Proposed Construction General Permit Regulations
Email Comments Received by Regulatory Advisory Panel Members/Representatives - Compiled as of December 19, 2012

RAP Member/Rep.	Comment Topic/Issue	Regulatory Citation	Line Reference	Other Comments
D. Beisch	**State vs. Surface Waters** - Suggest search and replace throughout document to reference "surface waters" in lieu of "state waters"			Draft regulations now address surface waters.
J. Paine/ B. Brumbaugh	**General** - The changes proposed in this new CGP regulation will reverberate far beyond a normal permit renewal process. The entire administrative process is being shifted from the Commonwealth to localities, and localities will find themselves on new, untested ground in terms of business			This comment is outside of the scope of development of these regulations.
J. Paine/ B. Brumbaugh	**E-Permitting** - A key component of the new approach and permit will be reliance upon an ePermitting system that is currently in an 'Alpha' phase of development. Development of the ePermitting system should be allowed to catch up to the CGP renewal process—otherwise the system runs the risk of being oversold and under-delivered.			This comment is outside of the scope of development of these regulations.
J. Paine/ B. Brumbaugh	**Rollout** - It is particularly important for localities to understand much more clearly than they do at the present time the specific staffing, programming, planning and budgeting changes they will have to implement to comply with the new regulations. HRPDC is concerned that the costs and burdens shifted to localities will be overwhelming.			This comment is outside of the scope of development of these regulations.
J. Paine/ B. Brumbaugh	**Administrative Burden** - There are requirements in the current draft language that have not been adequately explored in terms of costs and difficulty, such as the requirements for wet signatures and the lack of grandfathering for public projects for which funds have been obligated and contracts negotiated. Requiring 'updates' to plans already approved for these projects is in some cases a moving goalpost. Also, HRPDC member jurisdictions do not welcome the idea that they would have to install kiosks or enter data for any third party.			The draft permit (4VAC50-60-1170) has been written to incorporate newly promulgated federal effluent limitation guidelines (ELGs) for discharges from construction activities. In order to obtain or maintain coverage under this general permit the federal ELGs must be satisfied (i.e. grandfathering does not apply). Consequently, previously developed stormwater pollution prevention plans may have to be updated to address the federal ELGs.

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J. Paine/ B. Brumbaugh	**Administrative Burden** - Continuation of comment above.			Please note that several of the federal ELGs have been previously addressed through the development of erosion & sediment control plans. As currently written, the draft regulations do not require local jurisdictions to install computer kiosks and/or perform data entry for general permit operators.
J. Paine/ B. Brumbaugh	**Fees** - Permitting fees have not been discussed in this RAP process to any degree that is helpful to localities.			This comment is outside of the scope of development of these regulations.
J. Paine/ B. Brumbaugh	**Review Time** - At the 6th RAP Committee meeting on 13 November 2012, the majority (11 of 15) of Committee members present indicated that they did not believe adequate time has been provided to properly review and comment on the various draft revisions of the proposed CGP regulation.			A meeting has been scheduled for January 4, 2013 in order to have additional discussions of the draft regulations.
J. Paine/ B. Brumbaugh	to the Soil and Water Conservation Board by 27 November 2012 will not have been discussed by the RAP Committee, because the language is still not finalized and the final RAP Committee meeting was 13 November 2012. When facilitators polled for consensus at that meeting, substantial (if not most) portions of the proposed CGP regulation failed to gain Committee			A meeting has been scheduled for January 4, 2013 in order to have additional discussions of the draft regulations.

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J. Paine/ B. Brumbaugh	**Review Time** - HRPDC believes that if adequate dialog is allowed, problems and costs that could arise as a consequence of rushing through the development of the proposed CGP regulations could be greatly reduced. For these reasons we request that the RAP process be extended to provide a reasonable opportunity to resolve these concerns.			A meeting has been scheduled for January 4, 2013 in order to have additional discussions of the draft regulations.
J. Paine/ B. Brumbaugh	**Review Time/Consensus** - We are not clear on what will be presented about the lack of consensus and dissenting opinions if a proposed regulation is submitted by November 27th. If that schedule is maintained, HRPDC requests that a report of dissenting opinions be presented to the Board, similar to what was done for the Nutrient Credit Exchange RAP.			A meeting has been scheduled for January 4, 2013 in order to have additional discussions of the draft regulations.
J. Paine/ B. Brumbaugh	**Review Time** - Although this process is being rushed to help local governments with their local programs, the current schedule still delays the CGP rollout until August—which is after the April deadline to submit extension documents to DCR. Delaying the process three months will not make much a difference in terms of local program development, but could result in a much better regulation. HRPDC suggests that DCR should defer taking this proposed regulation to the Board until March, and facilitate at least three more RAP meetings to complete our work.			A meeting has been scheduled for January 4, 2013 in order to have additional discussions of the draft regulations.

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M. Toalson	**ELGs** - I am on a call with NAHB and all Bay state builder leaders, and none of them have ELG's and SWPPP's in their General Permits and NAHB says they are not required by the EPA. I was at a State Executive Officer Peer Group meeting, and several told me the EPA wanted individual lot ELG's and those states said no, and the EPA backed down. Even Maryland does not require SWPPP or ELGs for individual lots in plan of Developments. We need to take the individual lot ELG requirements and SWPPP requirements out of the General Permit!			DCR's approach is similar to that found in the adjacent states and EPA's expectations. The construction general permit details the SWPPP as the 1) approved erosion and sediment control plan; 2) the approved stormwater management plan to address post-development stormwater runoff; and 3) a pollution prevention plan to address the discharge of pollutants other than those addressed by an erosion and sediment control plan. The federal ELGs are incorporated into the appropriate locations within these plans and apply to all regulated construction activities. In seeking confirmation of this comment, DCR requested information from EPA Region III, Maryland, Pennsylvania and West Virginia. EPA confirmed that SWPPPs have always been required and ELGs are required to be incorporated into permits. It was thought that the reason that no other state has the current construction ELG requirements is because they have not reissued their construction GPs since the construction ELG was published. EPA expects all newly issued construction general permits to include the ELGs.

