and (iv) exception requests are not based upon conditions or  
1738 circumstances that are self-imposed or self-created.

1739 B. Economic hardship alone is not sufficient reason to grant an exception from the  
1740 requirements of this chapter.

1741 C. Under no circumstance shall the stormwater program administrative authority grant an  
1742 exception to the requirement that the land-disturbing activity obtain required VSMP permits nor  
1743 approve the use of a BMP not found on the Virginia Stormwater BMP Clearinghouse Website.

1744 D. Exceptions to requirements for phosphorus reductions shall not be allowed unless offsite  
1745 options available through 4VAC50-60-69 have been considered and found not available.

1746 E. A record of all exceptions granted shall be maintained by the stormwater program  
1747 administrative authority in accordance with 4VAC50-60-126.

1748 **4VAC50-60-126. Reports and recordkeeping.**

1749 A. On a fiscal year basis (July 1 to June 30), a local stormwater management program shall  
1750 report to the department by October 1 of each year in a format provided by the department. The  
1751 information to be provided shall include the following:

1752 1. Information on each permanent stormwater management facility completed during the  
1753 fiscal year to include type of stormwater management facility, geographic coordinates,  
1754 acres treated, and the surface waters or karst features into which the stormwater  
1755 management facility will discharge;

1756 2. Number and type of enforcement actions during the fiscal year; and

1757 3. Number of exceptions granted during the fiscal year.

1758 B. A stormwater program administrative authority shall keep records in accordance with the  
1759 following:

1760 1. Project records, including approved stormwater management plans, shall be kept for  
1761 three years after permit termination or project completion .

1762 2. Stormwater management ] facility inspection records shall be documented and  
1763 retained for at least five years from the date of inspection.

1764 3. Construction record drawings shall be maintained in perpetuity or until a stormwater  
1765 management facility is removed .

1766 4. All registration statements submitted in accordance with 4VAC50-60-59 shall be  
1767 documented and retained for at least three years from the date of project completion or  
1768 permit termination.

1769 **4VAC50-60-130. (Repealed.)**

1770 **4VAC50-60-140. (Repealed.)**

1771 Part III B

1772 Department of Conservation and Recreation Procedures for Review of Local Stormwater  
1773 Management Programs

1774 **4VAC50-60-142. Authority and applicability.**

1775 This part specifies the criteria that the department will utilize in reviewing a locality's  
1776 administration of a local stormwater management program pursuant to § 10.1-603.12 of the  
1777 Code of Virginia following the board's approval of such program in accordance with the Act and  
1778 these regulations.

1779 **4VAC50-60-144. Local stormwater management program review.**

1780 A. The department shall review each board-approved local stormwater management  
1781 program at least once every five years on a review schedule approved by the board. The  
1782 department may review a local stormwater management program on a more frequent basis if  
1783 deemed necessary by the board and shall notify the local government if such review is  
1784 scheduled.

1785 B. The review of a board-approved local stormwater management program shall consist of  
1786 the following:

1787 1. An interview between department staff and the local stormwater management  
1788 program administrator or designee;

1789 2. A review of the local ordinance(s) and other applicable documents;

- 1790 3. A review of a subset of the plans approved by the local stormwater management  
1791 program for consistency of application including exceptions granted and calculations or  
1792 other documentation that demonstrates that required nutrient reductions are achieved  
1793 using appropriate on-site and off-site compliance options;
- 1794 4. A review of the funding and staffing plan developed in accordance with 4VAC50-60-  
1795 148;
- 1796 5. An inspection of regulated activities; and
- 1797 6. A review of enforcement actions and an accounting of amounts recovered through  
1798 enforcement actions.

1799 C. To the extent practicable, the department will coordinate the reviews with its other local  
1800 government program reviews to avoid redundancy.

1801 D. The department shall provide its recommendations to the board within 90 days of the  
1802 completion of a review.

1803 E. The board shall determine if the local stormwater management program and ordinances  
1804 are consistent with the Act and state stormwater management regulations and notify the local  
1805 stormwater management program of its findings. If such findings indicate that the program is  
1806 consistent with the Act and attendant regulations, the findings shall be provided to the local  
1807 stormwater management program at least 21 days in advance of the meeting where the board  
1808 will take action on the locality's program. If such findings indicate that the program is  
1809 inconsistent with the Act and attendant regulations, the findings shall be provided to the local  
1810 stormwater management program at least 35 days in advance of the meeting where the board  
1811 will take action on the locality's program.

