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Part I
Definitions, Purpose, and Applicability

4VAC50-60-10. Definitions.

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

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

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

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

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

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

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

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

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

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

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

"Channel" means a natural or manmade waterway

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

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

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

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

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

57 "Contiguous zone" means the entire zone established by the United States under
58 Article 24 of the Convention on the Territorial Sea and the Contiguous Zone (37 FR
59 11906 June 15, 1972).

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

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

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

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

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

75 "Daily discharge" means the discharge of a pollutant measured during a calendar
76 day or any 24-hour period that reasonably represents the calendar day for purposes of
77 sampling. For pollutants with limitations expressed in units of mass, the daily discharge
78 is calculated as the total mass of the pollutant discharged over the day. For pollutants
79 with limitations expressed in other units of measurement, the daily discharge is
80 calculated as the average measurement of the pollutant over the day.

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

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

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

88 "Director" means the Director of the Department of Conservation and Recreation or
89 his designee.

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

- 91 "Discharge of a pollutant" means:
- 92 1. Any addition of any pollutant or combination of pollutants to state waters from
93 any point source; or
- 94 2. Any addition of any pollutant or combination of pollutants to the waters of the
95 contiguous zone or the ocean from any point source other than a vessel or other
96 floating craft which is being used as a means of transportation.
- 97 This definition includes additions of pollutants into surface waters from: surface
98 runoff that is collected or channeled by man; discharges through pipes, sewers, or other
99 conveyances owned by a state, municipality, or other person that do not lead to a
100 treatment works; and discharges through pipes, sewers, or other conveyances, leading
101 into privately owned treatment works. This term does not include an addition of
102 pollutants by any indirect discharger.
- 103 "Discharge Monitoring Report" or "DMR" means the form supplied by the
104 department, or an equivalent form developed by the operator and approved by the
105 board, for the reporting of self-monitoring results by operators.
- 106 "Draft permit" means a document indicating the board's tentative decision to issue or
107 deny, modify, revoke and reissue, terminate, or reissue a permit. A notice of intent to
108 terminate a permit, and a notice of intent to deny a permit are types of draft permits. A
109 denial of a request for modification, revocation and reissuance, or termination is not a
110 draft permit. A proposed permit is not a draft permit.
- 111 "Drainage area" means a land area, water area, or both from which runoff flows to a
112 common point.
- 113 "Effluent limitation" means any restriction imposed by the board on quantities,
114 discharge rates, and concentrations of pollutants which are discharged from point
115 sources into surface waters, the waters of the contiguous zone, or the ocean.
- 116 "Effluent limitations guidelines" means a regulation published by the administrator
117 under § 304(b) of the CWA to adopt or revise effluent limitations.
- 118 "Environmental Protection Agency " or "EPA" means the United States
119 Environmental Protection Agency.
- 120 "Existing permit" means for the purposes of this chapter a permit issued by the
121 permit-issuing authority and currently held by a permit applicant.
- 122 "Existing source" means any source that is not a new source or a new discharger.
- 123 "Facilities or equipment" means buildings, structures, process or production
124 equipment or machinery that form a permanent part of a new source and that will be
125 used in its operation, if these facilities or equipment are of such value as to represent a
126 substantial commitment to construct. It excludes facilities or equipment used in
127 connection with feasibility, engineering, and design studies regarding the new source or
128 water pollution treatment for the new source.
- 129 "Facility or activity" means any VSMP point source or treatment works treating
130 domestic sewage or any other facility or activity (including land or appurtenances
131 thereto) that is subject to regulation under the VSMP.
- 132 "Flood fringe" means the portion of the floodplain outside the floodway that is usually
133 covered with water from the 100-year storm event. This includes, but is not limited to, the
134 flood fringe designated by the Federal Emergency Management Agency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

188 "Land disturbance" or "land-disturbing activity" means a manmade change to the
189 land surface that potentially changes its runoff characteristics including any clearing,
190 grading, or excavation associated with a construction activity regulated pursuant to the
191 CWA, the Act, and this chapter or with a Chesapeake Bay Preservation Act land-
192 disturbing activity regulated pursuant to the Act and this chapter.

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

200 "Large municipal separate storm sewer system" means all municipal separate storm
201 sewers that are either:

202 1. Located in an incorporated place with a population of 250,000 or more as
203 determined by the 1990 decennial census by the Bureau of Census (40 CFR Part
204 122 Appendix F (2000));

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

208 3. Owned or operated by a municipality other than those described in subdivision
209 1 or 2 of this definition and that are designated by the board as part of the large
210 or medium municipal separate storm sewer system due to the interrelationship
211 between the discharges of the designated storm sewer and the discharges from
212 municipal separate storm sewers described under subdivision 1 or 2 of this
213 definition. In making this determination the board may consider the following
214 factors:

- 215 a. Physical interconnections between the municipal separate storm sewers;
- 216 b. The location of discharges from the designated municipal separate storm
217 sewer relative to discharges from municipal separate storm sewers described
218 in subdivision 1 of this definition;
- 219 c. The quantity and nature of pollutants discharged to surface waters;
- 220 d. The nature of the receiving surface waters; and
- 221 e. Other relevant factors.

222 4. The board may, upon petition, designate as a large municipal separate storm
223 sewer system, municipal separate storm sewers located within the boundaries of

224 a region defined by a stormwater management regional authority based on a
225 jurisdictional, watershed, or other appropriate basis that includes one or more of
226 the systems described in this definition.

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

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

236 "Local stormwater management program" or "local program" means the various
237 methods employed by a locality to manage the quality and quantity of runoff resulting
238 from land-disturbing activities and shall include such items as local ordinances, permit
239 requirements, policies and guidelines, technical materials, plan review, inspection,
240 enforcement, and evaluation consistent with the Act and this chapter. Upon board
241 approval of a local stormwater management program, it shall be recognized as a
242 qualifying local program.

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

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

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

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

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

254 "Major municipal separate storm sewer outfall " or "major outfall" means a municipal
255 separate storm sewer outfall that discharges from a single pipe with an inside diameter
256 of 36 inches or more or its equivalent (discharge from a single conveyance other than
257 circular pipe which is associated with a drainage area of more than 50 acres); or for
258 municipal separate storm sewers that receive stormwater from lands zoned for industrial
259 activity (based on comprehensive zoning plans or the equivalent), with an outfall that
260 discharges from a single pipe with an inside diameter of 12 inches or more or from its
261 equivalent (discharge from other than a circular pipe associated with a drainage area of
262 two acres or more).

263 "Manmade" means constructed by man.

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

265 "Maximum extent practicable" or "MEP" means the technology-based discharge
266 standard for municipal separate storm sewer systems established by CWA § 402(p).
267 MEP is achieved, in part, by selecting and implementing effective structural and
268 nonstructural best management practices (BMPs) and rejecting ineffective BMPs and
269 replacing them with effective best management practices (BMPs). MEP is an iterative

270 standard, which evolves over time as urban runoff management knowledge increases.
271 As such, the operator's MS4 program must continually be assessed and modified to
272 incorporate improved programs, control measures, BMPs, etc., to attain compliance with
273 water quality standards.

274 "Medium municipal separate storm sewer system" means all municipal separate
275 storm sewers that are either:

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

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

282 3. Owned or operated by a municipality other than those described in subdivision
283 1 or 2 of this definition and that are designated by the board as part of the large
284 or medium municipal separate storm sewer system due to the interrelationship
285 between the discharges of the designated storm sewer and the discharges from
286 municipal separate storm sewers described under subdivision 1 or 2 of this
287 definition. In making this determination the board may consider the following
288 factors:

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

290 b. The location of discharges from the designated municipal separate storm
291 sewer relative to discharges from municipal separate storm sewers described
292 in subdivision 1 of this definition;

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

294 d. The nature of the receiving surface waters; or

295 e. Other relevant factors.

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

301 "Minor modification" means, for the purposes of this chapter, minor modification or
302 amendment of an existing permit before its expiration for the reasons listed at 40 CFR
303 122.63 and as specified in 4VAC50-60-640. Minor modification for the purposes of this
304 chapter also means other modifications and amendments not requiring extensive review
305 and evaluation including, but not limited to, changes in EPA promulgated test protocols,
306 increasing monitoring frequency requirements, changes in sampling locations, and
307 changes to compliance dates within the overall compliance schedules. A minor permit
308 modification or amendment does not substantially alter permit conditions, substantially
309 increase or decrease the amount of surface water impacts, increase the size of the
310 operation, or reduce the capacity of the facility to protect human health or the
311 environment.

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

- 316 1. Owned or operated by a federal, state, city, town, county, district, association,
317 or other public body, created by or pursuant to state law, having jurisdiction or
318 delegated authority for erosion and sediment control and stormwater
319 management, or a designated and approved management agency under § 208
320 of the CWA that discharges to surface waters;
- 321 2. Designed or used for collecting or conveying stormwater;
- 322 3. That is not a combined sewer; and
- 323 4. That is not part of a publicly owned treatment works.
- 324 "Municipal separate storm sewer system" or "MS4" means all separate storm sewers
325 that are defined as "large" or "medium" or "small" municipal separate storm sewer
326 systems or designated under 4VAC50-60-380 A 1.
- 327 "Municipal Separate Storm Sewer System Management Program" or "MS4 Program"
328 means a management program covering the duration of a permit for a municipal
329 separate storm sewer system that includes a comprehensive planning process that
330 involves public participation and intergovernmental coordination, to reduce the discharge
331 of pollutants to the maximum extent practicable, to protect water quality, and to satisfy
332 the appropriate water quality requirements of the CWA and regulations and the Act and
333 attendant regulations, using management practices, control techniques, and system,
334 design and engineering methods, and such other provisions that are appropriate.
- 335 "Municipality" means a city, town, county, district, association, or other public body
336 created by or under state law and having jurisdiction over disposal of sewage, industrial
337 wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or
338 a designated and approved management agency under § 208 of the CWA.
- 339 "National Pollutant Discharge Elimination System " or "NPDES" means the national
340 program for issuing, modifying, revoking and reissuing, terminating, monitoring and
341 enforcing permits, and imposing and enforcing pretreatment requirements under §§ 307,
342 402, 318, and 405 of the CWA. The term includes an approved program.
- 343 "Natural channel design concepts" means the utilization of engineering analysis and
344 fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open
345 conveyance system for the purpose of creating or recreating a stream that conveys its
346 bankfull storm event within its banks and allows larger flows to access its floodplain.
- 347 "Natural stream" means a tidal or nontidal watercourse that is part of the natural
348 topography. It usually maintains a continuous or seasonal flow during the year and is
349 characterized as being irregular in cross-section with a meandering course. Constructed
350 channels such as drainage ditches or swales shall not be considered natural streams;
351 however, channels designed utilizing natural channel design concepts may be
352 considered natural streams.
- 353 "New discharger" means any building, structure, facility, or installation:
- 354 1. From which there is or may be a discharge of pollutants;
- 355 2. That did not commence the discharge of pollutants at a particular site prior to
356 August 13, 1979;
- 357 3. Which is not a new source; and
- 358 4. Which has never received a finally effective VPDES or VSMP permit for
359 discharges at that site.

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

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

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

- 373 1. After promulgation of standards of performance under § 306 of the CWA that
374 are applicable to such source; or
- 375 2. After proposal of standards of performance in accordance with § 306 of the
376 CWA that are applicable to such source, but only if the standards are
377 promulgated in accordance with § 306 of the CWA within 120 days of their
378 proposal.

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

383 "Operator" means the owner or operator of any facility or activity subject to the
384 VSMP permit regulation. In the context of stormwater associated with a large or small
385 construction activity, operator means any person associated with a construction project
386 that meets either of the following two criteria: (i) the person has direct operational control
387 over construction plans and specifications, including the ability to make modifications to
388 those plans and specifications or (ii) the person has day-to-day operational control of
389 those activities at a project that are necessary to ensure compliance with a stormwater
390 pollution prevention plan for the site or other permit conditions (i.e., they are authorized
391 to direct workers at a site to carry out activities required by the stormwater pollution
392 prevention plan or comply with other permit conditions). In the context of stormwater
393 discharges from Municipal Separate Storm Sewer Systems (MS4s), operator means the
394 operator of the regulated MS4 system.