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M. Toalson	**ELGs** - continued			Maryland's construction general permit expires December 31, 2013. Maryland's interpretation is that 40 CFR 450.10 (applicability section of the federal ELG regulation) appears to specifically include all construction required to get an NPDES permit and that the exemption discussed by the NAHB is not in the federal construction stormwater permit applicable in DC. In Maryland, the GP does not have something specifically called a SWPPP. Through separate State regulation, all construction sites from 5,000 sf on up must have an approved erosion and sediment control plan. That plan and the SWM plan essentially are in place of the SWPPP required by permits in other jurisdictions. So an individual lot, even if it were totally separate from any larger development and thus not needing NPDES coverage, would have to have those plans and get them approved by the appropriate authority.
M. Toalson	**ELGs** - continued			PA recently reissued their CGP (11/12) with the following requirement: *"Except as required by 25 Pa. Code §102.11(c), this permit establishes narrative performance based effluent limitations in the form of BMPs identified in E&S Plans, PCSM Plans, and PPC Plans, which control the volume, rate, and quality of stormwater runoff and associated pollutants from being discharged into surface waters, and which replicate preconstruction infiltration and runoff conditions to the maximum extent practicable. Section 102.11(c) incorporates by reference federal Effluent Limitation Guidelines in 40 CFR Part 450 (relating to the construction and development point source category)."*

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M. Toalson	**ELGs** - continued			West Virginia confirmed that the lot has transferred it would no longer be the responsibility of the developer but would become the responsibility of the new lot owner. The lot owner is responsible for their contractor. The West Virginia construction stormwater general permit also includes a reference that the General Permit does not excuse the permittee from meeting federal regulations.
J. Paine/ B. Brumbaugh	**Definitions/Review Time** - HRPDC is concerned that hazy definitions could have spiraling implications for other permits, such as the definition of a "direct discharge" to impaired waters. Again, related federal definitions are vague, and fail to recognize the real-world difficulties in establishing practically what constitutes a discharge or connection to an impaired water. Given more time, the RAP Committee could work out a better definition—that could be implemented without relying on technology and data that currently does not exist.	1100		Please note that "direct discharge" has been previously defined in 4VAC50-60-10. The definition incorporates the definition of "discharge of a pollutant," which includes the addition of pollutants to surface waters from surface runoff that is collected or channeled by man and discharges through pipes, sewers, or other conveyances that do not lead to a treatment works.
A. Cosby	**Definitions** - "Qualified personnel" means a person knowledgeable in the principles and practices of erosion and sediment and stormwater management controls who possesses the skills to assess: 1) conditions at the construction site for the operator that could impact stormwater quality and quantity and 2) ~~to assess~~ the effectiveness of any sediment and erosion control measures and/or stormwater management facilities selected to control the same ~~quality and quantity of stormwater discharges from the construction activity~~. For VSMP authorities, "qualified personnel" means a person ~~this requires the use of a person~~ who holds a certificate of competency from the board in the area of project inspection for ESC and project inspection for SWM or combined administrator for ESC and combined administrator for SWM as defined in 4VAC50-50-10 or a combination of ESC and ~~SWM~~ SEM qualifications from these two areas.	1100		The definition of "qualified personnel" has been previously defined in 4VAC50-60-10. For consistency purposes, this definition has been removed from the general permit.

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D. Beisch	**Definitions** - "Run-off producing event" means a rainfall event producing 0.25 inches of rain or greater over 24 hours. Comment: I recommend that DCR prepare some typical analysis of Virginia precipitation to ascertain what the difference in recurrence between 0.5 inch events and 0.25 inch events is so that you can provide a "data-driven" response to likely comments on the regulation….. This and the changes to inspection frequency referenced later are significant cost drivers on inspections. Mostly a cost and practicality issue….	1100	50	"Runoff producing event" has been replaced with "measurable storm event" for clarity purposes. As currently proposed, a discrete storm event producing 0.25 inches of rain or greater would trigger the need for a site inspection regardless of the storm event's duration.
D. Beisch	**Definitions** - "Run-off producing event" means a rainfall event producing 0.25 inches of rain or greater over 24 hours. Comment: It needs to be clarified whether this is in a calendar day…..or whether this is in any rolling 24 hour period…. Specifically, many weather stations report daily (calendar day) rainfall totals (local SCADA data, etc.) and if a rolling period were used then incremental rainfall analysis would be virtually required (and more expensive. Another excellent comment that was brought up was about the precision of the measurement. It takes a more sophisticated instrument to measure rainfall accumulation accurately to the hundredth of an inch…. I'd suggest that the stand be modified to reference a calendar day, that the measurement be pegged to an even tenth of an inch increment (e.g 0.3 inches) and see subsequent comments about when the inspection 48 hr period is triggered (after the storm…..or interevent?). Example of clarifying language would be "Runoff producing event means a rainfall event which generates more than 0.3 inches of rainfall or greater in a given calendar day."	1100	50	"Runoff producing event" has been replaced with "measurable storm event" for clarity purposes. As currently proposed, a discrete storm event producing 0.25 inches of rain or greater would trigger the need for a site inspection. For example, a 3-hour storm event producing 0.30 inches of rain would require a site inspection as would a 72-hour storm event producing 0.30 inches of rain.
J. Paine/ B. Brumbaugh	**Definitions** - There is a disconnect between what DCR staff and localities understand about "Common Plan of Development" issues. The Federal definition of this term is vague, and related provisions have not been consistently enforced in the past (in part due to a lack of clarity). With the shift in administrative responsibility to the local level, some localities will be burdened with large numbers of non-conforming lots, and will be cleaning up a regulatory mess at their expense.	1100		The term "common plan of development or sale" is defined in 4VAC-60-10 as a "means a contiguous area where separate and distinct construction activities may be taking place at different times on different schedules."

