

Part I
Definitions, Purpose, and Applicability

4VAC50-60-10. Definitions.

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

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

~~["Adequate channel" means a] channel [watercourse] or wetland [that will convey the designated frequency storm event without overtopping] the channel bank [nor its banks or causing erosive damage to the] channel [bed] or [, banks, or overbank sections of the same. A wetland may be considered an adequate channel provided the discharge from the designated frequency storm event does not cause erosion in the wetland.]~~

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

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

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

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

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

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

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

"Best management practice ~~(BMP)~~ or "BMP" means schedules of activities, prohibitions of practices, including both 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.

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

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

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

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

51 "Channel" means a natural [stream] or manmade [waterway ~~watercourse with defined bed~~
52 ~~and banks that conducts continuously or periodically flowing water.~~]

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

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

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

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

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

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

73 "Contiguous zone" means the entire zone established by the United States under Article 24
74 of the Convention on the Territorial Sea and the Contiguous Zone (37 FR 11906 June 15,
75 1972).

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

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

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

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

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

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

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

98 "Development" means ~~a tract of land developed or to be developed as a unit under single~~
99 ~~ownership or unified control which is to be used for any business or industrial purpose or is to~~
100 ~~contain three or more residential dwelling units~~ land disturbance and the resulting landform
101 associated with the construction of residential, commercial, industrial, institutional, recreation,
102 transportation, or utility facilities or structures or the clearing of land for nonagricultural or
103 nonsilvicultural purposes. [The regulation of discharges from development , for purposes of
104 these regulations, does not include the exemptions found in 4VAC50-60-300.]

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

106 "Director" means the Director of the Department of Conservation and Recreation or his
107 designee.

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

109 "Discharge of a pollutant" means:

110 1. Any addition of any pollutant or combination of pollutants to state waters from any
111 point source; or

112 2. Any addition of any pollutant or combination of pollutants to the waters of the
113 contiguous zone or the ocean from any point source other than a vessel or other floating
114 craft which is being used as a means of transportation.

115 This definition includes additions of pollutants into surface waters from: surface runoff that is
116 collected or channeled by man; discharges through pipes, sewers, or other conveyances owned
117 by a state, municipality, or other person that do not lead to a treatment works; and discharges
118 through pipes, sewers, or other conveyances, leading into privately owned treatment works.
119 This term does not include an addition of pollutants by any indirect discharger.

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

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

128 "Drainage area" means a land and area, water area on a land-disturbing site, or both from
129 which runoff flows to a common outlet point.

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

133 "Effluent limitations guidelines" means a regulation published by the administrator under §
134 304(b) of the CWA to adopt or revise effluent limitations.

135 "Environmental Protection Agency (EPA)" or "EPA" means the United States Environmental
136 Protection Agency.

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

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

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

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

148 "Flood fringe" [is means] the portion of the floodplain outside the floodway, usually
149 associated with standing rather than flowing water, which is covered by floodwater during the
150 100-year discharge that is [usually] covered with water from the 100-year [flood or] storm
151 event. [This includes, but is not limited to, the flood or floodway fringe designated by the
152 Federal Emergency Management Agency.]

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

156 "Floodplain" means [any land the] area [adjoining adjacent to] a channel, river, stream, or
157 other water body that is susceptible to being inundated by water [.It includes the floodway and
158 flood fringe areas normally] associated with the 100-year [flood or] storm event. [This
159 includes, but is not limited to, the floodplain designated by the Federal Emergency Management
160 Agency.]

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

165 "Floodway" means the channel of a river or other watercourse and the adjacent land areas,
166 usually associated with flowing water, that must be reserved in order to discharge the base flood
167 100-year [flood or] storm event without cumulatively increasing the water surface elevation
168 more than one foot [. or as otherwise This includes, but is not limited to, the floodway]
169 designated by the Federal Emergency Management Agency.

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

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

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

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

179 "Illicit discharge" means any discharge to a municipal separate storm sewer that is not
180 composed entirely of stormwater, except discharges pursuant to a VPDES or VSMP permit
181 (other than the VSMP permit for discharges from the municipal separate storm sewer),

182 discharges resulting from fire fighting activities, and discharges identified by and in compliance
183 with 4VAC50-60-1220 C 2.

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

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

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

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

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

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

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

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

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

219 "Land disturbance" or "land-disturbing activity" means a manmade change to the land
220 surface that potentially changes its runoff characteristics including any clearing, grading, or
221 excavation associated with a construction activity regulated pursuant to the ~~federal Clean Water~~
222 ~~Act CWA~~, the Act, and this chapter [or with a Chesapeake Bay Preservation Act land-disturbing
223 activity regulated pursuant to the Act and this chapter].

224 "Large construction activity" means construction activity including clearing, grading and
225 excavation, except operations that result in the disturbance of less than five acres of total land
226 area. Large construction activity also includes the disturbance of less than five acres of total
227 land area that is a part of a larger common plan of development or sale if the larger common
228 plan will ultimately disturb five acres or more. [Large construction activity does not include

229 routine maintenance that is performed to maintain the original line and grade, hydraulic
230 capacity, or original purpose of the facility.]

231 "Large municipal separate storm sewer system" means all municipal separate storm sewers
232 that are either:

233 1. Located in an incorporated place with a population of 250,000 or more as determined
234 by the 1990 decennial census by the Bureau of Census (40 CFR Part 122 Appendix F
235 (2000));

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

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

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

246 b. The location of discharges from the designated municipal separate storm sewer
247 relative to discharges from municipal separate storm sewers described in subdivision
248 1 of this definition;

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

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

251 e. Other relevant factors.

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

257 ["Layout" means a conceptual drawing sufficient to provide for the specified stormwater
258 management facilities required at the time of approval.]

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

265 "Local stormwater management program" or "local program" means ~~a statement~~ of the
266 various methods employed by a locality ~~[or the department]~~ to manage the quality and quantity
267 of runoff resulting from land-disturbing activities and shall include such items as local
268 ordinances, permit requirements, policies and guidelines, technical materials, plan review,
269 inspection, enforcement, and evaluation consistent with the Act and this chapter. ~~The ordinance~~
270 ~~shall include provisions to require the control of after development stormwater runoff rate of~~
271 ~~flow, the proper maintenance of stormwater management facilities, and minimum administrative~~
272 ~~procedures.~~ [Upon board approval of a local stormwater management program, it shall be
273 recognized as a qualifying local program.]

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

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

278 ["Main channel" means the portion of the stormwater conveyance system that contains the
279 base flow and small frequent storm events.]

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

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

285 "Major municipal separate storm sewer outfall ~~(or major outfall)~~" or "major outfall" means a
286 municipal separate storm sewer outfall that discharges from a single pipe with an inside
287 diameter of 36 inches or more or its equivalent (discharge from a single conveyance other than
288 circular pipe which is associated with a drainage area of more than 50 acres); or for municipal
289 separate storm sewers that receive stormwater from lands zoned for industrial activity (based on
290 comprehensive zoning plans or the equivalent), with an outfall that discharges from a single
291 pipe with an inside diameter of 12 inches or more or from its equivalent (discharge from other
292 than a circular pipe associated with a drainage area of two acres or more).

293 "Manmade" means constructed by man.

294 ["~~Manmade stormwater conveyance system~~" means a pipe, ditch, vegetated swale, or other
295 conveyance constructed by man.]

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

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

305 "Medium municipal separate storm sewer system" means all municipal separate storm
306 sewers that are either:

307 1. Located in an incorporated place with a population of 100,000 or more but less than
308 250,000 as determined by the 1990 decennial census by the Bureau of Census (40 CFR
309 Part 122 Appendix G (2000));

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

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

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

- 320 b. The location of discharges from the designated municipal separate storm sewer
321 relative to discharges from municipal separate storm sewers described in subdivision
322 1 of this definition;
323 c. The quantity and nature of pollutants discharged to surface waters;
324 d. The nature of the receiving surface waters; or
325 e. Other relevant factors.

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

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

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

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

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

356 "Municipal Separate Storm Sewer System Management Program" or "MS4 Program" means
357 a management program covering the duration of a permit for a municipal separate storm sewer
358 system that includes a comprehensive planning process that involves public participation and
359 intergovernmental coordination, to reduce the discharge of pollutants to the maximum extent
360 practicable, to protect water quality, and to satisfy the appropriate water quality requirements of
361 the CWA and regulations and the ~~Virginia Stormwater Management~~ Act and attendant
362 regulations, using management practices, control techniques, and system, design and
363 engineering methods, and such other provisions that are appropriate.

364 "Municipality" means a city, town, county, district, association, or other public body created
365 by or under state law and having jurisdiction over disposal of sewage, industrial wastes, or other

366 wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and
367 approved management agency under § 208 of the CWA.

368 "National Pollutant Discharge Elimination System (~~NPDES~~)" or "NPDES" means the national
369 program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing
370 permits, and imposing and enforcing pretreatment requirements under §§ 307, 402, 318, and
371 405 of the CWA. The term includes an approved program.

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

376 [~~"Natural stormwater conveyance system" means the main channel of a natural stream, in~~
377 ~~combination with the floodway and flood fringe, which compose the floodplain.~~]

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

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

- 384 1. From which there is or may be a discharge of pollutants;
- 385 2. That did not commence the discharge of pollutants at a particular site prior to August
386 13, 1979;
- 387 3. Which is not a new source; and
- 388 4. Which has never received a finally effective VPDES or VSMP permit for discharges at
389 that site.

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

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

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

- 402 1. After promulgation of standards of performance under § 306 of the CWA that are
403 applicable to such source; or
- 404 2. After proposal of standards of performance in accordance with § 306 of the CWA that
405 are applicable to such source, but only if the standards are promulgated in accordance
406 with § 306 of the CWA within 120 days of their proposal.

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

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

413 "Operator" means the owner or operator of any facility or activity subject to the VSMP permit
414 regulation. In the context of stormwater associated with a large or small construction activity,
415 operator means any person associated with a construction project that meets either of the
416 following two criteria: (i) the person has direct operational control over construction plans and
417 specifications, including the ability to make modifications to those plans and specifications or (ii)
418 the person has day-to-day operational control of those activities at a project that are necessary
419 to ensure compliance with a stormwater pollution prevention plan for the site or other permit
420 conditions (i.e., they are authorized to direct workers at a site to carry out activities required by
421 the stormwater pollution prevention plan or comply with other permit conditions). In the context
422 of stormwater discharges from Municipal Separate Storm Sewer Systems (MS4s), operator
423 means the operator of the regulated MS4 system.

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

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

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

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

443 "Percent impervious" means the impervious area within the site divided by the area of the
444 site multiplied by 100.

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

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

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

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

457 ["Planning area" means a designated portion of the parcel on which the land development
458 project is located. Planning areas shall be established by delineation on a master plan. Once
459 established, planning areas shall be applied consistently for all future projects.]

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

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

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

471 1. Sewage from vessels; or

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

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

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

493 ~~"Post-development"~~ "Postdevelopment" refers to conditions that reasonably may be
494 expected or anticipated to exist after completion of the land development activity on a specific
495 site [~~or tract of land~~] .

496 ~~"Pre-development"~~ "Predevelopment" refers to the conditions that exist at the time that plans
497 for the land development of a tract of land are ~~approved by~~ submitted to the plan approval
498 authority. Where phased development or plan approval occurs (preliminary grading, demolition
499 of existing structures, roads and utilities, etc.), the existing conditions at the time prior to the first
500 item being ~~approved or permitted~~ submitted shall establish ~~pre-development~~ predevelopment
501 conditions.

502 "Prior developed lands" means land that has been previously utilized for residential,
503 commercial, industrial, institutional, recreation, transportation or utility facilities or structures, and

504 that will have the impervious areas associated with those uses altered during a land-disturbing
505 activity.

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

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

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

519 "Qualified personnel" means a [person knowledgeable in the principles and practice of
520 erosion and sediment controls who possesses the skills to assess conditions at the construction
521 site for the operator that could impact stormwater quality and to assess the effectiveness of any
522 sediment and erosion control measures selected to control the quality of stormwater discharges
523 from the construction activity. This may include a] licensed professional engineer, responsible
524 land disturber, or other person who holds a certificate of competency from the board in the area
525 of project inspection or combined administrator.

526 "Qualifying local stormwater management program" or "qualifying local program" means a
527 local [stormwater management] program [that is .] administered by a locality [.] that has
528 been authorized by the board [. to issue coverage under the VSMP General Permit for
529 Discharges of Stormwater from Construction Activities (4VAC50-60-1170). To authorize a
530 qualifying local program, the board must find that the ordinances adopted by the locality are
531 consistent with the VSMP General Permit for Discharges of Stormwater from Construction
532 Activities.]

533 "Recommencing discharger" means a source that recommences discharge after terminating
534 operations.

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

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

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

544 [~~"Restored stormwater conveyance system" means a stormwater conveyance system that~~
545 ~~has been designed and constructed using natural channel design concepts, including the main~~
546 ~~channel, floodway, and flood fringe.]~~

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

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

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

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

556 "Runoff characteristics" include, but are not limited to, [maximum] velocity, peak flow rate,
557 volume, [time of concentration,] and flow duration [, and their influence on channel
558 morphology including sinuosity, channel cross-sectional area, and channel slope] .

559 "Runoff volume" means the volume of water that runs off the site [of a land-disturbing
560 activity] from a prescribed design storm.

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

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

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

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

573 "Significant materials" means, but is not limited to: raw materials; fuels; materials such as
574 solvents, detergents, and plastic pellets; finished materials such as metallic products; raw
575 materials used in food processing or production; hazardous substances designated under §
576 101(14) of CERCLA (42 USC § 9601(14)); any chemical the facility is required to report
577 pursuant to § 313 of Title III of SARA (42 USC § 11023); fertilizers; pesticides; and waste
578 products such as ashes, slag and sludge that have the potential to be released with stormwater
579 discharges.

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

582 "Site" means the land or water area where any facility or [land-disturbing] activity is
583 physically located or conducted, [a parcel of land being developed, or a designated planning
584 area of a parcel in which the land development project is located including adjacent land used or
585 preserved in connection with the facility or land-disturbing activity]. Areas channelward of mean
586 low water in tidal Virginia shall not be considered part of a site.

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

590 "Small construction activity" means:

591 1. Construction activities including clearing, grading, and excavating that results in land
592 disturbance of equal to or greater than one acre, [or equal to or greater than 2,500
593 square feet in all areas of the jurisdictions designated as subject to the Chesapeake Bay
594 Preservation Area Designation and Management Regulations adopted pursuant to the
595 Chesapeake Bay Preservation Act,] and less than five acres. Small construction activity
596 also includes the disturbance of less than one acre of total land area that is part of a

597 larger common plan of development or sale if the larger common plan will ultimately
598 disturb equal to or greater than one and less than five acres. Small construction activity
599 does not include routine maintenance that is performed to maintain the original line and
600 grade, hydraulic capacity, or original purpose of the facility. The board may waive the
601 otherwise applicable requirements in a general permit for a stormwater discharge from
602 construction activities that disturb less than five acres where stormwater controls are not
603 needed based on a "total maximum daily load" (TMDL) approved or established by EPA
604 that addresses the pollutant(s) of concern or, for nonimpaired waters that do not require
605 TMDLs, an equivalent analysis that determines allocations for small construction sites
606 for the pollutant(s) of concern or that determines that such allocations are not needed to
607 protect water quality based on consideration of existing in-stream concentrations,
608 expected growth in pollutant contributions from all sources, and a margin of safety. For
609 the purpose of this subdivision, the pollutant(s) of concern include sediment or a
610 parameter that addresses sediment (such as total suspended solids, turbidity or siltation)
611 and any other pollutant that has been identified as a cause of impairment of any water
612 body that will receive a discharge from the construction activity. The operator must
613 certify to the board that the construction activity will take place, and stormwater
614 discharges will occur, within the drainage area addressed by the TMDL or equivalent
615 analysis.

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

619 "Small municipal separate storm sewer system" or "small MS4" means all separate storm
620 sewers that are (i) owned or operated by the United States, a state, city, town, borough, county,
621 parish, district, association, or other public body (created by or pursuant to state law) having
622 jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including
623 special districts under state law such as a sewer district, flood control district or drainage district,
624 or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated
625 and approved management agency under § 208 of the CWA that discharges to surface waters
626 and (ii) not defined as "large" or "medium" municipal separate storm sewer systems or
627 designated under 4VAC50-60-380 A 1. This term includes systems similar to separate storm
628 sewer systems in municipalities, such as systems at military bases, large hospital or prison
629 complexes, and highway and other thoroughfares. The term does not include separate storm
630 sewers in very discrete areas, such as individual buildings.

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

633 [~~"Stable" means, in the context of channels, a channel that has developed an established~~
634 ~~dimension, pattern, and profile such that over time, these features are maintained.]~~

635 "State" means the Commonwealth of Virginia.

636 "State/EPA agreement" means an agreement between the [EPA] regional administrator
637 and the state that coordinates EPA and state activities, responsibilities and programs including
638 those under the CWA and the Act.

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

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

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

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

649 "Stormwater conveyance system" means [any of the following a combination of drainage
650 components that are used to convey stormwater discharge] , either within or downstream of the
651 land-disturbing activity [. This includes] :

652 (i) [a ~~manmade~~ "Manmade"] stormwater conveyance system [" means a pipe, ditch,
653 vegetated swale, or other stormwater conveyance system constructed by man except for
654 restored stormwater conveyance systems;]

655 [;] (ii) [a ~~natural~~ "Natural"] stormwater conveyance system [" means the main channel of a
656 natural stream and the flood-prone area adjacent to the main channel; ;] or

657 (iii) [a ~~restored~~ "Restored"] stormwater conveyance system [" means a stormwater
658 conveyance system that has been designed and constructed using natural channel design
659 concepts. Restored stormwater conveyance systems include the main channel and the flood-
660 prone area adjacent to the main channel] .

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

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

672 "Stormwater discharge associated with large construction activity" means the discharge of
673 stormwater from large construction activities.

674 "Stormwater discharge associated with small construction activity" means the discharge of
675 stormwater from small construction activities.

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

684 "~~Stormwater extended detention basin enhanced" or "extended detention basin enhanced"~~
685 ~~means an extended detention basin modified to increase pollutant removal by providing a~~
686 ~~shallow marsh in the lower stage of the basin.~~

687 "Stormwater management facility" means a [device control measure] that controls
688 stormwater runoff and changes the characteristics of that runoff including, but not limited to, the
689 quantity and quality, the period of release or the velocity of flow.

690 "Stormwater management plan" means a document(s) containing material for describing
691 ~~[how existing runoff characteristics will be maintained by a land disturbing activity and]~~
692 methods for complying with the requirements of the local program or this chapter.

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

696 ~~["Stormwater management standards" means the minimum criteria for stormwater~~
697 ~~management programs and land disturbing activities as set out in Part II (4VAC50-60-40 et~~
698 ~~seq.) of this chapter.]~~

699 "Stormwater Pollution Prevention Plan" or "SWPPP" means a document that is prepared in
700 accordance with good engineering practices and that identifies potential sources of pollutants
701 that may reasonably be expected to affect the quality of stormwater discharges from the
702 construction site ~~[or its associated land disturbing activities]~~. In addition the document shall
703 identify and require the implementation of control measures, and shall include, but not be limited
704 to the inclusion of, or the incorporation by reference of, an ~~[approved]~~ erosion and sediment
705 control plan, ~~[a post-construction an approved]~~ stormwater management plan, ~~[a spill~~
706 ~~prevention control and countermeasure (SPCC) a pollution prevention]~~ plan ~~[, and other~~
707 ~~practices that will be used to minimize pollutants in stormwater discharges from land disturbing~~
708 ~~activities in compliance with the terms and conditions of this chapter. All plans incorporated by~~
709 ~~reference into the SWPPP shall be enforceable under the permit issued or general permit~~
710 ~~coverage authorized]~~.

711 ~~["Stormwater Program Administrative Authority" means a local stormwater management~~
712 ~~program or the department, as the permit-issuing authority, in the absence of a local stormwater~~
713 ~~management program, which administers the Virginia Stormwater Management Program.]~~

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

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

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

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

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

727 "Surface waters" means:

- 728 1. All waters that are currently used, were used in the past, or may be susceptible to use
729 in interstate or foreign commerce, including all waters that are subject to the ebb and
730 flow of the tide;
- 731 2. All interstate waters, including interstate wetlands;
- 732 3. All other waters such as intrastate lakes, rivers, streams (including intermittent
733 streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa
734 lakes, or natural ponds the use, degradation, or destruction of which would affect or
735 could affect interstate or foreign commerce including any such waters:

- 736 a. That are or could be used by interstate or foreign travelers for recreational or other
737 purposes;
738 b. From which fish or shellfish are or could be taken and sold in interstate or foreign
739 commerce; or
740 c. That are used or could be used for industrial purposes by industries in interstate
741 commerce.

- 742 4. All impoundments of waters otherwise defined as surface waters under this definition;
743 5. Tributaries of waters identified in subdivisions 1 through 4 of this definition;
744 6. The territorial sea; and
745 7. Wetlands adjacent to waters (other than waters that are themselves wetlands)
746 identified in subdivisions 1 through 6 of this definition.

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

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

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

759 "Toxic pollutant" means any pollutant listed as toxic under § 307(a)(1) of the CWA or, in the
760 case of sludge use or disposal practices, any pollutant identified in regulations implementing §
761 405(d) of the CWA.

762 [~~"Unstable" means, in the context of channels, a channel that is not stable.]~~

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

768 [~~"Urban development area" or "UDA" means, as defined by § 15.2-2223.1 of the Code of
769 Virginia, an area designated by a locality that is appropriate for higher density development due
770 to proximity to transportation facilities, the availability of a public or community water and sewer
771 system, or proximity to a city, town, or other developed area.]~~

772 "Variance" means any mechanism or provision under § 301 or § 316 of the CWA or under
773 40 CFR Part 125 (2000), or in the applicable federal effluent limitations guidelines that allows
774 modification to or waiver of the generally applicable effluent limitation requirements or time
775 deadlines of the CWA. This includes provisions that allow the establishment of alternative
776 limitations based on fundamentally different factors or on § 301(c), § 301(g), § 301(h), § 301(i),
777 or § 316(a) of the CWA.

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

781 ~~through filtration, sediment deposition, infiltration and absorption, and is dedicated for that~~
782 ~~purpose.~~

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

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

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

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

797 "Virginia Stormwater Management Program (VSMP)" or "VSMP" means the Virginia
798 program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing
799 permits, and imposing and enforcing requirements pursuant to the ~~federal Clean Water Act~~
800 ~~CWA~~, the ~~Virginia Stormwater Management Act~~, this chapter, and associated guidance
801 documents.

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

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

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

813 "Water quality standards" or "WQS" means provisions of state or federal law that consist of
814 a designated use or uses for the waters of the Commonwealth and water quality criteria for such
815 waters based on such uses. Water quality standards are to protect the public health or welfare,
816 enhance the quality of water, and serve the purposes of the State Water Control Law (§ 62.1-
817 44.2 et seq. of the Code of Virginia), the ~~Virginia Stormwater Management Act~~ (§ 10.1-603.1 et
818 seq. of the Code of Virginia), and the ~~federal Clean Water Act~~ CWA (33 USC § 1251 et seq.).

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

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

825 "Wetlands" means those areas that are inundated or saturated by surface or groundwater at
826 a frequency and duration sufficient to support, and that under normal circumstances do support,

827 a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands
828 generally include swamps, marshes, bogs, and similar areas.

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

831 **4VAC50-60-20. Purposes.**

832 The purposes of this chapter are to provide a framework for the administration,
833 implementation and enforcement of the Virginia Stormwater Management Act (Act) and to
834 delineate the procedures and requirements to be followed in connection with VSMP permits
835 issued by the board or its designee pursuant to the Clean Water Act (CWA) and the Virginia
836 Stormwater Management Act, while at the same time providing flexibility for innovative solutions
837 to stormwater management issues. The chapter also establishes the board's procedures for the
838 authorization of a qualifying local program, [the board's procedures for approving the
839 administration of a local stormwater management program by an authorized qualifying local
840 program.] board and department oversight authorities for an authorized qualifying local
841 program, the board's procedures for utilization by the department in administering [a local
842 program the Virginia Stormwater Management Program] in localities where no qualifying local
843 program is authorized, and the [components of a stormwater management program including
844 but not limited to required technical criteria for] stormwater management [standards for land-
845 disturbing activities] .