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

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

403 "Owner" means the Commonwealth or any of its political subdivisions including, but
404 not limited to, sanitation district commissions and authorities, and any public or private
405 institution, corporation, association, firm or company organized or existing under the

406 laws of this or any other state or country, or any officer or agency of the United States, or
407 any person or group of persons acting individually or as a group that owns, operates,
408 charters, rents, or otherwise exercises control over or is responsible for any actual or
409 potential discharge of sewage, industrial wastes, or other wastes or pollutants to state
410 waters, or any facility or operation that has the capability to alter the physical, chemical,
411 or biological properties of state waters in contravention of § 62.1-44.5 of the Code of
412 Virginia, the Act and this chapter.

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

415 "Percent impervious" means the impervious area within the site divided by the area
416 of the site multiplied by 100.

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

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

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

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

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

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

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

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

- 449 1. Sewage from vessels; or
- 450 2. Water, gas, or other material that is injected into a well to facilitate production
451 of oil or gas, or water derived in association with oil and gas production and

452 disposed of in a well if the well used either to facilitate production or for disposal
453 purposes is approved by the board and if the board determines that the injection
454 or disposal will not result in the degradation of ground or surface water
455 resources.

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

459 "Pollution" means such alteration of the physical, chemical or biological properties of
460 any state waters as will or is likely to create a nuisance or render such waters (a)
461 harmful or detrimental or injurious to the public health, safety or welfare, or to the health
462 of animals, fish or aquatic life; (b) unsuitable with reasonable treatment for use as
463 present or possible future sources of public water supply; or (c) unsuitable for
464 recreational, commercial, industrial, agricultural, or other reasonable uses, provided that
465 (i) an alteration of the physical, chemical, or biological property of state waters, or a
466 discharge or deposit of sewage, industrial wastes or other wastes to state waters by any
467 owner which by itself is not sufficient to cause pollution, but which, in combination with
468 such alteration of or discharge or deposit to state waters by other owners, is sufficient to
469 cause pollution; (ii) the discharge of untreated sewage by any owner into state waters;
470 and (iii) contributing to the contravention of standards of water quality duly established
471 by the State Water Control Board, are "pollution" for the terms and purposes of this
472 chapter.

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

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

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

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

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

492 "Publicly owned treatment works " or "POTW" means a treatment works as defined
493 by § 212 of the CWA that is owned by a state or municipality (as defined by § 502(4) of
494 the CWA). This definition includes any devices and systems used in the storage,
495 treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid
496 nature. It also includes sewers, pipes, and other conveyances only if they convey
497 wastewater to a POTW treatment plant. The term also means the municipality as defined

498 in § 502(4) of the CWA, that has jurisdiction over the indirect discharges to and the
499 discharges from such a treatment works.

500 "Qualified personnel" means a licensed professional engineer, responsible land
501 disturber, or other person who holds a certificate of competency from the board in the
502 area of project inspection or combined administrator.

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

508 "Recommencing discharger" means a source that recommences discharge after
509 terminating operations.

510 "Regional administrator" means the Regional Administrator of Region III of the
511 Environmental Protection Agency or the authorized representative of the regional
512 administrator.

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

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

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

519 "Runoff characteristics" include peak flow rate, volume, and flow duration .

520 "Runoff volume" means the volume of water that runs off the site of a land-disturbing
521 activity from a prescribed design storm.

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

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

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

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

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

541 "Site" means the land or water area where any facility or activity is physically located
542 or conducted, a parcel of land being developed, or a designated area of a parcel in

543 which the land development project is located. Areas channelward of mean low water in
544 tidal Virginia shall not be considered part of a site.

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

548 "Small construction activity" means:

549 1. Construction activities including clearing, grading, and excavating that results
550 in land disturbance of equal to or greater than one acre, and less than five acres.
551 Small construction activity also includes the disturbance of less than one acre of
552 total land area that is part of a larger common plan of development or sale if the
553 larger common plan will ultimately disturb equal to or greater than one and less
554 than five acres. Small construction activity does not include routine maintenance
555 that is performed to maintain the original line and grade, hydraulic capacity, or
556 original purpose of the facility. The board may waive the otherwise applicable
557 requirements in a general permit for a stormwater discharge from construction
558 activities that disturb less than five acres where stormwater controls are not
559 needed based on a "total maximum daily load" (TMDL) approved or established
560 by EPA that addresses the pollutant(s) of concern or, for nonimpaired waters that
561 do not require TMDLs, an equivalent analysis that determines allocations for
562 small construction sites for the pollutant(s) of concern or that determines that
563 such allocations are not needed to protect water quality based on consideration
564 of existing in-stream concentrations, expected growth in pollutant contributions
565 from all sources, and a margin of safety. For the purpose of this subdivision, the
566 pollutant(s) of concern include sediment or a parameter that addresses sediment
567 (such as total suspended solids, turbidity or siltation) and any other pollutant that
568 has been identified as a cause of impairment of any water body that will receive a
569 discharge from the construction activity. The operator must certify to the board
570 that the construction activity will take place, and stormwater discharges will
571 occur, within the drainage area addressed by the TMDL or equivalent analysis.

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

576 "Small municipal separate storm sewer system" or "small MS4" means all separate
577 storm sewers that are (i) owned or operated by the United States, a state, city, town,
578 borough, county, parish, district, association, or other public body (created by or
579 pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes,
580 stormwater, or other wastes, including special districts under state law such as a sewer
581 district, flood control district or drainage district, or similar entity, or an Indian tribe or an
582 authorized Indian tribal organization, or a designated and approved management
583 agency under § 208 of the CWA that discharges to surface waters and (ii) not defined as
584 "large" or "medium" municipal separate storm sewer systems or designated under
585 4VAC50-60-380 A 1. This term includes systems similar to separate storm sewer
586 systems in municipalities, such as systems at military bases, large hospital or prison
587 complexes, and highway and other thoroughfares. The term does not include separate
588 storm sewers in very discrete areas, such as individual buildings.

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

591 "State" means the Commonwealth of Virginia.

592 "State/EPA agreement" means an agreement between the EPA regional
593 administrator and the state that coordinates EPA and state activities, responsibilities and
594 programs including those under the CWA and the Act.

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

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

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

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

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

609 (i) "Manmade stormwater conveyance system " means a pipe, ditch, vegetated
610 swale, or other stormwater conveyance system constructed by man except for restored
611 stormwater conveyance systems;

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

614 (iii) "Restored stormwater conveyance system " means a stormwater conveyance
615 system that has been designed and constructed using natural channel design concepts.
616 Restored stormwater conveyance systems include the main channel and the flood-prone
617 area adjacent to the main channel.

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

624 "Stormwater discharge associated with large construction activity" means the
625 discharge of stormwater from large construction activities.

626 "Stormwater discharge associated with small construction activity" means the
627 discharge of stormwater from small construction activities.

628 "Stormwater management facility" means a device that controls stormwater runoff
629 and changes the characteristics of that runoff including, but not limited to, the quantity
630 and quality, the period of release or the velocity of flow.

631 "Stormwater management plan" means a document(s) containing material for
632 describing how existing runoff characteristics will be maintained by a land-disturbing

633 activity and methods for complying with the requirements of the local program or this
634 chapter.

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

638 "Stormwater Pollution Prevention Plan" or "SWPPP" means a document that is
639 prepared in accordance with good engineering practices and that identifies potential
640 sources of pollutants that may reasonably be expected to affect the quality of stormwater
641 discharges from the construction site or its associated land-disturbing activities. In
642 addition the document shall identify and require the implementation of control measures,
643 and shall include, but not be limited to the inclusion of, or the incorporation by reference
644 of, an approved erosion and sediment control plan, an approved stormwater
645 management plan, and a pollution prevention plan .

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

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

651 "Surface waters" means:

- 652 1. All waters that are currently used, were used in the past, or may be
653 susceptible to use in interstate or foreign commerce, including all waters that are
654 subject to the ebb and flow of the tide;
- 655 2. All interstate waters, including interstate wetlands;
- 656 3. All other waters such as intrastate lakes, rivers, streams (including intermittent
657 streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows,
658 playa lakes, or natural ponds the use, degradation, or destruction of which would
659 affect or could affect interstate or foreign commerce including any such waters:
 - 660 a. That are or could be used by interstate or foreign travelers for recreational
661 or other purposes;
 - 662 b. From which fish or shellfish are or could be taken and sold in interstate or
663 foreign commerce; or
 - 664 c. That are used or could be used for industrial purposes by industries in
665 interstate commerce.
- 666 4. All impoundments of waters otherwise defined as surface waters under this
667 definition;
- 668 5. Tributaries of waters identified in subdivisions 1 through 4 of this definition;
- 669 6. The territorial sea; and
- 670 7. Wetlands adjacent to waters (other than waters that are themselves wetlands)
671 identified in subdivisions 1 through 6 of this definition.

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

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

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

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

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

693 "Variance" means any mechanism or provision under § 301 or § 316 of the CWA or
694 under 40 CFR Part 125 (2000), or in the applicable federal effluent limitations guidelines
695 that allows modification to or waiver of the generally applicable effluent limitation
696 requirements or time deadlines of the CWA. This includes provisions that allow the
697 establishment of alternative limitations based on fundamentally different factors or on §
698 301(c), § 301(g), § 301(h), § 301(i), or § 316(a) of the CWA.

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

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

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

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

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

720 "Virginia Stormwater Management Program permit" or "VSMP permit" means a
721 document issued by the permit-issuing authority pursuant to the Virginia Stormwater
722 Management Act and this chapter authorizing, under prescribed conditions, the potential

723 or actual discharge of pollutants from a point source to surface waters. Under the
724 approved state program, a VSMP permit is equivalent to a NPDES permit.

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

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

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

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

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

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

749 **4VAC50-60-20. Purposes.**

750 The purposes of this chapter are to provide a framework for the administration,
751 implementation and enforcement of the Virginia Stormwater Management Act (Act) and
752 to delineate the procedures and requirements to be followed in connection with VSMP
753 permits issued by the board or its designee pursuant to the Clean Water Act (CWA) and
754 the Virginia Stormwater Management Act, while at the same time providing flexibility for
755 innovative solutions to stormwater management issues. The chapter also establishes the
756 board's procedures for the authorization of a qualifying local program, the board's
757 procedures for the administration of a local stormwater management program by an
758 authorized qualifying local program, board and department oversight authorities for an
759 authorized qualifying local program, the board's procedures for utilization by the
760 department in administering the Virginia Stormwater Management Program in localities
761 where no qualifying local program is authorized, and the required technical criteria for
762 stormwater management from land-disturbing activities.

763 **4VAC50-60-30. Applicability.**

764 This chapter is applicable to:

- 765 1. Every locality that administers a local stormwater management program ;
- 766 2. The department in its oversight of locally administered programs or in its
767 administration of a the Virginia Stormwater Management Program;

- 768 3. Every MS4 program;
769 4. Every state agency project regulated under the Act and this chapter; and
770 5. Every land-disturbing activity regulated under § 10.1-603.8 of the Code of
771 Virginia unless otherwise exempted in § 10.1-603.8 B.

772 Part II

773 **4VAC50-60-40. Authority.**

774 Pursuant to the Virginia Stormwater Management Act (§ 10.1-603.2 et seq. of the
775 Code of Virginia), the board is required to take actions ensuring the general health,
776 safety, and welfare of the citizens of the Commonwealth as well as protecting the quality
777 and quantity of state waters from the potential harm of unmanaged stormwater. In
778 addition to other authority granted to the board under the Stormwater Management Act,
779 the board is authorized pursuant to §§ 10.1-603.2:1 and 10.1-603.4 to adopt regulations
780 that specify standards and procedures for local stormwater management programs and
781 the Virginia Stormwater Management Program, to establish statewide standards for
782 stormwater management from land-disturbing activities, and to protect properties, the
783 quality and quantity of state waters, the physical integrity of stream channels, and other
784 natural resources.