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P. Sanner	**Definitions** - "Qualified personnel" means a person knowledgeable in the principles and practices of erosion and sediment and stormwater management controls who possesses the skills to assess conditions at the construction site for the operator that could impact stormwater quality and quantity and to assess the effectiveness of any sediment and erosion control measures or stormwater management facilities selected to control the quality and quantity of stormwater discharges from the construction activity. For VSMP authorities, this requires the use of a person who holds a certificate of competency from the board in the area of project inspection for ESC and project inspection for SWM or combined administrator for ESC and combined administrator for SWM as defined in 4VAC50-50-10 or a combination of ESC and SWM qualifications from these two areas. Comment: No objection to this definition.	1100		This is the definition of "qualified personnel" in 4VAC50-60-10.
J. Paine/ B. Brumbaugh	**Definitions** - HRPDC member jurisdictions still have concerns about the definition of a “qualified person,” particularly for self-inspection purposes. Despite a significant amount of discussion during this RAP process, the definition is still not settled. Likewise they would like more specific information about how DCR will provide training and certification.	1100		The term "qualified personnel" is defined in 4VAC-50-60-10 as "a person knowledgeable in the principles and practices of erosion and sediment and stormwater management controls who possesses the skills to assess conditions at the construction site for the operator that could impact stormwater quality and quantity and to assess the effectiveness of any sediment and erosion control measures or stormwater management facilities selected to control the quality and quantity of stormwater discharges from the construction activity. For VSMP authorities this requires the use of a person who holds a certificate of competency from the board in the area of project inspection for ESC and project inspection for SWM or combined administrator for ESC and combined administrator for SWM as defined in 4VAC50-50-10 or a combination of ESC and SWM qualifications from these two areas."

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P. Sanner	**Registration Statement** - The use of the phrases "by the Board or its designated authority." CBF wants to ensure that Board continues to be the paramount Virginia authority for administration of the Clean Water Act.	1130	77	Language has been revised.
D. Nunnally	**Enhanced E&S** - What about adding a provision to allow the use of 'enhanced or more stringent ESC measures and practices' in lieu of the 'more frequent inspection' schedule? That way, a locality could adopt 'more stringent ESC measures' as a local option, already authorized by existing E&S Law (10.1-570). I've attached a few examples. These measures would be considered during the plan review/approval process. (And the silt fence/mulch combo is actually a 'worker access' not a construction entrance. It's the closest thing to SF/mulch combo, which is really the practice I have in mind.) 'More frequent inspections' cost more money, everybody, every project, even those that are 100% compliant and performing satisfactorily. And for those good projects, it's money spent for no benefit. Allowing the more stringent ESC measures, gets better results, at minimal costs. Mulch can be processed on-site as part of the clearing operation. No burning or hauling to landfill. And it can be mixed into the soil as an amendment or left in place (especially in buffer area). Silt fence has to be removed and hauled to a landfill, plus that trench has to repair and never really looks right. The temporary downspout drains really work well in establishing a new lawn. In a subdivision setting, the flexible pipe can be re-used repeatedly. I realize that some people will be uneasy with this suggestion, especially since we don't currently have 'enhanced E&S measures.' But we have to start somewhere. If not, it could be 5 yrs before the CGP is revised again.	1130	89	Comment noted. As currently written, the draft permit does not include the installation of enhanced erosion and sediment controls in lieu of 'more frequent' site inspections to be performed by the operator or his/her designee. Site inspections play a critical role in helping to properly implement, evaluate, maintain, and modify (if necessary) best management practices to minimize the discharge of pollutants to the extent achievable during the lifespan of a construction project. Please note that 'more frequent' inspections have been reserved only for discharges to sensitive (i.e. water quality impaired, TMDL limited, or exceptional) surface waters. It is believed that the increased inspection frequency will enhance the operator's ability to find and correct problems before a discharge of pollutants occurs, therefore, further minimizing the potential for exceedances of applicable water quality standards.

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D. Beisch	**E&S Control Plan** - An erosion and sediment control plan from the appropriate VESCP authority as authorized under the Virginia Erosion and Sediment Control Regulations, 4VAC 50-30, unless the operator receives from the VESCP an "agreement in lieu of a plan" as defined in 4VAC50-30-10 or prepares the erosion and sediment control plan in accordance with annual standards and specifications approved by the department;. The operator of any land-disturbing activity that is not required to obtain erosion and sediment control plan approval from a VESCP authority (with the exception of operators with board-approved annual standards and specifications) shall submit the erosion and sediment control plan to the department for review and approval prior to land disturbance; and, Comment: I thought I had a simple language changes by adding an "s" but that didn't do the trick in retrospect….. I think the language needs to be reconfigured similar to how I have done here to clarify that AS&S operators don't need to submit every plan. Comments to this effect made in section 1170 as well.	1130	89	Comment addressed - change made in draft regulations.
D. Beisch	**Stormwater Management Plan** - A stormwater management plan from the appropriate VSMP authority as authorized under the Virginia Stormwater Management Program Regulations, 4VAC50-60. The operator of any land-disturbing activity that is not required to obtain stormwater management plan approval from a VSMP authority (with the exception of operators with board-approved annual standards and specifications) shall submit the stormwater management plan to the department for review and approval prior to land disturbance. Comment: I thought I had a simple language changes by adding an "s" but that didn't do the trick in retrospect….. I think the language needs to be reconfigured similar to how I have done here to clarify that AS&S operators don't need to submit every plan.	1130	99	Comment addressed - change made in draft regulations.