1812 F. If the board determines that the deficiencies noted in the review will cause the local  
1813 stormwater management program to be out of compliance with the Stormwater Management  
1814 Act and attendant regulations, the board shall notify the local stormwater management program  
1815 concerning the deficiencies and provide a reasonable period of time for corrective action to be  
1816 taken. If the local stormwater management program agrees to the corrective action approved by  
1817 the board, the local stormwater management program will be considered to be conditionally  
1818 compliant with the Stormwater Management Act and attendant regulations until a subsequent  
1819 finding of compliance is issued by the board. If the local stormwater management program fails  
1820 to take the board's required corrective action within the specified time, the board may take  
1821 action pursuant to § 10.1-603.12 of the Code of Virginia. A local stormwater management  
1822 program that fails to take corrective action in accordance with the board requirements shall not  
1823 be considered a qualifying local program for purposes of the Virginia Stormwater Management  
1824 Program permitting regulations.

1825 Part III C

1826 Virginia Soil and Water Conservation Board Authorization Procedures for Local Stormwater  
1827 Management Programs

1828 **4VAC50-60-146. Authority and applicability.**

1829 Subdivision 1 of § 10.1-603.4 of the Code of Virginia requires that the board establish  
1830 standards and procedures for authorizing a locality to administer a stormwater management  
1831 program. In accordance with that requirement, and with the further authority conferred upon the  
1832 board by the Virginia Stormwater Management Act (§ 10.1-603.2 et seq. of the Code of  
1833 Virginia), this part specifies the procedures the board will utilize in authorizing a locality to  
1834 administer a qualifying local program.

**1835 4VAC50-60-148. Local stormwater management program administrative requirements.**

**1836** A. A local stormwater management program shall provide for the following:

**1837** 1. Identification of the authority accepting complete registration statements and for the  
**1838** authorities completing plan review, plan approval, inspection and enforcement.

**1839** 2. Submission and approval of erosion and sediment control plans in accordance with  
**1840** the Virginia Erosion and Sediment Control Law and attendant regulations and the  
**1841** submission and approval of stormwater management plans;

**1842** 3. Requirements to ensure compliance with 4VAC50-60-54, 4VAC50-60-55 and  
**1843** 4VAC50-60-56;

**1844** 4. Requirements for inspections and monitoring of construction activities by the operator  
**1845** for compliance with local ordinances;

**1846** 5. Requirements for long-term inspection and maintenance of stormwater management  
**1847** facilities;

**1848** 6. Collection, distribution to the state if required, and expenditure of fees;

**1849** 7. Enforcement procedures and civil penalties;

**1850** 8. Policies and procedures to obtain and release bonds, if applicable; and

**1851** 9. Procedures for complying with the applicable reporting and record keeping  
**1852** requirements in 4VAC50-60-126.

**1853** B. A local stormwater management program shall adopt and enforce an ordinance(s) that  
**1854** incorporates the components set out in subdivisions 1 through 5 and 7 of subsection A of this  
**1855** section.

**1856 4VAC50-60-150. Authorization procedures for local stormwater management programs**

**1857** A. A locality required to adopt a program in accordance with § 10.1-603.3 A of the Code of  
**1858** Virginia or those electing to seek authorization to administer a qualifying local program must  
**1859** submit to the board an application package which, at a minimum, contains the following:

**1860** 1. The draft local stormwater management program ordinance(s) as required in  
**1861** 4VAC50-60-148;

**1862** 2. A funding and staffing plan; and

**1863** 3. The policies and procedures, including but not limited to, agreements with Soil and  
**1864** Water Conservation Districts, adjacent localities, or other entities, for the administration,  
**1865** plan review, inspection, and enforcement components of the program.

**1866** B. Upon receipt of an application package, the board or its designee shall have 30 calendar  
**1867** days to determine the completeness of the application package. If an application package is  
**1868** deemed to be incomplete based on the criteria set out in subsection A of this section, the board  
**1869** or its designee must identify to the locality in writing the reasons the application package is  
**1870** deemed deficient.