785 **4VAC50-60-45. Implementation date.**

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

790 **4VAC50-60-46. General objectives.**

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

797 **4VAC50-60-47. Applicability of other laws and regulations.**

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

805 **4VAC50-60-48. Grandfathering.**

806 A. Beginning with the VMSP General Permit for Discharges of Stormwater from
807 Construction Activities issued July 1, 2009, all land-disturbing activities that receive
808 general permit coverage shall be conducted in accordance with the technical criteria
809 under which permit coverage was issued and shall remain subject to those criteria for an
810 additional two permits, except as provided for in subsection D. After the two additional
811 permits have passed, or should permit coverage not be maintained, portions of the
812 project not under construction shall become subject to any new technical criteria

813 adopted since original permit coverage was issued. For land-disturbing projects issued
814 coverage under the July 1, 2009 permit and for which coverage was maintained, such
815 projects shall remain subject to the technical criteria of Part II C for an additional two
816 permits.

817 B.

818 Until June 30, 2019, any land-disturbing activity for which a currently valid proffered
819 or conditional zoning plan, preliminary or final subdivision plat, preliminary or final site
820 plan or zoning with a plan of development, or any document determined by the locality
821 as being equivalent thereto, was approved by a locality prior to July 1, 2012, and for
822 which no coverage under the VSMP General Permit for Discharges of Stormwater from
823 Construction Activities has been issued prior to July 1, 2014, shall be considered
824 grandfathered by the stormwater program administrative authority and shall not be
825 subject to the technical criteria of Part II B, but shall be subject to the technical criteria of
826 Part II C for those areas that were included in the approval, provided that the stormwater
827 program administrative authority finds that such proffered or conditional zoning plan,
828 preliminary or final subdivision plat, preliminary or final site plan or zoning with a plan of
829 development, or any document determined by the locality as being equivalent thereto, (i)
830 provides for a layout; and (ii) the resulting land-disturbing activity will be compliant with
831 the requirements of Part II C. In the event that the locality-approved document is
832 subsequently modified or amended in a manner such that there is no increase over the
833 previously approved plat or plan in the amount of phosphorus leaving each point of
834 discharge of the land-disturbing activity through stormwater runoff, and such that there is
835 no increase over the previously approved plat or plan in the volume or rate of runoff, the
836 grandfathering shall continue as before.

837 C. Until June 30, 2019, for locality, state, and federal projects for which there has
838 been an obligation of locality, state, or federal funding, in whole or in part, prior to July 1,
839 2012, or for which the department has approved a stormwater management plan prior to
840 July 1, 2012, such projects shall be considered grandfathered by the stormwater
841 program administrative authority and shall not be subject to the technical criteria of Part
842 II B, but shall be subject to the technical criteria of Part II C for those areas that were
843 included in the approval.

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

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

849 **4VAC50-60-50. (Repealed.)**

850 **4VAC50-60-51. Chesapeake Bay Preservation Act land-disturbing activity.**

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

- 858 A. An erosion and sediment control plan consistent with the requirements of the
859 Virginia Erosion and Sediment Control Law and regulations must be designed
860 and implemented during land disturbing activities. Prior to land disturbance, this
861 plan must be approved by either the local erosion and sediment control program
862 or the department in accordance with the Virginia Erosion and Sediment Control
863 Law and attendant regulations.
- 864 B. A stormwater plan consistent with the requirements of the Virginia Stormwater
865 Management Act and regulations must be designed and implemented during the
866 land-disturbing activity. The stormwater management plan shall be developed
867 and submitted in accordance with 4VAC50-60-55. Prior to land disturbance, this
868 plan must be approved by the stormwater program administrative authority.
- 869 C. Exceptions may be requested in accordance with 4VAC50-60-57.
- 870 D. Long-term maintenance of stormwater management facilities shall be provided
871 for and conducted in accordance with 4VAC50-60-58.
- 872 E. Water quality design criteria in 4VAC50-60-63 shall be applied to the site of a
873 land-disturbing activity.
- 874 F. Water quality compliance shall be achieved in accordance with 4VAC50-60-
875 65.
- 876 G. Channel protection and flood protection shall be achieved in accordance with
877 4VAC50-60-66.
- 878 H. Offsite compliance options in accordance with 4VAC50-60-69 shall be
879 available to Chesapeake Bay Preservation Act land-disturbing activities.
- 880 I. Such land-disturbing activities shall be subject to the design storm and
881 hydrologic methods set out in 4VAC50-60-72, linear development controls in
882 4VAC50-60-76, and criteria associated with stormwater impoundment structures
883 or facilities in 4VAC50-60-85.

884 Part II A

885 General Administrative Criteria for Regulated Land-Disturbing Activities

886 **4VAC50-60-53. Applicability .**

887 This Part applies to all regulated land-disturbing activities.

888 **4VAC50-60-54. Stormwater pollution prevention plan content.**

889 A. A stormwater pollution prevention plan shall include, but not be limited to, an
890 approved erosion and sediment control plan, an approved stormwater management plan
891 and a pollution prevention plan for regulated land-disturbing activities.

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

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

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

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

- 910 1. Control stormwater volume and velocity within the site to minimize soil erosion;
- 911 2. Control stormwater discharges, including both peak flow rates and total
912 stormwater volume, to minimize erosion at outlets and to minimize downstream
913 channel and stream bank erosion;
- 914 3. Minimize the amount of soil exposed during construction activity;
- 915 4. Minimize the disturbance of steep slopes;
- 916 5. Minimize sediment discharges from the site. The design, installation and
917 maintenance of erosion and sediment controls must address factors such as the
918 amount, frequency, intensity and duration of precipitation, the nature of resulting
919 stormwater runoff, and soil characteristics, including the range of soil particle
920 sizes expected to be present on the site;
- 921 6. Provide and maintain natural buffers around surface waters, direct stormwater
922 to vegetated areas to increase sediment removal and maximize stormwater
923 infiltration, unless infeasible;
- 924 7. Minimize soil compaction and, unless infeasible, preserve topsoil; and
- 925 8. Stabilization of disturbed areas must, at a minimum, be initiated immediately
926 whenever any clearing, grading, excavating or other earth disturbing activities
927 have permanently ceased on any portion of the site, or temporarily ceased on
928 any portion of the site and will not resume for a period exceeding 14 calendar
929 days. Stabilization must be completed within a period of time determined by the
930 stormwater program administrative authority. In arid, semiarid, and drought-
931 stricken areas where initiating vegetative stabilization measures immediately is
932 infeasible, alternative stabilization measures must be employed as specified by
933 the stormwater program administrative authority.

934 **4VAC50-60-55. Stormwater management plans.**

935 A. A stormwater management plan shall be developed and submitted to the
936 stormwater program administrative authority. The stormwater management plan shall be
937 implemented as approved or modified by the stormwater program administrative
938 authority and shall be developed in accordance with the following:

- 939 1. A stormwater management plan for a land-disturbing activity shall apply the
940 stormwater management technical criteria set forth in this Part to the entire land-
941 disturbing activity.
- 942 2. A stormwater management plan shall consider all sources of surface runoff
943 and all sources of subsurface and groundwater flows converted to surface runoff.

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

- 945 1. Information on the type of and location of stormwater discharges, information
946 on the features to which stormwater is being discharged including surface waters

- 947 or karst features if present, and predevelopment and postdevelopment drainage
948 areas;
- 949 2. Contact information including the name, address, and telephone number of the
950 owner and the tax reference number and parcel number of the property or
951 properties affected;
- 952 3. A narrative that includes a description of current site conditions and final site
953 conditions or if allowed by the stormwater program administrative authority, the
954 information provided and documented during the review process that addresses
955 the current and final site conditions;
- 956 4. A general description of the proposed stormwater management facilities and
957 the mechanism through which the facilities will be operated and maintained after
958 construction is complete;
- 959 5. Information on the proposed stormwater management facilities, including the
960 type of facilities, location, including geographic coordinates, acres treated, and
961 the surface waters or karst features into which the facility will discharge;
- 962 6. Hydrologic and hydraulic computations;
- 963 7. Documentation and calculations verifying compliance with the water quality
964 and quantity requirements of these regulations;
- 965 8. A map or maps of the site that depicts the topography of the site and includes:
966 a. All contributing drainage areas;
967 b. Existing streams, ponds, culverts, ditches, wetlands, and other water
968 bodies;
969 c. Soil types, geologic formations if karst features are present in the area,
970 forest cover, and other vegetative areas;
971 d. Current land use including existing structures, roads, and locations of
972 known utilities and easements;
973 e. Sufficient information on adjoining parcels to assess the impacts of
974 stormwater from the site on these parcels;
975 f. The limits of clearing and grading, and the proposed drainage patterns on
976 the site;
977 g. Proposed buildings, roads, parking areas, utilities, and stormwater
978 management facilities; and
979 h. Proposed land use with tabulation of the percentage of surface area to be
980 adapted to various uses, including but not limited to planned locations of
981 utilities, roads, and easements.
- 982 9. If an operator intends to meet the requirements established in 4VAC50-60-60
983 or 4VAC50-60-66 through the use of off-site compliance options, where
984 applicable, then a letter of availability from the off-site provider must be included.
- 985 9. If payment of a fee is required with the stormwater management plan
986 submission by the stormwater program administrative authority, the fee and the
987 required fee form in accordance with Part XIII must have been submitted.
- 988 C. Elements of the stormwater management plans shall be appropriately sealed and
989 signed by a professional registered in the Commonwealth of Virginia pursuant to Article
990 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1.

991 D. A construction record drawing for permanent stormwater management facilities
992 shall be submitted to the stormwater program administrative authority. The construction
993 record drawing shall be appropriately sealed and signed by a professional registered in
994 the Commonwealth of Virginia, certifying that the stormwater management facilities have
995 been constructed in accordance with the approved plan.

996 **4VAC50-60-56. Pollution prevention plans.**

997 A. A plan for implementing stormwater pollution prevention measures during
998 construction activities shall be developed and implemented. The pollution prevention
999 plan shall detail the design, installation, implementation and maintenance of effective
1000 pollution prevention measures to minimize the discharge of pollutants. At a minimum,
1001 such measures must be designed, installed, implemented and maintained to:

1002 1. Minimize the discharge of pollutants from equipment and vehicle washing,
1003 wheel wash water, and other wash waters. Wash waters must be treated in a
1004 sediment basin or alternative control that provides equivalent or better treatment
1005 prior to discharge;

1006 2. Minimize the exposure of building materials, building products, construction
1007 wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents,
1008 sanitary waste and other materials present on the site to precipitation and to
1009 stormwater; and

1010 3. Minimize the discharge of pollutants from spills and leaks and implement
1011 chemical spill and leak prevention and response procedures.

1012 B. The pollution prevention plan shall include effective best management practices to
1013 prohibit the following discharges:

1014 1. Wastewater from washout of concrete, unless managed by an appropriate
1015 control;

1016 2. Wastewater from washout and cleanout of stucco, paint, form release oils,
1017 curing compounds and other construction materials;

1018 3. Fuels, oils, or other pollutants used in vehicle and equipment operation and
1019 maintenance; and

1020 4. Soaps or solvents used in vehicle and equipment washing.

1021 C. Discharges from dewatering activities, including discharges from dewatering of
1022 trenches and excavations, are prohibited unless managed by appropriate controls.

1023 **4VAC50-60-57. Requesting an exception.**

1024 A request for an exception for Part II B or Part II C, including the reasons for making
1025 the request, may be submitted in writing to the stormwater program administrative
1026 authority. Economic hardship alone is not a sufficient reason to request an exception
1027 from the requirements of this chapter. The request for an exception will be reviewed
1028 pursuant to 4VAC50-60-122. An exception to the requirement that the land disturbing
1029 activity obtain a VSMP permit will not be granted by the stormwater program
1030 administrative authority.