846 **4VAC50-60-30. Applicability.**

847 This chapter is applicable to:

- 848 1. Every [~~private, local, state, or federal entity~~ locality] that [~~establishes~~ administers] a
849 [local] stormwater management program [~~or a MS4 program~~] ;
- 850 2. The department in its oversight of locally administered programs or in its
851 administration of [~~a local program~~ the Virginia Stormwater Management Program] ;
- 852 ~~2.~~ 3. [Every MS4 program;
- 853 4.] Every state agency project regulated under the Act and this chapter; and
- 854 ~~3.~~ [4.5.] Every land-disturbing activity regulated under § 10.1-603.8 of the Code of
855 Virginia unless otherwise exempted in § 10.1-603.8 B.

856 [Part II A
857 Stormwater Management Program Technical Criteria Part II]

858 **4VAC50-60-40. Applicability Authority and applicability.**

859 ~~This part specifies technical criteria for every stormwater management program and land-~~
860 ~~disturbing activity.~~

861 Pursuant to the Virginia Stormwater Management Act (§ 10.1-603.2 et seq. of the Code of
862 Virginia), the board is required to take actions ensuring the general health, safety, and welfare
863 of the citizens of the Commonwealth as well as protecting the quality and quantity of state
864 waters from the potential harm of unmanaged stormwater. In addition to other authority granted
865 to the board under the Stormwater Management Act, the board is authorized pursuant to §§
866 10.1-603.2:1 and 10.1-603.4 to adopt regulations that specify [minimum technical criteria
867 standards and procedures] for [local] stormwater management programs [in and the] Virginia
868 [Stormwater Management Program,] to establish statewide standards for stormwater
869 management [from for] land-disturbing activities, and to protect properties, the quality and
870 quantity of state waters, the physical integrity of stream channels, and other natural resources.

871 In accordance with the board's authority, this part establishes the minimum technical criteria
872 and stormwater management standards that shall be employed by a state agency in

~~873 accordance with an implementation schedule set by the board, or by a qualifying local program
874 or department administered local stormwater management program that has been approved by
875 the board, to protect the quality and quantity of state waters from the potential harm of
876 unmanaged stormwater runoff resulting from land-disturbing activities.~~

~~877 For those localities required to adopt a local stormwater management program pursuant to §
878 10.1-603.3 of the Code of Virginia, until a local program is approved by the board, the technical
879 criteria required shall be that found at 4VAC50-60-1180 through 4VAC50-60-1190.~~

880 4VAC50-60-45. [Applicability Implementation date.

~~881 In accordance with the board's authority, this part establishes the minimum technical criteria and
882 stormwater management standards that shall be employed by a state agency in accordance
883 with an implementation schedule set by the board, or by a qualifying local program or
884 department administered local stormwater management program that has been approved by
885 the board, to protect the quality and quantity of state waters from the potential harm of
886 unmanaged stormwater runoff resulting from land-disturbing activities, except as provided in
887 4VAC50-60-48. The technical criteria in Part II A and Part II B shall be implemented by a
888 stormwater program administrative authority when a VSMP General Permit for Discharges of
889 Stormwater from Construction Activities has been issued that incorporates such criteria. Until
890 that time, the required technical criteria shall be found in Part II C.]~~

891 [4VAC50-60-46. General objectives.

~~892 The physical, chemical, biological, and hydrologic characteristics and the water quality and
893 quantity of the receiving state waters shall be maintained, protected, or improved in accordance
894 with the requirements of this part. Objectives include, but are not limited to, supporting state
895 designated uses and water quality standards. All control measures used shall be employed in a
896 manner that minimizes impacts on receiving state waters.~~

897 [4VAC50-60-47. Applicability of other laws and regulations.

~~898 Nothing in this chapter shall be construed as limiting the applicability of other laws and
899 regulations, including, but not limited to, the CWA, Virginia Stormwater Management Act,
900 Virginia Erosion and Sediment Control Law, and the Chesapeake Bay Preservation Act, except
901 as provided in § 10.1-603.3 I of the Code of Virginia, and all applicable regulations adopted in
902 accordance with those laws, or the rights of other federal agencies, state agencies, or local
903 governments to impose more stringent technical criteria or other requirements as allowed by
904 law.~~

905 [4VAC50-60-47.1. Time limits on applicability of approved design criteria.

~~906 Beginning with the VSMP General Permit for Discharges of Stormwater from Construction
907 Activities issued July 1, 2009, all land-disturbing activities that receive general permit coverage
908 shall be conducted in accordance with the Part II B or Part II C technical criteria in place at the
909 time of initial permit coverage and shall remain subject to those criteria for an additional two
910 permit cycles, except as provided for in subsection D of 4VAC50-60-48. After the two additional
911 permit cycles have passed, or should permit coverage not be maintained, portions of the project
912 not under construction shall become subject to any new technical criteria adopted since original
913 permit coverage was issued. For land-disturbing projects issued coverage under the July 1,
914 2009 permit and for which coverage was maintained, such projects shall remain subject to the
915 technical criteria of Part II C for an additional two permits.]~~

916 4VAC50-60-48. Grandfathering.

~~917 A. [Land-disturbing activities that receive coverage under the VSMP General Permit for
918 Discharges of Stormwater from Construction Activities prior to the adoption of a local
919 stormwater management program within their jurisdiction shall not be subject to the technical~~

920 ~~criteria of Part II A, but shall be subject to the technical criteria of Part II B, until the expiration of~~
921 ~~that permit on June 30, 2014. Until June 30, 2019, any land-disturbing activity for which a~~
922 ~~currently valid proffered or conditional zoning plan, preliminary or final subdivision plat,~~
923 ~~preliminary or final site plan or zoning with a plan of development, or any document determined~~
924 ~~by the locality as being equivalent thereto, was approved by a locality prior to July 1, 2012, and~~
925 ~~for which no coverage under the VSMP General Permit for Discharges of Stormwater from~~
926 ~~Construction Activities has been issued prior to July 1, 2014, shall be considered grandfathered~~
927 ~~by the stormwater program administrative authority and shall not be subject to the technical~~
928 ~~criteria of Part II B, but shall be subject to the technical criteria of Part II C for those areas that~~
929 ~~were included in the approval, provided that the stormwater program administrative authority~~
930 ~~finds that such proffered or conditional zoning plan, preliminary or final subdivision plat,~~
931 ~~preliminary or final site plan or zoning with a plan of development, or any document determined~~
932 ~~by the locality as being equivalent thereto, (i) provides for a layout; and (ii) the resulting land-~~
933 ~~disturbing activity will be compliant with the requirements of Part II C. In the event that the~~
934 ~~locality-approved document is subsequently modified or amended in a manner such that there is~~
935 ~~no increase over the previously approved plat or plan in the amount of phosphorus leaving each~~
936 ~~point of discharge of the land-disturbing activity through stormwater runoff, and such that there~~
937 ~~is no increase over the previously approved plat or plan in the volume or rate of runoff, the~~
938 ~~grandfathering shall continue as before.]~~

939 ~~B. [If the operator of a project, as of July 1, 2010, (i) obtained or is the beneficiary of a~~
940 ~~significant affirmative governmental act that remains in effect allowing development of a specific~~
941 ~~project, (ii) relied in good faith on the significant affirmative governmental act, (iii) incurred~~
942 ~~extensive obligations or substantial expenses in diligent pursuit of the specific project in reliance~~
943 ~~on the significant affirmative governmental act, and (iv) obtained VSMP general permit coverage~~
944 ~~prior to July 1, 2010, then the land-disturbing activity associated with the project is~~
945 ~~grandfathered and shall remain subject to the Part II B Technical Criteria until June 30, 2014. If~~
946 ~~permit coverage continuously remains in effect for the land-disturbing activity within the entire~~
947 ~~project area, then the project shall remain subject to the Part II B Technical Criteria until June~~
948 ~~30, 2019. Should permit coverage not be maintained or if the land-disturbing activity continues~~
949 ~~beyond June 30, 2019, portions of the project not completed shall be subject to the Part II A~~
950 ~~Technical Criteria. In the event that the qualifying significant affirmative governmental act or the~~
951 ~~VSMP permit is subsequently modified or amended in a manner such that there is no increase~~
952 ~~in the amount of phosphorus leaving the site through stormwater runoff, and such that there is~~
953 ~~no increase in the volume or rate of runoff, the grandfathering shall continue as before.~~

954 ~~For purposes of this subsection and without limitation, the following are deemed to be~~
955 ~~significant affirmative governmental acts allowing development of a specific project: (i) the~~
956 ~~governing body has accepted proffers or proffered conditions that specify use related to a~~
957 ~~zoning amendment; (ii) the governing body has approved an application for a rezoning for a~~
958 ~~specific use or density; (iii) the governing body or board of zoning appeals has granted a special~~
959 ~~exception or use permit with conditions; (iv) the board of zoning appeals has approved a~~
960 ~~variance; (v) the governing body or its designated agent has approved a preliminary subdivision~~
961 ~~plat, site plan, or plan of development for the landowner's property and the applicant diligently~~
962 ~~pursues approval of the final plat or plan within a reasonable period of time under the~~
963 ~~circumstances; or (vi) the governing body or its designated agent has approved a final~~
964 ~~subdivision plat, site plan or plan of development for the landowner's property. For the purposes~~
965 ~~of this subsection and without limitation, for state and federal projects, the approval of state or~~
966 ~~federal funding for a project or the approval of a stormwater management plan are deemed to~~
967 ~~be significant affirmative governmental acts. Until June 30, 2019, for locality, state, and federal~~
968 ~~projects for which there has been an obligation of locality, state, or federal funding, in whole or~~

969 ~~in part, prior to July 1, 2012, or for which the department has approved a stormwater~~
970 ~~management plan prior to July 1, 2012, such projects shall be considered grandfathered by the~~
971 ~~stormwater program administrative authority and shall not be subject to the technical criteria of~~
972 ~~Part II B, but shall be subject to the technical criteria of Part II C for those areas that were~~
973 ~~included in the approval.]~~

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

977 ~~D. [Where a land-disturbing activity is part of a common plan of development or sale that~~
978 ~~has obtained VSMP general permit coverage from the department prior to July 1, 2010 , the~~
979 ~~land-disturbing activity will be subject to the technical criteria of Part II B. The registration~~
980 ~~statement shall include the permit coverage number for the common plan of development or~~
981 ~~sale for which association is being claimed. In cases where governmental bonding or public~~
982 ~~debt financing has been issued for a project prior to [July 1, 2010 July 1, 2012] , such project~~
983 ~~shall be subject to the technical criteria of [Part II B Part II C] .~~

984 ~~[E. Nothing in this section shall preclude an operator from constructing to a more stringent~~
985 ~~standard at their discretion.]~~

986 **4VAC50-60-50. General. (Repealed.)**

987 ~~A. Determination of flooding and channel erosion impacts to receiving streams due to land-~~
988 ~~disturbing activities shall be measured at each point of discharge from the land disturbance and~~
989 ~~such determination shall include any runoff from the balance of the watershed which also~~
990 ~~contributes to that point of discharge.~~

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

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

1000 ~~D. Construction of stormwater management facilities or modifications to channels shall~~
1001 ~~comply with all applicable laws and regulations. Evidence of approval of all necessary permits~~
1002 ~~shall be presented.~~

1003 ~~E. Impounding structures that are not covered by the Impounding Structure Regulations~~
1004 ~~(4VAC50-20) shall be engineered for structural integrity during the 100-year storm event.~~

1005 ~~F. Pre-development and post-development runoff rates shall be verified by calculations that~~
1006 ~~are consistent with good engineering practices.~~

1007 ~~G. Outflows from a stormwater management facility or stormwater conveyance system, shall~~
1008 ~~be discharged to an adequate channel.~~

1009 ~~H. Proposed residential, commercial, or industrial subdivisions shall apply these stormwater~~
1010 ~~management criteria to the land disturbance as a whole. Individual lots in new subdivisions shall~~
1011 ~~not be considered separate land-disturbing activities, but rather the entire subdivision shall be~~
1012 ~~considered a single land development project. Hydrologic parameters shall reflect the ultimate~~
1013 ~~land disturbance and shall be used in all engineering calculations.~~

1014 I. All stormwater management facilities shall have an inspection and maintenance plan that
1015 identifies the owner and the responsible party for carrying out the inspection and maintenance
1016 plan.

1017 J. Construction of stormwater management impoundment structures within a Federal
1018 Emergency Management Agency (FEMA) designated 100-year floodplain shall be avoided to
1019 the extent possible. When this is unavoidable, all stormwater management facility construction
1020 shall be in compliance with all applicable regulations under the National Flood Insurance
1021 Program, 44 CFR Part 59.

1022 K. Natural channel characteristics shall be preserved to the maximum extent practicable.

1023 L. Land disturbing activities shall comply with the Virginia Erosion and Sediment Control
1024 Law (§ 10.1-560 et seq. of the Code of Virginia) and attendant regulations.

1025 M. Flood control and stormwater management facilities that drain or treat water from multiple
1026 development projects or from a significant portion of a watershed may be allowed in Resource
1027 Protection Areas defined in the Chesapeake Bay Preservation Act, provided that (i) the local
1028 government has conclusively established that the location of the facility within the Resource
1029 Protection Area is the optimum location; (ii) the size of the facility is the minimum necessary to
1030 provide necessary flood control, stormwater treatment, or both; and, (iii) the facility must be
1031 consistent with a stormwater management program that has been approved by the board.

1032 **[4VAC50-60-51. Chesapeake Bay Preservation Act land-disturbing activity.**

1033 In order to protect the quality of state waters and to control the discharge of stormwater
1034 pollutants from land-disturbing activities, runoff associated with Chesapeake Bay Preservation
1035 Act land-disturbing activities shall be controlled. Such land-disturbing activities shall not require
1036 completion of a registration statement or require coverage under the VSMP General Permit for
1037 Discharges of Stormwater from Construction Activities but shall be subject to the following
1038 technical criteria and program and administrative requirements:

1039 A. An erosion and sediment control plan consistent with the requirements of the Virginia
1040 Erosion and Sediment Control Law and regulations must be designed and implemented
1041 during land disturbing activities. Prior to land disturbance, this plan must be approved by
1042 either the local erosion and sediment control program or the department in accordance
1043 with the Virginia Erosion and Sediment Control Law and attendant regulations.

1044 B. A stormwater plan consistent with the requirements of the Virginia Stormwater
1045 Management Act and regulations must be designed and implemented during the land-
1046 disturbing activity. The stormwater management plan shall be developed and submitted
1047 in accordance with 4VAC50-60-55. Prior to land disturbance, this plan must be approved
1048 by the stormwater program administrative authority.

1049 C. Exceptions may be requested in accordance with 4VAC50-60-57.

1050 D. Long-term maintenance of stormwater management facilities shall be provided for
1051 and conducted in accordance with 4VAC50-60-58.

1052 E. Water quality design criteria in 4VAC50-60-63 shall be applied to the site.

1053 F. Water quality compliance shall be achieved in accordance with 4VAC50-60-65.

1054 G. Channel protection and flood protection shall be achieved in accordance with
1055 4VAC50-60-66.

1056 H. Offsite compliance options in accordance with 4VAC50-60-69 shall be available to
1057 Chesapeake Bay Preservation Act land-disturbing activities.

1058 I. Such land-disturbing activities shall be subject to the design storm and hydrologic
1059 methods set out in 4VAC50-60-72, linear development controls in 4VAC50-60-76, and

1060 criteria associated with stormwater impoundment structures or facilities in 4VAC50-60-
1061 85.

1062 [Part II A

1063 General Administrative Criteria for Regulated Land-Disturbing Activities]

1064 **4VAC50-60-53. [General requirements-Applicability] .**

1065 [The physical, chemical, biological, and hydrologic characteristics and the water quality and
1066 quantity of the receiving state waters shall be maintained, protected, or improved in accordance
1067 with the requirements of this part. Objectives include, but are not limited to, supporting state
1068 designated uses and water quality standards. All control measures used shall be employed in a
1069 manner that minimizes impacts on receiving state waters. This Part applies to all regulated land-
1070 disturbing activities.]

1071 **[4VAC50-60-54. Stormwater pollution prevention plan requirements.**

1072 A. A stormwater pollution prevention plan shall include, but not be limited to, an approved
1073 erosion and sediment control plan, an approved stormwater management plan, a pollution
1074 prevention plan for regulated land-disturbing activities, and a description of any additional
1075 control measures necessary to address a TMDL pursuant to subsection E.

1076 B. An erosion and sediment control plan consistent with the requirements of the Virginia
1077 Erosion and Sediment Control Law and regulations must be designed and implemented during
1078 construction activities. Prior to land disturbance, this plan must be approved by either the local
1079 erosion and sediment control program or the department in accordance with the Virginia Erosion
1080 and Sediment Control Law and attendant regulations.

1081 C. A stormwater management plan consistent with the requirements of the Virginia
1082 Stormwater Management Act and regulations must be designed and implemented during
1083 construction activities. Prior to land disturbance, this plan must be approved by the stormwater
1084 program administrative authority.

1085 D. A pollution prevention plan that identifies potential sources of pollutants that may
1086 reasonably be expected to affect the quality of stormwater discharges from the construction site
1087 and describe control measures that will be used to minimize pollutants in stormwater discharges
1088 from the construction site must be developed before land disturbance commences.

1089 E. In addition to the above requirements, if a specific WLA for a pollutant has been
1090 established in a TMDL and is assigned to stormwater discharges from a construction activity,
1091 additional control measures must be identified and implemented by the operator so that
1092 discharges are consistent with the assumptions and requirements of the WLA in a State Water
1093 Control Board approved TMDL.

1094 F. The stormwater pollution prevention plan must address the following requirements, to the
1095 extent otherwise required by state law or regulations and any applicable requirements of a
1096 VSMP permit:

- 1097 1. Control stormwater volume and velocity within the site to minimize soil erosion;
1098 2. Control stormwater discharges, including both peak flow rates and total stormwater
1099 volume, to minimize erosion at outlets and to minimize downstream channel and stream
1100 bank erosion;
1101 3. Minimize the amount of soil exposed during construction activity;
1102 4. Minimize the disturbance of steep slopes;
1103 5. Minimize sediment discharges from the site. The design, installation and maintenance
1104 of erosion and sediment controls must address factors such as the amount, frequency,
1105 intensity and duration of precipitation, the nature of resulting stormwater runoff, and soil

1106 characteristics, including the range of soil particle sizes expected to be present on the
1107 site;

1108 6. Provide and maintain natural buffers around surface waters, direct stormwater to
1109 vegetated areas to increase sediment removal and maximize stormwater infiltration,
1110 unless infeasible;

1111 7. Minimize soil compaction and, unless infeasible, preserve topsoil; and

1112 8. Stabilization of disturbed areas must, at a minimum, be initiated immediately
1113 whenever any clearing, grading, excavating or other earth disturbing activities have
1114 permanently ceased on any portion of the site, or temporarily ceased on any portion of
1115 the site and will not resume for a period exceeding 14 calendar days. Stabilization must
1116 be completed within a period of time determined by the stormwater program
1117 administrative authority. In arid, semiarid, and drought-stricken areas where initiating
1118 vegetative stabilization measures immediately is infeasible, alternative stabilization
1119 measures must be employed as specified by the stormwater program administrative
1120 authority.

1121 G. The SWPPP shall be amended whenever there is a change in design, construction,
1122 operation, or maintenance that has a significant effect on the discharge of pollutants to state
1123 waters and that has not been previously addressed in the SWPPP. The SWPPP must be
1124 maintained at a central location onsite. If an onsite location is unavailable, notice of the
1125 SWPPP's location must be posted near the main entrance at the construction site.

1126 **[4VAC50-60-55. Stormwater management plans.**

1127 A. A stormwater management plan shall be developed and submitted to the stormwater
1128 program administrative authority. The stormwater management plan shall be implemented as
1129 approved or modified by the stormwater program administrative authority and shall be
1130 developed in accordance with the following:

1131 1. A stormwater management plan for a land-disturbing activity shall apply the
1132 stormwater management technical criteria set forth in this Part to the entire land-
1133 disturbing activity.

1134 2. A stormwater management plan shall consider all sources of surface runoff and all
1135 sources of subsurface and groundwater flows converted to surface runoff.

1136 B. A complete stormwater management plan shall include the following elements:

1137 1. Information on the type of and location of stormwater discharges, information on the
1138 features to which stormwater is being discharged including surface waters or karst
1139 features if present, and predevelopment and postdevelopment drainage areas;

1140 2. Contact information including the name, address, and telephone number of the owner
1141 and the tax reference number and parcel number of the property or properties affected;

1142 3. A narrative that includes a description of current site conditions and final site
1143 conditions or if allowed by the stormwater program administrative authority, the
1144 information provided and documented during the review process that addresses the
1145 current and final site conditions;

1146 4. A general description of the proposed stormwater management facilities and the
1147 mechanism through which the facilities will be operated and maintained after
1148 construction is complete;

1149 5. Information on the proposed stormwater management facilities, including the type of
1150 facilities, location, including geographic coordinates, acres treated, and the surface
1151 waters or karst features into which the facility will discharge;

- 1152 6. Hydrologic and hydraulic computations, including runoff characteristics;
1153 7. Documentation and calculations verifying compliance with the water quality and
1154 quantity requirements of these regulations;
1155 8. A map or maps of the site that depicts the topography of the site and includes:
1156 a. All contributing drainage areas;
1157 b. Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and
1158 floodplains;
1159 c. Soil types, geologic formations if karst features are present in the area, forest
1160 cover, and other vegetative areas;
1161 d. Current land use including existing structures, roads, and locations of known
1162 utilities and easements;
1163 e. Sufficient information on adjoining parcels to assess the impacts of stormwater
1164 from the site on these parcels;
1165 f. The limits of clearing and grading, and the proposed drainage patterns on the site;
1166 g. Proposed buildings, roads, parking areas, utilities, and stormwater management
1167 facilities; and
1168 h. Proposed land use with tabulation of the percentage of surface area to be adapted
1169 to various uses, including but not limited to planned locations of utilities, roads, and
1170 easements.
1171 9. If an operator intends to meet the requirements established in 4VAC50-60-60 or
1172 4VAC50-60-66 through the use of off-site compliance options, where applicable, then a
1173 letter of availability from the off-site provider must be included.
1174 10. If payment of a fee is required with the stormwater management plan submission by
1175 the stormwater program administrative authority, the fee and the required fee form in
1176 accordance with Part XIII must have been submitted.
1177 C. Elements of the stormwater management plans that include activities regulated under
1178 Chapter 4 of Title 54.1 shall be appropriately sealed and signed by a professional registered in
1179 the Commonwealth of Virginia pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title
1180 54.1.
1181 D. A construction record drawing for permanent stormwater management facilities shall be
1182 submitted to the stormwater program administrative authority in accordance with 4VAC50-60-
1183 108 and 4VAC50-60-112. The construction record drawing shall be appropriately sealed and
1184 signed by a professional registered in the Commonwealth of Virginia, certifying that the
1185 stormwater management facilities have been constructed in accordance with the approved plan.
1186 **4VAC50-60-56. [Applicability of other laws and regulations Pollution prevention plans] .**
1187 [Nothing in this chapter shall be construed as limiting the applicability of other laws and
1188 regulations, including, but not limited to, the CWA, Virginia Stormwater Management Act,
1189 Virginia Erosion and Sediment Control Law, and the Chesapeake Bay Preservation Act, except
1190 as provided in § 10.1-603.3 I of the Code of Virginia and all applicable regulations adopted in
1191 accordance with those laws, or the rights of other federal agencies, state agencies, or local
1192 governments to impose more stringent technical criteria or other requirements as allowed by
1193 law.
1194 A. A plan for implementing pollution prevention measures during construction activities shall
1195 be developed, implemented and updated as necessary. The pollution prevention plan shall
1196 detail the design, installation, implementation and maintenance of effective pollution prevention

1197 measures to minimize the discharge of pollutants. At a minimum, such measures must be
1198 designed, installed, implemented and maintained to:

1199 1. Minimize the discharge of pollutants from equipment and vehicle washing, wheel
1200 wash water, and other wash waters. Wash waters must be treated in a sediment basin
1201 or alternative control that provides equivalent or better treatment prior to discharge;

1202 2. Minimize the exposure of building materials, building products, construction wastes,
1203 trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste
1204 and other materials present on the site to precipitation and to stormwater; and

1205 3. Minimize the discharge of pollutants from spills and leaks and implement chemical
1206 spill and leak prevention and response procedures.