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D. Beisch	Discharges to Impaired Waters - Discharges to impaired waters for which a "total maximum daily load" (TMDL) wasteload allocation has been established are not eligible for coverage under this general permit unless the operator develops, implements, and maintains a stormwater pollution prevention plan that minimizes observed impairment sources and, when applicable, is they are otherwise authorized in accordance with 4VAC50-60-1170 Section II D 6 and consistent with the requirements and assumptions and requirements of all associated TMDL wasteload allocations . the wasteload allocations in the TMDL; and Comment: Check definition of TMDL and Suggest that the DEQ and DCR actively collaborate to identify any specific required embellishments to SWPPP that are needed to satisfy local TMDL "assumptions and requirements" so that operators do not have to search, research or guess. A website could be constructed which generates a SWPPP-insertable set of specific protocols for TMDLs pertaining to stormwater that may vary by watershed, pollutant sources, level of control needed etc… It would be very helpful to the industry [Not a regulatory comment….just more about tools].	1130	116	The language included in 4VAC50-60-1170 Section I.B.3 has been re-written for clarity purposes. Please note that State agencies typically do not design and/or dictate site specific controls to comply with TMDL requirements. In doing so, this would potentially hinder and/or eliminate the operator's or professional's ability to implement innovative an cost-efficient solutions for TMDL compliance.
P. Sanner	**Discharges to Impaired Water** - Suggests modifications as follows: "Discharges to impaired waters are not eligible for coverage under this general permit unless the operator develops, implements and maintains a stormwaters pollution prevention plan that minimizes observed impairment sources and, when applicable ~~and, when applicable~~ is consistent with the assumptions and requirements of all applicable ~~associated~~ TMDL wasteload allocations, and prevents the site from contributing to the impairment."	1130	116	Language has been re-written.
D. Beisch	**Authorization for Discharge** - The board, will notify an operator that the discharge is not eligible for coverage under this general permit in the event of any of the following: Comment: It would be nice if someone could specifically articulate how this will occur with e-permitting.. There is potential for a mess with the permit being issued and the operator breaking ground and then having a permit overturned…. Obviously better to have a clean system where folks don't get caught in such a mire.	1130	158	No change has been made to the draft regulations but processes related to e-permitting will be addressed in guidance.

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P. Sanner	**Eligibility for Coverage** - Do not delete the following condition from the proposed draft: "The discharge Stormwater discharge that the department in consultation with the State Water Control Board determines causes, may reasonably be expected to cause, or contribute to a violation of water quality standards (9VAC25-260.)"	1130	165	Language has been added to 4VAC50-60-1130.B.3 to reincorporate the water quality standards.
P. Sanner	**Discharges to Impaired Water (antidegradation policy)** - Suggests modifications as follows: B. This general permit does not authorize discharges that are not controlled as necessary to meet applicable water quality standards.	1130	170	Language has been added to 4VAC50-60-1130.B.3 to reincorporate the water quality standards. Please note that compliance with the State Water Control Board's antidegradation policy ensures compliance with applicable water quality standards.
P. Sanner	**Eligibility for Coverage** - Suggested modification: "The ~~board determines that the~~ discharge~~s are~~ is not consistent with the assumptions and requirements of an approved TMDL."	1130	173	Language has been revised.
D. Beisch	**Support Activity** - All applicable state, federal and local approvals are obtained for the support activity. Comment: "Applicable" should be substituted to avoid issues with state/local and federal/state/local primacy issues. Also needs to be addressed throughout the regulation.	1130	189	Change has been made.
D. Beisch	**Continuation of Permit Coverage** - Check subsequent section (1150)…. There may be instances where someone sends the registration statement but does not then follow through with the e-permitting. This section would seem to indicate that they may get permit coverage indefinitely.	1130	201	Please note that a complete registration statement includes a certification statement indicating that all information required by 4VAC50-60-1150.B has been entered into the electronic database provided by the department. Failure to register in the electronic database would potentially result in a registration statement being deemed incomplete. Therefore, the operator would not be eligible for continued permit coverage. No change has been made to the draft regulations but processes related to e-permitting will be addressed in guidance.

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D. Beisch	**Registration Statement** - Except as provided in subdivision 3 of this subsection, operators must certify that all information required in subdivision B has been entered completely and accurately into the available electronic database provided by the department and submit a complete and accurate registration statement to the VSMP authority in accordance with the requirements of this section prior to the issuance of coverage under the general permit that authorizes the commencement of land-disturbing activities...Comment: There is potential for this to be a mess with operators entering data both online and in writing and certifying both.	1150	229	Please note that once an operator enters all required information into e-permitting he or she will be able to print the complete registration statement then sign and mail it to the department. No change has been made to the draft regulations but processes related to e-permitting will be addressed in guidance.
D. Beisch	**Effective Date of State Permit Coverage** - NOTE: A stormwater pollution prevention plan (SWPPP) must be prepared in accordance with the requirements of the General Permit for Stormwater Discharges from Construction Activities prior to land disturbance submitting the registration statement . By signing the registration statement the operator certifies that all necessary plan approvals will be obtained and a SWPPP prepared prior to land disturbance. that the SWPPP has been prepared. Comment: I fully support the intention to allow folks to register for permit coverage but not engage in the physical land disturbing activities until all plans are approved. This helps to resolve the “chicken or egg” issue that emerged in previous permit cycles and will also allow localities to more cleanly administer the program (with the signed registration statement being submitted with the initial submittal).... Several folks asked for language clarifications... so perhaps the intent could be more clearly expressed.	1150	256	This section has been deleted from the draft permit.
P. Sanner	**Board's Authority for Enforcement** - Suggested modification: "...the VSMP authority, department, board and/or EPA reserves the rights to take enforcement actions for any unpermitted discharges...."	1150	273	Language has been revised.