1031 **4VAC50-60-58. Responsibility for long-term maintenance of permanent**
1032 **stormwater management facilities.**

1033 A recorded instrument shall be submitted to the stormwater program administrative
1034 authority in accordance with 4VAC50-60-112.

1035 4VAC50-60-59. Applying for VSMP permit coverage.

1036 The operator must submit a complete and accurate registration statement on the
1037 official department form to the stormwater program administrative authority in order to
1038 apply for VSMP permit coverage. The registration statement must be signed by the
1039 operator in accordance with 4VAC50-60-370.

1040 4VAC50-60-60. (Repealed.)

1041

Part II B

1042

Technical Criteria for Regulated Land-Disturbing Activities

1043 4VAC50-60-62. Applicability.

1044 In accordance with the board's authority, and except as provided in 4VAC50-60-48,
1045 this part establishes the minimum technical criteria that shall be employed by a state
1046 agency in accordance with an implementation schedule set by the board, or by a
1047 stormwater program administrative authority that has been approved by the board, to
1048 protect the quality and quantity of state waters from the potential harm of unmanaged
1049 stormwater runoff resulting from land-disturbing activities.

1050 4VAC50-60-63. Water quality design criteria requirements.

1051 A. In order to protect the quality of state waters and to control the discharge of
1052 stormwater pollutants from regulated activities, the following minimum design criteria and
1053 statewide standards for stormwater management shall be applied to the site of a land-
1054 disturbing activity.

1055 1. New development. The total phosphorus load of new development projects
1056 shall not exceed 0.41 pounds per acre per year, as calculated pursuant to
1057 4VAC50-60-65.

1058 2. Development on prior developed lands.

1059 a. For land-disturbing activities disturbing greater than or equal to one acre
1060 that result in no net increase in impervious cover from the predevelopment
1061 condition, the total phosphorus load shall be reduced at least 20% below the
1062 predevelopment total phosphorus load.

1063 b. For land-disturbing activities disturbing less than one acre that result in no
1064 net increase in impervious cover from the predevelopment condition, the total
1065 phosphorus load shall be reduced at least 10% below the predevelopment
1066 total phosphorus load.

1067 c. For land-disturbing activities that result in a new increase in impervious
1068 cover over the predevelopment condition, the design criteria for new
1069 development shall be applied to the increased impervious area. Depending
1070 on the area of disturbance, the criteria of subdivisions a or b above, shall be
1071 applied to the remainder of the site.

1072 d. In lieu of subdivision (c), the total phosphorus load of a linear development
1073 project occurring on prior developed lands may be reduced 20%.

1074 e. The total phosphorus load shall not be required to be reduced to below the
1075 applicable standard for new development unless a more stringent standard
1076 has been established by a local stormwater management program.

1077 B. Compliance with subsection A above shall be determined in accordance with
1078 4VAC50-60-65.

1079 C. TMDL. In addition to the above requirements, if a specific WLA for a pollutant
1080 has been established in a TMDL and is assigned to stormwater discharges from
1081 a construction activity, necessary control measures must be implemented by the
1082 operator to meet the WLA in accordance with the requirements established in the
1083 General Permit for Discharges of Stormwater from Construction Activities or an
1084 individual permit . Such control measures must address both construction and
1085 postconstruction discharges.

1086 D. Upon completion of the 2017 Chesapeake Bay Phase III Watershed
1087 Implementation Plan, the department shall review the water quality design criteria
1088 standards.

1089 E. Nothing in this section shall prohibit a local stormwater management program
1090 from establishing more stringent water quality design criteria requirements.

1091 **4VAC50-60-65. Water quality compliance.**

1092 A. Compliance with the water quality design criteria set out in subdivisions 1 and 2 of
1093 4VAC50-60-63 shall be determined by utilizing the Virginia Runoff Reduction Method or
1094 another equivalent methodology that is approved by the board.

1095 B. The BMPs listed below are approved for use as necessary to effectively reduce
1096 the phosphorus load and runoff volume in accordance with the Virginia Runoff Reduction
1097 Method. Other approved BMPs found on the Virginia Stormwater BMP Clearinghouse
1098 Website at <http://www.vwrrc.vt.edu/swc> may also be utilized. Design specifications and
1099 the pollutant removal efficiencies for all approved BMPs are found on the Virginia
1100 Stormwater BMP Clearinghouse Website .

- 1101 1. Vegetated Roof (Version 2.3, March 1, 2011);
- 1102 2. Rooftop Disconnection (Version 1.9, March 1, 2011);
- 1103 3. Rainwater Harvesting (Version 1.9.5, March 1, 2011);
- 1104 4. Soil Amendments (Version 1.8, March 1, 2011);;
- 1105 5. Permeable Pavement (Version 1.8, March 1, 2011);
- 1106 6. Grass Channel (Version 1.9, March 1, 2011);
- 1107 7. Bioretention (Version 1.9, March 1, 2011);
- 1108 8. Infiltration (Version 1.9, March 1, 2011);
- 1109 9. Dry Swale (Version 1.9, March 1, 2011);
- 1110 10. Wet Swale (Version 1.9, March 1, 2011);
- 1111 11. Sheet Flow to Filter/Open Space (Version 1.9, March 1, 2011);
- 1112 12. Extended Detention Pond (Version 1.9, March 1, 2011);
- 1113 13. Filtering Practice (Version 1.8, March 1, 2011);
- 1114 14. Constructed Wetland (Version 1.9, March 1, 2011); and
- 1115 15. Wet Pond (Version 1.9, March 1, 2011).

1116 C. BMPs differing from those listed above shall be reviewed and approved by the
1117 director in accordance with procedures established by the BMP Clearinghouse
1118 Committee and approved by the board.

1119 D. A local stormwater management program may establish limitations on the use of
1120 specific BMPs following the submission of the proposed limitation and written justification
1121 to the department.

1122 E. Where the land-disturbing activity only occurs on a portion of the site, the
1123 stormwater program administrative authority may review the stormwater management
1124 plan based upon the portion of the site that is proposed to be developed . Such portion
1125 shall be deemed to include any area left undeveloped pursuant to any local requirement
1126 or proffer accepted by a locality.

1127 F. The stormwater program administrative authority shall have the discretion to allow
1128 for application of the design criteria to each drainage area of the site. However, where a
1129 site drains to more than one HUC, the pollutant load reduction requirements shall be
1130 applied independently within each HUC unless reductions are achieved in accordance
1131 with a comprehensive watershed stormwater management plan in accordance with
1132 4VAC50-60-92.

1133 G. Offsite alternatives where allowed in accordance with 4VAC50-60-69 may be
1134 utilized to meet the design criteria of subsection A of 4VAC50-60-63.

1135 **4VAC50-60-66. Water quantity.**

1136 A. Channel protection and flood protection shall be addressed in accordance with the
1137 minimum standards set out in this section, which are established pursuant to the
1138 requirements of subdivision 7 of § 10.1-603.4 of the Code of Virginia. Nothing in this
1139 section shall prohibit a local stormwater management program from establishing a more
1140 stringent standard. Compliance with the minimum standards set out in this section shall
1141 be deemed to satisfy the requirements of 4VAC50-30-40.19 (Minimum Standard 19 of
1142 the Virginia Erosion and Sediment Control Regulations).

1143 B. Channel protection. Concentrated stormwater flow shall be released into a
1144 stormwater conveyance system and shall meet criteria 1, 2 or 3 of this subsection,
1145 where applicable, from the point of discharge to a point to the limits of analysis in
1146 subsection 4.

1147 1. Manmade stormwater conveyance systems. When stormwater from a
1148 development is discharged to a manmade stormwater conveyance system,
1149 following the land-disturbing activity, either:

1150 a. The manmade stormwater conveyance system shall convey the
1151 postdevelopment peak flow rate from the two-year 24-hour storm event
1152 without causing erosion of the system. Detention of stormwater or
1153 downstream improvements may be incorporated into the approved land-
1154 disturbing activity to meet this criterion, at the discretion of the stormwater
1155 program administrative authority; or

1156 b. The peak discharge requirements for concentrated stormwater flow to
1157 natural stormwater conveyance systems in subsection 3 shall be met.

1158 2. Restored stormwater conveyance systems. When stormwater from a
1159 development is discharged to a restored stormwater conveyance system that has
1160 been restored using natural design concepts, following the land-disturbing
1161 activity, either:

1162 a. The development shall be consistent, in combination with other stormwater
1163 runoff, with the design parameters of the restored stormwater conveyance
1164 system that is functioning in accordance with the design objectives.

1165 b. The peak discharge requirements for concentrated stormwater flow to
1166 natural stormwater conveyance systems in subsection 3 shall be met.

- 1167 3. Natural stormwater conveyance systems. When stormwater from a
1168 development is discharged to a natural stormwater conveyance system, the
1169 maximum peak flow rate from the one-year 24-hour storm following the land-
1170 disturbing activity shall be calculated either:
- 1171 a. In accordance with the following methodology:
1172 $Q_{\text{Developed}} \leq \text{I.F.} \cdot (Q_{\text{Pre-developed}} \cdot \text{RV}_{\text{Pre-Developed}}) / \text{RV}_{\text{Developed}}$
1173 Under no condition shall $Q_{\text{Developed}}$ be greater than $Q_{\text{Pre-Developed}}$ nor shall
1174 $Q_{\text{Developed}}$ be required to be less than that calculated in the equation $(Q_{\text{Forest}} \cdot$
1175 $\text{RV}_{\text{Forest}}) / \text{RV}_{\text{Developed}}$; where
1176 I.F. (Improvement Factor) equals 0.8 for sites > 1 acre or 0.9 for sites \leq 1
1177 acre.
1178 $Q_{\text{Developed}}$ = The allowable peak flow rate of runoff from the developed site.
1179 $\text{RV}_{\text{Developed}}$ = The volume of runoff from the site in the developed condition.
1180 $Q_{\text{Pre-Developed}}$ = The peak flow rate of runoff from the site in the pre-developed
1181 condition.
1182 $\text{RV}_{\text{Pre-Developed}}$ = The volume of runoff from the site in pre-developed condition.
1183 Q_{Forest} = The peak flow rate of runoff from the site in a forested condition.
1184 $\text{RV}_{\text{Forest}}$ = The volume of runoff from the site in a forested condition; or
1185 b. In accordance with another methodology that is demonstrated by the local
1186 stormwater management program to achieve equivalent results and is
1187 approved by the board.
- 1188 4. Limits of analysis. Unless subsection 3 is utilized to show compliance with
1189 the channel protection criteria, stormwater conveyance systems shall be
1190 analyzed for compliance with channel protection criteria to a point where
1191 either:
1192 a. Based on land area, the site's contributing drainage area is less than or
1193 equal to 1.0% of the total watershed area; or
1194 b. Based on peak flow rate, the site's peak flow rate from the one-year 24-
1195 hour storm is less than or equal to 1.0% of the existing peak flow rate from
1196 the one-year 24-hour storm prior to the implementation of any stormwater
1197 quantity control measures.
- 1198 C. Flood protection. Concentrated stormwater flow shall be released into a
1199 stormwater conveyance system and shall meet one of the following criteria as
1200 demonstrated by use of acceptable hydrologic and hydraulic methodologies:
- 1201 1. Concentrated stormwater flow to stormwater conveyance systems that
1202 currently do not experience localized flooding during the 10-year 24-hour storm
1203 event: The point of discharge releases stormwater into a stormwater conveyance
1204 system that, following the land-disturbing activity, confines the postdevelopment
1205 peak flow rate from the 10-year 24-hour storm event within the stormwater
1206 conveyance system. Detention of stormwater or downstream improvements may
1207 be incorporated into the approved land-disturbing activity to meet this criterion, at
1208 the discretion of the stormwater program administrative authority.