1207 B. The pollution prevention plan shall include effective best management practices to
1208 prohibit the following discharges:

1209 1. Wastewater from washout of concrete, unless managed by an appropriate control;

1210 2. Wastewater from washout and cleanout of stucco, paint, form release oils, curing
1211 compounds and other construction materials;

1212 3. Fuels, oils, or other pollutants used in vehicle and equipment operation and
1213 maintenance; and

1214 4. Soaps or solvents used in vehicle and equipment washing.

1215 C. Discharges from dewatering activities, including discharges from dewatering of trenches
1216 and excavations, are prohibited unless managed by appropriate controls.]

1217 **[4VAC50-60-57. Requesting an exception.**

1218 A request for an exception for Part II B or Part II C, including the reasons for making the
1219 request, may be submitted in writing to the stormwater program administrative authority.
1220 Economic hardship alone is not a sufficient reason to request an exception from the
1221 requirements of this chapter. The request for an exception will be reviewed pursuant to
1222 4VAC50-60-122. An exception to the requirement that the land disturbing activity obtain a
1223 VSMP permit will not be granted by the stormwater program administrative authority.

1224 **[4VAC50-60-58. Responsibility for long-term maintenance of permanent stormwater**
1225 **management facilities.**

1226 A recorded instrument shall be submitted to the stormwater program administrative authority
1227 in accordance with 4VAC50-60-112.

1228 **[4VAC50-60-59. Applying for VSMP permit coverage.**

1229 The operator must submit a complete and accurate registration statement on the official
1230 department form to the stormwater program administrative authority in order to apply for VSMP
1231 permit coverage. The registration statement must be signed by the operator in accordance with
1232 4VAC50-60-370.

1233 **4VAC50-60-60. Water quality. (Repealed.)**

1234 A. Compliance with the water quality criteria may be achieved by applying the performance-
1235 based criteria or the technology based criteria to either the site or a planning area.

1236 B. Performance based criteria. For land disturbing activities, the calculated post-
1237 development nonpoint source pollutant runoff load shall be compared to the calculated pre-
1238 development load based upon the average land cover condition or the existing site condition. A
1239 BMP shall be located, designed, and maintained to achieve the target pollutant removal
1240 efficiencies specified in Table 1 to effectively reduce the pollutant load to the required level

1241 based upon the following four applicable land development situations for which the performance
 1242 criteria apply:

1243 1. Situation 1 consists of land disturbing activities where the existing percent impervious
 1244 cover is less than or equal to the average land cover condition and the proposed
 1245 improvements will create a total percent impervious cover which is less than the average
 1246 land cover condition.

1247 Requirement: No reduction in the after disturbance pollutant discharge is required.

1248 2. Situation 2 consists of land disturbing activities where the existing percent impervious
 1249 cover is less than or equal to the average land cover condition and the proposed
 1250 improvements will create a total percent impervious cover which is greater than the
 1251 average land cover condition.

1252 Requirement: The pollutant discharge after disturbance shall not exceed the existing
 1253 pollutant discharge based on the average land cover condition.

1254 3. Situation 3 consists of land disturbing activities where the existing percent impervious
 1255 cover is greater than the average land cover condition.

1256 Requirement: The pollutant discharge after disturbance shall not exceed (i) the pollutant
 1257 discharge based on existing conditions less 10% or (ii) the pollutant discharge based on
 1258 the average land cover condition, whichever is greater.

1259 4. Situation 4 consists of land disturbing activities where the existing percent impervious
 1260 cover is served by an existing stormwater management BMP that addresses water
 1261 quality.

1262 Requirement: The pollutant discharge after disturbance shall not exceed the existing
 1263 pollutant discharge based on the existing percent impervious cover while served by the existing
 1264 BMP. The existing BMP shall be shown to have been designed and constructed in accordance
 1265 with proper design standards and specifications, and to be in proper functioning condition.

1266 C. Technology-based criteria. For land disturbing activities, the post-developed stormwater
 1267 runoff from the impervious cover shall be treated by an appropriate BMP as required by the
 1268 post developed condition percent impervious cover as specified in Table 1. The selected BMP
 1269 shall be located, designed, and maintained to perform at the target pollutant removal efficiency
 1270 specified in Table 1. Design standards and specifications for the BMPs in Table 1 that meet the
 1271 required target pollutant removal efficiency will be available at the department.

1272 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% | |

1273 *Innovative or alternate BMPs not included in this table may be allowed at the discretion of the
 1274 local program administrator or the department. Innovative or alternate BMPs not included in this
 1275 table which target appropriate nonpoint source pollution other than phosphorous may be
 1276 allowed at the discretion of the local program administrator or the department.

1277 [Part II B

1278 Technical Criteria for Regulated Land-Disturbing Activities

1279 **4VAC50-60-62. Applicability.**

1280 In accordance with the board's authority, and except as provided in 4VAC50-60-48, this part
 1281 establishes the minimum technical criteria that shall be employed by a state agency in
 1282 accordance with an implementation schedule set by the board, or by a stormwater program
 1283 administrative authority that has been approved by the board, to protect the quality and quantity
 1284 of state waters from the potential harm of unmanaged stormwater runoff resulting from land-
 1285 disturbing activities.

1286 **4VAC50-60-63. Water quality design criteria requirements.**

1287 [A.] In order to protect the quality of state waters and to control nonpoint source pollution
 1288 [the discharge of] stormwater pollutants [from regulated activities] , the following minimum
 1289 [technical design] criteria and statewide standards for stormwater management shall be
 1290 applied to the site [of a land disturbing activity] . The local program shall have discretion to
 1291 allow for application of the criteria to each drainage area of the site. However, where a site
 1292 drains to more than one HUC, the pollutant load reduction requirements shall be applied
 1293 independently within each HUC unless reductions are achieved in accordance with a
 1294 comprehensive watershed stormwater management plan in accordance with 4VAC50-60-96.

1295 1. New development. The total phosphorus load of new development projects shall not
 1296 exceed 0.28 [0.45 0.41] pounds per acre per year, as calculated pursuant to 4VAC50-
 1297 60-65 [. , -except:]

1298 a. The total phosphorus load of a new development project disturbing greater than or
 1299 equal to one acre in the Chesapeake Bay watershed shall not exceed 0.28 pounds
 1300 per acre per year, as calculated pursuant to 4VAC50-60-65.

1301 b. Within [a. Should the board establish by regulatory action a standard more
 1302 stringent than 0.45 pounds per acre per year in the Chesapeake Bay watershed,
 1303 then a qualifying local program may establish a standard of no greater than 0.45
 1304 pounds per acre per year to be applied within urban development areas designated
 1305 pursuant to § 15.2-2223.1 of the Code of Virginia] in the Chesapeake Bay
 1306 watershed a qualifying local program may establish a phosphorus standard between
 1307 0.28 and 0.45 pounds per acre per year [for projects greater than or equal to one
 1308 acre in order to encourage compact development that achieves superior water
 1309 quality benefits. The qualifying local program shall provide to the board for approval
 1310 a justification for any standards established] if greater than 0.28 [and shall define
 1311 the types of projects within a UDA that would qualify for the] relaxed [standards.
 1312 The standard shall be based upon factors including, but not limited to, number of
 1313 housing units per acre for residential development, floor area ratio for nonresidential

1314 ~~development, level of imperviousness, brownfield remediation potential, mixed use~~
1315 ~~and transit-oriented development potential, proximity to the Chesapeake Bay or local~~
1316 ~~waters of concern, and the presence of impaired waters. This provision shall not~~
1317 ~~apply to department-administered local programs.]~~

1318 ~~c. Localities [b. Should the board establish by regulatory action a standard more~~
1319 ~~stringent than 0.45 pounds per acre per year in the Chesapeake Bay watershed,~~
1320 ~~localities that have lands that drain to both the Chesapeake Bay watershed and other~~
1321 ~~non-Chesapeake Bay watersheds may choose to apply the] 0.28 pounds per acre~~
1322 ~~per year [more stringent phosphorus standard for the Chesapeake Bay watershed to~~
1323 ~~land disturbing activities that discharge to watersheds other than the Chesapeake~~
1324 ~~Bay watershed.~~

1325 ~~c. Upon the completion of the Virginia TMDL Implementation Plan for the~~
1326 ~~Chesapeake Bay Nutrient and Sediment TMDL approved by EPA, the board shall by~~
1327 ~~regulatory action establish a water quality design criteria for new development~~
1328 ~~activities that is consistent with the pollutant loadings called for in the approved~~
1329 ~~Implementation Plan.]~~

1330 2. Development on prior developed lands.

1331 ~~a. [The total phosphorus load of projects a project occurring on prior developed~~
1332 ~~lands and] distributing [For land-disturbing activities] disturbing greater than or~~
1333 ~~equal to one acre [that result in no net increase in impervious cover from the~~
1334 ~~predevelopment condition, the total phosphorus load] shall be reduced [to an~~
1335 ~~amount] at least 20% below the predevelopment total phosphorus load.~~

1336 ~~However, the b. [The total phosphorus load of a project occurring on prior developed~~
1337 ~~lands and For regulated land-disturbing activities] disturbing less than one acre [that~~
1338 ~~result in no net increase in impervious cover from the predevelopment condition, the~~
1339 ~~total phosphorus load] shall be reduced [to an amount] at least 10% below the~~
1340 ~~predevelopment total phosphorus load.~~

1341 ~~c. [For land-disturbing activities that result in a net increase in impervious cover over~~
1342 ~~the predevelopment condition, the design criteria for new development shall be~~
1343 ~~applied to the increased impervious area. Depending on the area of disturbance, the~~
1344 ~~criteria of subdivisions a or b above, shall be applied to the remainder of the site.~~

1345 ~~d. In lieu of subdivision (c), the total phosphorus load of a linear development project~~
1346 ~~occurring on prior developed lands shall be reduced 20% below the predevelopment~~
1347 ~~total phosphorus load.~~

1348 ~~e.] The total phosphorus load shall not be required to be reduced to below 0.28~~
1349 ~~pounds per acre per year the applicable standard for new development unless a~~
1350 ~~more stringent standard has been established by a [qualifying] local [stormwater~~
1351 ~~management] program.~~

1352 ~~[3.B.] Compliance with [subdivisions 1 and 2 of this section subsection A above] shall~~
1353 ~~be determined in accordance with 4VAC50-60-65 shall constitute compliance with~~
1354 ~~subdivisions 1 and 2 of this section.~~

1355 ~~[4.C. TMDL. In addition to the above requirements, if a specific WLA for a pollutant has~~
1356 ~~been established in a TMDL and is assigned to stormwater discharges from a~~
1357 ~~construction activity, necessary control measures must be implemented by the operator~~
1358 ~~to meet the WLA in accordance with the requirements established in the General Permit~~
1359 ~~for Discharges of Stormwater from Construction Activities or an individual permit , which~~
1360 ~~address both construction and postconstruction discharges. Upon completion of the~~

1361 2017 Chesapeake Bay Phase III Watershed Implementation Plan, the department shall
 1362 review the water quality design criteria standards.

1363 5.D.] Nothing in this section shall prohibit a [qualifying local stormwater management]
 1364 program from establishing [a] more stringent [standard water quality design criteria
 1365 requirements].

1366 **4VAC50-60-65. Water quality compliance.**

1367 A. Compliance with the water quality design criteria set out in subdivisions 1 and 2 of
 1368 4VAC50-60-63 shall be determined by utilizing the Virginia Runoff Reduction Method or another
 1369 [equivalent] methodology that is [demonstrated by the qualifying local program to achieve
 1370 equivalent or more stringent results and is] approved by the board.

1371 B. The BMPs listed [in Table 1 below] or the BMPs [shall be utilized are approved for use]
 1372 as necessary to effectively reduce the phosphorus load [and runoff volume] in accordance with
 1373 the Virginia Runoff Reduction Method. [Other approved BMPs found on the Virginia Stormwater
 1374 BMP Clearinghouse Website at <http://www.vwrrc.vt.edu/swc> may also be utilized.] Design
 1375 specifications [and the pollutant removal efficiencies] for [the all approved] BMPs [listed in
 1376 Table 1 can be are] found on the Virginia Stormwater BMP Clearinghouse Website [at
 1377 <http://www.vwrrc.vt.edu/swc>] .

1378

[~~TABLE 1~~
~~BMP Pollutant Removal Efficiencies~~

| <u>Practice</u> | <u>Removal of Total Phosphorus by Runoff Volume Reduction (RR, as %) (based upon 1 inch of rainfall— 90% storm)</u> | <u>Removal of Total Phosphorus by Treatment— Pollutant Concentration Reduction (PR, as %)</u> | <u>Total Mass Load Removal of Total Phosphorus (TR, as %)⁵</u> |
|---|---|---|---|
| <u>Green Vegetated Roof 1</u> | <u>45</u> | <u>0</u> | <u>45</u> |
| <u>Green Vegetated Roof 2</u> | <u>60</u> | <u>0</u> | <u>60</u> |
| <u>Rooftop Disconnection 1²</u> | <u>25 or 50¹</u> | <u>0</u> | <u>25 or 50¹</u> |
| <u>Rooftop Disconnection 2</u> | <u>50</u> | <u>0</u> | <u>50</u> |
| <u>Rain Tanks/Cisterns 1 Rainwater Harvesting</u> | <u>actual volume x .75 up to 90³⁻⁵</u> | <u>0</u> | <u>actual volume x .75 up to 90³⁻⁵</u> |
| <u>Soil Amendments 1</u> | <u>50</u> | <u>0</u> | <u>50</u> |
| <u>Soil Amendments 2</u> | <u>75</u> | <u>0</u> | <u>75</u> |
| <u>Soil Amendments</u> | <u>Can be used to decrease runoff coefficient for turf cover at site. See designs for Rooftop Disconnection, Sheet Flow, and Grass Channel practices.</u> | | |

| | | | |
|--|-------------------------------|----------------------------|-----------------------------|
| <u>Permeable Pavement 1</u> | <u>45</u> | <u>25</u> | <u>59</u> |
| <u>Permeable Pavement 2</u> | <u>75</u> | <u>25</u> | <u>81</u> |
| <u>Grass Channel 1</u> | <u>10 or 20¹</u> | <u>15</u> | <u>23</u> |
| <u>Grass Channel 2</u> | <u>20</u> | <u>15</u> | <u>32</u> |
| <u>Bioretention 1 (also applies to Urban Bioretention)</u> | <u>40</u> | <u>25</u> | <u>55</u> |
| <u>Bioretention 2</u> | <u>80</u> | <u>50</u> | <u>90</u> |
| <u>Infiltration 1</u> | <u>50</u> | <u>25</u> | <u>63</u> |
| <u>Infiltration 2</u> | <u>90</u> | <u>25</u> | <u>93</u> |
| <u>Dry Swale 1</u> | <u>40</u> | <u>20</u> | <u>52</u> |
| <u>Dry Swale 2</u> | <u>60</u> | <u>40</u> | <u>76</u> |
| <u>Wet Swale 1</u> | <u>0</u> | <u>20</u> | <u>20</u> |
| <u>Wet Swale 2</u> | <u>0</u> | <u>40</u> | <u>40</u> |
| <u>Sheet Flow to Conserved Filter/ Open Space 1</u> | <u>0-25 or 50¹</u> | <u>50-0</u> | <u>25 or 50¹</u> |
| <u>Sheet Flow to Conserved Filter/ Open Space 2⁵²</u> | <u>0-50 or 75¹</u> | <u>75-0</u> | <u>50 or 75¹</u> |
| <u>Extended Detention Pond 1</u> | <u>0</u> | <u>15</u> | <u>15</u> |
| <u>Extended Detention Pond 2</u> | <u>15</u> | <u>15</u> | <u>28-31</u> |
| <u>Filtering Practice 1</u> | <u>0</u> | <u>60</u> | <u>60</u> |
| <u>Filtering Practice 2</u> | <u>0</u> | <u>65</u> | <u>65</u> |
| <u>Constructed Wetland 1</u> | <u>0</u> | <u>50</u> | <u>50</u> |
| <u>Constructed Wetland 2</u> | <u>0</u> | <u>75</u> | <u>75</u> |
| <u>Wet Pond 1</u> | <u>0</u> | <u>50 (45⁴)</u> | <u>50 (45⁴)</u> |
| <u>Wet Pond 2</u> | <u>0</u> | <u>75 (65⁴)</u> | <u>75 (65⁴)</u> |

¹ Lower rate is for Hydrologic Soil Group (HSG) class C and D soils; higher rate is for HSG

class A and B soils.

²The removal can be increased to 50% for C and D soils by adding soil compost amendments, and may be higher yet if combined with secondary runoff reduction practices.

³Credit up to 90% is possible if all water from storms 1" or less is used through demand, and tank is sized such that no overflow occurs. Total credit is not to exceed 90%.

⁴Lower nutrient removals in parentheses apply to wet ponds in coastal plain terrain.

⁵See BMP design specification for an explanation of how additional pollutant removal can be achieved.

- 1379 1. Vegetated Roof (Version 2.3, March 1, 2011);
1380 2. Rooftop Disconnection (Version 1.9, March 1, 2011);
1381 3. Rainwater Harvesting (Version 1.9.5, March 1, 2011);
1382 4. Soil Amendments (Version 1.8, March 1, 2011);
1383 5. Permeable Pavement (Version 1.8, March 1, 2011);
1384 6. Grass Channel (Version 1.9, March 1, 2011);
1385 7. Bioretention (Version 1.9, March 1, 2011);
1386 8. Infiltration (Version 1.9, March 1, 2011);
1387 9. Dry Swale (Version 1.9, March 1, 2011);
1388 10. Wet Swale (Version 1.9, March 1, 2011);
1389 11. Sheet Flow to Filter/Open Space (Version 1.9, March 1, 2011);
1390 12. Extended Detention Pond (Version 1.9, March 1, 2011);
1391 13. Filtering Practice (Version 1.8, March 1, 2011);
1392 14. Constructed Wetland (Version 1.9, March 1, 2011); and
1393 15. Wet Pond (Version 1.9, March 1, 2011).
1394 Other approved BMPs available on this website may also be utilized.]
1395 C. BMPs differing from those listed [in Table 4 above] shall be reviewed and approved by
1396 the director in accordance with procedures established by the BMP Clearinghouse Committee
1397 and approved by the board.
1398 D. A [qualifying] local [stormwater management] program may establish use limitations on
1399 the use of specific BMPs following the submission of the proposed use limitation and written
1400 justification to the department.
1401 E. [Where the land-disturbing activity only occurs on a portion of the site, the local program
1402 may review the stormwater management plan based upon the portion of the site that is
1403 proposed to be developed, provided that the local program has established guidance for such a
1404 review . Such portion shall be deemed to include any area left undeveloped pursuant to any
1405 local requirement or proffer accepted by a locality. Any such guidance shall be provided to the
1406 department.
1407 F.] If a comprehensive watershed stormwater management plan has been adopted
1408 pursuant to 4VAC50-60-96 for the watershed within which a project is located, then the
1409 qualifying local program may allow offsite controls in accordance with the plan to achieve the
1410 postdevelopment pollutant load water quality technical criteria set out in subdivisions 1 and 2 of
1411 4VAC50-60-63. Such offsite controls shall achieve the required pollutant reductions either
1412 completely offsite in accordance with the plan or in a combination of onsite and offsite controls.
1413 The [local stormwater] program [administrative authority] shall have the discretion to allow for

1414 application of the [design] criteria to each drainage area of the site. However, where a site
1415 drains to more than one HUC, the pollutant load reduction requirements shall be applied
1416 independently within each HUC unless reductions are achieved in accordance with a
1417 comprehensive watershed stormwater management plan in accordance with 4VAC50-60-92.

1418 G. Where no plan exists pursuant to subsection F of this section, offsite controls may be
1419 used to meet the postdevelopment pollutant load water quality technical criteria set out in
1420 subdivisions 1 and 2 of 4VAC50-60-63 provided:

1421 1. The local program allows for offsite controls;

1422 2. The applicant demonstrates to the satisfaction of the local program that offsite
1423 reductions equal to or greater than those that would otherwise be required for the site
1424 are achieved;

1425 3. The applicant demonstrates to the satisfaction of the local program that the
1426 development's runoff and the runoff from any offsite treatment area shall be controlled in
1427 accordance with 4VAC50-60-66;

1428 4. Offsite controls must be located within the same HUC or the adjacent downstream
1429 HUC to the land-disturbing site; and

1430 5. The applicant demonstrates to the satisfaction of the local program that the right to
1431 utilize the offsite control area and any necessary easements has been obtained and
1432 maintenance agreements for the stormwater management facilities have been
1433 established pursuant to 4VAC50-60-124.

1434 H. Alternatively, the local program may waive the requirements of subdivisions 1 and 2 of
1435 4VAC50-60-63 through the granting of an exception pursuant to 4VAC50-60-122. [G.F.] Offsite
1436 alternatives where allowed in accordance with 4VAC50-60-69 may be utilized to meet the
1437 design criteria of [subdivisions 1 and 2 subsection A] of 4VAC50-60-63.

1438 **4VAC50-60-66. Water quantity.**

1439 A. Channel protection and flood protection shall be addressed in accordance with the
1440 minimum standards set out in this section, which are established pursuant to the requirements
1441 of subdivision 7 of § 10.1-603.4 of the Code of Virginia. Nothing in this section shall prohibit a
1442 [qualifying] local [stormwater management] program from establishing a more stringent
1443 standard. [Compliance with the minimum standards set out in this section shall be deemed to
1444 satisfy the requirements of 4VAC50-30-40.19 (Minimum Standard 19 of the Virginia Erosion and
1445 Sediment Control Regulations).]

1446 B. Channel protection. Concentrated stormwater flow [from the site and offsite contributing
1447 areas] shall be released into a stormwater conveyance system [and shall meet one of the
1448 following criteria as demonstrated by use of accepted hydrologic and hydraulic methodologies:

1449 1. Concentrated stormwater flow to manmade stormwater conveyance systems. The
1450 point of discharge releases stormwater into a manmade stormwater conveyance system
1451 that, following the land-disturbing activity, conveys the postdevelopment peak flow rate
1452 from the two-year 24-hour storm without causing erosion of the system.

1453 2. Concentrated stormwater flow to restored stormwater conveyance systems. The point
1454 of discharge releases stormwater into a stormwater conveyance system that (i) has been
1455 restored and is functioning as designed or (ii) will be restored. The applicant must
1456 demonstrate that the runoff following the land-disturbing activity, in combination with
1457 other existing stormwater runoff, will not exceed the design of the restored stormwater
1458 conveyance system nor result in instability of the system.