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D. Beisch	**Registration Statement** - Any discharge from a construction activity that was previously permitted under the 2009 General Permit but failed to maintain uninterrupted permit coverage is considered an unpermitted discharge. Comment: Suggestion was made to simplify language to "maintain uninterrupted permit coverage" rather than "obtain coverage under this permit prior to expiration of the 2009 General Permit."	1150	277	Language re-written.
D. Beisch	**Registration Statement** - Check subsequent section (1150)…. There may be instances where someone sends the registration statement but does not then follow through with the e-permitting. This section would seem to indicate that they may get permit coverage indefinitely.	1150	280	Please note that a complete registration statement includes a certification statement indicating that all information required by 4VAC50-60-1150.B has been entered into the electronic database provided by the department. Failure to register in the electronic database would potentially result in a registration statement being deemed incomplete. Therefore, the operator would not be eligible for continued permit coverage. No change has been made to the draft regulations but processes related to e-permitting will be addressed in guidance.
D. Beisch	**Registration Statement** - All necessary approvals required by this permit will be obtained prior to permit coverage. By signing the registration statement, the operator certifies that all necessary approvals required by the permit will be prepared obtained prior to land disturbance; Comment: Change "prepared" to "obtained."	1150	310	Language re-written.
D. Beisch	**Notice of Termination** - Where applicable, the following information related to nutrient offsets that were acquired in accordance with § 10.1-603.8:1 of the Code of Virginia. Comment: I believe the term "nutrient offsets" was modified in the nutrient trading act to "nutrient credits" or more specifically for stormwater/CGP "perpetual nutrient credits."	1160	372	Language re-written.

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D. Beisch	**Notice of Termination** - Where applicable, the following information related to nutrient offsets that were acquired in accordance with § 10.1-603.8:1 of the Code of Virginia: d. Nutrient reductions achieved on site (lbs. per acre per year). Comment: Because Item 5 in this same section references only those practices "at the site", this section, which is number 7, should provide reference to all of the off-site compliance options contained in 4VAC50-60-69…. Additionally you may wish to make reference to controls which are installed as part of a larger common plan of development for small site operators within a large planned development.	1160	372	Comment addressed - changes made in draft regulations.
M. Rolband	**Notice of Termination (Certification)** - Delete "recorded": 8. By signing this certification, the operator certifies that any recorded instrument for the long term maintenance of any permanent stormwater management facilities, required pursuant to 4 VAC 50-60-58, has been submitted to the VSMP authority.	1160	399	Change addressed in draft regulations. Consistency with other regulatory provisions (4VAC 50-60-112) needs to be ensured.
M. Rolband	**Notice of Termination** - Line 407. Add the phrase ", approved, and recorded the locality in which the facility is located"	1160		Additional clarification regarding this comment is needed.
D. Beisch	**Section I - Beginning** - In compliance with the provisions of the Clean Water Act, as amended, and pursuant to the Virginia Stormwater Management Act and attendant regulations, operators of construction activities covered by this state permit with stormwater discharges are authorized to discharge to state surface waters, including discharges to a regulated MS4 system, within the boundaries of the Commonwealth of Virginia , except those specifically named in State Water Control Board and or Virginia Soil and Water Conservation Board regulations that which prohibit such discharges. Comment: Just a weird question...does this mean a direct outfall in the Potomac River cannot be covered, or is that otherwise addressed in law?	1170	434	DCR is examining this issue with DEQ and further clarification will be provided.
M. Rolband	**Emergency-Related Construction Activities** - Modify the public sentence: "Construction activities in response to a public emergency…., and the related work requires immediate authorization to avoid imminent endangerment to human health, public safety, or the environment."	1170	459	Comment addressed -change made to regulations.

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RAP Member/Rep.	Comment Topic/Issue	Regulatory Citation	Line Reference	Other Comments
D. Beisch	**Coverage Under State Permit** - There shall be no discharge of floating solids or visible foam in other than trace amounts that contravenes established standards or interferes directly or indirectly with designated uses of surface waters. Comment: While I understand that DEQ does not intend to enforce this for ridiculous things (like leaves or floating tree limbs, etc.) that are not deleterious to water quality…. That does not change the fact that EPA has a history of at times targeting administrative penalties toward sometimes innocuous but incontrovertible violations… Given the fact that the ELG language requires a surface outlet…. Unless you are requiring skimmers…..I think the language needs to be tempered or conditioned.	1170	489	The language included in 4VAC50-60-1170 Section I.B.3 has been re-written for clarity purposes. Please note that State agencies typically do not design and/or dictate site specific controls to comply with TMDL requirements. In doing so, this would potentially hinder and/or eliminate the operator's or professional's ability to implement innovative an cost-efficient solutions for TMDL compliance.
D. Beisch	**Limitations of Coverage for Discharges to Impaired Waters** - All construction activities outside of Tidewater Virginia, as defined in § 10.1-2101 of the Code of Virginia, that discharge into to a surface waters included in the Chesapeake Bay watershed TMDL above the fall line and disturb more than 50 20 acres. Comment: The reference herein to "discharges to a surface water" are superfluous because if they aren't discharging to a surface water they don't need this permit….so strike that… This whole section could be streamlined with simpler and more easily interpreted language by using a series of progressively smaller screens, such as: The schedule shall be implemented for all construction activities: A) In the Chesapeake Bay Watershed that disturb more than 20 acres B) In Tidewater Virginia (definition) that disturb more than 10 acres C) Disturbing greater than 5 acres located in a watershed covered by a TMDL other than the Chesapeake Bay TMDL D) Discharging to an impaired water where construction activities have been allocated a wasteload allocation (suggest moving the reference to the 2012 report to a permit specific definition section of impaired waters). E) Discharging directly to impaired waters where sediment or nutrient parameters are an identified source of the impairment.	1170	519	Section has been reorganized and streamlined.