- 1209 2. Concentrated stormwater flow to stormwater conveyance systems that
1210 currently experience localized flooding during the 10-year 24-hour storm event:
1211 The point of discharge either:
- 1212 a. Confines the postdevelopment peak flow rate from the 10-year 24-hour
1213 storm event within the stormwater conveyance system to avoid the localized
1214 flooding. Detention of stormwater or downstream improvements may be
1215 incorporated into the approved land-disturbing activity to meet this criterion,
1216 at the discretion of the stormwater program administrative authority;; or
- 1217 b. Releases a postdevelopment peak flow rate for the 10-year 24-hour storm
1218 event that is less than the predevelopment peak flow rate from the 10-year
1219 24-hour storm event. Downstream stormwater conveyance systems do not
1220 require any additional analysis to show compliance with flood protection
1221 criteria is this option is utilized.
- 1222 3. Limits of analysis. Unless 2b above is utilized to comply with the flood
1223 protection criteria, stormwater conveyance systems shall be analyzed for
1224 compliance with flood protection criteria to a point where:
- 1225 a. The site's contributing drainage area is less than or equal to 1.0% of the
1226 total watershed area draining to a point of analysis in the downstream
1227 stormwater conveyance system;
- 1228 b. Based on peak flow rate, the site's peak flow rate from the 10-year 24-hour
1229 storm event is less than or equal to 1.0% of the existing peak flow rate from
1230 the 10-year 24-hour storm event prior to the implementation of any
1231 stormwater quantity control measures; or
- 1232 c. The stormwater conveyance system enters a mapped floodplain or other
1233 flood-prone area, adopted by ordinance, of any locality.
- 1234 D. Increased volumes of sheet flow resulting from pervious or disconnected
1235 impervious areas, or from physical spreading of concentrated flow through level
1236 spreaders, must be identified and evaluated for potential impacts on down-gradient
1237 properties or resources. Increased volumes of sheet flow that will cause or contribute to
1238 erosion, sedimentation, or flooding of down gradient properties or resources shall be
1239 diverted to a stormwater management facility or a stormwater conveyance system that
1240 conveys the runoff without causing down-gradient erosion, sedimentation, or flooding. If
1241 all runoff from the site is sheet flow and the conditions of this subsection are met, no
1242 further water quantity controls are required.
- 1243 E. For purposes of computing predevelopment runoff from prior developed lands, all
1244 pervious lands on the site shall be assumed to be in good hydrologic condition in
1245 accordance with the U.S. Department of Agriculture's Natural Resources Conservation
1246 Service (NRCS) standards, regardless of conditions existing at the time of computation.
1247 Predevelopment runoff calculations utilizing other hydrologic conditions may be utilized
1248 provided that it is demonstrated to and approved by the stormwater program
1249 administrative authority that actual site conditions warrant such considerations.
- 1250 F. Predevelopment and postdevelopment runoff characteristics and site hydrology
1251 shall be verified by site inspections, topographic surveys, available soil mapping or
1252 studies, and calculations consistent with good engineering practices. Guidance provided
1253 in the Virginia Stormwater Management Handbook and by the Virginia Stormwater BMP
1254 Clearinghouse shall be considered appropriate practices.

1255 4VAC50-60-69. Offsite compliance options.

1256 A. Offsite compliance options that a stormwater program administrative authority
1257 may allow an operator to use to meet required phosphorus nutrient reductions include
1258 the following:

- 1259** 1. A comprehensive watershed stormwater management plan adopted pursuant
1260 to 4VAC50-60-92 for the local watershed within which a project is located;
- 1261** 2. A locality pollutant loading pro rata share program established pursuant to §
1262 15.2-2243 of the Code of Virginia or similar local funding mechanism;
- 1263** 3. The nonpoint nutrient offset program established pursuant to § 10.1-603.8:1 of
1264 the Code of Virginia;
- 1265** 4 Any other offsite options approved by an applicable state agency or state
1266 board; and
- 1267** 5. When an operator has additional properties available within the same HUC or
1268 upstream HUC that the land-disturbing activity directly discharges to or within the
1269 same watershed as determined by the stormwater program administrative
1270 authority, offsite stormwater management facilities on those properties may be
1271 utilized to meet the required phosphorus nutrient reductions from the land-
1272 disturbing activity.

1273 B. Notwithstanding subsection A, operators shall be allowed to utilize offsite options
1274 identified in subsection A under any of the following conditions:

- 1275** 1. Less than five acres of land will be disturbed;
- 1276** 2. The postconstruction phosphorus control requirements is less than 10 pounds
1277 per year; or
- 1278** 3. At least 75% of the required phosphorus nutrient reductions are achieved on-
1279 site. If at least 75% of the required phosphorus nutrient reductions can not be
1280 met on-site, and the operator can demonstrate to the satisfaction of the
1281 stormwater program administrative authority that (i) alternative site designs have
1282 been considered that may accommodate on-site best management practices, (ii)
1283 on-site best management practices have been considered in alternative site
1284 designs to the maximum extent practicable, (iii) appropriate on-site best
1285 management practices will be implemented, and (iv) full compliance with
1286 postdevelopment nonpoint nutrient runoff compliance requirements cannot
1287 practicably be met on-site, then the required phosphorus nutrient reductions may
1288 be achieved, in whole or in part, through the use of off-site compliance options.

1289 C. Notwithstanding subsections A and B, offsite options shall not be allowed:

- 1290** 1. Unless the selected offsite option achieves the necessary nutrient reductions
1291 prior to the commencement of the operator's land-disturbing activity. In the case
1292 of a phased project, the operator may acquire or achieve offsite nutrient
1293 reductions prior to the commencement of each phase of land-disturbing activity in
1294 an amount sufficient for each phase.
- 1295** 2. In contravention of local water quality-based limitations at the point of
1296 discharge that are (i) consistent with the determinations made pursuant to
1297 subsection B of § 62.1-44.19:7, (ii) contained in a municipal separate stormwater
1298 sewer (MS4) program plan approved by the department, or (iii) as otherwise may
1299 be established or approved by the board.

1300 D. In order to meet the requirements of 4VAC50-60-66, offsite options 1 and 2 of
1301 subsection A above may be utilized.

1302 **4VAC50-60-70. (Repealed.)**

1303 **4VAC50-60-72. Design storms and hydrologic methods.**

1304 A. Unless otherwise specified, the prescribed design storms are the one-year, two-
1305 year, and 10-year 24-hour storms using the site-specific rainfall precipitation frequency
1306 data recommended by the U.S. National Oceanic and Atmospheric Administration
1307 (NOAA) Atlas 14. Partial duration time series shall be used for the precipitation data.

1308 B. Unless otherwise specified, all hydrologic analyses shall be based on the existing
1309 watershed characteristics and how the ultimate development condition of the subject
1310 project will be addressed.

1311 C. The U.S. Department of Agriculture's Natural Resources Conservation Service
1312 (NRCS) synthetic 24-hour rainfall distribution and models, including, but not limited to
1313 TR-55 and TR-20; hydrologic and hydraulic methods developed by the U.S. Army Corps
1314 of Engineers; or other standard hydrologic and hydraulic methods, shall be used to
1315 conduct the analyses described in this part.

1316 D. The stormwater program administrative authority may allow for the use of the
1317 Rational Method for evaluating peak discharges or the Modified Rational Method for
1318 evaluating volumetric flows to stormwater conveyances with drainage areas of 200 acres
1319 or less.

1320 **4VAC50-60-74. Stormwater harvesting.**

1321 In accordance with § 10.1-603.4 of the Code of Virginia, stormwater harvesting is
1322 encouraged for the purposes of landscape irrigation systems, fire protection systems,
1323 flushing water closets and urinals, and other water handling systems to the extent such
1324 systems are consistent with federal, state, and local regulatory authorities.

1325 **4VAC50-60-76. Linear development projects.**

1326 Unless exempt pursuant to § 10.1-603.8 B of the Code of Virginia, linear
1327 development projects shall control postdevelopment stormwater runoff in accordance
1328 with a site-specific stormwater management plan or a comprehensive watershed
1329 stormwater management plan developed in accordance with these regulations.

1330 **4VAC50-60-80. (Repealed.)**

1331 **4VAC50-60-85. Stormwater management impoundment structures or facilities.**

1332 A. Stormwater management wet ponds and extended detention ponds that are not
1333 covered by the Impounding Structure Regulations (4VAC50-20) shall, at a minimum, be
1334 engineered for structural integrity for the 100-year storm event.

1335 B. Construction of stormwater management impoundment structures or facilities may
1336 occur in karst areas only after a study of the geology and hydrology of the area has been
1337 conducted to determine the presence or absence of karst features that may be impacted
1338 by stormwater runoff and BMP placement.

1339 C. Discharge of stormwater runoff to a karst feature shall meet the water quality
1340 criteria set out in 4VAC50-60-63 and the water quantity criteria set out in 4VAC50-60-66.
1341 Permanent stormwater management impoundment structures or facilities shall only be
1342 constructed in karst features after completion of a geotechnical investigation that
1343 identifies any necessary modifications to the BMP to ensure its structural integrity and
1344 maintain its water quality and quantity efficiencies. The person responsible for the land-

1345 disturbing activity is encouraged to screen for known existence of heritage resources in
1346 the karst features. Any Class V Underground Injection Control Well registration
1347 statements for stormwater discharges to improved sinkholes shall be included in the
1348 SWPPP.

1349 **4VAC50-60-90. (Repealed.)**

1350 **4VAC50-60-92. Comprehensive stormwater management plans.**

1351 Local stormwater management programs may develop comprehensive stormwater
1352 management plans to be approved by the department that meet the water quality
1353 objectives, quantity objectives, or both of this chapter:

1354 1. Such plans shall ensure that offsite reductions equal to or greater than those
1355 that would be required on each contributing land-disturbing site are achieved
1356 within the same HUC or within another locally designated watershed. Pertaining
1357 to water quantity objectives, the plan may provide for implementation of a
1358 combination of channel improvement, stormwater detention, or other measures
1359 that are satisfactory to the local stormwater management program to prevent
1360 downstream erosion and flooding.

1361 2. If the land use assumptions upon which the plan was based change or if any
1362 other amendments are deemed necessary by the local stormwater management
1363 program, such program shall provide plan amendments to the board for review
1364 and approval.

1365 3. During the plan's implementation, the local stormwater management program
1366 shall document nutrient reductions accredited to the BMPs specified in the plan.

1367 4. State and federal agencies may develop comprehensive stormwater
1368 management plans, and may participate in locality-developed comprehensive
1369 stormwater management plans where practicable and permitted by the local
1370 stormwater management program.

1371 **4VAC50-60-93. (Reserved.)**

1372 Part II C Technical Criteria for Regulated Land-Disturbing Activities: Grandfathered
1373 Projects

1374 **4VAC50-60-94. Applicability.**

1375 This part specifies the technical criteria for regulated land-disturbing activities that
1376 are not subject to the technical criteria of Part II B in accordance with 4VAC 50-60-48.

1377 **4VAC50-60-95. General.**

1378 A. Determination of flooding and channel erosion impacts to receiving streams due to
1379 land-disturbing activities shall be measured at each point of discharge from the land
1380 disturbance and such determination shall include any runoff from the balance of the
1381 watershed that also contributes to that point of discharge.

1382 B. The specified design storms shall be defined as either a 24-hour storm using the
1383 rainfall distribution recommended by the U.S. Department of Agriculture's Natural
1384 Resources Conservation Service (NRCS) when using NRCS methods or as the storm of
1385 critical duration that produces the greatest required storage volume at the site when
1386 using a design method such as the Modified Rational Method.

1387 C. For purposes of computing runoff, all pervious lands in the site shall be assumed
1388 prior to development to be in good condition (if the lands are pastures, lawns, or parks),

1389 with good cover (if the lands are woods), or with conservation treatment (if the lands are
1390 cultivated); regardless of conditions existing at the time of computation.