1459 ~~3. Concentrated stormwater flow to stable natural stormwater conveyance systems. The~~
1460 ~~point of discharge releases stormwater into a natural stormwater conveyance system~~
1461 ~~that is stable and, following the land disturbing activity, (i) will not become unstable as a~~
1462 ~~result of the discharge from the one-year 24-hour storm, and (ii) provides a peak flow~~
1463 ~~rate from the one-year 24-hour storm calculated as follows or in accordance with another~~
1464 ~~methodology that is demonstrated by the local program to achieve equivalent results and~~
1465 ~~is approved by the board:~~

1466 ~~$Q_{\text{Developed}} * RV_{\text{Developed}} \leq Q_{\text{Pre-Developed}} * RV_{\text{Pre-Developed}}$, where~~

1467 ~~$Q_{\text{Developed}}$ = The allowable peak flow rate of runoff from the developed site. Such peak~~
1468 ~~flow rate must be less than or equal to $Q_{\text{Pre-developed}}$:~~

1469 ~~$Q_{\text{Pre-Developed}}$ = The peak flow rate of runoff from the site in the predeveloped~~
1470 ~~condition.~~

1471 ~~$RV_{\text{Pre-Developed}}$ = The volume of runoff from the site in the predeveloped condition.~~

1472 ~~$RV_{\text{Developed}}$ = The volume of runoff from the developed site.~~

1473 ~~4.] Concentrated [Except as set out in subdivision 5 of this subsection, concentrated~~
1474 ~~stormwater flow to unstable natural stormwater conveyance systems. Where the point of~~
1475 ~~discharge releases stormwater into a natural stormwater conveyance system that is~~
1476 ~~unstable, stormwater runoff following a land disturbing activity shall be released into a~~
1477 ~~channel at or below a peak flow rate ($Q_{\text{Developed}}$) based on the one year 24-hour storm,~~
1478 ~~calculated as follows or in accordance with another methodology that is demonstrated by~~
1479 ~~the local program to achieve equivalent or more stringent results and is approved by the~~
1480 ~~board:~~

1481 ~~$Q_{\text{Developed}} * RV_{\text{Developed}} \leq Q_{\text{Forested [Good Pasture]}} * RV_{\text{Forested [Good Pasture]}}$, where~~

1482 ~~$Q_{\text{Developed}}$ = The allowable peak flow rate from the developed site. Such peak flow~~
1483 ~~rate must be less than or equal to $Q_{\text{Good Pasture}}$:~~

1484 ~~$Q_{\text{Forested [Good Pasture]}}$ = The peak flow rate from the site in a] forested [good pasture~~
1485 ~~condition.~~

1486 ~~$RV_{\text{Forested [Good Pasture]}}$ = The volume of runoff from the site in a] forested [good~~
1487 ~~pasture condition.~~

1488 ~~$RV_{\text{Developed}}$ = The volume of runoff from the developed site.~~

1489 ~~However, in the case that the predeveloped condition is forested,] both the peak flow~~
1490 ~~rate and the volume of runoff from the developed site shall be held to the forested~~
1491 ~~condition [the forested condition shall be utilized instead of the good pasture condition in~~
1492 ~~all instances in the calculation above.~~

1493 ~~5. This subdivision shall apply to concentrated stormwater flow to unstable natural~~
1494 ~~stormwater conveyance systems from (i) a land disturbing activity less than five acres on~~
1495 ~~prior developed lands, or (ii) a regulated land-disturbing activity less than one acre for~~
1496 ~~new development. Where the point of discharge releases stormwater into a natural~~
1497 ~~stormwater conveyance system that is unstable, stormwater runoff following a land-~~
1498 ~~disturbing activity shall provide a peak flow rate from the one-year 24-hour storm,~~
1499 ~~calculated as follows or in accordance with another methodology that is demonstrated by~~
1500 ~~the local program to achieve equivalent or more stringent results and is approved by the~~
1501 ~~board:~~

1502 ~~$Q_{\text{Developed}} * RV_{\text{Developed}} < Q_{\text{Pre-Developed}} * RV_{\text{Pre-Developed}}$, where~~

1503 ~~$Q_{\text{Developed}}$ = The allowable peak flow rate from the developed site. Such peak flow~~
1504 ~~rate must be less than $Q_{\text{Pre-Developed}}$:~~

- 1505 $Q_{Pre-Developed}$ = The peak flow rate from the site in pre-development condition.
- 1506 $RV_{Pre-Developed}$ = The volume of runoff from the site in pre-development condition.
- 1507 $RV_{Developed}$ = The volume of runoff from the developed site.] Such volume must be
- 1508 less than $RV_{Pre-Developed}$.
- 1509 [and shall meet criteria 1, 2 or 3 of this subsection, where applicable, from the point of
- 1510 discharge to a point to the limits of analysis in subsection 4.
- 1511 1. Manmade stormwater conveyance systems. When stormwater from a development is
- 1512 discharged to a manmade stormwater conveyance system, following the land-disturbing
- 1513 activity, either:
- 1514 a. The manmade stormwater conveyance system shall convey the postdevelopment
- 1515 peak flow rate from the two-year 24-hour storm event without causing erosion of the
- 1516 system. Detention of stormwater or downstream improvements may be incorporated
- 1517 into the approved land-disturbing activity to meet this criterion, at the discretion of the
- 1518 stormwater program administrative authority; or
- 1519 b. The peak discharge requirements for concentrated stormwater flow to natural
- 1520 stormwater conveyance systems in subsection 3 shall be met.
- 1521 2. Restored stormwater conveyance systems. When stormwater from a development is
- 1522 discharged to a restored stormwater conveyance system that has been restored using
- 1523 natural design concepts, following the land-disturbing activity, either:
- 1524 a. The development shall be consistent, in combination with other stormwater runoff,
- 1525 with the design parameters of the restored stormwater conveyance system that is
- 1526 functioning in accordance with the design objectives; or
- 1527 b. The peak discharge requirements for concentrated stormwater flow to natural
- 1528 stormwater conveyance systems in subsection 3 shall be met.
- 1529 3. Natural stormwater conveyance systems. When stormwater from a development is
- 1530 discharged to a natural stormwater conveyance system, the maximum peak flow rate
- 1531 from the one-year 24-hour storm following the land-disturbing activity shall be calculated
- 1532 either:
- 1533 a. In accordance with the following methodology:
- 1534 $Q_{Developed} \leq I.F. * (Q_{Pre-developed} * RV_{Pre-Developed}) / RV_{Developed}$
- 1535 Under no condition shall $Q_{Developed}$ be greater than $Q_{Pre-Developed}$ nor shall $Q_{Developed}$ be
- 1536 required to be less than that calculated in the equation $(Q_{Forest} * RV_{Forest}) / RV_{Developed}$.
- 1537 where
- 1538 I.F. (Improvement Factor) equals 0.8 for sites > 1 acre or 0.9 for sites \leq 1 acre.
- 1539 $Q_{Developed}$ = The allowable peak flow rate of runoff from the developed site.
- 1540 $RV_{Developed}$ = The volume of runoff from the site in the developed condition.
- 1541 $Q_{Pre-Developed}$ = The peak flow rate of runoff from the site in the pre-developed
- 1542 condition.
- 1543 $RV_{Pre-Developed}$ = The volume of runoff from the site in pre-developed condition.
- 1544 Q_{Forest} = The peak flow rate of runoff from the site in a forested condition.
- 1545 RV_{Forest} = The volume of runoff from the site in a forested condition; or
- 1546 b. In accordance with another methodology that is demonstrated by the local
- 1547 stormwater management program to achieve equivalent results and is approved by
- 1548 the board.

- 1549 4. Limits of analysis. Unless subsection 3 is utilized to show compliance with the channel
1550 protection criteria, stormwater conveyance systems shall be analyzed for compliance
1551 with channel protection criteria to a point where either:
- 1552 a. Based on land area, the site's contributing drainage area is less than or equal to
1553 1.0% of the total watershed area; or
- 1554 b. Based on peak flow rate, the site's peak flow rate from the one-year 24-hour storm
1555 is less than or equal to 1.0% of the existing peak flow rate from the one-year 24-hour
1556 storm prior to the implementation of any stormwater quantity control measures.]
- 1557 C. Flood protection. Concentrated stormwater flow shall be released into a stormwater
1558 conveyance system and shall meet one of the following criteria as demonstrated by use of
1559 [~~accepted~~ acceptable] hydrologic and hydraulic methodologies:
- 1560 1. Concentrated stormwater flow to [~~manmade~~] stormwater conveyance systems [that
1561 currently do not experience localized flooding during the 10-year 24-hour storm event:]
1562 The point of discharge releases stormwater into a [~~manmade~~] stormwater conveyance
1563 system that, following the land-disturbing activity, confines the postdevelopment peak
1564 flow rate from the 10-year 24-hour storm [event] within the [~~manmade~~] stormwater
1565 conveyance system. [Detention of stormwater or downstream improvements may be
1566 incorporated into the approved land-disturbing activity to meet this criterion, at the
1567 discretion of the stormwater program administrative authority.]
- 1568 2. Concentrated stormwater flow to [~~restored~~] stormwater conveyance systems [that
1569 currently experience localized flooding during the 10-year 24-hour storm event:] The
1570 point of discharge [either; ~~releases stormwater into a stormwater conveyance system~~
1571 that (i) has been restored and is functioning as designed or (ii) will be restored. The
1572 applicant must demonstrate that the peak flow rate from the 10-year 24-hour storm
1573 following the land-disturbing activity will be confined within the system.
- 1574 a. Confines the postdevelopment peak flow rate from the 10-year 24-hour storm
1575 event within the stormwater conveyance system to avoid the localized flooding.
1576 Detention of stormwater or downstream improvements may be incorporated into the
1577 approved land-disturbing activity to meet this criterion, at the discretion of the
1578 stormwater program administrative authority;; or
- 1579 b. Releases a postdevelopment peak flow rate for the 10-year 24-hour storm event
1580 that is less than the predevelopment peak flow rate from the 10-year 24-hour storm
1581 event. Downstream stormwater conveyance systems do not require any additional
1582 analysis to show compliance with flood protection criteria is this option is utilized.]
- 1583 3. [~~Concentrated stormwater flow to natural stormwater conveyance systems. The point~~
1584 of discharge releases stormwater into a natural stormwater conveyance system that
1585 currently does not flood during the 10-year 24-hour storm and, following the land-
1586 disturbing activity, confines the postdevelopment peak flow rate from the 10-year 24-
1587 hour storm within the system Limits of analysis. Unless 2b above is utilized to comply
1588 with the flood protection criteria, stormwater conveyance systems shall be analyzed for
1589 compliance with flood protection criteria to a point where:
- 1590 a. The site's contributing drainage area is less than or equal to 1.0% of the total
1591 watershed area draining to a point of analysis in the downstream stormwater
1592 conveyance system;
- 1593 b. Based on peak flow rate, the site's peak flow rate from the 10-year 24-hour storm
1594 event is less than or equal to 1.0% of the existing peak flow rate from the 10-year 24-

1595 hour storm event prior to the implementation of any stormwater quantity control
1596 measures; or

1597 c. The stormwater conveyance system enters a mapped floodplain or other flood-
1598 prone area, adopted by ordinance, of any locality] .

1599 [4. Concentrated stormwater flow to natural stormwater conveyance systems where
1600 localized flooding exists during the 10-year 24-hour storm. The point of discharge
1601 releases a postdevelopment peak flow rate for the 10-year 24-hour storm that shall not
1602 exceed the predevelopment peak flow rate from the 10-year 24-hour storm based on
1603 forested good pasture conditions, unless the predeveloped condition is forested, in
1604 which case the peak flow rate from the developed site shall be held to the forested
1605 condition.

1606 5.] A local program may adopt alternate flood protection design criteria that (i) achieve
1607 equivalent or more stringent results, (ii) are based upon geographic, land use,
1608 topographic, geologic, or other downstream conveyance factors, and (iii) are approved
1609 by the board. [Subdivision C 4 of this subsection notwithstanding, this subdivision shall
1610 apply to concentrated stormwater flow to natural stormwater conveyance systems where
1611 localized flooding exists during the 10-year 24-hour storm from (i) a land-disturbing
1612 activity less than five acres on prior developed lands, or (ii) a regulated land-disturbing
1613 activity less than one acre for new development. The point of discharge releases a
1614 postdevelopment peak flow rate for the 10-year 24-hour storm that is less than the
1615 predevelopment peak flow rate from the 10-year 24-hour storm.]

1616 D. [One percent rule. If either of the following criteria are met, subsections A-B and B-C of
1617 this section do not apply, nor is the analysis of subsection H required:

1618 1. Based on area. Prior to any land disturbance, the site's contributing drainage area to a
1619 point of discharge from the site is less than or equal to 1.0% of the total watershed area
1620 draining to that point of discharge; or

1621 2. Based on peak flow rate. Based on the postdevelopment land cover conditions prior to
1622 the implementation of any stormwater quantity control measures, the development of the
1623 site results in an increase in the peak flow rate from the one-year 24-hour storm that is
1624 less than 1.0% of the existing peak flow rate from the one-year 24-hour storm generated
1625 by the total watershed area draining to that point of discharge.

1626 E.] Increased volumes of sheet flow resulting from pervious or disconnected impervious
1627 areas, or from physical spreading of concentrated flow through level spreaders, must be
1628 identified and evaluated for potential impacts on down-gradient properties or resources.
1629 Increased volumes of sheet flow that will cause or contribute to erosion, sedimentation, or
1630 flooding of down gradient properties or resources shall be diverted to a detention stormwater
1631 management facility or a stormwater conveyance system that conveys the runoff without
1632 causing down-gradient erosion, sedimentation, or flooding. If all runoff from the site is sheet flow
1633 and the conditions of this subsection are met, no further water quantity controls are required.

1634 [F. E.] For purposes of computing predevelopment runoff [from prior developed sites] , all
1635 pervious lands on the site shall be assumed to be in good hydrologic condition in accordance
1636 with the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS)
1637 standards, regardless of conditions existing at the time of computation. Predevelopment runoff
1638 calculations utilizing other hydrologic conditions may be utilized provided that it is demonstrated
1639 to and approved by the [local stormwater] program [administrative authority] that actual site
1640 conditions warrant such considerations.

1641 ~~[G. F.] Predevelopment [and postdevelopment] runoff characteristics and site hydrology~~
1642 ~~shall be verified by site inspections, topographic surveys, available soil mapping or studies, and~~
1643 ~~calculations consistent with good engineering practices in accordance with guidance. Guidance~~
1644 ~~provided in the Virginia Stormwater Management Handbook [and by the]-qualifying local~~
1645 ~~program [Virginia Stormwater BMP Clearinghouse] shall be considered appropriate [standards~~
1646 ~~practices].~~

1647 ~~[H. Except where the compliance options under subdivisions B 4 and 5 and C 4 and 5 of~~
1648 ~~this section are utilized, flooding and channel erosion impacts to stormwater conveyance~~
1649 ~~systems shall be analyzed for each point of discharge in accordance with channel analysis~~
1650 ~~guidance provided in Technical Bulletin # 1, Stream Channel Erosion Control, or in accordance~~
1651 ~~with more stringent channel analysis guidance established by the qualifying local program and~~
1652 ~~provided to the department. Such analysis shall include estimates of runoff from the developed~~
1653 ~~site and the entire upstream watershed that contributes to that point of discharge. Good~~
1654 ~~engineering practices and calculations in accordance with department guidance shall be used to~~
1655 ~~evaluate postdevelopment runoff characteristics and site hydrology, and flooding and channel~~
1656 ~~erosion impacts.~~

1657 ~~If the downstream owner or owners refuse to give permission to access the property for the~~
1658 ~~collection of data, evidence of this refusal shall be given and arrangements made satisfactory to~~
1659 ~~the local program to provide an alternative method for the collection of data to complete the~~
1660 ~~analysis, such as through the use of photos, aerial surveys, "as built" plans, topographic maps,~~
1661 ~~soils maps, and any other relevant information.]~~

1662 **4VAC50-60-69. Offsite compliance options.**

1663 ~~A. [A qualifying local program shall have the authority to consider the use of the following~~
1664 ~~offsite [Offsite] compliance options [; that a stormwater program administrative authority may~~
1665 ~~allow an operator to use to meet required phosphorus nutrient reductions include the following:]~~

1666 ~~1. [If Offsite controls utilized in accordance with] a comprehensive watershed~~
1667 ~~stormwater management plan [has been] adopted pursuant to 4VAC50-60-92 for the~~
1668 ~~local watershed within which a project is located [, then the qualifying local program may~~
1669 ~~allow offsite controls in accordance with the plan to achieve the water quality reductions,~~
1670 ~~quantity reductions, or both required for a site by this chapter. Such offsite controls shall~~
1671 ~~achieve the required reductions either completely offsite in accordance with the plan or~~
1672 ~~by a combination of on site and offsite controls.;]~~

1673 ~~2. A [locality pollutant loading] pro rata [fee in accordance with share program~~
1674 ~~established pursuant to] § 15.2-2243 of the Code of Virginia or similar local funding~~
1675 ~~mechanism [through which the water quality and quantity reductions required for a site~~
1676 ~~by this chapter may be achieved by the payment of a fee sufficient to fund improvements~~
1677 ~~necessary to adequately achieve offsite reductions equal to or greater than those that~~
1678 ~~would otherwise be required for the site.;]~~

1679 ~~3. The nonpoint nutrient offset program established [by pursuant to] § 10.1-603.8:1 of~~
1680 ~~the Code of Virginia [;]~~

1681 ~~4 [Where no comprehensive watershed stormwater management plan or pro rata fee~~
1682 ~~exists, or where a qualifying local program otherwise elects to allow the use of this~~
1683 ~~subdivision, offsite stormwater management facilities may be used by the operator of a~~
1684 ~~land-disturbing activity to meet the water quality reductions required for a site by this~~
1685 ~~chapter provided:~~

1686 a. The operator demonstrates to the satisfaction of the local program that offsite
1687 reductions equal to or greater than those that would otherwise be required for the
1688 site are achieved;

1689 b. The operator demonstrates to the satisfaction of the local program that the
1690 development's runoff and the runoff from any offsite treatment area shall be
1691 controlled in accordance with 4VAC50-60-66;

1692 c. Offsite stormwater management facilities must be located within the HUC or within
1693 the upstream HUCs in the watershed that the land disturbing activity directly
1694 discharges to or within the same watershed, as determined by the local program;
1695 and

1696 d. The operator demonstrates to the satisfaction of the local program that the right to
1697 utilize the offsite area and any necessary easements have been obtained and
1698 maintenance agreements for the stormwater management facilities have been
1699 established pursuant to 4VAC50-60-124.

1700 Any other offsite options approved by an applicable state agency or state board; and

1701 5. When an operator has additional properties available within the same HUC or
1702 upstream HUC that the land-disturbing activity directly discharges to or within the same
1703 watershed as determined by the stormwater program administrative authority, offsite
1704 stormwater management facilities on those properties may be utilized to meet the
1705 required phosphorus nutrient reductions from the land-disturbing activity.]

1706 B. [Should the board establish by regulatory action a standard more stringent than 0.45
1707 pounds per acre per year in the Chesapeake Bay watershed, the offsite compliance option
1708 provided by this subsection shall be available as follows. Where the offsite options of subsection
1709 A of this section are not available for use, where the fee established by a qualifying local
1710 program to offset a pound of phosphorus removal onsite pursuant to subdivision A 2 exceeds
1711 \$23,900, or where a qualifying local program otherwise elects to allow the use of this
1712 subsection, offsite compliance may be achieved through a payment in accordance with the
1713 following:

1714 1. When the land disturbing activity is in an urban development area the payment shall
1715 be \$15,000 per pound of phosphorus and shall be calculated based on the poundage
1716 not treated on site. In all other cases the payment shall be \$23,900 per pound of
1717 phosphorus. Payment amounts shall be determined based upon the nearest 0.01 of a
1718 pound of phosphorus.

1719 2. All payments shall be deposited and utilized in accordance with the following:

1720 a. Payments shall be made prior to commencement of the land disturbing activity
1721 and shall be deposited to the Virginia Stormwater Management Fund and held in a
1722 subaccount.

1723 b. The board shall establish priorities for the use of these funds by December 1 of
1724 each year. Payments held in the fund shall be promptly applied to ensure that
1725 nutrient reduction practices are being implemented. Priorities for the funds shall be
1726 established in accordance with the following:

1727 (1) At least 50% of the funds shall be utilized for projects to address local stormwater
1728 quality issues related to the impacts of development activities including but not
1729 limited to urban retrofits, urban stream restorations, and reduction of impervious
1730 areas.

1731 (2) Priority use for the remaining funds shall be for the acquisition of certified
1732 nonpoint nutrient offsets at a rate not to exceed \$23,900 per pound of phosphorus.

1733 Any remaining funds shall be utilized to fund long term contracts for agricultural best
1734 management practices no less than 20 years in duration or long term best
1735 management practices including but not limited to stream fencing, alternative water
1736 supplies, and riparian buffers in accordance with practice standards established
1737 within the Virginia Agricultural BMP Cost Share Program administered by the
1738 department.

1739 (3) In establishing priorities, the board shall consider targeting equivalent reductions
1740 in the same local watershed as where the payment came from; implementing urban
1741 practices/retrofits that address TMDLs; securing permanent practices; and achieving
1742 measurable reductions. When purchasing agricultural best management practices,
1743 the board shall consider purchasing practices beyond the baseline established under
1744 the Chesapeake Bay Watershed Nutrient Credit Exchange Program (§ 62.1-44.19:12
1745 et seq. of the Code of Virginia).

1746 c. The department shall track the payment amount, the associated poundage of
1747 phosphorus purchased, the jurisdiction where the payment originated, the regulated
1748 MS4 name, if any, and the HUC for the land disturbing activity. The department shall
1749 additionally track the annual expenditure of the funds including the locality and
1750 regulated MS4 name, if any, where the moneys are expended, the associated
1751 poundage of phosphorus reduced, and the cost per pound for phosphorus reductions
1752 associated with the nutrient reduction practices.

1753 d. The department may annually utilize up to 6.0% of the payments to administer the
1754 stormwater management program.

1755 e. The board shall periodically review the payment amount, at least every five years
1756 or in conjunction with the development of a new construction general permit, and
1757 shall evaluate the performance of the fund and the sufficiency of the payment rate in
1758 achieving the needed offsite pollution reductions. The board shall adjust the payment
1759 amount based upon this analysis.

1760 3. Utilization of a payment to achieve compliance with the water quality technical criteria
1761 shall be subject to the following limitations:

1762 a. A new development project disturbing greater than or equal to one acre in the
1763 Chesapeake Bay watershed must reduce its phosphorus discharge to a level of 0.45
1764 pounds per acre per year of phosphorus on site, or less, and then may achieve all or
1765 a portion of the remaining required phosphorus reductions through a payment.

1766 b. A new development project disturbing less than one acre in the Chesapeake Bay
1767 watershed may achieve all necessary phosphorus reductions through a payment.

1768 c. A new development project outside of the Chesapeake Bay watershed must
1769 achieve all necessary phosphorus reductions on site.

1770 d. Development on prior developed lands disturbing greater than or equal to one
1771 acre must achieve at least a 10% reduction from the predevelopment total
1772 phosphorus load on site and then may achieve the remaining required phosphorus
1773 reductions through a payment.

1774 e. Development on prior developed lands disturbing less than one acre may achieve
1775 all necessary phosphorus reductions through a payment.

1776 4. Nitrogen or other pollutant reductions achieved through payments into the fund must
1777 be retired and shall not be made available to other parties.

1778 Notwithstanding subsection A, and pursuant to §10.1-603.8:1, operators shall be allowed to
1779 utilize offsite options identified in subsection A under any of the following conditions:

- 1780 1. Less than five acres of land will be disturbed;
1781 2. The postconstruction phosphorus control requirement is less than 10 pounds per year;
1782 or
1783 3. At least 75% of the required phosphorus nutrient reductions are achieved on-site. If at
1784 least 75% of the required phosphorus nutrient reductions can not be met on-site, and the
1785 operator can demonstrate to the satisfaction of the stormwater program administrative
1786 authority that (i) alternative site designs have been considered that may accommodate
1787 on-site best management practices, (ii) on-site best management practices have been
1788 considered in alternative site designs to the maximum extent practicable, (iii) appropriate
1789 on-site best management practices will be implemented, and (iv) full compliance with
1790 postdevelopment nonpoint nutrient runoff compliance requirements cannot practicably
1791 be met on-site, then the required phosphorus nutrient reductions may be achieved, in
1792 whole or in part, through the use of off-site compliance options.]

1793 C. [Where the department is administering a local program, only offsite options set out in
1794 subdivisions A 3 and A 4, and, when available, subsection B of this section shall be available.
1795 Notwithstanding subsections A and B, offsite options shall not be allowed:

- 1796 1. Unless the selected offsite option achieves the necessary nutrient reductions prior to
1797 the commencement of the operator's land-disturbing activity. In the case of a phased
1798 project, the operator may acquire or achieve offsite nutrient reductions prior to the
1799 commencement of each phase of land-disturbing activity in an amount sufficient for each
1800 phase.
1801 2. In contravention of local water quality-based limitations at the point of discharge that
1802 are (i) consistent with the determinations made pursuant to subsection B of § 62.1-
1803 44.19:7, (ii) contained in a municipal separate storm sewer system (MS4) program plan
1804 approved by the department, or (iii) as otherwise may be established or approved by the
1805 board.