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RAP Member/Rep.	Comment Topic/Issue	Regulatory Citation	Line Reference	Other Comments
J. Kelbe	**Evaluation for Acreage Disturbance** - As an extension, because this is a general permit and not an individual permit, the agency should create a numeric formula to facilitate such an evaluation (such as comparing acreage of the impaired watershed to the acreage to be disturbed as a way to determine if there is significant risk for the site to be large enough to significantly contribute to the impairment) or apply an agency judgment for the potential to cause or contribute.	1170	519	This has been achieved to some extent in the general permit language by graduating additional measures by the following scenarios: a) Direct discharges to impaired waters or 5-acres sites within a TMDL watershed; b) 10 acre sites within the Bay watershed and in Tidewater; and c) 20 acres sites within the Bay watershed and outside of Tidewater.
J. Kelbe	**Impairments** - DEQ needs to expand the language which describes which construction sites are to be considered for causing or contributing to impairment. Leaving the current definition, which only considers sites that discharge directly to impaired waters listed on the 303D/305B Integrated report, the agency is creating an inequality between permitted sources.	1170	519	These are DCR proposed regulations and not regulations of DEQ. DCR will add a paragraph to better illustrate what is meant by “direct discharge”. The definition of impaired waters includes any waters within a TMDL watershed, so the increased compliance measures would apply to TMDL waters, as well.
M. Rolband	**Limitations on Coverage** - Line 550. I am concerned that the word “directly” is inconsistent with the physical behavior of pollutants in the watersheds and impaired waters.	1170	519	The language included in 4VAC50-60-1170 Section I.B.3 has been re-written for clarity purposes. Please note that the term "direct discharge" has been previously defined in 4VAC50-60-10.
M. Rolband	**Limitations on Coverage to Impaired Waters -** Modified Inspection Schedule and construction activities disturbing more than 5, 10, or 20 acres - The acreages specified (5, 10, 20, respectively) should be changed to 1 acre to be consistent with Stormwater regs which give a reduced standard when sites are less than 1 acre.	1170	519	Benthic habitat, or the lack thereof, is a potential surface water impairment (and not an observed impairment source) identified in the 305(b)/303(d) Water Quality Assessment Integrated Report. Permit language has not been revised as this time.

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D. Beisch	**Limitations of Coverage for Discharges to Impaired Waters** - Inspections shall be conducted every 7 days and within 48-hours of a runoff producing event. Comment: A good question was raised about what is construed to be the end of a storm event and when the clock should start ticking (after the storm or sometime during the event?".. The language could be modified to indicate that inspections should be conducted "every 7 days and within 48 hrs after the end of a runoff producing event"… The language referenced later refers to "following any runoff producing storm event"….so there should also be consistency between terminology.	1170	536	Change made in draft regulations.
M. Rolband	**Limitations of Coverage** - Line 551. Add "benthics" in the example.	1170	562	Benthic habitat, or the lack thereof, is a potential surface water impairment (and not an observed impairment source) identified in the 305(b)/303(d) Water Quality Assessment Integrated Report. Permit language has not been revised at this time.
M. Rolband	**Limitations on Coverage** (Modified Inspection Schedule) - (a) All construction activities that discharge directly to impaired waters where sediment or a sediment related parameter (e.g. total suspended solids [TSS] or turbidity) or nutrients (e.g. nitrogen or phosphorus, benthics) are an observed source identified in the 2012 305(b)/303(d) Water Quality Assessment Integrated Report;	1170	564	Benthic habitat, or the lack thereof, is a potential surface water impairment (and not an observed impairment source) identified in the 305(b)/303(d) Water Quality Assessment Integrated Report. Permit language has not been revised as this time.

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RAP Member/Rep.	Comment Topic/Issue	Regulatory Citation	Line Reference	Other Comments
P. Sanner	**Limitations on Coverage (New Discharges - Exceptional Waters)** - . . . c. The following modifications to the SWPPP inspection schedule shall be implemented for all covered construction activities: (1) Inspections shall be conducted every 7 days and within ~~48~~ 24 hours of a run-off producing event. In the event that a run-off producing event occurs when there are more than ~~48~~ 24 hours between normal working hours, the inspection shall be conducted on the next working day. ~~(2) Representative inspections utilized by utility line installation, pipeline construction or other similar linear construction activities shall also inspect all outfalls discharging directly to a surface water.~~	1170	571	The 48-hour time period has been retained as a compromise between requiring inspections 24-hours after a runoff producing storm event and requiring no additional inspections after a runoff producing storm event.
M. Rolband	**Limitations on Coverage** - (b) Delete "48 hours after a run-off producing event" as well as the subsequent sentence, OR c) Provide an option that if you choose to do a 7-day inspection series without rainfall driven inspections on top of the 7-day requirement, that you can do so if enhanced E&S controls are provided at the option of the operator. Enhanced E&S controls would consist of: i. an increase of 50% of all basin and sediment trap volumes and ii. the use of a super silt fence in lieu of stander silt fence within 100 feet of surface waters. (Same comments for lines 542-545 and 585-588.)	1170	581	Comment addressed - changes made in draft regulations.

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RAP Member/Rep.	Comment Topic/Issue	Regulatory Citation	Line Reference	Other Comments
P. Sanner	**Limitations on Coverage** -Modifications for consistency with federal provisions: "3. This general permit does not authorize discharges that are not controlled as necessary to meet applicable water quality standards. ~~3~~4. Limitations on coverage for discharges to impaired waters. Discharges to impaired alters are not eligible for coverage under this permit unless the following requirements are met."	1170	519	4VAC50-60-70 Section I.G (water quality protection) appears to have already been addressed this concern.
D. Beisch	**Section II - SWPPP** - Individual construction activities that are part of a common plan of development and disturb less than one acre may utilize a SWPPP template provided by the department, and need not provide a separate stormwater management plan (subsection c) if one has been prepared and implemented for the planned development. Comment: Suggest adding this clarification or otherwise dealing with this….. I think it is similar to what you were getting at.	1170	681	Comment addressed - change made in draft regulations.