1391 D. Construction of stormwater management facilities or modifications to channels
1392 shall comply with all applicable laws regulations, and ordinances. Evidence of approval
1393 of all necessary permits shall be presented.

1394 E. Impounding structures that are not covered by the Impounding Structure
1395 Regulations (4VAC50-20) shall be engineered for structural integrity during the 100-year
1396 storm event.

1397 F. Predevelopment and postdevelopment runoff rates shall be verified by
1398 calculations that are consistent with good engineering practices.

1399 G. Outflows from a stormwater management facility or stormwater conveyance
1400 system shall be discharged to an adequate channel.

1401 H. Proposed residential, commercial, or industrial subdivisions shall apply these
1402 stormwater management criteria to the land disturbance as a whole. Individual lots in
1403 new subdivisions shall not be considered separate land-disturbing activities, but rather
1404 the entire subdivision shall be considered a single land development project. Hydrologic
1405 parameters shall reflect the ultimate land disturbance and shall be used in all
1406 engineering calculations.

1407 I. All stormwater management facilities shall have an inspection and maintenance
1408 plan that identifies the owner and the responsible party for carrying out the inspection
1409 and maintenance plan.

1410 J. Construction of stormwater management impoundment structures within a Federal
1411 Emergency Management Agency (FEMA) designated 100-year floodplain shall be
1412 avoided to the extent possible. When this is unavoidable, all stormwater management
1413 facility construction shall be in compliance with all applicable regulations under the
1414 National Flood Insurance Program, 44 CFR Part 59.

1415 K. Natural channel characteristics shall be preserved to the maximum extent
1416 practicable.

1417 L. Land-disturbing activities shall comply with the Virginia Erosion and Sediment
1418 Control Law (§ 10.1-560 et seq. of the Code of Virginia) and attendant regulations.

1419 M. Flood control and stormwater management facilities that drain or treat water from
1420 multiple development projects or from a significant portion of a watershed may be
1421 allowed in resource protection areas defined in the Chesapeake Bay Preservation Act,
1422 provided that (i) the local government has conclusively established that the location of
1423 the facility within the resource protection area is the optimum location; (ii) the size of the
1424 facility is the minimum necessary to provide necessary flood control, stormwater
1425 treatment, or both; and (iii) the facility must be consistent with a stormwater
1426 management program that has been approved by the board, the Chesapeake Bay Local
1427 Assistance Board, or the Board of Conservation and Recreation.

1428 **4VAC50-60-96. Water quality.**

1429 A. Compliance with the water quality criteria may be achieved by applying the
1430 performance-based criteria or the technology-based criteria to either the site or a
1431 planning area.

1432 B. Performance-based criteria. For land-disturbing activities, the calculated
1433 postdevelopment nonpoint source pollutant runoff load shall be compared to the

1434 calculated predevelopment load based upon the average land cover condition or the
 1435 existing site condition. A BMP shall be located, designed, and maintained to achieve the
 1436 target pollutant removal efficiencies specified in Table 1 of this section to effectively
 1437 reduce the pollutant load to the required level based upon the following four applicable
 1438 land development situations for which the performance criteria apply:

1439 1. Situation 1 consists of land-disturbing activities where the existing percent
 1440 impervious cover is less than or equal to the average land cover condition and
 1441 the proposed improvements will create a total percent impervious cover that is
 1442 less than the average land cover condition.

1443 Requirement: No reduction in the after disturbance pollutant discharge is
 1444 required.

1445 2. Situation 2 consists of land-disturbing activities where the existing percent
 1446 impervious cover is less than or equal to the average land cover condition and
 1447 the proposed improvements will create a total percent impervious cover that is
 1448 greater than the average land cover condition.

1449 Requirement: The pollutant discharge after disturbance shall not exceed the
 1450 existing pollutant discharge based on the average land cover condition.

1451 3. Situation 3 consists of land-disturbing activities where the existing percent
 1452 impervious cover is greater than the average land cover condition.

1453 Requirement: The pollutant discharge after disturbance shall not exceed (i) the
 1454 pollutant discharge based on existing conditions less 10% or (ii) the pollutant
 1455 discharge based on the average land cover condition, whichever is greater.

1456 4. Situation 4 consists of land-disturbing activities where the existing percent
 1457 impervious cover is served by an existing stormwater management BMP that
 1458 addresses water quality.

1459 Requirement: The pollutant discharge after disturbance shall not exceed the
 1460 existing pollutant discharge based on the existing percent impervious cover while
 1461 served by the existing BMP. The existing BMP shall be shown to have been
 1462 designed and constructed in accordance with proper design standards and
 1463 specifications, and to be in proper functioning condition.

1464 C. Technology-based criteria. For land-disturbing activities, the postdeveloped
 1465 stormwater runoff from the impervious cover shall be treated by an appropriate BMP as
 1466 required by the postdeveloped condition percent impervious cover as specified in Table
 1467 1 of this section. The selected BMP shall be located, designed, and maintained to
 1468 perform at the target pollutant removal efficiency specified in Table 1 or those found in
 1469 4VAC50-60-65. Design standards and specifications for the BMPs in Table 1 that meet
 1470 the required target pollutant removal efficiency are available in the 1990 Virginia
 1471 Stormwater Management Handbook. Other approved BMPs available on the Virginia
 1472 Stormwater BMP Clearinghouse website at <http://www.vwrrc.vt.edu/swc> may also be
 1473 utilized.

Table 1*

Water Quality BMP*	Target Phosphorus Removal Efficiency	Percent Impervious Cover
Vegetated filter strip	10%	16-21%

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

1474 4VAC50-60-97. Stream channel erosion.

1475 A. Properties and receiving waterways downstream of any land-disturbing activity
1476 shall be protected from erosion and damage due to changes in runoff rate of flow and
1477 hydrologic characteristics, including, but not limited to, changes in volume, velocity,
1478 frequency, duration, and peak flow rate of stormwater runoff in accordance with the
1479 minimum design standards set out in this section.

1480 B. The stormwater program administrative authority shall require compliance with
1481 subdivision 19 of 4VAC50-30-40 of the Erosion and Sediment Control Regulations,
1482 promulgated pursuant to Article 4 (§ 10.1-560 et seq.) of Chapter 5 of Title 10.1 of the
1483 Code of Virginia.

1484 C. The local stormwater management program may determine that some watersheds
1485 or receiving stream systems require enhanced criteria in order to address the increased
1486 frequency of bankfull flow conditions (top of bank) brought on by land-disturbing
1487 activities. Therefore, in lieu of the reduction of the two-year postdeveloped peak rate of
1488 runoff as required in subsection B of this section, the land development project being
1489 considered shall provide 24-hour extended detention of the runoff generated by the one-
1490 year, 24-hour duration storm.

1491 D. In addition to subsections B and C of this section, local stormwater management
1492 programs, by local ordinance may, or the board by state regulation may, adopt more
1493 stringent channel analysis criteria or design standards to ensure that the natural level of

1494 channel erosion, to the maximum extent practicable, will not increase due to the land-
1495 disturbing activities. These criteria may include, but are not limited to, the following:

- 1496 1. Criteria and procedures for channel analysis and classification.
1497 2. Procedures for channel data collection.
1498 3. Criteria and procedures for the determination of the magnitude and frequency
1499 of natural sediment transport loads.
1500 4. Criteria for the selection of proposed natural or manmade channel linings.

1501 **4VAC50-60-98. Flooding.**

1502 A. Downstream properties and waterways shall be protected from damages from
1503 localized flooding due to changes in runoff rate of flow and hydrologic characteristics,
1504 including, but not limited to, changes in volume, velocity, frequency, duration, and peak
1505 flow rate of stormwater runoff in accordance with the minimum design standards set out
1506 in this section.

1507 B. The 10-year postdeveloped peak rate of runoff from the development site shall not
1508 exceed the 10-year predeveloped peak rate of runoff.

1509 C. In lieu of subsection B of this section, localities may, by ordinance, adopt alternate
1510 design criteria based upon geographic, land use, topographic, geologic factors, or other
1511 downstream conveyance factors as appropriate.

1512 D. Linear development projects shall not be required to control postdeveloped
1513 stormwater runoff for flooding, except in accordance with a watershed or regional
1514 stormwater management plan.

1515 **4VAC50-60-99. Regional (watershed-wide) stormwater management plans.**

1516 Water quality requirements and where allowed, water quantity requirements, may be
1517 achieved in accordance with sections 4VAC50-60-69 and 4VAC50-60-92.

1518 Part III

1519 **4VAC50-60-100. Applicability.**

1520 This part establishes the board's procedures for the authorization of a qualifying local
1521 program, the board's procedures for the administration of a local stormwater
1522 management program by an authorized qualifying local program, board and department
1523 oversight authorities for an authorized qualifying local program, and the board's
1524 procedures for utilization by the department in administering the Virginia Stormwater
1525 Management Program in localities where no qualifying local program is authorized.

1526 **4VAC50-60-102. Authority .**

1527 If a locality has adopted a local stormwater management program in accordance with
1528 the Virginia Stormwater Management Act (§ 10.1-603.2 et seq. of the Code of Virginia)
1529 and the board has deemed such program adoption consistent with the Virginia
1530 Stormwater Management Act and these regulations in accordance with § 10.1-603.3 F of
1531 the Code of Virginia, the board may authorize a locality to administer a qualifying local
1532 program. Pursuant to § 10.1-603.4, the board is required to establish standards and
1533 procedures for such an authorization.

1534 4VAC50-60-103. Stormwater program administrative authority requirements for
1535 Chesapeake Bay Preservation Act land-disturbing activities.

1536 A. A stormwater program administrative authority shall regulate runoff associated
1537 with Chesapeake Bay Preservation Act land-disturbing activities in accordance with the
1538 following:

1539 1. Such land-disturbing activities shall not require completion of a registration
1540 statement or require coverage under the VSMP General Permit for Discharges of
1541 Stormwater from Construction Activities but shall be subject to the technical
1542 criteria and program and administrative requirements set out in 4VAC50-60-51.

1543 2. A permit shall be issued permitting the land-disturbing activity.

1544 3. The stormwater program administrative authority shall regulate such land-
1545 disturbing activities in compliance with the:

1546 a. Program requirements in 4VAC50-60-104;

1547 b. Plan review requirements in 4VAC50-60-108 with the exception of
1548 subsection D;

1549 c. Long-term stormwater management facility requirements of 4VAC50-60-
1550 112;

1551 d. Inspection requirements of 4VAC50-60-114 with the exception of
1552 subsection A3;

1553 e. Enforcement components of 4VAC50-60-116;

1554 f. Hearing requirements of 4VAC50-60-118;

1555 g. Exception conditions of 4VAC50-60-122 excluding subsection C which is
1556 not applicable; and

1557 h. Reporting and recordkeeping requirements of 4VAC50-60-126 with the
1558 exception of subsection B3;

1559 B. A local stormwater management program shall adopt an ordinance that
1560 incorporates the components of this section.

1561 C. In accordance with §10.1-603.4 subsection 5, a stormwater program
1562 administrative authority may collect a permit issuance fee from the applicant of \$290 and
1563 an annual maintenance fee of \$50 for such land-disturbing activities.

1564 Part III A

1565 Programs Operated by a Stormwater Program Administrative Authority

1566 4VAC50-60-104. Criteria for programs operated by a stormwater program
1567 administrative authority.

1568 A. All stormwater program administrative authorities] shall require compliance with
1569 the provisions of Part II (4VAC50-60-40 et seq.) of this chapter .

1570 B. When a local stormwater management program has adopted requirements more
1571 stringent than those imposed by this chapter in accordance with § 10.1-603.7 of the
1572 Code of Virginia or implemented a comprehensive stormwater management plan, the
1573 department shall consider such requirements in its review of state projects within that
1574 locality in accordance with Part IV (4VAC50-60-160 et seq.) of this chapter.

1575 C. Nothing in this part shall be construed as authorizing a locality to regulate, or to
1576 require prior approval by the locality for, a state or federal project, unless authorized by
1577 separate statute.