1806 D. In order to meet the requirements of 4VAC50-60-66, offsite options 1 and 2 of subsection
1807 A above may be utilized.]

1808 **4VAC50-60-70. Stream channel erosion. (Repealed.)**

1809 ~~A. Properties and receiving waterways downstream of any land-disturbing activity shall be~~
1810 ~~protected from erosion and damage due to changes in runoff rate of flow and hydrologic~~
1811 ~~characteristics, including but not limited to, changes in volume, velocity, frequency, duration,~~
1812 ~~and peak flow rate of stormwater runoff in accordance with the minimum design standards set~~
1813 ~~out in this section.~~

1814 ~~B. The permit-issuing authority shall require compliance with subdivision 19 of 4VAC50-30-~~
1815 ~~40 of the Erosion and Sediment Control Regulations, promulgated pursuant to Article 4 (§ 10.1-~~
1816 ~~560 et seq.) of Chapter 5 of Title 10.1 of the Code of Virginia.~~

1817 ~~C. The permit-issuing authority may determine that some watersheds or receiving stream~~
1818 ~~systems require enhanced criteria in order to address the increased frequency of bankfull flow~~
1819 ~~conditions (top of bank) brought on by land-disturbing activities. Therefore, in lieu of the~~
1820 ~~reduction of the two-year post-developed peak rate of runoff as required in subsection B of this~~
1821 ~~section, the land development project being considered shall provide 24-hour extended~~
1822 ~~detention of the runoff generated by the one-year, 24-hour duration storm.~~

1823 ~~D. In addition to subsections B and C of this section permit-issuing authorities, by local~~
1824 ~~ordinance may, or the board by state regulation may, adopt more stringent channel analysis~~
1825 ~~criteria or design standards to ensure that the natural level of channel erosion, to the maximum~~

1826 extent practicable, will not increase due to the land disturbing activities. These criteria may
1827 include, but are not limited to, the following:

- 1828 1. ~~Criteria and procedures for channel analysis and classification.~~
1829 2. ~~Procedures for channel data collection.~~
1830 3. ~~Criteria and procedures for the determination of the magnitude and frequency of~~
1831 ~~natural sediment transport loads.~~
1832 4. ~~Criteria for the selection of proposed natural or man-made channel linings.~~

1833 **4VAC50-60-72. Design storms and hydrologic methods.**

1834 A. Unless otherwise specified, the prescribed design storms are the one-year, two-year, and
1835 10-year 24-hour storms using the site-specific rainfall precipitation frequency data
1836 recommended by the U.S. National Oceanic and Atmospheric Administration (NOAA) Atlas 14.
1837 Partial duration time series shall be used for the precipitation data.

1838 B. All Unless otherwise specified, all hydrologic analyses shall be based on the existing
1839 watershed characteristics and [how] the ultimate development condition of the subject project
1840 [will be addressed] .

1841 C. The U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS)
1842 synthetic 24-hour rainfall distribution and models, including, but not limited to TR-55 and TR-20;
1843 hydrologic and hydraulic methods developed by the U.S. Army Corps of Engineers; or other
1844 standard hydrologic and hydraulic methods, shall be used to conduct the analyses described in
1845 this part.

1846 D. [~~The local~~ For drainage areas of 200 acres or less, the stormwater] program
1847 [administrative authority] may allow for the use of the Rational Method for evaluating peak
1848 discharges [~~or the Modified Rational Method for evaluating volumetric flows to stormwater~~
1849 conveyances with drainage areas of 200 acres or less] .

1850 [E. For drainage areas of 200 acres or less, the stormwater program administrative
1851 authority may allow for the use of the Modified Rational Method for evaluating volumetric flows
1852 to stormwater conveyances.]

1853 **4VAC50-60-74. Stormwater harvesting.**

1854 In accordance with § 10.1-603.4 of the Code of Virginia, stormwater harvesting is
1855 encouraged for the purposes of landscape irrigation systems, fire protection systems, flushing
1856 water closets and urinals, and other water handling systems to the extent such systems are
1857 consistent with federal, state, and local [regulatory authorities regulations] .

1858 **4VAC50-60-76. Linear development projects.**

1859 Unless exempt pursuant to § 10.1-603.8 B of the Code of Virginia, linear development
1860 projects shall control postdevelopment stormwater runoff in accordance with a site-specific
1861 stormwater management plan or a comprehensive watershed stormwater management plan
1862 developed in accordance with these regulations.

1863 **4VAC50-60-80. Flooding. (Repealed.)**

1864 A. Downstream properties and waterways shall be protected from damages from localized
1865 flooding due to changes in runoff rate of flow and hydrologic characteristics, including but not
1866 limited to, changes in volume, velocity, frequency, duration, and peak flow rate of stormwater
1867 runoff in accordance with the minimum design standards set out in this section.

1868 B. The 10-year post developed peak rate of runoff from the development site shall not
1869 exceed the 10-year pre-developed peak rate of runoff.

1870 C. In lieu of subsection B of this section, localities may, by ordinance, adopt alternate design
1871 criteria based upon geographic, land use, topographic, geologic factors or other downstream
1872 conveyance factors as appropriate.

1873 D. Linear development projects shall not be required to control post-developed stormwater
1874 runoff for flooding, except in accordance with a watershed or regional stormwater management
1875 plan.

1876 **4VAC50-60-85. Stormwater management impoundment structures or facilities.**

1877 A. [Construction of stormwater management impoundment structures or facilities within tidal
1878 or nontidal wetlands and perennial streams is not recommended.

1879 B. Construction of stormwater management impoundment structures or facilities within a
1880 Federal Emergency Management Agency (FEMA) designated 100-year floodplain is not
1881 recommended.

1882 C. Stormwater management wet ponds and extended detention ponds that are not covered
1883 by the Impounding Structure Regulations (4VAC50-20) shall, at a minimum, be engineered for
1884 structural integrity and spillway design for the 100-year storm event.

1885 [D.B.] Construction of stormwater management impoundment structures or facilities may
1886 occur in karst areas only after a geological study of the geology and hydrology of the area has
1887 been conducted to determine the presence or absence of karst features that may be impacted
1888 by stormwater runoff and BMP placement.

1889 [E.C.] Discharge of stormwater runoff to a karst feature shall meet the water quality criteria
1890 set out in 4VAC50-60-63 and the water quantity criteria set out in 4VAC50-60-66. Permanent
1891 stormwater management impoundment structures or facilities shall only be constructed in karst
1892 features after completion of a geotechnical investigation that identifies any necessary
1893 modifications to the BMP to ensure its structural integrity and maintain its water quality and
1894 quantity efficiencies. The person responsible for the land-disturbing activity is encouraged to
1895 screen for known existence of heritage resources in the karst features. Any Class V
1896 Underground Injection Control Well registration statements for stormwater discharges to
1897 improved sinkholes shall be included in the SWPPP.

1898 **4VAC50-60-90. Regional (watershed-wide) stormwater management plans. (Repealed.)**

1899 This section enables localities to develop regional stormwater management plans. State
1900 agencies intending to develop large tracts of land such as campuses or prison compounds are
1901 encouraged to develop regional plans where practical.

1902 The objective of a regional stormwater management plan is to address the stormwater
1903 management concerns in a given watershed with greater economy and efficiency by installing
1904 regional stormwater management facilities versus individual, site-specific facilities. The result
1905 will be fewer stormwater management facilities to design, build and maintain in the affected
1906 watershed. It is also anticipated that regional stormwater management facilities will not only help
1907 mitigate the impacts of new development, but may also provide for the remediation of erosion,
1908 flooding or water quality problems caused by existing development within the given watershed.

1909 If developed, a regional plan shall, at a minimum, address the following:

- 1910 1. The specific stormwater management issues within the targeted watersheds.
- 1911 2. The technical criteria in 4VAC50-60-40 through 4VAC50-60-80 as needed based on
1912 subdivision 1 of this section.
- 1913 3. The implications of any local comprehensive plans, zoning requirements, local
1914 ordinances pursuant to the Chesapeake Bay Preservation Area Designation and

1915 Management Regulations adopted pursuant to the Chesapeake Bay Preservation Act,
1916 and other planning documents.

1917 4. Opportunities for financing a watershed plan through cost sharing with neighboring
1918 agencies or localities, implementation of regional stormwater utility fees, etc.

1919 5. Maintenance of the selected stormwater management facilities.

1920 6. Future expansion of the selected stormwater management facilities in the event that
1921 development exceeds the anticipated level.

1922 **4VAC50-60-92. Comprehensive [watershed] stormwater management plans.**

1923 A. [Qualifying local Local stormwater management] programs may develop comprehensive
1924 [watershed] stormwater management plans to be approved by the department that meet the
1925 water quality objectives, quantity objectives, or both of this chapter:

1926 1. Such plans shall ensure that offsite reductions equal to or greater than those that
1927 would be required on each contributing [land-disturbing] site are achieved within the
1928 same HUC or within another locally designated watershed. Pertaining to water quantity
1929 objectives, the plan may provide for implementation of a combination of channel
1930 improvement, stormwater detention, or other measures that are satisfactory to the
1931 [qualifying] local [stormwater management] program to prevent downstream erosion
1932 and flooding.

1933 2. If the land use assumptions upon which the plan was based change or if any other
1934 amendments are deemed necessary by the [qualifying] local [stormwater management
1935] program, [the qualifying local such] program shall provide plan amendments to the
1936 [board department] for review and approval.

1937 3. During the plan's implementation, the [qualifying] local [stormwater management]
1938 program shall [account for document] nutrient reductions accredited to the BMPs
1939 specified in the plan.

1940 4. State and federal agencies may develop comprehensive stormwater management
1941 plans, and may participate in locality-developed comprehensive [watershed]
1942 stormwater management plans where practicable and permitted by the [qualifying] local
1943 [stormwater management] program.

1944 **4VAC50-60-93. Stormwater management plan development. (Reserved.)**

1945 A. A stormwater management plan for a land-disturbing activity shall apply these stormwater
1946 management technical criteria to the entire land-disturbing activity.

1947 B. Individual lots or planned phases of developments shall not be considered separate land-
1948 disturbing activities, but rather the entire development shall be considered a single land-
1949 disturbing activity.

1950 C. The stormwater management plan shall consider all sources of surface runoff and all
1951 sources of subsurface and groundwater flows converted to surface runoff.

1952 [Part II C Technical Criteria for Regulated Land-Disturbing Activities: Grandfathered Projects
1953 and Projects Subject to the Provisions of 4VAC50-60-47.1]

1954 **[4VAC50-60-93.1. Definitions.**

1955 For the purposes of Part II C only, the following words and terms have the following
1956 meanings unless the context clearly indicates otherwise:

1957 "Adequate channel" means a channel that will convey the designated frequency storm event
1958 without overtopping the channel bank nor causing erosive damage to the channel bed or banks.

1959 "Aquatic bench" means a 10- to 15-foot wide bench around the inside perimeter of a
1960 permanent pool that ranges in depth from zero to 12 inches. Vegetated with emergent plants,
1961 the bench augments pollutant removal, provides habitats, conceals trash and water level
1962 fluctuations, and enhances safety.

1963 "Average land cover condition" means a measure of the average amount of impervious
1964 surfaces within a watershed, assumed to be 16%. Note that a locality may opt to calculate
1965 actual watershed-specific values for the average land cover condition based upon
1966 [4VAC50-60-110](#).

1967 "Bioretention basin" means a water quality BMP engineered to filter the water quality volume
1968 through an engineered planting bed, consisting of a vegetated surface layer (vegetation, mulch,
1969 ground cover), planting soil, and sand bed, and into the in-situ material.

1970 "Bioretention filter" means a bioretention basin with the addition of a sand filter collector pipe
1971 system beneath the planting bed.

1972 "Constructed wetlands" means areas intentionally designed and created to emulate the
1973 water quality improvement function of wetlands for the primary purpose of removing pollutants
1974 from stormwater.

1975 "Development" means a tract of land developed or to be developed as a unit under single
1976 ownership or unified control which is to be used for any business or industrial purpose or is to
1977 contain three or more residential dwelling units.

1978 "Grassed swale" means an earthen conveyance system which is broad and shallow with
1979 erosion resistant grasses and check dams, engineered to remove pollutants from stormwater
1980 runoff by filtration through grass and infiltration into the soil.

1981 "Infiltration facility" means a stormwater management facility that temporarily impounds
1982 runoff and discharges it via infiltration through the surrounding soil. While an infiltration facility
1983 may also be equipped with an outlet structure to discharge impounded runoff, such discharge is
1984 normally reserved for overflow and other emergency conditions. Since an infiltration facility
1985 impounds runoff only temporarily, it is normally dry during nonrainfall periods. Infiltration basin,
1986 infiltration trench, infiltration dry well, and porous pavement shall be considered infiltration
1987 facilities.

1988 "Nonpoint source pollutant runoff load" or "pollutant discharge" means the average amount
1989 of a particular pollutant measured in pounds per year, delivered in a diffuse manner by
1990 stormwater runoff.

1991 "Planning area" means a designated portion of the parcel on which the land development
1992 project is located. Planning areas shall be established by delineation on a master plan. Once
1993 established, planning areas shall be applied consistently for all future projects.

1994 "Sand filter" means a contained bed of sand that acts to filter the first flush of runoff. The
1995 runoff is then collected beneath the sand bed and conveyed to an adequate discharge point or
1996 infiltrated into the in-situ soils.

1997 "Shallow marsh" means a zone within a stormwater extended detention basin that exists
1998 from the surface of the normal pool to a depth of six to 18 inches, and has a large surface area
1999 and, therefore, requires a reliable source of baseflow, groundwater supply, or a sizeable
2000 drainage area, to maintain the desired water surface elevations to support emergent vegetation.

2001 "Stormwater detention basin" or "detention basin" means a stormwater management facility
2002 that temporarily impounds runoff and discharges it through a hydraulic outlet structure to a
2003 downstream conveyance system. While a certain amount of outflow may also occur via
2004 infiltration through the surrounding soil, such amounts are negligible when compared to the

2005 outlet structure discharge rates and are, therefore, not considered in the facility's design. Since
2006 a detention facility impounds runoff only temporarily, it is normally dry during nonrainfall periods.

2007 "Stormwater extended detention basin" or "extended detention basin" means a stormwater
2008 management facility that temporarily impounds runoff and discharges it through a hydraulic
2009 outlet structure over a specified period of time to a downstream conveyance system for the
2010 purpose of water quality enhancement or stream channel erosion control. While a certain
2011 amount of outflow may also occur via infiltration through the surrounding soil, such amounts are
2012 negligible when compared to the outlet structure discharge rates and, therefore, are not
2013 considered in the facility's design. Since an extended detention basin impounds runoff only
2014 temporarily, it is normally dry during nonrainfall periods.

2015 "Stormwater extended detention basin-enhanced" or "extended detention basin-enhanced"
2016 means an extended detention basin modified to increase pollutant removal by providing a
2017 shallow marsh in the lower stage of the basin.

2018 "Stormwater retention basin" or "retention basin" means a stormwater management facility
2019 that includes a permanent impoundment, or normal pool of water, for the purpose of enhancing
2020 water quality and, therefore, is normally wet, even during nonrainfall periods. Storm runoff
2021 inflows may be temporarily stored above this permanent impoundment for the purpose of
2022 reducing flooding, or stream channel erosion.

2023 "Stormwater retention basin I" or "retention basin I" means a retention basin with the volume
2024 of the permanent pool equal to three times the water quality volume.

2025 "Stormwater retention basin II" or "retention basin II" means a retention basin with the
2026 volume of the permanent pool equal to four times the water quality volume.

2027 "Stormwater retention basin III" or "retention basin III" means a retention basin with the
2028 volume of the permanent pool equal to four times the water quality volume with the addition of
2029 an aquatic bench.

2030 "Vegetated filter strip" means a densely vegetated section of land engineered to accept
2031 runoff as overland sheet flow from upstream development. It shall adopt any natural vegetated
2032 form, from grassy meadow to small forest. The vegetative cover facilitates pollutant removal
2033 through filtration, sediment deposition, infiltration and absorption, and is dedicated for that
2034 purpose.

2035 "Water quality volume" means the volume equal to the first 1/2 inch of runoff multiplied by
2036 the impervious surface of the land development project.

2037 [~~Part II B~~
2038 Stormwater Management Program Technical Criteria: Grandfathered Projects]

2039 **4VAC50-60-94. Applicability.**

2040 This part specifies the technical criteria for regulated land-disturbing activities that are not
2041 subject to the technical criteria of [~~Part II A~~ Part II B] in accordance with 4VAC 50-60-48.

2042 **4VAC50-60-95. General.**

2043 A. Determination of flooding and channel erosion impacts to receiving streams due to land-
2044 disturbing activities shall be measured at each point of discharge from the land disturbance and
2045 such determination shall include any runoff from the balance of the watershed that also
2046 contributes to that point of discharge.

2047 B. The specified design storms shall be defined as either a 24-hour storm using the rainfall
2048 distribution recommended by the U.S. Department of Agriculture's Natural Resources
2049 Conservation Service (NRCS) when using NRCS methods or as the storm of critical duration

2050 that produces the greatest required storage volume at the site when using a design method
2051 such as the Modified Rational Method.

2052 C. For purposes of computing runoff, all pervious lands in the site shall be assumed prior to
2053 development to be in good condition (if the lands are pastures, lawns, or parks), with good cover
2054 (if the lands are woods), or with conservation treatment (if the lands are cultivated); regardless
2055 of conditions existing at the time of computation.

2056 D. Construction of stormwater management facilities or modifications to channels shall
2057 comply with all applicable laws [~~and~~] regulations [, and ordinances] . Evidence of approval of
2058 all necessary permits shall be presented.

2059 E. Impounding structures that are not covered by the Impounding Structure Regulations
2060 (4VAC50-20) shall be engineered for structural integrity during the 100-year storm event.

2061 F. Predevelopment and postdevelopment runoff rates shall be verified by calculations that
2062 are consistent with good engineering practices.

2063 G. Outflows from a stormwater management facility or stormwater conveyance system shall
2064 be discharged to an adequate channel.

2065 H. Proposed residential, commercial, or industrial subdivisions shall apply these stormwater
2066 management criteria to the land disturbance as a whole. Individual lots in new subdivisions shall
2067 not be considered separate land-disturbing activities, but rather the entire subdivision shall be
2068 considered a single land development project. Hydrologic parameters shall reflect the ultimate
2069 land disturbance and shall be used in all engineering calculations.

2070 I. All stormwater management facilities shall have an inspection and maintenance plan that
2071 identifies the owner and the responsible party for carrying out the inspection and maintenance
2072 plan.

2073 J. Construction of stormwater management impoundment structures within a Federal
2074 Emergency Management Agency (FEMA) designated 100-year floodplain shall be avoided to
2075 the extent possible. When this is unavoidable, all stormwater management facility construction
2076 shall be in compliance with all applicable regulations under the National Flood Insurance
2077 Program, 44 CFR Part 59.

2078 K. Natural channel characteristics shall be preserved to the maximum extent practicable.

2079 L. Land-disturbing activities shall comply with the Virginia Erosion and Sediment Control
2080 Law (§ 10.1-560 et seq. of the Code of Virginia) and attendant regulations.

2081 M. Flood control and stormwater management facilities that drain or treat water from multiple
2082 development projects or from a significant portion of a watershed may be allowed in resource
2083 protection areas defined in the Chesapeake Bay Preservation Act, provided that (i) the local
2084 government has conclusively established that the location of the facility within the resource
2085 protection area is the optimum location; (ii) the size of the facility is the minimum necessary to
2086 provide necessary flood control, stormwater treatment, or both; and (iii) the facility must be
2087 consistent with a stormwater management program that has been approved by the board, the
2088 Chesapeake Bay Local Assistance Board, or the Board of Conservation and Recreation.

2089 **4VAC50-60-96. Comprehensive watershed stormwater management plans Water quality.**

2090 A. Local programs may develop comprehensive watershed stormwater management plans
2091 to be approved by the department that meet the water quality objectives, quantity objectives, or
2092 both of this chapter:

2093 1. Such plans shall ensure that offsite reductions equal to or greater than those that would
2094 be required on each contributing land disturbing site are achieved within the same HUC or
2095 within another locally designated watershed. Pertaining to water quantity objectives, the plan

2096 ~~may provide for implementation of a combination of channel improvement, stormwater~~
2097 ~~detention, or other measures that are satisfactory to the local program to prevent downstream~~
2098 ~~erosion and flooding.~~

2099 ~~2. If the land use assumptions upon which the plan was based change or if any other~~
2100 ~~amendments are deemed necessary by the local program, the local program shall provide plan~~
2101 ~~amendments to the board for review and approval.~~

2102 ~~3. During the plan's implementation, the local program shall account for nutrient reductions~~
2103 ~~accrued to the BMPs specified in the plan.~~

2104 ~~4. State and federal agencies may participate in comprehensive watershed stormwater~~
2105 ~~management plans where practicable and permitted by the local program.~~

2106 ~~A. Compliance with the water quality criteria may be achieved by applying the performance-~~
2107 ~~based criteria or the technology-based criteria to either the site or a planning area.~~

2108 ~~B. If the qualifying local program allows for a pro rata fee in accordance with § 15.2-2243 of~~
2109 ~~the Code of Virginia, then the reductions required for a site by this chapter may be achieved by~~
2110 ~~the payment of a pro rata fee sufficient to fund improvements necessary to adequately achieve~~
2111 ~~those requirements in accordance with that section of the Code of Virginia and this chapter.~~
2112 ~~Performance-based criteria. For land-disturbing activities, the calculated postdevelopment~~
2113 ~~nonpoint source pollutant runoff load shall be compared to the calculated predevelopment load~~
2114 ~~based upon the average land cover condition or the existing site condition. A BMP shall be~~
2115 ~~located, designed, and maintained to achieve the target pollutant removal efficiencies specified~~
2116 ~~in [Table 2 Table 1] of this section to effectively reduce the pollutant load to the required level~~
2117 ~~based upon the following four applicable land development situations for which the performance~~
2118 ~~criteria apply:~~

2119 ~~1. Situation 1 consists of land-disturbing activities where the existing percent impervious~~
2120 ~~cover is less than or equal to the average land cover condition and the proposed~~
2121 ~~improvements will create a total percent impervious cover that is less than the average~~
2122 ~~land cover condition.~~

2123 ~~Requirement: No reduction in the after disturbance pollutant discharge is required.~~

2124 ~~2. Situation 2 consists of land-disturbing activities where the existing percent impervious~~
2125 ~~cover is less than or equal to the average land cover condition and the proposed~~
2126 ~~improvements will create a total percent impervious cover that is greater than the~~
2127 ~~average land cover condition.~~

2128 ~~Requirement: The pollutant discharge after disturbance shall not exceed the existing~~
2129 ~~pollutant discharge based on the average land cover condition.~~

2130 ~~3. Situation 3 consists of land-disturbing activities where the existing percent impervious~~
2131 ~~cover is greater than the average land cover condition.~~

2132 ~~Requirement: The pollutant discharge after disturbance shall not exceed (i) the pollutant~~
2133 ~~discharge based on existing conditions less 10% or (ii) the pollutant discharge based on~~
2134 ~~the average land cover condition, whichever is greater.~~

2135 ~~4. Situation 4 consists of land-disturbing activities where the existing percent impervious~~
2136 ~~cover is served by an existing stormwater management BMP that addresses water~~
2137 ~~quality.~~

2138 ~~Requirement: The pollutant discharge after disturbance shall not exceed the existing~~
2139 ~~pollutant discharge based on the existing percent impervious cover while served by the~~
2140 ~~existing BMP. The existing BMP shall be shown to have been designed and constructed~~

2141 in accordance with proper design standards and specifications, and to be in proper
 2142 functioning condition.