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RAP Member/Rep.	Comment Topic/Issue	Regulatory Citation	Line Reference	Other Comments
P. Abraham	**E&S Requirements** - I too have concerns with the proposed enhanced E&S requirements and acreage reductions but agree with your recommendation to delete the 48 hour inspection provision. I am particularly concerned about agreeing to such changes without having an opportunity to get input from others in VACRE.	1170	729	Comment noted. As currently written, the draft permit does not include the installation of enhanced erosion and sediment controls in lieu of 'more frequent' site inspections to be performed by the operator or his/her designee. Site inspections play a critical role in helping to properly implement, evaluate, maintain, and modify (if necessary) best management practices to minimize the discharge of pollutants to the extent achievable during the lifespan of a construction project. Please note that 'more frequent' inspections have been reserved only for discharges to sensitive (i.e. water quality impaired, TMDL limited, or exceptional) surface waters. It is believed that the increased inspection frequency will enhance the operator's ability to find and correct problems before a discharge of pollutants occurs, therefore, further minimizing the potential for exceedances of applicable water quality standards.
M. Rolband	**Stormwater Management Plan** - Procedures and practices are addressed for hardened concrete waste but not addressed for liquid waste.	1170	822	Comment addressed - changes made in draft regulations.
D. Beisch	**Section II - SWPPP** - Pollution Prevention Awareness Training Section - Comment: This seems to be a big sticking point and could generate a tremendous amount of consternation/confusion. Suggest modifying it as follows: "Operators are responsible for assuring that appropriate site personnel (including subcontractors) involved in construction activities have sufficient awareness of the provisions of the stormwater pollution prevention plan and permit. Operators should document activities to promote awareness as part of their ongoing permit maintenance."	1170	836	Wording in draft changed to following: "The pollution prevention plan shall describe procedures for providing pollution prevention awareness to personnel in order to comply with the conditions of the permit. The operator shall implement the procedures described in the SWPPP."

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RAP Member/Rep.	Comment Topic/Issue	Regulatory Citation	Line Reference	Other Comments
P. Abraham	**Pollution Prevention Awareness/Training** - Plan "shall include procedures for providing pollution prevention awareness to personnel involved in pollutant generating activities."	1170	836	Wording in draft changed to following: "The pollution prevention plan shall describe procedures for providing pollution prevention awareness to personnel in order to comply with the conditions of the permit. The operator shall implement the procedures described in the SWPPP."
D. Beisch	**Section II - SWPPP - Qualified Personnel** - The name, phone number, and qualifications of the qualified personnel conducting inspections required by this state permit. Comment: Per discussion in the RAP meeting….the lack of a specific minimum certification associated with who is considered qualified is disconcerting…. Specifically because the bar is set pretty high by the discussion of the qualified personnel's capabilities….. I suggest strongly that DCR develop guidance to clarify in what instances and when folks are appropriate to be considered qualified… The RLD cert previously may have been unsatisfactory…..but at least it was very clear. Recommend striking "responsible for"….. The operator (per line 1269) is "responsible" for ensuring that qualified personnel conduct the inspections…. The inspections are often contracted, and the inspectors responsibility only is there if a contract is in place with the operator… I would avoid listing these third-party inspectors as being "responsible" in the SWPPP…..since that infers certain liabilities and there have been instances where, for example, we cease inspections because the client stops paying his bills and is in breach of his contract…	1170	866	The definition of "qualified personnel" has been previously defined in 4VAC50-60-10. For consistency purposes, this definition has been removed from the general permit.
P. Sanner	**Definition of Qualified Personnel** - Delete the provision in the SWPPP requirements for the name Include provision under SWPPP requirements that "the operator is responsible for ensuring that all inspections required by this state permit are conducted by qualified personnel who shall be identified in the SWPPP by name, phone number, and qualifications."	1170	866	The definition of "qualified personnel" has been previously defined in 4VAC50-60-10. For consistency purposes, this definition has been removed from the general permit.
D. Beisch	**SWPPP Availability** - Suggested modification: The operator shall make the SWPPP available to the public for review, either on the internet or in hard copy. Comment: This was to clarify that additional copies don't need to be made.	1170	1021	Comment addressed - change made in draft regulations.

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RAP Member/Rep.	Comment Topic/Issue	Regulatory Citation	Line Reference	Other Comments
Richmond American Homes of Virginia (M. Trostle)	**SWPPP Availability** - The requirement for public disclosure for the SWPPP at the operator's expense is unnecessary, improper and very difficult to implement. The SWPPP is required by statute to be kept on the site so a duplicate would have to be made for public review. It is constantly being updated and evolving and contains information on the operator's business practices that should not be subject to public scrutiny. It is an internal document for which no legal authority exists to require disclosure.	1170	1010	The requirement related to public availability of the SWPPP has been amended. Numerous comments were received on this subject reflecting various viewpoints. Many strongly favored public availability of the SWPPP, while others strongly opposed it. In the end, language that is believed to achieve a compromise has been included in the General Permit. Under that language, the initial SWPPP developed for each site must be made publicly available. The developer will have a choice to either: (i) make the initial SWPPP available on an internet website and post the website address at the entrance to the construction site (or at a publicly accessible location for linear projects); or (ii) make a hard copy of the initial SWPPP available upon the receipt of a request from the public, at least once per month and during normal business hours.