1578 D. A stormwater program administrative authority may require the submission of a
1579 reasonable performance bond or other financial surety and provide for the release of
1580 such sureties in accordance with the criteria set forth in § 10.1-603.8 of the Code of
1581 Virginia.

1582 **4VAC50-60-106. Additional requirements for local stormwater management**
1583 **programs.**

1584 A. A local stormwater management program shall adopt ordinances that ensure
1585 compliance with the requirements set forth in 4VAC50-60-460L.

1586 B. The local stormwater management program shall adopt ordinances at least as
1587 stringent as the provisions of the Virginia Stormwater Management Program (VSMP)
1588 General Permit for Discharges of Stormwater from Construction Activities.

1589 **4VAC50-60-108. Stormwater management plan review.**

1590 A. A stormwater program administrative authority shall review and approve
1591 stormwater management plans .

1592 B. A stormwater program administrative authority shall approve or disapprove a
1593 stormwater management plan according to the following:

1594 1. The stormwater program administrative authority shall determine the
1595 completeness of a plan in accordance with 4VAC50-60-55 , and shall notify the
1596 applicant of any determination, within 15 calendar days of receipt. Where
1597 available to the applicant, electronic communication may be considered
1598 communication in writing.

1599 a. If within those 15 days the plan is deemed to be incomplete] , the
1600 applicant shall be notified in writing of the reasons the plan is deemed
1601 incomplete.

1602 b. If a determination of completeness is made and communicated to the
1603 applicant within the 15 calendar days, an additional 60 calendar days from
1604 the date of the communication will be allowed for the review of the plan.

1605 c. If a determination of completeness is not made and communicated to the
1606 applicant within the 15 calendar days, the plan shall be deemed complete as
1607 of the date of submission and a total of 60 calendar days from the date of
1608 submission will be allowed for the review of the plan.

1609 d. The stormwater program administrative authority shall review, within 45
1610 calendar days of the date of resubmission any plan that has been previously
1611 disapproved .

1612 2. During the review period, the plan shall be approved or disapproved and the
1613 decision communicated in writing to the person responsible for the land-
1614 disturbing activity or his designated agent. If the plan is not approved, the
1615 reasons for not approving the plan shall be provided in writing. Approval or denial
1616 shall be based on the plan's compliance with the requirements of this chapter
1617 and of the stormwater program administrative authority. Where available to the
1618 applicant, electronic communication may be considered communication in
1619 writing.

1620 3. If a plan meeting all requirements of this chapter and of the stormwater
1621 program administrative authority is submitted and no action is taken within the
1622 time specified above, the plan shall be deemed approved.

- 1623 C. Each approved plan may be modified in accordance with the following:
- 1624 1. Modifications to an approved stormwater management plan shall be allowed
- 1625 only after review and written approval by the stormwater program administrative
- 1626 authority. The stormwater program administrative authority shall have 60
- 1627 calendar days to respond in writing either approving or disapproving such
- 1628 requests.
- 1629 2. Based on an inspection, the stormwater program administrative authority may
- 1630 require amendments to the approved stormwater management plan to address
- 1631 any deficiencies within a time frame set by the stormwater program
- 1632 administrative authority.
- 1633 D. A stormwater program administrative authority shall not provide authorization to
- 1634 begin land disturbance until provided evidence of VSMP permit coverage.
- 1635 E. The stormwater program administrative authority shall require the submission of a
- 1636 construction record drawing for permanent stormwater management facilities in
- 1637 accordance with 4VAC50-60-55. A stormwater program administrative authority may
- 1638 elect not to require construction record drawings for stormwater management facilities
- 1639 for which maintenance agreements are not required pursuant to 4VAC50-60-124.
- 1640 **4VAC50-60-110. (Repealed.)**
- 1641 **4VAC50-60-112. Long-term maintenance of permanent stormwater management**
- 1642 **facilities.**
- 1643 A. The stormwater program administrative authority shall require the provision of
- 1644 long-term responsibility for and maintenance of stormwater management facilities and
- 1645 other techniques specified to manage the quality and quantity of runoff. Such
- 1646 requirements shall be set forth in an instrument recorded in the local land records prior
- 1647 to permit termination or earlier as required by the stormwater program administrative
- 1648 authority and shall, at a minimum:
- 1649 1. Be submitted to the stormwater program administrative authority for review
- 1650 and approval prior to the approval of the stormwater management plan;
- 1651 2. Be stated to run with the land;
- 1652 3. Provide for all necessary access to the property for purposes of
- 1653 maintenance and regulatory inspections;
- 1654 4. Provide for inspections and maintenance and the submission of inspection
- 1655 and maintenance reports to the stormwater program administrative authority;
- 1656 and
- 1657 5. Be enforceable by all appropriate governmental parties.
- 1658 B. At the discretion of the stormwater program administrative authority, such
- 1659 recorded instruments need not be required for stormwater management facilities
- 1660 designed to treat stormwater runoff primarily from an individual residential lot on which
- 1661 they are located, provided it is demonstrated to the satisfaction of the stormwater
- 1662 program administrative authority that future maintenance of such facilities will be
- 1663 addressed through an enforceable mechanism at the discretion of the stormwater
- 1664 program administrative authority.
- 1665 **4VAC50-60-114. Inspections.**
- 1666 A. The stormwater program administrative authority shall inspect the land-disturbing
- 1667 activity during construction for:

- 1668 1. Compliance with the approved erosion and sediment control plan;
1669 2. Compliance with the approved stormwater management plan; and
1670 3. Development, updating, and implementation of a pollution prevention plan.
- 1671 B. The stormwater program administrative authority shall establish an inspection
1672 program that ensures that stormwater management facilities are being adequately
1673 maintained as designed after completion of land-disturbing activities. Inspection
1674 programs shall:
- 1675 1. Be approved by the board;
1676 2. Ensure that each stormwater management facility is inspected by the
1677 stormwater program administrative authority, or its designee, not to include the
1678 owner, except as provided in subsections C and D of this section, at least once
1679 every five years; and
1680 3. Be documented by records.
- 1681 C. The stormwater program administrative authority may utilize the inspection reports
1682 as part of an inspection program established in subsection B of this section if the
1683 inspection is conducted by a person who is licensed as a professional engineer,
1684 architect, landscape architect, or land surveyor pursuant to Article 1 (§ 54.1-400 et seq.)
1685 of Chapter 4 of Title 54.1 or who holds an appropriate certificate of competence from the
1686 board.
- 1687 D. If a recorded instrument is not required pursuant to 4VAC50-60-112, a stormwater
1688 program administrative authority shall develop a strategy for addressing maintenance of
1689 stormwater management facilities designed to treat stormwater runoff primarily from an
1690 individual residential lot on which they are located. Such a strategy may include periodic
1691 inspections, homeowner outreach and education, or other method targeted at promoting
1692 the long-term maintenance of such facilities. Such facilities shall not be subject to the
1693 requirement for an inspection to be conducted by the stormwater program administrative
1694 authority.
- 1695 **4VAC50-60-116. Enforcement.**
- 1696 A. A stormwater program administrative authority shall incorporate components from
1697 subsection 1 and 2.
- 1698 1. Informal and formal administrative enforcement procedures may include:
1699 a. Verbal warnings and inspection reports;
1700 b. Notices of corrective action;
1701 c. Consent special orders and civil charges in accordance with subdivision 7
1702 of § 10.1-603.2:1 and § 10.1-603.14 D 2 of the Code of Virginia;
1703 d. Notices to comply in accordance with § 10.1-603.11 of the Code of
1704 Virginia;
1705 e. Special orders in accordance with subdivision 7 of § 10.1-603.2:1 of the
1706 Code of Virginia;
1707 f. Emergency special orders in accordance with subdivision 7 of § 10.1-
1708 603.2:1 of the Code of Virginia; and
1709 g. Public notice and comment periods for proposed settlements and consent
1710 special orders pursuant to 4VAC50-60-660.
1711 2. Civil and criminal judicial enforcement procedures may include:

- 1712 a. Schedule of civil penalties in accordance with § 10.1-603.14 of the Code of
1713 Virginia;
- 1714 b. Criminal penalties in accordance with § 10.1-603.14 B and C of the Code
1715 of Virginia; and
- 1716 c. Injunctions in accordance with §§ 10.1-603.12:4, 10.1-603.2:1 and 10.1-
1717 603.14 D 1 of the Code of Virginia.
- 1718 B. A stormwater program administrative authority shall develop policies and
1719 procedures that outline the steps to be taken regarding enforcement actions under the
1720 Stormwater Management Act and attendant regulations and local ordinances.
- 1721 C. Pursuant to § 10.1-603.14 A of the Code of Virginia, the permit-issuing authority
1722 shall use the following schedule of civil penalties for enforcement actions. The court has
1723 the discretion to impose a maximum penalty of \$32,500 per violation per day in
1724 accordance with § 10.1-603.14 A of the Code of Virginia. Such violation may reflect the
1725 degree of harm caused by the violation. The court may take into account the economic
1726 benefit to the violator from noncompliance. Such violations include, but are not limited to:
- 1727 1. No permit registration;
- 1728 2, No SWPPP;
- 1729 3. Incomplete SWPPP;
- 1730 4. SWPPP not on site;
- 1731 5. No approved erosion and sediment control plan;
- 1732 6. Failure to install stormwater BMPs or erosion and sediment controls;
- 1733 7. Stormwater BMPs or erosion and sediment controls improperly installed or
1734 maintained;
- 1735 8. Operational deficiencies;
- 1736 9. Failure to conduct required inspections;
- 1737 10. Incomplete, improper, or missed inspections.
- 1738 D.. Pursuant to subdivision 2 of § 10.1-603.2:1 of the Code of Virginia, authorization
1739 to administer a local stormwater management program shall not remove from the board
1740 the authority to enforce the provisions of the Act and attendant regulations.
- 1741 E. The department may terminate VSMP permit coverage during its term and require
1742 application for an individual permit or deny a permit renewal application for failure to
1743 comply with permit conditions or on its own initiative in accordance with the Act and this
1744 chapter.]
- 1745 F. Pursuant to § 10.1-603.14 A of the Code of Virginia, civil penalties recovered by a
1746 local stormwater management program shall be paid into the treasury of the locality in
1747 which the violation occurred and are to be used for the purpose of minimizing,
1748 preventing, managing, or mitigating pollution of the waters of the locality and abating
1749 environmental pollution therein in such manner as the court may, by order, direct.
- 1750 G. The department may provide additional guidance concerning suggested penalty
1751 amounts in its Stormwater Management Enforcement Manual.
- 1752 **4VAC50-60-118. Hearings.**
- 1753 The stormwater program administrative authority shall ensure that any permit
1754 applicant or permittee aggrieved by any action of the stormwater program administrative
1755 authority taken without a formal hearing, or by inaction of the stormwater program

1756 administrative authority, shall have a right to a hearing pursuant to § 10.1-603.12:6 of
1757 the Code of Virginia and shall ensure that all hearings held under this chapter shall be
1758 conducted in accordance with § 10.1-603.12:7 of the Code of Virginia or as otherwise
1759 provided by law.

1760 **4VAC50-60-120. (Repealed.)**

1761 **4VAC50-60-122. Exceptions.**

1762 A. A stormwater program administrative authority may grant exceptions to the
1763 provisions of Part II B or Part II C of this chapter . An exception may be granted provided
1764 that (i) the exception is the minimum necessary to afford relief, (ii) reasonable and
1765 appropriate conditions shall be imposed as necessary upon any exception granted so
1766 that the intent of the Act and this chapter are preserved, (iii) granting the exception will
1767 not confer any special privileges that are denied to other similar circumstances, and (iv)
1768 exception requests are not based upon conditions or circumstances that are self-
1769 imposed or self-created.

1770 B. Economic hardship alone is not sufficient reason to grant an exception from the
1771 requirements of this chapter.