2143 C. Technology-based criteria. For land-disturbing activities, the postdeveloped stormwater
 2144 runoff from the impervious cover shall be treated by an appropriate BMP as required by the
 2145 postdeveloped condition percent impervious cover as specified in [~~Table 2~~ Table 1] of this
 2146 section. The selected BMP shall be located, designed, and maintained to perform at the target
 2147 pollutant removal efficiency specified in [~~Table 2~~ Table 1] or those found in 4VAC50-60-65.
 2148 Design standards and specifications for the BMPs in [~~Table 2~~ Table 1] that meet the required
 2149 target pollutant removal efficiency are available in the 1990 Virginia Stormwater Management
 2150 Handbook. Other approved BMPs available on the Virginia Stormwater BMP Clearinghouse
 2151 website at <http://www.vwrrc.vt.edu/swc> may also be utilized.

[~~Table 2~~ Table 1]*

| <u>Water Quality BMP*</u> | <u>Target Phosphorus Removal Efficiency</u> | <u>Percent Impervious Cover</u> |
|--|---|---------------------------------|
| <u>Vegetated filter strip</u> | <u>10%</u> | <u>16-21%</u> |
| <u>Grassed Swale</u> | <u>15%</u> | |
| <u>Constructed wetlands</u> | <u>20%</u> | <u>22-37%</u> |
| <u>Extended detention (2 x WQ Vol)</u> | <u>35%</u> | |
| <u>Retention basin I (3 x WQ Vol)</u> | <u>40%</u> | |
| <u>Bioretention basin</u> | <u>50%</u> | <u>38-66%</u> |
| <u>Bioretention filter</u> | <u>50%</u> | |
| <u>Extended detention-enhanced</u> | <u>50%</u> | |
| <u>Retention basin II (4 x WQ Vol)</u> | <u>50%</u> | |
| <u>Infiltration (1 x WQ Vol)</u> | <u>50%</u> | |
| <u>Sand filter</u> | <u>65%</u> | <u>67-100%</u> |
| <u>Infiltration (2 x WQ Vol)</u> | <u>65%</u> | |
| <u>Retention basin III (4 x WQ Vol with aquatic bench)</u> | <u>65%</u> | |
| <p><u>*Innovative or alternate BMPs not included in this table may be allowed at the discretion of the [local program administrator or the department 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 [local stormwater] program [administrator or the department administrative authority] .</u></p> | | |

2152 **4VAC50-60-97. Stream channel erosion.**

2153 A. Properties and receiving waterways downstream of any land-disturbing activity shall be
 2154 protected from erosion and damage due to changes in runoff rate of flow and hydrologic
 2155 characteristics, including, but not limited to, changes in volume, velocity, frequency, duration,

2156 and peak flow rate of stormwater runoff in accordance with the minimum design standards set
2157 out in this section.

2158 B. The [~~permit-issuing stormwater program administrative~~] authority shall require
2159 compliance with subdivision 19 of 4VAC50-30-40 of the Erosion and Sediment Control
2160 Regulations, promulgated pursuant to Article 4 (§ 10.1-560 et seq.) of Chapter 5 of Title 10.1 of
2161 the Code of Virginia.

2162 C. The [~~permit-issuing authority local stormwater management program~~] may determine
2163 that some watersheds or receiving stream systems require enhanced criteria in order to address
2164 the increased frequency of bankfull flow conditions (top of bank) brought on by land-disturbing
2165 activities. Therefore, in lieu of the reduction of the two-year postdeveloped peak rate of runoff as
2166 required in subsection B of this section, the land development project being considered shall
2167 provide 24-hour extended detention of the runoff generated by the one-year, 24-hour duration
2168 storm.

2169 D. In addition to subsections B and C of this section, [~~permit-issuing authorities local~~
2170 stormwater management programs] , by local ordinance may, or the board by state regulation
2171 may, adopt more stringent channel analysis criteria or design standards to ensure that the
2172 natural level of channel erosion, to the maximum extent practicable, will not increase due to the
2173 land-disturbing activities. These criteria may include, but are not limited to, the following:

2174 1. Criteria and procedures for channel analysis and classification.

2175 2. Procedures for channel data collection.

2176 3. Criteria and procedures for the determination of the magnitude and frequency of
2177 natural sediment transport loads.

2178 4. Criteria for the selection of proposed natural or manmade channel linings.

2179 **4VAC50-60-98. Flooding.**

2180 A. Downstream properties and waterways shall be protected from damages from localized
2181 flooding due to changes in runoff rate of flow and hydrologic characteristics, including, but not
2182 limited to, changes in volume, velocity, frequency, duration, and peak flow rate of stormwater
2183 runoff in accordance with the minimum design standards set out in this section.

2184 B. The 10-year postdeveloped peak rate of runoff from the development site shall not
2185 exceed the 10-year predeveloped peak rate of runoff.

2186 C. In lieu of subsection B of this section, localities may, by ordinance, adopt alternate design
2187 criteria based upon geographic, land use, topographic, geologic factors, or other downstream
2188 conveyance factors as appropriate.

2189 D. Linear development projects shall not be required to control postdeveloped stormwater
2190 runoff for flooding, except in accordance with a watershed or regional stormwater management
2191 plan.

2192 **4VAC50-60-99. Regional (watershedwide) (watershed-wide) stormwater management**
2193 **plans.**

2194 Water quality [requirements] and where allowed, water quantity [requirements] , may be
2195 achieved in accordance with sections 4VAC50-60-69 and 4VAC50-60-92.

2196 Part III
2197 Local Programs
2198 [Part III]

2199 **4VAC50-60-100. [Applicability. (Repealed.)**

2200 This part specifies technical criteria, minimum ordinance requirements, and administrative
2201 procedures for all localities operating local stormwater management programs. establishes the
2202 board's procedures for the authorization of a qualifying local program, the board's procedures
2203 for the administration of a local stormwater management program by an authorized qualifying
2204 local program, board and department oversight authorities for an authorized qualifying local
2205 program, and the board's procedures for utilization by the department in administering the
2206 Virginia Stormwater Management Program in localities where no qualifying local program is
2207 authorized.]

2208 [Part III A
2209 Local Programs.]

2210 **4VAC50-60-102. Authority [and applicability] .**

2211 If a locality has adopted a local stormwater management program in accordance with the
2212 Virginia Stormwater Management Act (§ 10.1-603.2 et seq. of the Code of Virginia) and the
2213 board has deemed such program adoption consistent with the Virginia Stormwater Management
2214 Act and these regulations in accordance with § 10.1-603.3 F of the Code of Virginia, the board
2215 may authorize a locality to administer a qualifying local program. Pursuant to § 10.1-603.4, the
2216 board is required to establish standards and procedures for such an authorization.

2217 [This part specifies the minimum technical criteria and the local government ordinance
2218 requirements for a local program to be considered a qualifying local program. Such criteria
2219 include but are not limited to administration, plan review, issuance of coverage under the
2220 Virginia Stormwater Management Program (VSMP) General Permit for Discharges of
2221 Stormwater from Construction Activities, inspection, and enforcement.]

2222 **[4VAC50-60-103. Stormwater program administrative authority requirements for**
2223 **Chesapeake Bay Preservation Act land-disturbing activities.**

2224 A. A stormwater program administrative authority shall regulate runoff associated with
2225 Chesapeake Bay Preservation Act land-disturbing activities in accordance with the following:

2226 1. Such land-disturbing activities shall not require completion of a registration statement
2227 or require coverage under the VSMP General Permit for Discharges of Stormwater from
2228 Construction Activities but shall be subject to the technical criteria and program and
2229 administrative requirements set out in 4VAC50-60-51.

2230 2. A permit shall be issued permitting the land-disturbing activity.

2231 3. The stormwater program administrative authority shall regulate such land-disturbing
2232 activities in compliance with the:

2233 a. Program requirements in 4VAC50-60-104;

2234 b. Plan review requirements in 4VAC50-60-108 with the exception of subsection D;

2235 c. Long-term stormwater management facility requirements of 4VAC50-60-112;

2236 d. Inspection requirements of 4VAC50-60-114 with the exception of subsection A3
2237 and A4;

2238 e. Enforcement components of 4VAC50-60-116;

2239 f. Hearing requirements of 4VAC50-60-118;

2240 g. Exception conditions of 4VAC50-60-122 excluding subsection C which is not
2241 applicable; and
2242 h. Reporting and recordkeeping requirements of 4VAC50-60-126 with the exception
2243 of subsection B3.

2244 B. A local stormwater management program shall adopt an ordinance that incorporates the
2245 components of this section.

2246 C. In accordance with §10.1-603.4 subsection 5, a stormwater program administrative
2247 authority may collect a permit issuance fee from the applicant of \$290 and an annual
2248 maintenance fee of \$50 for such land-disturbing activities.

2249 [Part III A

2250 Programs Operated by a Stormwater Program Administrative Authority]

2251 **4VAC50-60-104. [~~Technical criteria~~ Criteria] for [~~qualifying local~~] programs [~~operated~~**
2252 **by a stormwater program administrative authority] .**

2253 A. All [~~qualifying local programs~~ stormwater program administrative authorities] shall require
2254 compliance with the provisions of [Part II ~~Part II A and Part II B as applicable~~] (4VAC50-60-40
2255 et seq.) of this chapter [~~unless an exception is granted pursuant to 4VAC50-60-122 and shall~~
2256 comply with the requirements of 4VAC50-60-460 L] .

2257 B. When a [~~locality operating a qualifying~~] local [~~stormwater management~~] program has
2258 adopted requirements more stringent than those imposed by this chapter in accordance with §
2259 10.1-603.7 of the Code of Virginia or implemented a comprehensive stormwater management
2260 plan, the department shall consider such requirements in its review of state projects within that
2261 locality in accordance with Part IV (4VAC50-60-160 et seq.) of this chapter.

2262 C. Nothing in this part shall be construed as authorizing a locality to regulate, or to require
2263 prior approval by the locality for, a state [or federal] project [, unless authorized by separate
2264 statute] .

2265 [D. A stormwater program administrative authority may require the submission of a
2266 reasonable performance bond or other financial surety and provide for the release of such
2267 sureties in accordance with the criteria set forth in § 10.1-603.8 of the Code of Virginia.]

2268 **4VAC50-60-106. [~~Qualifying local program administrative~~ Additional] requirements [~~for~~**
2269 **local stormwater management programs] .**

2270 A. [~~A qualifying local program shall provide for the following:~~

2271 1. ~~Identification of the authority authorizing coverage under the VSMP General Permit for~~
2272 ~~Discharges of Stormwater from Construction Activities, the plan reviewing authority, the~~
2273 ~~plan approving authority, the inspection authority, and the enforcement authority;~~

2274 2. ~~Technical criteria to be used in the qualifying local program;~~

2275 3. ~~Procedures for the submission and approval of plans;~~

2276 4. ~~Inspection and monitoring of land-disturbing activities covered by a permit for~~
2277 ~~compliance;~~

2278 5. ~~Procedures or policies for long term inspection and maintenance of stormwater~~
2279 ~~management facilities Enforcement; and~~

2280 6. ~~Enforcement Procedures or policies for long term inspection and maintenance of~~
2281 ~~stormwater management facilities.~~

2282 B. A locality ~~qualifying local program shall adopt an ordinance(s) that incorporates the~~
2283 ~~components set out in subdivisions 1 through 5 of subsection A of this section and consent to~~
2284 ~~follow procedures provided by the department for the issuance, denial, revocation, termination,~~

2285 ~~reissuance, transfer, or modifications of coverage under the VSMP General Permit for~~
2286 ~~Discharges of Stormwater from Construction Activities.~~

2287 ~~C. A qualifying local program shall report to the department information related to the~~
2288 ~~administration and implementation of the qualifying local program in accordance with 4VAC50-~~
2289 ~~60-126.~~

2290 ~~D. A qualifying local program may require the submission of a reasonable performance bond~~
2291 ~~or other financial surety and provide for the release of such sureties in accordance with the~~
2292 ~~criteria set forth in § 10.1-603.8 of the Code of Virginia. A local stormwater management~~
2293 ~~program shall adopt ordinances that ensure compliance with the requirements set forth in~~
2294 ~~4VAC50-60-460L.~~

2295 ~~B. The local stormwater management program shall adopt ordinances at least as stringent~~
2296 ~~as the provisions of the Virginia Stormwater Management Program (VSMP) General Permit for~~
2297 ~~Discharges of Stormwater from Construction Activities.]~~

2298 ~~**4VAC50-60-108. [Qualifying local program stormwater Stormwater] management plan**~~
2299 ~~**review.**~~

2300 ~~A. A [qualifying local stormwater] program [administrative authority] shall [require review~~
2301 ~~and approve] stormwater management plans [to be submitted for review and be approved prior~~
2302 ~~to commencement of land-disturbing activities] . [In addition to the other requirements of this~~
2303 ~~chapter, a stormwater management plan must be developed in accordance with the following:~~

2304 ~~1. A stormwater management plan for a land-disturbing activity shall apply the~~
2305 ~~stormwater management technical criteria to the entire land-disturbing activity.~~

2306 ~~2. At the discretion of the qualifying local program, individual lots or planned phases of~~
2307 ~~developments shall not be considered separate land-disturbing activities, but rather the~~
2308 ~~entire development shall be considered a single land-disturbing activity.~~

2309 ~~3. The stormwater management plan shall consider all sources of surface runoff and all~~
2310 ~~sources of subsurface and groundwater flows converted to surface runoff.]~~

2311 ~~B. A [qualifying local stormwater] program [administrative authority] shall approve or~~
2312 ~~disapprove a stormwater management plan [and required accompanying information]~~
2313 ~~according to the following:~~

2314 ~~1. [Stormwater management plan review shall begin upon submission of a complete~~
2315 ~~plan. A complete plan shall include the following elements:~~

2316 ~~a. The location of all points of stormwater discharge, receiving surface waters or~~
2317 ~~karst features into which the stormwater discharges, and predevelopment and~~
2318 ~~postdevelopment conditions for drainage areas, including final drainage patterns and~~
2319 ~~changes to existing contours;~~

2320 ~~b. Contact information including the name, address, and telephone number of the~~
2321 ~~property owner and the tax reference number and parcel number of the property or~~
2322 ~~properties affected;~~

2323 ~~c. A narrative that includes a description of current site conditions and proposed~~
2324 ~~development and final site conditions, including proposed stormwater management~~
2325 ~~facilities and the mechanism, including an identification of financially responsible~~
2326 ~~parties, through which the facilities will be operated and maintained during and after~~
2327 ~~construction activity;~~

2328 ~~d. The location and the design of the proposed stormwater management facilities;~~

2329 ~~e. Information identifying the hydrologic characteristics and structural properties of~~
2330 ~~soils utilized with the installation of stormwater management facilities;~~

- 2331 ~~f. Hydrologic and hydraulic computations of the predevelopment and~~
2332 ~~postdevelopment runoff conditions for the required design storms;~~
- 2333 ~~g. Good engineering practices and calculations verifying compliance with the water~~
2334 ~~quality and quantity requirements of this chapter;~~
- 2335 ~~h. A map or maps of the site that depicts the topography of the site and includes:~~
- 2336 ~~(1) All contributing drainage areas;~~
- 2337 ~~(2) Receiving surface waters or karst features into which stormwater will be~~
2338 ~~discharged;~~
- 2339 ~~(3) Existing streams, ponds, culverts, ditches, wetlands, and other water bodies;~~
- 2340 ~~(4) Soil types, geologic formations, forest cover, and other vegetative areas;~~
- 2341 ~~(5) Current land use including existing structures, roads, and locations of known~~
2342 ~~utilities and easements;~~
- 2343 ~~(6) Sufficient information on adjoining parcels to assess the impacts of stormwater~~
2344 ~~from the site;~~
- 2345 ~~(7) The limits of clearing and grading, and the proposed drainage patterns on the~~
2346 ~~site;~~
- 2347 ~~(8) Proposed buildings, roads, parking areas, utilities, and stormwater management~~
2348 ~~facilities; and~~
- 2349 ~~(9) Proposed land use with tabulation of the percentage of surface area to be~~
2350 ~~adapted to various uses, including but not limited to planned locations of utilities,~~
2351 ~~roads, and easements.~~
- 2352 ~~i. No more than 50% of the required base fee in accordance with 4VAC50-60-820,~~
2353 ~~and the required fee form must have been submitted.~~
- 2354 ~~2. Elements of the stormwater management plans shall be appropriately sealed and~~
2355 ~~signed by a professional in adherence to all minimum standards and requirements~~
2356 ~~pertaining to the practice of that profession in accordance with Chapter 4 (§ 54.1-400 et~~
2357 ~~seq.) of Title 54.1 of the Code of Virginia and attendant regulations.]~~
- 2358 [~~3. Completeness~~ The stormwater program administrative authority shall determine the
2359 ~~completeness] of a plan [and required accompanying information shall be determined~~
2360 ~~by the qualifying local program in accordance with 4VAC50-60-55] , and [shall notify]~~
2361 ~~the applicant [shall be notified] of any determination, within 15 calendar days of receipt.~~
2362 ~~[Where available to the applicant, electronic communication may be considered~~
2363 ~~communication in writing.]~~
- 2364 ~~a. If within those 15 [calendar] days the plan is deemed to be incomplete [based on~~
2365 ~~the criteria set out in this subsection-] , the applicant shall be notified in writing of the~~
2366 ~~reasons the plan is deemed incomplete.~~
- 2367 ~~b. If a determination of completeness is made and communicated to the applicant~~
2368 ~~within the 15 calendar days, an additional 60 calendar days from the date of the~~
2369 ~~communication will be allowed for the review of the plan.~~
- 2370 ~~c. If a determination of completeness is not made and communicated to the applicant~~
2371 ~~within the 15 calendar days, the plan shall be deemed complete as of the date of~~
2372 ~~submission and a total of 60 calendar days from the date of submission will be~~
2373 ~~allowed for the review of the plan.~~

2374 d. The ~~[qualifying local stormwater]~~ program ~~[administrative authority]~~ shall ~~[set~~
2375 ~~review,]~~ within 45 ~~[calendar]~~ days ~~[on of the date of resubmission]~~ any plan that
2376 has been previously disapproved ~~[and resubmitted]~~ .

2377 ~~[4.2.]~~ During the review period, the plan shall be approved or disapproved and the
2378 decision communicated in writing to the person responsible for the land-disturbing
2379 activity or his designated agent. If the plan is not approved, the reasons for not
2380 approving the plan shall be provided in writing. Approval or denial shall be based on the
2381 plan's compliance with the requirements of this chapter and of the ~~[qualifying local~~
2382 ~~stormwater]~~ program ~~[administrative authority]~~ . Where available to the applicant,
2383 electronic communication may be considered communication in writing.

2384 ~~[5.3.]~~ If a plan meeting all requirements of this chapter and of the ~~[qualifying local~~
2385 ~~stormwater]~~ program ~~[administrative authority]~~ is submitted and no action is taken
2386 within the time specified above, the plan shall be deemed approved.

2387 C. ~~[Notwithstanding the requirements of subsection A of this section, if allowed by the~~
2388 ~~qualifying local program, an initial stormwater management plan may be submitted for review~~
2389 ~~and approval when it is accompanied by an erosion and sediment control plan, preliminary~~
2390 ~~stormwater design for the current and future site work, fee form, and no more than 50% of the~~
2391 ~~base fee required by 4VAC50-60-820. Such plans shall be limited to the initial clearing and~~
2392 ~~grading of the site unless otherwise allowed by the qualifying local program. Approval by the~~
2393 ~~qualifying local program of an initial plan does not supersede the need for the submittal and~~
2394 ~~approval of a complete stormwater management plan and the updating of the SWPPP prior to~~
2395 ~~the commencement of activities beyond initial clearing and grading and other activities approved~~
2396 ~~by the local program. The initial plan shall include information detailed in subsection B of this~~
2397 ~~section to the extent required by the qualifying local program and such other information as may~~
2398 ~~be required by the qualifying local program.~~

2399 ~~D.]~~ Each approved plan may be modified in accordance with the following:

2400 1. Modifications to an approved stormwater management plan shall be allowed only after
2401 review and written approval by the ~~[qualifying local stormwater]~~ program
2402 ~~[administrative authority]~~ . The ~~[qualifying local stormwater]~~ program ~~[administrative~~
2403 authority] shall have 60 calendar days to respond in writing either approving or
2404 disapproving such requests.

2405 2. Based on an inspection, the ~~[qualifying local stormwater]~~ program ~~[administrative~~
2406 authority] may require amendments to the approved stormwater management plan to
2407 address ~~[the noted any]~~ deficiencies ~~[and notify the permittee of the required~~
2408 ~~modifications within a time frame set by the stormwater program administrative~~
2409 ~~authority]~~ .

2410 [D. A stormwater program administrative authority shall not provide authorization to begin
2411 land disturbance until provided evidence of VSMP permit coverage.

2412 E. The stormwater program administrative authority shall require the submission of a
2413 construction record drawing for permanent stormwater management facilities in accordance with
2414 4VAC50-60-55. A stormwater program administrative authority may elect not to require
2415 construction record drawings for stormwater management facilities for which maintenance
2416 agreements are not required pursuant to 4VAC50-60-112.]

2417 **4VAC50-60-110. Technical criteria for local programs. (Repealed.)**

2418 A. ~~All local stormwater management programs shall comply with the general technical~~
2419 ~~criteria as outlined in 4VAC50-60-50.~~

2420 B. All local stormwater management programs which contain provisions for stormwater
2421 runoff quality shall comply with 4VAC50-60-60. A locality may establish criteria for selecting
2422 either the site or a planning area on which to apply the water quality criteria. A locality may opt
2423 to calculate actual watershed specific or locality wide values for the average land cover
2424 condition based upon:

- 2425 1. Existing land use data at time of local Chesapeake Bay Preservation Act Program or
2426 department stormwater management program adoption, whichever was adopted first;
- 2427 2. Watershed or locality size; and
- 2428 3. Determination of equivalent values of impervious cover for nonurban land uses which
2429 contribute nonpoint source pollution, such as agriculture, forest, etc.

2430 C. All local stormwater management programs which contain provisions for stream channel
2431 erosion shall comply with 4VAC50-60-70.

2432 D. All local stormwater management programs must contain provisions for flooding and shall
2433 comply with 4VAC50-60-80.

2434 E. All local stormwater management programs which contain provisions for watershed or
2435 regional stormwater management plans shall comply with 4VAC50-60-110.

2436 F. A locality that has adopted more stringent requirements or implemented a regional
2437 (watershed-wide) stormwater management plan may request, in writing, that the department
2438 consider these requirements in its review of state projects within that locality.

2439 G. Nothing in this part shall be construed as authorizing a locality to regulate, or to require
2440 prior approval by the locality for, a state project.

2441 **4VAC50-60-112. [Qualifying local program authorization of coverage under the VSMP**
2442 **General Permit for Discharges of Stormwater from Construction Activities Long-term**
2443 **maintenance of permanent stormwater management facilities] .**

2444 A. [Coverage shall be authorized by the qualifying local program under the VSMP General
2445 Permit for Discharges of Stormwater from Construction Activities in accordance with the
2446 following:

2447 1. The applicant must have an approved initial stormwater management plan or an
2448 approved stormwater management plan for the land disturbing activity.

2449 2. The applicant must have submitted proposed right-of-entry agreements or easements
2450 from the owner for purposes of inspection and maintenance and proposed maintenance
2451 agreements, including inspection schedules, where required in accordance with
2452 4VAC50-60-124.

2453 3. The applicant must have an approved registration statement for the VSMP General
2454 Permit for Discharges of Stormwater from Construction Activities.

2455 4. The applicant must have submitted the required fee form and total fee required by
2456 4VAC50-60-820.

2457 5. Applicants submitting registration statements deemed to be incomplete must be
2458 notified within 15 working days of receipt by the qualifying local program that the
2459 registration statement is not complete and be notified (i) of what material needs to be
2460 submitted to complete the registration statement, and (ii) that the land-disturbing activity
2461 does not have coverage under the VSMP General Permit for Discharges of Stormwater
2462 from Construction Activities. The stormwater program administrative authority shall
2463 require the provision of long-term responsibility for and maintenance of stormwater
2464 management facilities and other techniques specified to manage the quality and quantity
2465 of runoff. Such requirements shall be set forth in an instrument recorded in the local land

2466 records prior to permit termination or earlier as required by the stormwater program
2467 administrative authority and shall, at a minimum:

2468 1. Be submitted to the stormwater program administrative authority for review and
2469 approval prior to the approval of the stormwater management plan;

2470 2. Be stated to run with the land;

2471 3. Provide for all necessary access to the property for purposes of maintenance and
2472 regulatory inspections;

2473 4. Provide for inspections and maintenance and the submission of inspection and
2474 maintenance reports to the stormwater program administrative authority; and

2475 5. Be enforceable by all appropriate governmental parties.]