**1871** C. Upon receipt of a complete application package, the board or its designee shall have 120  
**1872** calendar days for the review of the application package, unless an extension of time is  
**1873** requested. During the 120-day review period, the board or its designee shall either approve or  
**1874** disapprove the application, or notify the locality of a time extension for the review, and  
**1875** communicate its decision to the locality in writing. If the application is not approved, the reasons  
**1876** for not approving the application shall be provided to the locality in writing. Approval or denial  
**1877** shall be based on the application's compliance with the Virginia Stormwater Management Act  
**1878** and these regulations.

1879 D. A locality required to adopt a local stormwater management program in accordance with  
1880 § 10.1-603.3 A of the Code of Virginia shall submit a complete application package for the  
1881 board's review pursuant to a schedule set by the board in accordance with § 10.1-603.3 and  
1882 shall adopt a local stormwater management program consistent with the Act and this chapter  
1883 within the timeframe established pursuant to § 10.1-603.3.

1884 E. A locality not required to adopt a local stormwater management program in accordance  
1885 with § 10.1-603.3 A but electing to adopt a local stormwater management program shall notify  
1886 the board in accordance with the following:

1887 1. A locality electing to adopt a local stormwater management program may notify the  
1888 board of its intention within six months of the effective date of these regulations. Such  
1889 locality shall submit a complete application package for the board's review pursuant to a  
1890 schedule set by the board and shall adopt a local stormwater management program  
1891 within the timeframe established by the board.

1892 2. A locality electing to adopt a local stormwater management program that does not  
1893 notify the board within the initial six-month period of its intention may thereafter notify the  
1894 board at any regular meeting of the board. Such notification shall include a proposed  
1895 schedule for adoption of a local stormwater management program within a timeframe  
1896 agreed upon by the board.

1897 F. A local stormwater management program approved by the board shall be considered a  
1898 qualifying local program for purposes of the Virginia Stormwater Management Program  
1899 permitting regulations.

1900 G. The department shall administer the responsibilities of the Act and this chapter in any  
1901 locality in which a local stormwater management program has not been adopted. The  
1902 department shall develop a schedule, to be approved by the board, for adoption and  
1903 implementation of the requirements of this chapter in such localities. Such schedule may include  
1904 phases of implementation and shall be based upon considerations including the typical number  
1905 of permitted projects located within a locality, total number of acres disturbed by such permitted  
1906 projects, and such other considerations as may be deemed necessary by the board.

1907 DOCUMENTS INCORPORATED BY REFERENCE (4VAC50-60)

1908 Illicit Discharge Detection and Elimination – A Guidance Manual for Program Development  
1909 and Technical Assessments, EPA Cooperative Agreement X-82907801-0, October 2004, by  
1910 Center for Watershed Protection and Robert Pitt, University of Alabama, available on the  
1911 Internet at [http://www.cwp.org/idde\\_verify.htm](http://www.cwp.org/idde_verify.htm).

1912 Getting in Step – A Guide for Conducting Watershed Outreach Campaigns, EPA-841-B-03-  
1913 002, December 2003, U.S. Environmental Protection Agency, Office of Wetlands, Oceans, and  
1914 Watersheds, available on the Internet at  
1915 <http://www.epa.gov/owow/watershed/outreach/documents/getnstep.pdf>, or may be ordered from  
1916 National Service Center for Environmental Publications, telephone 1-800-490-9198.

1917 Municipal Stormwater Program Evaluation Guidance, EPA-833-R-07-003, January 2007  
1918 (field test version), U.S. Environmental Protection Agency, Office of Wastewater Management,  
1919 available on the Internet at  
1920 [http://cfpub.epa.gov/npdes/docs.cfm?program\\_id=6&view=allprog&sort=name#ms4\\_guidance](http://cfpub.epa.gov/npdes/docs.cfm?program_id=6&view=allprog&sort=name#ms4_guidance),  
1921 or may be ordered from National Technical Information Service, 5285 Port Royal Road,  
1922 Springfield, VA 22161, telephone 1-800-553-6847 or (703) 605-6000.

1923 Virginia Runoff Reduction Method: Instructions & Documentation, March 28, 2011.