1772 C. Under no circumstance shall the stormwater program administrative authority
1773 grant an exception to the requirement that the land-disturbing activity obtain required
1774 VSMP permits nor approve the use of a BMP not found on the Virginia Stormwater BMP
1775 Clearinghouse Website.

1776 D. Exceptions to requirements for phosphorus reductions shall not be allowed unless
1777 offsite options available through 4VAC50-60-69 have been considered and found not
1778 available.

1779 E. A record of all exceptions granted shall be maintained by the stormwater program
1780 administrative authority in accordance with 4VAC50-60-126.

1781 **4VAC50-60-126. Reports and recordkeeping.**

1782 A. On a fiscal year basis (July 1 to June 30), a local stormwater management
1783 program shall report to the department by October 1 of each year in a format provided
1784 by the department. The information to be provided shall include the following:

- 1785 1. Information on each permanent stormwater management facility completed
1786 during the fiscal year to include type of stormwater management facility,
1787 geographic coordinates, acres treated, and the surface waters or karst features
1788 into which the stormwater management facility will discharge;
- 1789 2. Number and type of enforcement actions during the fiscal year; and
- 1790 3. Number of exceptions granted during the fiscal year.

1791 B. A stormwater program administrative authority shall keep records in accordance
1792 with the following:

- 1793 1. Project records, including approved stormwater management plans, shall be
1794 kept for three years after permit termination or project completion .
- 1795 2. Stormwater management facility inspection records shall be documented and
1796 retained for at least five years from the date of inspection.
- 1797 3. Construction record drawings shall be maintained in perpetuity or until a
1798 stormwater management facility is removed .

1799 4. All registration statements submitted in accordance with 4VAC50-60-59 shall
1800 be documented and retained for at least three years from the date of project
1801 completion or permit termination.

1802 **4VAC50-60-130. (Repealed.)**

1803 **4VAC50-60-140. (Repealed.)**

1804 Part III B

1805 Department of Conservation and Recreation Procedures for Review of Local Stormwater
1806 Management Plans

1807 **4VAC50-60-142. Authority and applicability.**

1808 This part specifies the criteria that the department will utilize in reviewing a locality's
1809 administration of a local stormwater management program pursuant to § 10.1-603.12 of
1810 the Code of Virginia following the board's approval of such program in accordance with
1811 the Act and these regulations.

1812 **4VAC50-60-144. Local stormwater management program review.**

1813 A. The department shall review each board-approved local stormwater management
1814 program at least once every five years on a review schedule approved by the board. The
1815 department may review a local stormwater management program on a more frequent
1816 basis if deemed necessary by the board and shall notify the local government if such
1817 review is scheduled.

1818 B. The review of a board-approved local stormwater management program shall
1819 consist of the following:

1820 1. An interview between department staff and the local stormwater management
1821 program administrator or designee;

1822 2. A review of the local ordinance(s) and other applicable documents;

1823 3. A review of a subset of the plans approved by the local stormwater
1824 management program for consistency of application including exceptions granted
1825 and calculations or other documentation that demonstrates that required nutrient
1826 reductions are achieved using appropriate on-site and off-site compliance
1827 options;

1828 4. A review of the funding and staffing plan developed in accordance with
1829 4VAC50-60-148;

1830 5. An inspection of regulated activities; and

1831 6. A review of enforcement actions and an accounting of amounts recovered
1832 through enforcement actions.

1833 C. To the extent practicable, the department will coordinate the reviews with its other
1834 local government program reviews to avoid redundancy.

1835 D. The department shall provide its recommendations to the board within 90 days of
1836 the completion of a review.

1837 E. The board shall determine if the local stormwater management program and
1838 ordinance are consistent with the Act and state stormwater management regulations and
1839 notify the local stormwater management program of its findings. If such findings indicate
1840 that the program is consistent with the Act and attendant regulations, the findings shall
1841 be provided to the local stormwater management program at least 21 days in advance of
1842 the meeting where the board will take action on the locality's program. If such findings

1843 indicate that the program is inconsistent with the Act and attendant regulations, the
1844 findings shall be provided to the local stormwater management program at least 35 days
1845 in advance of the meeting where the board will take action on the locality's program.

1846 F. If the board determines that the deficiencies noted in the review will cause the
1847 local stormwater management program to be out of compliance with the Stormwater
1848 Management Act and attendant regulations, the board shall notify the local stormwater
1849 management program concerning the deficiencies and provide a reasonable period of
1850 time for corrective action to be taken. If the local stormwater management program
1851 agrees to the corrective action approved by the board, the local stormwater
1852 management program will be considered to be conditionally compliant with the
1853 Stormwater Management Act and attendant regulations until a subsequent finding of
1854 compliance is issued by the board. If the local stormwater management program fails to
1855 take the board's required corrective action within the specified time, the board may take
1856 action pursuant to § 10.1-603.12 of the Code of Virginia. A local stormwater
1857 management program that fails to take corrective action in accordance with the board
1858 requirements shall not be considered a qualifying local program for purposes of the
1859 Virginia Stormwater Management Program permitting regulations.

1860 Part III C

1861 Virginia Soil and Water Conservation Board Authorization Procedures for Local 1862 Stormwater Management Programs

1863 **4VAC50-60-146. Authority and applicability.**

1864 Subdivision 1 of § 10.1-603.4 of the Code of Virginia requires that the board
1865 establish standards and procedures for authorizing a locality to administer a stormwater
1866 management program. In accordance with that requirement, and with the further
1867 authority conferred upon the board by the Virginia Stormwater Management Act (§ 10.1-
1868 603.2 et seq. of the Code of Virginia), this part specifies the procedures the board will
1869 utilize in authorizing a locality to administer a qualifying local program.

1870 **4VAC50-60-148. Local stormwater management program administrative 1871 requirements.**

- 1872 A. A local stormwater management program shall provide for the following:
- 1873 1. Identification of the authority accepting complete registration statements and
1874 for the authorities completing plan review, plan approval, inspection and
1875 enforcement.
 - 1876 2. Submission and approval of erosion and sediment control plans in accordance
1877 with the Virginia Erosion and Sediment Control Law and attendant regulations
1878 and the submission and approval of stormwater management plans;
 - 1879 3. Requirements to ensure compliance with 4VAC50-60-54, 4VAC50-60-55 and
1880 4VAC50-60-56;
 - 1881 4. Requirements for inspections and monitoring of construction activities by the
1882 operator for compliance with local ordinances;
 - 1883 5. Requirements for long-term inspection and maintenance of stormwater
1884 management facilities;
 - 1885 6. Collection, distribution to the state if required, and expenditure of fees;
 - 1886 7. Enforcement procedures and civil penalties;
 - 1887 8. Policies and procedures to obtain and release bonds, if applicable; and

1888 9. Procedures for complying with the applicable reporting and record keeping
1889 requirements in 4VAC50-60-126.

1890 B. A local stormwater management program shall adopt and enforce an ordinance(s)
1891 that incorporates the components set out in subdivisions 1 through 5 and 7 of subsection
1892 A of this section.

1893 **4VAC50-60-150. Authorization procedures for local stormwater management**
1894 **programs**

1895 A. A locality required to adopt a program in accordance with § 10.1-603.3 A of the
1896 Code of Virginia or those electing to seek authorization to administer a qualifying local
1897 program must submit to the board an application package which, at a minimum, contains
1898 the following:

1899 1. The draft local stormwater management program ordinance(s) as required in
1900 4VAC50-60-148;

1901 2. A funding and staffing plan; and

1902 3. The policies and procedures, including but not limited to, agreements with Soil
1903 and Water Conservation Districts, adjacent localities, or other entities, for the
1904 administration, plan review, inspection, and enforcement components of the
1905 program.

1906 B. Upon receipt of an application package, the board or its designee shall have 30
1907 calendar days to determine the completeness of the application package. If an
1908 application package is deemed to be incomplete based on the criteria set out in
1909 subsection A of this section, the board or its designee must identify to the locality in
1910 writing the reasons the application package is deemed deficient.

1911 C. Upon receipt of a complete application package, the board or its designee shall
1912 have 120 calendar days for the review of the application package, unless an extension
1913 of time is requested. During the 120-day review period, the board or its designee shall
1914 either approve or disapprove the application, or notify the locality of a time extension for
1915 the review, and communicate its decision to the locality in writing. If the application is not
1916 approved, the reasons for not approving the application shall be provided to the locality
1917 in writing. Approval or denial shall be based on the application's compliance with the
1918 Virginia Stormwater Management Act and these regulations.

1919 D. A locality required to adopt a local stormwater management program in
1920 accordance with § 10.1-603.3 A of the Code of Virginia shall submit a complete
1921 application package for the board's review pursuant to a schedule set by the board in
1922 accordance with § 10.1-603.3 and shall adopt a local stormwater management program
1923 consistent with the Act and this chapter within the timeframe established pursuant to §
1924 10.1-603.3.

1925 E. A locality not required to adopt a local stormwater management program in
1926 accordance with § 10.1-603.3 A but electing to adopt a local stormwater management
1927 program shall notify the board in accordance with the following:

1928 1. A locality electing to adopt a local stormwater management program may
1929 notify the board of its intention within six months of the effective date of these
1930 regulations. Such locality shall submit a complete application package for the
1931 board's review pursuant to a schedule set by the board and shall adopt a local
1932 stormwater management program within the timeframe established by the board.

1933 2. A locality electing to adopt a local stormwater management program that does
1934 not notify the board within the initial six-month period of its intention may
1935 thereafter notify the board at any regular meeting of the board. Such notification
1936 shall include a proposed schedule for adoption of a local stormwater
1937 management program within a timeframe agreed upon by the board.

1938 F. A local stormwater management program approved by the board shall be
1939 considered a qualifying local program for purposes of the Virginia Stormwater
1940 Management Program permitting regulations.

1941 G. The department shall administer the responsibilities of the Act and this chapter in
1942 any locality in which a local stormwater management program has not been adopted.
1943 The department shall develop a schedule, to be approved by the board, for adoption and
1944 implementation of the requirements of this chapter in such localities. Such schedule may
1945 include phases of implementation and shall be based upon considerations including the
1946 typical number of permitted projects located within a locality, total number of acres
1947 disturbed by such permitted projects, and such other considerations as may be deemed
1948 necessary by the board.

1949

1950 DOCUMENTS INCORPORATED BY REFERENCE (4VAC50-60)

1951 Illicit Discharge Detection and Elimination – A Guidance Manual for Program
1952 Development and Technical Assessments, EPA Cooperative Agreement X-82907801-0,
1953 October 2004, by Center for Watershed Protection and Robert Pitt, University of
1954 Alabama, available on the Internet at http://www.cwp.org/idde_verify.htm.

1955 Getting in Step – A Guide for Conducting Watershed Outreach Campaigns, EPA-
1956 841-B-03-002, December 2003, U.S. Environmental Protection Agency, Office of
1957 Wetlands, Oceans, and Watersheds, available on the Internet at
1958 <http://www.epa.gov/owow/watershed/outreach/documents/getnstep.pdf>, or may be
1959 ordered from National Service Center for Environmental Publications, telephone 1-800-
1960 490-9198.

1961 Municipal Stormwater Program Evaluation Guidance, EPA-833-R-07-003, January
1962 2007 (field test version), U.S. Environmental Protection Agency, Office of Wastewater
1963 Management, available on the Internet at
1964 [http://cfpub.epa.gov/npdes/docs.cfm?program_id=6&view=allprog&sort=name#ms4_gui](http://cfpub.epa.gov/npdes/docs.cfm?program_id=6&view=allprog&sort=name#ms4_guidance)
1965 [dance](http://cfpub.epa.gov/npdes/docs.cfm?program_id=6&view=allprog&sort=name#ms4_guidance), or may be ordered from National Technical Information Service, 5285 Port Royal
1966 Road, Springfield, VA 22161, telephone 1-800-553-6847 or (703) 605-6000.

1967 Technical Memorandum – The Runoff Reduction Method, April 2008, and
1968 addendums, December 2009.