2476 B. [Coverage or termination of coverage shall be authorized through a standardized
2477 database or other method provided by the department. Such database shall include, at a
2478 minimum, permit number, operator name, activity name, acres disturbed, date of permit
2479 coverage, and site address and location as well as date of termination. At the discretion of the
2480 stormwater program administrative authority, such recorded instruments need not be required
2481 for stormwater management facilities designed to treat stormwater runoff primarily from an
2482 individual residential lot on which they are located, provided it is demonstrated to the
2483 satisfaction of the stormwater program administrative authority that future maintenance of such
2484 facilities will be addressed through an enforceable mechanism at the discretion of the
2485 stormwater program administrative authority.

2486 C. Coverage information pertaining to the VSMP General Permit for Discharges of
2487 Stormwater from Construction Activities shall be reported to the department in accordance with
2488 4VAC50-60-126 by the qualifying local program.

2489 D. The applicant shall be notified of authorization of permit coverage by the qualifying local
2490 program.]

2491 **4VAC50-60-114. Inspections.**

2492 A. The [qualifying local stormwater] program [or its designee administrative authority] shall
2493 inspect the land-disturbing activity during construction for [compliance :

2494 1. Compliance] with the [VSMP General Permit for Discharges of Stormwater from
2495 Construction Activities. approved erosion and sediment control plan;

2496 2. Compliance with the approved stormwater management plan;

2497 3. Development, updating, and implementation of a pollution prevention plan; and

2498 4. Development and implementation of any additional control measures necessary to
2499 address a TMDL.]

2500 B. [The person responsible for the development project or their designated agent shall
2501 submit to a qualifying local program a construction record drawing for permanent stormwater
2502 management facilities, appropriately sealed, and signed by a professional in accordance with all
2503 minimum standards and requirements pertaining to the practice of that profession pursuant to
2504 Chapter 4 (§ 54.1-400 et seq.) of Title 54.1 of the Code of Virginia and attendant regulations,
2505 certifying that the stormwater management facilities have been constructed in accordance with
2506 the approved plan. The qualifying local program shall have the construction record drawing and
2507 certification on file prior to the release of the portion of the any performance bond or surety
2508 associated with the stormwater management facility. The qualifying local program may elect not
2509 to require construction record drawings for stormwater management facilities for which
2510 maintenance agreements are not required pursuant to 4VAC50-60-124. The stormwater
2511 program administrative authority shall establish an inspection program that ensures that

2512 stormwater management facilities are being adequately maintained as designed after
2513 completion of land-disturbing activities. Inspection programs shall:

2514 1. Be approved by the board;

2515 2. Ensure that each stormwater management facility is inspected by the stormwater
2516 program administrative authority, or its designee, not to include the owner, except as
2517 provided in subsections C and D of this section, at least once every five years; and

2518 3. Be documented by records.]

2519 C. The owners [owner of a stormwater management] facilities [facility for which a
2520 maintenance agreement is required pursuant to 4VAC50-60-124 shall be required to conduct
2521 inspections in accordance with an inspection schedule in a the recorded maintenance
2522 agreement, and shall submit written inspection and maintenance reports to the qualifying local
2523 program] upon request. [Such stormwater program administrative authority may utilize the
2524 inspection] reports [, if consistent with a board-approved of the owner of a stormwater
2525 management facility as part of an] inspection program established in subsection D [E B] of
2526 this section [, may be utilized by the qualifying local program] if the inspection is conducted by
2527 a person who is licensed as a professional engineer, architect, certified landscape architect, or
2528 land surveyor pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 [, a person
2529 who works under the direction and oversight of the licensed professional engineer, architect,
2530 landscape architect, or land surveyor,] or who holds [a an appropriate] certificate of
2531 competence from the board. [The reports, if so utilized, must be kept on file with the qualifying
2532 local program.]

2533 D. [A qualifying local If a recorded instrument is not required pursuant to 4VAC50-60-112, a
2534 stormwater] program [administrative authority] shall develop a strategy for addressing
2535 maintenance of stormwater management facilities designed to treat stormwater runoff solely
2536 primarily from an individual residential lot on which they are located. Such a strategy may
2537 include periodic inspections, homeowner outreach and education, or other method targeted at
2538 promoting the long-term maintenance of such facilities. Such facilities shall not be subject to the
2539 requirement for an inspection to be conducted by the [qualifying local stormwater] program
2540 [every five years contained within subsection E of this section administrative authority] .

2541 [E. A qualifying local program shall establish an inspection program that ensures that the
2542 stormwater management facilities are being maintained as designed. Any inspection program
2543 shall be:

2544 1. Approved by the board prior to implementation;

2545 2. Established in writing;

2546 3. Based on a system of priorities that takes into consideration the purpose and type of
2547 the facility, ownership and the existence of a recorded maintenance agreement and
2548 inspection schedule where required, the contributing drainage area, and downstream
2549 conditions;

2550 4. Demonstrated to be an enforceable inspection program that meets the intent of the
2551 regulations and ensures that each stormwater management facility is inspected by the
2552 qualifying local program or its designee, not to include the owner, except as provided in
2553 subsection subsections C and D of this section, at least every five years; and

2554 5. Documented by inspection records.]

2555 E. [F. Inspection reports shall be generated and kept on file in accordance with 4VAC50-60-
2556 126 for all stormwater management facilities inspected by the qualifying local program.]

2557 **4VAC50-60-116. [~~Qualifying local program enforcement Enforcement~~] .**

2558 ~~A. A [qualifying local stormwater] program [may administrative authority shall incorporate~~
 2559 ~~[the following] components [; from subsection 1 and 2.]~~

2560 ~~1. Informal and formal administrative enforcement procedures [including may include] :~~

2561 ~~a. Verbal warnings and inspection reports;~~

2562 ~~b. Notices of corrective action;~~

2563 ~~c. Consent special orders and civil charges in accordance with subdivision 7 of §~~
 2564 ~~10.1-603.2:1 and § 10.1-603.14 D 2 of the Code of Virginia;~~

2565 ~~d. Notices to comply in accordance with § 10.1-603.11 of the Code of Virginia;~~

2566 ~~e. Special orders in accordance with subdivision 7 of § 10.1-603.2:1 of the Code of~~
 2567 ~~Virginia;~~

2568 ~~f. Emergency special orders in accordance with subdivision 7 of § 10.1-603.2:1 of the~~
 2569 ~~Code of Virginia; and~~

2570 ~~g. Public notice and comment periods [for proposed settlements and consent special~~
 2571 ~~orders] pursuant to 4VAC50-60-660.~~

2572 ~~2. Civil and criminal judicial enforcement procedures [including may include] :~~

2573 ~~a. Schedule of civil penalties [set out in subsection D of this section in accordance~~
 2574 ~~with § 10.1-603.14 of the Code of Virginia] ;~~

2575 ~~b. Criminal penalties in accordance with § 10.1-603.14 B and C of the Code of~~
 2576 ~~Virginia; and~~

2577 ~~c. Injunctions in accordance with §§ 10.1-603.12:4, 10.1-603.2:1 and 10.1-603.14 D~~
 2578 ~~1 of the Code of Virginia.~~

2579 ~~B. A [qualifying local stormwater.] program [administrative authority] shall develop policies~~
 2580 ~~and procedures that outline the steps to be taken regarding enforcement actions under the~~
 2581 ~~Stormwater Management Act and attendant regulations and [the] local [ordinance ordinances]~~
 2582 ~~.~~

2583 ~~C. [A qualifying local program may utilize the department's Stormwater Management~~
 2584 ~~Enforcement Manual as guidance in establishing policies and procedures.~~

2585 ~~D. A court may utilize as guidance the following Schedule of Civil Penalties set by the board~~
 2586 ~~in accordance with Pursuant to] § 10.1-603.14 A of the Code of Virginia [, the permit-issuing~~
 2587 ~~authority shall use the following schedule of civil penalties for enforcement actions] . [The~~
 2588 ~~range contained within the schedule reflects the degree of harm caused by the violation, which~~
 2589 ~~is site-specific and may vary greatly from case to case, as may the economic benefit of~~
 2590 ~~noncompliance to the violator. Each day of violation of each requirement shall constitute a~~
 2591 ~~separate offense. Assignment of the degree of harm is a qualitative decision subject to the~~
 2592 ~~court's discretion.] The court has the discretion to impose a maximum penalty of \$32,500 per~~
 2593 ~~violation per day in accordance with § 10.1-603.14 A of the Code of Virginia. [Such violation~~
 2594 ~~may reflect the degree of harm caused by the violation. The court may take into account the~~
 2595 ~~economic benefit to the violator from noncompliance. Such violations include, but are not limited~~
 2596 ~~to:~~

2597

| | | | | |
|-----------------------------------|-----------------|-----------------|----------------|---|
| <u>1. Gravity based Component</u> | <u>Marginal</u> | <u>Moderate</u> | <u>Serious</u> | - |
|-----------------------------------|-----------------|-----------------|----------------|---|

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

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

- 2598 1. No permit registration;
- 2599 2. No SWPPP;
- 2600 3. Incomplete SWPPP;
- 2601 4. SWPPP not available for review;
- 2602 5. No approved erosion and sediment control plan;
- 2603 6. Failure to install stormwater BMPs or erosion and sediment controls;
- 2604 7. Stormwater BMPs or erosion and sediment controls improperly installed or
- 2605 maintained;
- 2606 8. Operational deficiencies;
- 2607 9. Failure to conduct required inspections;
- 2608 10. Incomplete, improper, or missed inspections.
- 2609 E. D.] Pursuant to subdivision 2 of § 10.1-603.2:1 of the Code of Virginia, authorization to
- 2610 administer a [qualifying] local [stormwater management] program shall not remove from the
- 2611 board the authority to enforce the provisions of the [Virginia Stormwater Management] Act and
- 2612 attendant regulations.
- 2613 [E. The department may terminate VSMP permit coverage during its term and require
- 2614 application for an individual permit or deny a permit renewal application for failure to comply with
- 2615 permit conditions or on its own initiative in accordance with the Act and this chapter.]
- 2616 F. Pursuant to § 10.1-603.14 A of the Code of Virginia, [amounts civil penalties] recovered
- 2617 by a [qualifying] local [stormwater management] program shall be paid into the treasury of the
- 2618 locality in which the violation occurred and are to be used for the purpose of minimizing,
- 2619 preventing, managing, or mitigating pollution of the waters of the locality and abating
- 2620 environmental pollution therein in such manner as the court may, by order, direct.

2621 [G. The department may provide additional guidance concerning suggested penalty
2622 amounts in its Stormwater Management Enforcement Manual.]

2623 **4VAC50-60-118. Hearings.**

2624 [~~A qualifying local~~ The stormwater] program [administrative authority] shall ensure that
2625 any permit applicant or permittee [aggrieved by any action of the stormwater program
2626 administrative authority taken without a formal hearing, or by inaction of the stormwater program
2627 administrative authority,] shall have a right to a hearing pursuant to § 10.1-603.12:6 of the
2628 Code of Virginia and shall ensure that all hearings held under this chapter shall be conducted in
2629 accordance with § 10.1-603.12:7 of the Code of Virginia or as otherwise provided by law.

2630 **4VAC50-60-120. Requirements for local program and ordinance. (Repealed.)**

2631 A. ~~At a minimum, the local stormwater management program and implementing ordinance~~
2632 ~~shall meet the following:~~

2633 1. ~~The ordinance shall identify the plan approving authority and other positions of~~
2634 ~~authority within the program, and shall include the regulations and technical criteria to be~~
2635 ~~used in the program.~~

2636 2. ~~The ordinance shall include procedures for submission and approval of plans,~~
2637 ~~issuance of permits, monitoring and inspections of land development projects. The party~~
2638 ~~responsible for conducting inspections shall be identified. The local program authority~~
2639 ~~shall maintain, either on-site or in local program files, a copy of the approved plan and a~~
2640 ~~record of all inspections for each land development project.~~

2641 B. ~~The department shall periodically review each locality's stormwater management~~
2642 ~~program, implementing ordinance, and amendments. Subsequent to this review, the department~~
2643 ~~shall determine if the program and ordinance are consistent with the state stormwater~~
2644 ~~management regulations and notify the locality of its findings. To the maximum extent~~
2645 ~~practicable the department will coordinate the reviews with other local government program~~
2646 ~~reviews to avoid redundancy. The review of a local program shall consist of the following:~~

2647 1. ~~A personal interview between department staff and the local program administrator or~~
2648 ~~his designee;~~

2649 2. ~~A review of the local ordinance and other applicable documents;~~

2650 3. ~~A review of plans approved by the locality and consistency of application;~~

2651 4. ~~An inspection of regulated activities; and~~

2652 5. ~~A review of enforcement actions.~~

2653 C. ~~Nothing in this chapter shall be construed as limiting the rights of other federal and state~~
2654 ~~agencies from imposing stricter technical criteria or other requirements as allowed by law.~~

2655 **4VAC50-60-122. [Qualifying local program exceptions Exceptions] .**

2656 A. A [~~qualifying local~~ stormwater] program [administrative authority] may grant exceptions
2657 to the provisions of Part II (4VAC50-60-40 et seq.) [~~Parts II A and II B~~ Part II B or Part II C] of
2658 this chapter [~~through an administrative process~~] . [~~A request for an exception, including the~~
2659 reasons for making the request, shall be submitted in writing to the qualifying local program.]
2660 An exception may be granted provided that (i) the exception is the minimum necessary to afford
2661 relief, (ii) reasonable and appropriate conditions shall be imposed as necessary upon any
2662 exception granted so that the intent of the Act and this chapter are preserved, (iii) granting the
2663 exception will not confer [~~on the permittee~~] any special privileges that are denied [~~to in~~] other
2664 [~~permittees who present~~] similar circumstances, and (iv) exception requests are not based
2665 upon conditions or circumstances that are self-imposed or self-created.

2666 B. Economic hardship alone is not sufficient reason to grant an exception from the
2667 requirements of this chapter.

2668 C. Under no circumstance shall the [~~qualifying local~~ stormwater] program [~~administrative~~
2669 authority] grant an exception to the requirement that the land-disturbing activity obtain [~~a~~
2670 required VSMP permit permits nor approve the use of a BMP not found on the Virginia
2671 Stormwater BMP Clearinghouse Website] .

2672 D. [~~Any exception to the water quality technical criteria of subdivisions 1 and 2 of 4VAC50-~~
2673 60-63 shall require that all available offsite options be utilized before an exception is granted
2674 and that any necessary phosphorus reductions unable to be achieved on site or through the
2675 available offsite options of subsection A of 4VAC50-60-69 be achieved through a payment
2676 made in accordance with subsection B of 4VAC50-60-69, when such payment option is
2677 available. In the case of the granting of an exception, the minimum on site thresholds of
2678 subsection B of 4VAC50-60-69 shall not apply. Exceptions to requirements for phosphorus
2679 reductions shall not be allowed unless offsite options available through 4VAC50-60-69 have
2680 been considered and found not available.]

2681 E. A record of all exceptions [~~applied for and~~] granted shall be maintained by the
2682 [~~qualifying local~~ stormwater] program [~~and reported to the department~~ administrative
2683 authority] in accordance with 4VAC50-60-126.

2684 [~~4VAC50-60-124. Qualifying local program stormwater management facility~~
2685 maintenance.

2686 A. Responsibility for the operation and maintenance of stormwater management facilities in
2687 accordance with this chapter, unless assumed by a governmental agency, shall remain with the
2688 property owner or other legally established entity and shall pass to any successor.

2689 1. The government entity implementing the qualifying local program shall be a party to
2690 each require a maintenance agreement for each stormwater management facility except
2691 as provided in subdivision 2. Such maintenance agreement shall include a schedule for
2692 require the owner to (i) perform inspections by the owner, and, in addition to ensuring
2693 that each on a specified schedule, (ii) maintain the facility is maintained as designed,
2694 shall ensure that and (iii) maintain the designed flow and drainage patterns from the site
2695 to a permanent facility are maintained. Such agreements may also contain provisions
2696 specifying that, where maintenance or repair of a stormwater management facility
2697 located on the owner's property is neglected, or the stormwater management facility
2698 becomes a public health or safety concern and the owner has failed to perform the
2699 necessary maintenance and repairs after receiving notice from the locality, the qualifying
2700 local program may perform the necessary maintenance and repairs and recover the
2701 costs from the owner. In the specific case of a public health or safety danger, the
2702 agreement may provide that the written notice may be waived by the locality.

2703 2. Maintenance agreements, at the discretion of the qualifying local program, shall not
2704 be required for stormwater management facilities designed to treat stormwater runoff
2705 solely primarily from an individual residential lot on which they are located, provided it is
2706 demonstrated to the satisfaction of the qualifying local program that future maintenance
2707 of such facilities will be addressed through a deed restriction or other mechanism
2708 enforceable by at the discretion of the qualifying local program.

2709 B. The Where a maintenance agreement is required for a stormwater management facility,
2710 the qualifying local program shall be notified of any transfer or conveyance of ownership or
2711 responsibility for maintenance of a stormwater management facility.

2712 ~~C. Where a maintenance agreement is required for a stormwater management facility,~~
2713 ~~the qualifying local program shall require right-of-entry agreements or easements from the~~
2714 ~~property owner for purposes of inspection and maintenance.~~

2715 **4VAC50-60-126. [Qualifying local program report Reports] and recordkeeping.**

2716 ~~A. On a fiscal year basis (July 1 to June 30), a [qualifying] local [stormwater management]~~
2717 ~~program shall report to the department by October 1 of each year in a format provided by the~~
2718 ~~department. The information to be provided shall include the following:~~

2719 ~~1. Information on each permanent stormwater management facility completed during the~~
2720 ~~fiscal year to include type of stormwater management facility, [geographic] coordinates,~~
2721 ~~acres treated, and the surface waters or karst features into which the stormwater~~
2722 ~~management facility will discharge;~~

2723 ~~2. [Number of VSMP General Permit for Discharges of Stormwater from Construction~~
2724 ~~Activities projects inspected and the total number of inspections by acreage categories~~
2725 ~~determined by the department during the fiscal year;~~

2726 ~~3.-] Number and type of enforcement actions during the fiscal year; and~~
2727 ~~[4.3.] Number of exceptions [applied for and the number] granted [or denied] during~~
2728 ~~the fiscal year.~~

2729 ~~B. [A qualifying local program shall make information set out in subsection A of this section~~
2730 ~~available to the department upon request.~~

2731 ~~C.] A [qualifying local stormwater] program [administrative authority] shall keep records in~~
2732 ~~accordance with the following:~~

2733 ~~1. [Permit files Project records, including approved stormwater management plans,]~~
2734 ~~shall be kept for three years after permit termination [or project completion] . [After~~
2735 ~~three years, the permit file shall be delivered to the department by October 1 of each~~
2736 ~~year.]~~

2737 ~~2. Stormwater [maintenance management] facility inspection [reports records] shall be~~
2738 ~~[kept documented and retained] for [at least] five years from the date of inspection.~~

2739 ~~3. [Stormwater maintenance agreements, design standards and specifications,~~
2740 ~~postconstruction surveys construction Construction] record drawings [, and~~
2741 ~~maintenance records] shall be maintained in perpetuity or until a stormwater~~
2742 ~~management facility is removed [due to redevelopment of the site] .~~

2743 ~~[4. All registration statements submitted in accordance with 4VAC50-60-59 shall be~~
2744 ~~documented and retained for at least three years from the date of project completion or~~
2745 ~~permit termination.]~~

2746 ~~[Part III B~~

2747 ~~Department of Conservation and Recreation Administered Local Programs~~

2748 **4VAC50-60-128. Authority and applicability.**

2749 ~~In the absence of a qualifying local program, the department, in accordance with an~~
2750 ~~adoption and implementation schedule set by the board and upon board approval, shall~~
2751 ~~administer the local stormwater management program in a locality in accordance with § 10.1-~~
2752 ~~603.3 C of the Code of Virginia. This part specifies the minimum technical criteria for a~~
2753 ~~department-administered local stormwater management program in accordance with the~~
2754 ~~Virginia Stormwater Management Act (§ 10.1-603.2 et seq. of the Code of Virginia), and the~~
2755 ~~standards and criteria established in these regulations by the board pursuant to its authority~~
2756 ~~under that article. Such criteria include but are not limited to administration, plan review,~~
2757 ~~issuance of coverage under the Virginia Stormwater Management Program (VSMP) General~~

2758 ~~Permit for Discharges of Stormwater from Construction Activities, issuance of individual permits,~~
2759 ~~inspection, enforcement, and education and outreach components.~~

2760 **4VAC50-60-130. Administrative procedures: stormwater management plans. (Repealed.)**

2761 ~~A. Localities shall approve or disapprove stormwater management plans according to the~~
2762 ~~following:~~

2763 ~~1. A maximum of 60 calendar days from the day a complete stormwater management~~
2764 ~~plan is accepted for review will be allowed for the review of the plan. During the 60-day~~
2765 ~~review period, the locality shall either approve or disapprove the plan and communicate~~
2766 ~~its decision to the applicant in writing. Approval or denial shall be based on the plan's~~
2767 ~~compliance with the locality's stormwater management program.~~

2768 ~~2. A disapproval of a plan shall contain the reasons for disapproval.~~

2769 ~~B. Each plan approved by a locality shall be subject to the following conditions:~~

2770 ~~1. The applicant shall comply with all applicable requirements of the approved plan, the~~
2771 ~~local program, this chapter and the Act, and shall certify that all land clearing,~~
2772 ~~construction, land development and drainage will be done according to the approved~~
2773 ~~plan.~~

2774 ~~2. The land development project shall be conducted only within the area specified in the~~
2775 ~~approved plan.~~

2776 ~~3. The locality shall be allowed, after giving notice to the owner, occupier or operator of~~
2777 ~~the land development project, to conduct periodic inspections of the project.~~

2778 ~~4. The person responsible for implementing the approved plan shall conduct monitoring~~
2779 ~~and submit reports as the locality may require to ensure compliance with the approved~~
2780 ~~plan and to determine whether the plan provides effective stormwater management.~~

2781 ~~5. No changes may be made to an approved plan without review and written approval by~~
2782 ~~the locality.~~

2783 **[~~4VAC50-60-132. Technical criteria.~~**

2784 ~~A. The department administered local stormwater management programs shall require~~
2785 ~~compliance with the provisions of] Part II [Part II A and Part II B as applicable (4VAC50-60-40~~
2786 ~~et seq.) of this chapter unless an exception is granted pursuant to 4VAC50-60-142 D and shall~~
2787 ~~comply with the requirements of 4VAC50-60-460 L.~~

2788 ~~B. When reviewing a federal project, the department shall apply the provisions of this~~
2789 ~~chapter.~~

2790 ~~C. Nothing in this chapter shall be construed as limiting the rights of other federal and state~~
2791 ~~agencies to impose stricter technical criteria or other requirements as allowed by law.~~

2792 **[~~4VAC50-60-134. Administrative authorities.~~**

2793 ~~A. The department is the permit issuing authority, plan approving authority, and the~~
2794 ~~enforcement authority.~~

2795 ~~B. The department or its designee is the plan reviewing authority and the inspection~~
2796 ~~authority.~~

2797 ~~C. The department shall assess and collect fees.~~

2798 ~~D. The department may require the submission of a reasonable performance bond or other~~
2799 ~~financial surety in accordance with the criteria set forth in § 10.1-603.8 of the Code of Virginia~~
2800 ~~prior to the issuance of coverage under the VSMP General Permit for Discharges of Stormwater~~
2801 ~~from Construction Activities and in accordance with the following:~~

- 2802 ~~1. The amount of the installation performance security shall be the total estimated~~
2803 ~~construction cost of the stormwater management BMPs approved under the stormwater~~
2804 ~~management plan, plus 25%;~~
- 2805 ~~2. The performance security shall contain forfeiture provisions for failure, after proper~~
2806 ~~notice, to complete work within the time specified, or to initiate or maintain appropriate~~
2807 ~~actions that may be required in accordance with the approved stormwater management~~
2808 ~~plan;~~
- 2809 ~~3. Upon failure by the applicant to take such action as required, the department may act~~
2810 ~~and may collect from the applicant the difference should the amount of the reasonable~~
2811 ~~cost of such action exceed the amount of the security held; and~~
- 2812 ~~4. Within 60 days of the completion of the requirements and conditions of the VSMP~~
2813 ~~General Permit for Discharges of Stormwater from Construction Activities and the~~
2814 ~~department's acceptance of the Notice of Termination, such bond, cash escrow, letter of~~
2815 ~~credit, or other legal arrangement shall be refunded to the applicant.~~
- 2816 **[4VAC50-60-136. Stormwater management plan review.**
- 2817 ~~A. Stormwater management plans shall be reviewed and approved by the department prior~~
2818 ~~to commencement of land-disturbing activities.~~
- 2819 ~~B. The department shall approve or disapprove a stormwater management plan and~~
2820 ~~required accompanying information according to the criteria set out for a qualifying local~~
2821 ~~program in 4VAC50-60-108 B.~~
- 2822 ~~C. The department shall not] accept [review or approve initial stormwater management~~
2823 ~~plans.~~
- 2824 ~~D. Each approved stormwater management plan may be modified in accordance with the~~
2825 ~~criteria set out for a qualifying local program in 4VAC50-60-108 D.~~
- 2826 **[4VAC50-60-138. Issuance of coverage under the VSMP General Permit for Discharges**
2827 **of Stormwater from Construction Activities.**
- 2828 ~~The department shall issue coverage under the VSMP General Permit for Discharges of~~
2829 ~~Stormwater from Construction Activities in accordance with the following:~~
- 2830 ~~1. The applicant must have a department approved stormwater management plan for~~
2831 ~~the land-disturbing activity.~~
- 2832 ~~2. The applicant must have submitted a complete registration statement for the VSMP~~
2833 ~~General Permit for Discharges of Stormwater from Construction Activities in accordance~~
2834 ~~with Part VII (4VAC50-60-360 et seq.) of this chapter and the requirements of the VSMP~~
2835 ~~General Permit for Discharges of Stormwater from Construction Activities, which~~
2836 ~~acknowledges that a SWPPP has been developed and will be implemented, and the~~
2837 ~~registration statement must have been reviewed and approved prior to the~~
2838 ~~commencement of land disturbance.~~
- 2839 ~~3. The applicant must have submitted the required fee form and fee for the registration~~
2840 ~~statement seeking coverage under the VSMP General Permit for Discharges of~~
2841 ~~Stormwater from Construction Activities.~~
- 2842 ~~4. Applicants submitting registration statements deemed to be incomplete must be~~
2843 ~~notified within 15 working days of receipt by the department that the registration~~
2844 ~~statement is not complete and be notified (i) of what material needs to be submitted to~~
2845 ~~complete the registration statement, and (ii) that the land-disturbing activity does not~~
2846 ~~have coverage under the VSMP General Permit for Discharges of Stormwater from~~
2847 ~~Construction Activities.~~

2848 ~~5. The applicant shall be notified of authorization of permit coverage by the department.~~

2849 ~~6. Individual permits for qualifying land disturbing activities may be issued at the~~
2850 ~~discretion of the board or its designee pursuant to 4VAC50-60-410 B 3.~~

2851 **4VAC50-60-140. Administrative procedures: exceptions. (Repealed.)**

2852 A. A request for an exception shall be submitted, in writing, to the locality. An exception from
2853 the stormwater management regulations may be granted, provided that: (i) exceptions to the
2854 criteria are the minimum necessary to afford relief and (ii) reasonable and appropriate
2855 conditions shall be imposed as necessary upon any exception granted so that the intent of the
2856 Act and this chapter are preserved.

2857 B. Economic hardship is not sufficient reason to grant an exception from the requirements of
2858 this chapter.

2859 [Part III B

2860 Department of Conservation and Recreation Procedures for Review of Local Stormwater
2861 Management Programs]

2862 **4VAC50-60-142. [Inspections, enforcement, hearings, exceptions, and stormwater**
2863 **management facility maintenance Authority and applicability]**

2864 [A. Inspections shall be conducted by the department in accordance with 4VAC50-60-114.

2865 B. Enforcement actions shall be conducted by the department in accordance with 4VAC50-
2866 60-116. The department's Stormwater Management Enforcement Manual shall serve as
2867 guidance to be utilized in enforcement actions under the Stormwater Management Act and
2868 attendant regulations. Any amounts assessed by a court as a result of a summons issued by the
2869 board or the department shall be paid into the state treasury and deposited by the State
2870 Treasurer into the Virginia Stormwater Management Fund established pursuant to § 10.1-
2871 603.4:1 of the Code of Virginia.

2872 C. Hearings shall be conducted by the department in accordance with 4VAC50-60-118.

2873 D. Exceptions may be granted by the department in accordance with 4VAC50-60-122.

2874 E. Stormwater management facility maintenance shall be conducted in accordance with
2875 4VAC50-60-124.

2876 This part specifies the criteria that the department will utilize in reviewing a locality's
2877 administration of a local stormwater management program pursuant to § 10.1-603.12 of the
2878 Code of Virginia following the board's approval of such program in accordance with the Act and
2879 these regulations.]

2880 **[4VAC50-60-144. Local stormwater management program review.**

2881 A. The department shall review each board-approved local stormwater management
2882 program at least once every five years on a review schedule approved by the board. The
2883 department may review a local stormwater management program on a more frequent basis if
2884 deemed necessary by the board and shall notify the local government if such review is
2885 scheduled.

2886 B. The review of a board-approved local stormwater management program shall consist of
2887 the following:

2888 1. An interview between department staff and the local stormwater management
2889 program administrator or designee;

2890 2. A review of the local ordinance(s) and other applicable documents;

2891 3. A review of a subset of the plans approved by the local stormwater management
2892 program for consistency of application including exceptions granted and calculations or

2893 other documentation that demonstrates that required nutrient reductions are achieved
2894 using appropriate on-site and off-site compliance options;

2895 4. A review of the funding and staffing plan developed in accordance with 4VAC50-60-
2896 148;

2897 5. An inspection of regulated activities; and

2898 6. A review of enforcement actions and an accounting of amounts recovered through
2899 enforcement actions.

2900 C. To the extent practicable, the department will coordinate the reviews with its other local
2901 government program reviews to avoid redundancy.

2902 D. The department shall provide its recommendations to the board within 90 days of the
2903 completion of a review.

2904 E. The board shall determine if the local stormwater management program and ordinances
2905 are consistent with the Act and state stormwater management regulations and notify the local
2906 stormwater management program of its findings. If such findings indicate that the program is
2907 consistent with the Act and attendant regulations, the findings shall be provided to the local
2908 stormwater management program at least 21 days in advance of the meeting where the board
2909 will take action on the locality's program. If such findings indicate that the program is
2910 inconsistent with the Act and attendant regulations, the findings shall be provided to the local
2911 stormwater management program at least 35 days in advance of the meeting where the board
2912 will take action on the locality's program.

2913 F. If the board determines that the deficiencies noted in the review will cause the local
2914 stormwater management program to be out of compliance with the Stormwater Management
2915 Act and attendant regulations, the board shall notify the local stormwater management program
2916 concerning the deficiencies and provide a reasonable period of time for corrective action to be
2917 taken. If the local stormwater management program agrees to the corrective action approved by
2918 the board, the local stormwater management program will be considered to be conditionally
2919 compliant with the Stormwater Management Act and attendant regulations until a subsequent
2920 finding of compliance is issued by the board. If the local stormwater management program fails
2921 to take the board's required corrective action within the specified time, the board may take
2922 action pursuant to § 10.1-603.12 of the Code of Virginia. A local stormwater management
2923 program that fails to take corrective action in accordance with the board requirements shall not
2924 be considered a qualifying local program for purposes of the Virginia Stormwater Management
2925 Program permitting regulations.

2926 [Part III C

2927 Virginia Soil and Water Conservation Board Authorization Procedures for Local Stormwater
2928 Management Programs]

2929 **[4VAC50-60-146. Authority and applicability.**

2930 Subdivision 1 of § 10.1-603.4 of the Code of Virginia requires that the board establish
2931 standards and procedures for authorizing a locality to administer a stormwater management
2932 program. In accordance with that requirement, and with the further authority conferred upon the
2933 board by the Virginia Stormwater Management Act (§ 10.1-603.2 et seq. of the Code of
2934 Virginia), this part specifies the procedures the board will utilize in authorizing a locality to
2935 administer a qualifying local program.

2936 **[4VAC50-60-148. Local stormwater management program administrative requirements.**

2937 A. A local stormwater management program shall provide for the following:

- 2938 1. Identification of the authority accepting complete registration statements and for the
2939 authorities completing plan review, plan approval, inspection and enforcement.
- 2940 2. Submission and approval of erosion and sediment control plans in accordance with
2941 the Virginia Erosion and Sediment Control Law and attendant regulations and the
2942 submission and approval of stormwater management plans;
- 2943 3. Requirements to ensure compliance with 4VAC50-60-54, 4VAC50-60-55 and
2944 4VAC50-60-56;
- 2945 4. Requirements for inspections and monitoring of construction activities by the operator
2946 for compliance with local ordinances;
- 2947 5. Requirements for long-term inspection and maintenance of stormwater management
2948 facilities;
- 2949 6. Collection, distribution to the state if required, and expenditure of fees;
- 2950 7. Enforcement procedures and civil penalties;
- 2951 8. Policies and procedures to obtain and release bonds, if applicable; and
- 2952 9. Procedures for complying with the applicable reporting and record keeping
2953 requirements in 4VAC50-60-126.
- 2954 B. A local stormwater management program shall adopt and enforce an ordinance(s) that
2955 incorporates the components set out in subdivisions 1 through 5 and 7 of subsection A of this
2956 section.
- 2957 **4VAC50-60-150. Administrative procedures: maintenance and inspections. [(Repealed.)**
2958 **Authorization procedures for local stormwater management programs]**
- 2959 ~~A. Responsibility for the operation and maintenance of stormwater management facilities,~~
2960 ~~unless assumed by a governmental agency, shall remain with the property owner and shall pass~~
2961 ~~to any successor or owner. If portions of the land are to be sold, legally binding arrangements~~
2962 ~~shall be made to pass the basic responsibility to successors in title. These arrangements shall~~
2963 ~~designate for each project the property owner, governmental agency, or other legally~~
2964 ~~established entity to be permanently responsible for maintenance.~~
- 2965 ~~B. In the case of developments where lots are to be sold, permanent arrangements~~
2966 ~~satisfactory to the locality shall be made to ensure continued performance of this chapter.~~
- 2967 ~~C. A schedule of maintenance inspections shall be incorporated into the local ordinance.~~
2968 ~~Ordinances shall provide that in cases where maintenance or repair is neglected, or the~~
2969 ~~stormwater management facility becomes a danger to public health or safety, the locality has~~
2970 ~~the authority to perform the work and to recover the costs from the owner.~~
- 2971 ~~D. Localities may require right of entry agreements or easements from the applicant for~~
2972 ~~purposes of inspection and maintenance.~~
- 2973 ~~E. Periodic inspections are required for all stormwater management facilities. Localities shall~~
2974 ~~either:~~
- 2975 ~~1. Provide for inspection of stormwater management facilities on an annual basis; or~~
2976 ~~2. Establish an alternative inspection program which ensures that stormwater~~
2977 ~~management facilities are functioning as intended. Any alternative inspection program~~
2978 ~~shall be:~~
- 2979 ~~a. Established in writing;~~
- 2980 ~~b. Based on a system of priorities that, at a minimum, considers the purpose of the~~
2981 ~~facility, the contributing drainage area, and downstream conditions; and~~
- 2982 ~~c. Documented by inspection records.~~

2983 F. ~~During construction of the stormwater management facilities, localities shall make~~
2984 ~~inspections on a regular basis.~~

2985 G. ~~Inspection reports shall be maintained as part of a land development project file.~~

2986 [A. A locality required to adopt a program in accordance with § 10.1-603.3 A of the Code of
2987 Virginia or those electing to seek authorization to administer a qualifying local program must
2988 submit to the board an application package which, at a minimum, contains the following:

2989 1. The draft local stormwater management program ordinance(s) as required in
2990 4VAC50-60-148;

2991 2. A funding and staffing plan; and

2992 3. The policies and procedures, including but not limited to, agreements with Soil and
2993 Water Conservation Districts, adjacent localities, or other entities, for the administration,
2994 plan review, inspection, and enforcement components of the program.

2995 B. Upon receipt of an application package, the board or its designee shall have 30 calendar
2996 days to determine the completeness of the application package. If an application package is
2997 deemed to be incomplete based on the criteria set out in subsection A of this section, the board
2998 or its designee must identify to the locality in writing the reasons the application package is
2999 deemed deficient.

3000 C. Upon receipt of a complete application package, the board or its designee shall have 120
3001 calendar days for the review of the application package, unless an extension of time is
3002 requested. During the 120-day review period, the board or its designee shall either approve or
3003 disapprove the application, or notify the locality of a time extension for the review, and
3004 communicate its decision to the locality in writing. If the application is not approved, the reasons
3005 for not approving the application shall be provided to the locality in writing. Approval or denial
3006 shall be based on the application's compliance with the Virginia Stormwater Management Act
3007 and these regulations.

3008 D. A locality required to adopt a local stormwater management program in accordance with
3009 § 10.1-603.3 A of the Code of Virginia shall submit a complete application package for the
3010 board's review pursuant to a schedule set by the board in accordance with § 10.1-603.3 and
3011 shall adopt a local stormwater management program consistent with the Act and this chapter
3012 within the timeframe established pursuant to § 10.1-603.3.

3013 E. A locality not required to adopt a local stormwater management program in accordance
3014 with § 10.1-603.3 A but electing to adopt a local stormwater management program shall notify
3015 the board in accordance with the following:

3016 1. A locality electing to adopt a local stormwater management program may notify the
3017 board of its intention within six months of the effective date of these regulations. Such
3018 locality shall submit a complete application package for the board's review pursuant to a
3019 schedule set by the board and shall adopt a local stormwater management program
3020 within the timeframe established by the board.

3021 2. A locality electing to adopt a local stormwater management program that does not
3022 notify the board within the initial six-month period of its intention may thereafter notify the
3023 board at any regular meeting of the board. Such notification shall include a proposed
3024 schedule for adoption of a local stormwater management program within a timeframe
3025 agreed upon by the board.

3026 F. A local stormwater management program approved by the board shall be considered a
3027 qualifying local program for purposes of the Virginia Stormwater Management Program
3028 permitting regulations.

3029 G. The department shall administer the responsibilities of the Act and this chapter in any
3030 locality in which a local stormwater management program has not been adopted. The
3031 department shall develop a schedule, to be approved by the board, for adoption and
3032 implementation of the requirements of this chapter in such localities. Such schedule may include
3033 phases of implementation and shall be based upon considerations including the typical number
3034 of permitted projects located within a locality, total number of acres disturbed by such permitted
3035 projects, and such other considerations as may be deemed necessary by the board.

3036 **[4VAC50-60-154. Reporting and recordkeeping.**

3037 A. The department shall maintain a current database of permit coverage information for all
3038 projects that includes permit number, operator name, activity name, acres disturbed, date of
3039 permit coverage, and site address and location.

3040 B. On a fiscal year basis (July 1 to June 30),] a local program shall report to [the
3041 department shall compile a report on the local programs it administers by October 1 in
3042 accordance with 4VAC50-60-126 A.]

3043 C. On a fiscal year basis (July 1 to June 30), the department shall compile information
3044 provided by local programs.

3045 D. [C. Records shall be maintained by the department in accordance with 4VAC50-60-126
3046 G.

3047 [Part III C

3048 Department of Conservation and Recreation Procedures for Review of Qualifying Local
3049 Programs]

3050 **[4VAC50-60-156. Authority and applicability.**

3051 This part specifies the criteria that the department will utilize in reviewing a locality's
3052 administration of a qualifying local program pursuant to § 10.1-603.12 of the Code of Virginia
3053 following the board's approval of such program in accordance with the Virginia Stormwater
3054 Management Act and these regulations.

3055 **[4VAC50-60-157. Stormwater management program review.**

3056 A. The department shall review each board approved qualifying local program at least once
3057 every five years on a review schedule approved by the board. The department may review a
3058 qualifying local program on a more frequent basis if deemed necessary by the board and shall
3059 notify the local government if such review is scheduled.

3060 B. The review of a board approved qualifying local program shall consist of the following:

3061 1. An interview between department staff and the qualifying local program administrator
3062 or his designee;

3063 2. A review of the local ordinance(s) and other applicable documents;

3064 3. A review of a subset of the plans approved by the qualifying local program and
3065 consistency of application including exceptions granted;

3066 4. An accounting of the receipt and of the expenditure of fees received;

3067 5. An inspection of regulated activities; and

3068 6. A review of enforcement actions and an accounting of amounts recovered through
3069 enforcement actions.

3070 C. To the extent practicable, the department will coordinate the reviews with other local
3071 government program reviews to avoid redundancy.

3072 D. The department shall provide its recommendations to the board within 90 days of the
3073 completion of a review. Such recommendations shall be provided to the locality in advance of
3074 the meeting.

3075 E. The board shall determine if the qualifying local program and ordinance are consistent
3076 with the Act and state stormwater management regulations and notify the qualifying local
3077 program of its findings.

3078 F. If the board determines that the deficiencies noted in the review will cause the qualifying
3079 local program to be out of compliance with the Stormwater Management Act and its attendant
3080 regulations, the board shall notify the qualifying local program concerning the deficiencies and
3081 provide a reasonable period of time for corrective action to be taken. If the qualifying local
3082 program agrees to the corrective action recommended by the board, the qualifying local
3083 program will be considered to be conditionally compliant with the Stormwater Management Act
3084 and its attendant regulations until a subsequent finding is issued by the board. If the qualifying
3085 local program fails to take the corrective action within the specified time, the board may take
3086 action pursuant to § 10.1-603.12 of the Code of Virginia.

3087 [Part III D

3088 Virginia Soil and Water Conservation Board Authorization for Qualifying Local Programs]

3089 **[4VAC50-60-158. Authority and applicability.**

3090 Subdivision 1 of § 10.1-603.4 of the Code of Virginia requires that the board establish
3091 standards and procedures for authorizing a locality to administer a stormwater management
3092 program. In accordance with that requirement, and with the further authority conferred upon the
3093 board by the Virginia Stormwater Management Act (§ 10.1-603.2 et seq. of the Code of
3094 Virginia), this part specifies the procedures the board will utilize in authorizing a locality to
3095 administer a qualifying local program.

3096 **[4VAC50-60-159. Authorization procedures for qualifying local programs.**

3097 A. A locality required to adopt a program in accordance with § 10.1-603.3 A of the Code of
3098 Virginia or those electing to seek authorization to administer a qualifying local program must
3099 submit to the board an application package which, at a minimum, contains the following:

3100 1. The local program ordinance(s);

3101 2. A funding and staffing plan based on the projected permitting fees; and

3102 3. The policies and procedures, including but not limited to, agreements with Soil and
3103 Water Conservation Districts, adjacent localities, or other entities, for the administration,
3104 plan review, permit issuance, inspection, and enforcement components of the program.

3105 B. Upon receipt of an application package, the board or its designee shall have] 20 [30
3106 calendar days to determine the completeness of the application package. If an application
3107 package is deemed to be incomplete based on the criteria set out in subsection A of this
3108 section, the board or its designee must identify in writing the reasons the application package is
3109 deemed deficient.

3110 C. Upon receipt of a complete application package, the board or its designee shall have 90
3111 calendar days for the review of the application package. During the 90-day review period, the
3112 board or its designee shall either approve or disapprove the application, or notify the locality of a
3113 time extension for the review, and communicate its decision to the locality in writing. If the
3114 application is not approved, the reasons for not approving the application shall be provided to
3115 the locality in writing. Approval or denial shall be based on the application's compliance with the
3116 Virginia Stormwater Management Act and these regulations.

3117 ~~D. A locality required to adopt a qualifying local program in accordance with § 10.1-603.3 A~~
3118 ~~of the Code of Virginia shall submit a complete application package for the board's review~~
3119 ~~pursuant to a schedule set by the board in accordance with § 10.1-603.3 and shall adopt a~~
3120 ~~qualifying local program consistent with the Act and this chapter within the timeframe~~
3121 ~~established pursuant to § 10.1-603.3.~~

3122 ~~E. A locality not required to adopt a qualifying local program in accordance with § 10.1-603.3~~
3123 ~~A but electing to adopt a qualifying local program shall notify the board in accordance with the~~
3124 ~~following:~~

3125 ~~1. A locality electing to adopt a qualifying local program may notify the board of its~~
3126 ~~intention within six months of the effective date of these regulations. Such locality shall~~
3127 ~~submit a complete application package for the board's review pursuant to a schedule set~~
3128 ~~by the board and shall adopt a qualifying local program within the timeframe established~~
3129 ~~by the board.~~

3130 ~~2. A locality electing to adopt a qualifying local program that does not notify the board~~
3131 ~~within the initial six-month period of its intention may thereafter notify the board at any~~
3132 ~~regular meeting of the board. Such notification shall include a proposed schedule for~~
3133 ~~adoption of a qualifying local program within a timeframe agreed upon by the board.~~

3134 ~~F. The department shall administer the responsibilities of the Act and this chapter in any~~
3135 ~~locality in which a qualifying local program has not been adopted. The department shall develop~~
3136 ~~a schedule, to be approved by the board, for adoption and implementation of the requirements~~
3137 ~~of this chapter in such localities. Such schedule may include phases of implementation and shall~~
3138 ~~be based upon considerations including the typical number of permitted projects located within a~~
3139 ~~locality, total number of acres disturbed by such permitted projects, and such other~~
3140 ~~considerations as may be deemed necessary by the board.~~

3141 DOCUMENTS INCORPORATED BY REFERENCE (4VAC50-60)

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3145 Internet at http://www.cwp.org/idde_verify.htm.

3146 Getting in Step – A Guide for Conducting Watershed Outreach Campaigns, EPA-841-B-03-
3147 002, December 2003, U.S. Environmental Protection Agency, Office of Wetlands, Oceans, and
3148 Watersheds, available on the Internet at
3149 <http://www.epa.gov/owow/watershed/outreach/documents/getnstep.pdf>, or may be ordered from
3150 National Service Center for Environmental Publications, telephone 1-800-490-9198.

3151 Municipal Stormwater Program Evaluation Guidance, EPA-833-R-07-003, January 2007
3152 (field test version), U.S. Environmental Protection Agency, Office of Wastewater Management,
3153 available on the Internet at
3154 http://cfpub.epa.gov/npdes/docs.cfm?program_id=6&view=allprog&sort=name#ms4_guidance,
3155 or may be ordered from National Technical Information Service, 5285 Port Royal Road,
3156 Springfield, VA 22161, telephone 1-800-553-6847 or (703) 605-6000.

3157 [~~Erosion & Sediment Control Technical Bulletin #1~~] ~~– Stream Channel Erosion Control~~
3158 ~~[Improving Soil Quality in Urbanizing Areas, Virginia Department of Conservation and~~
3159 ~~Recreation, 2000.]~~

3160 [~~Technical Memorandum – The Runoff Reduction Method, April 2008, and] ~~beta-version~~
3161 ~~addendum [addendums,] September [December] 2008 [2009.]~~~~

3162 [~~Virginia Runoff Reduction Method Worksheet,] September [December] 2008 [2009.]~~

- 3163** [~~Virginia Runoff Reduction Method Worksheet — Redevelopment,] ~~September~~ [~~December~~
3164 ~~2009.~~]
3165 [Virginia Runoff Reduction Method: Instructions & Documentation, March 28, 2011.]~~