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RAP Member/Rep.	Comment Topic/Issue	Regulatory Citation	Line Reference	Other Comments
Home Builders Association of Virginia (B. Hardiman); Virginia Chamber of Commerce (T. Craddock); Regency Centers (T. Chess); Tidewater Builders Association (P. Kotarides)	**SWPPP Availability** - While the Clean Water Act does encourage public participation, the Act specifically says that only permits and permit applications and documents obtained by the permitting authority shall be publicly available. It does not provide for public availability of internal control documents such as the SWPPP. The SWPPP is reviewed by the permitting authority but is not obtained. It remains in the possession of the permittee at all times.	1170	1010	The requirement related to public availability of the SWPPP has been amended. Numerous comments were received on this subject reflecting various viewpoints. Many strongly favored public availability of the SWPPP, while others strongly opposed it. In the end, language that is believed to achieve a compromise has been included in the General Permit. Under that language, the initial SWPPP developed for each site must be made publicly available. The developer will have a choice to either: (i) make the initial SWPPP available on an internet website and post the website address at the entrance to the construction site (or at a publicly accessible location for linear projects); or (ii) make a hard copy of the initial SWPPP available upon the receipt of a request from the public, at least once per month and during normal business hours.

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HRDC (J. Carlock)	**SWPPP Availability** - Section 1170 requires that the SWPPP be available for review, requires that it be made available upon request to DCR, localities and other regulatory entities and otherwise establishes reasonable limits on its availability to the public. We support these provisions and believe that they represent a reasonable compromise in promoting public availability, while allowing business to continue operating in a reasonable manner. It is strongly recommended that advance notice be required for nonregulatory entities to visit a site to review the SWPPP to minimize disruption of normal business activities.	1170	1010	The requirement related to public availability of the SWPPP has been amended. Numerous comments were received on this subject reflecting various viewpoints. Many strongly favored public availability of the SWPPP, while others strongly opposed it. In the end, language that is believed to achieve a compromise has been included in the General Permit. Under that language, the initial SWPPP developed for each site must be made publicly available. The developer will have a choice to either: (i) make the initial SWPPP available on an internet website and post the website address at the entrance to the construction site (or at a publicly accessible location for linear projects); or (ii) make a hard copy of the initial SWPPP available upon the receipt of a request from the public, at least once per month and during normal business hours.

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RAP Member/Rep.	Comment Topic/Issue	Regulatory Citation	Line Reference	Other Comments
Hubert Construction (C. Claar)	**SWPPP Availability** - While the Clean Water Act does encourage public participation, the Act specifically says that only permits and permit applications and documents obtained by the permitting authority shall be publicly available. It does not provide for public availability of internal control documents such as the SWPPP. The SWPPP is reviewed by the permitting authority but is not obtained. It remains in the possession of the permittee at all times.	1170	1010	The requirement related to public availability of the SWPPP has been amended. Numerous comments were received on this subject reflecting various viewpoints. Many strongly favored public availability of the SWPPP, while others strongly opposed it. In the end, language that is believed to achieve a compromise has been included in the General Permit. Under that language, the initial SWPPP developed for each site must be made publicly available. The developer will have a choice to either: (i) make the initial SWPPP available on an internet website and post the website address at the entrance to the construction site (or at a publicly accessible location for linear projects); or (ii) make a hard copy of the initial SWPPP available upon the receipt of a request from the public, at least once per month and during normal business hours

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RAP Member/Rep.	Comment Topic/Issue	Regulatory Citation	Line Reference	Other Comments
P. Sanner	**SWPPP Availability** - SWPPP needs to be available on the Internet or be reasonably available for inspection in person. SWPPP needs to be available for inspection no less frequently than once per month per requesting individual.	1170	1010	The requirement related to public availability of the SWPPP has been amended. Numerous comments were received on this subject reflecting various viewpoints. Many strongly favored public availability of the SWPPP, while others strongly opposed it. In the end, language that is believed to achieve a compromise has been included in the General Permit. Under that language, the initial SWPPP developed for each site must be made publicly available. The developer will have a choice to either: (i) make the initial SWPPP available on an internet website and post the website address at the entrance to the construction site (or at a publicly accessible location for linear projects); or (ii) make a hard copy of the initial SWPPP available upon the receipt of a request from the public, at least once per month and during normal business hours.
P. Sanner	**Inspections** - SWPPP Inspection Schedule, suggested modification: "d. The following modifications to the SWPPP inspection schedule shall be implemented for all covered construction activities: (1) Inspections shall be conducted every seven days and within ~~48~~ 24 hours of a runoff producing event. In the event that a runoff producing event occurs when there are more than ~~48~~ 24 hours between normal working hours, the inspections shall be conducted on the next working day. ~~(2) Representative inspections utilized by utility line installation, pipeline construction or other similar linear construction activities shall also inspect all outfalls discharging directly to a surface water.~~"	1170	1051	The language included in 4VAC50-60-1170 Section I.B.3 has been re-written for clarity purposes. The 48-hour time period has been retained as a compromise between requiring inspections 24-hours after a runoff producing storm event and requiring no additional inspections after a runoff producing storm event.
R. Mills	**Inspections** - Supports "modified" inspection schedule - every 7 days and no later than 48 hours after a runoff producing event.	1170	1051	This language is maintained in the current draft.

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RAP Member/Rep.	Comment Topic/Issue	Regulatory Citation	Line Reference	Other Comments
James River Association (P. Calvert)	**Inspections** - Considering the critical importance of properly installed & functional BMPs -- particularly following rain events -- James River Association requests that the Virginia Construction General Permit require inspections to occur no more than 24 hours following significant rain events in construction projects that discharge into or are likely to affect an impaired segment of waterway.	1170	1051	The 48-hour time period has been retained as a compromise between requiring inspections 24-hours after a runoff producing storm event and requiring no additional inspections after a runoff producing storm event.
M. Rolband	**Limitations on Coverage** (Modifications to SWPPP Inspection Schedule) - (a) Add the concept that these weekly inspections can be delayed for a holiday or for a sick day, as long as the inspection is made the next normal working day and that subsequent weekly inspections remain on the original 7-day inspection schedule.	1170	1051	Comment addressed - changes made in draft regulations.
M. Rolband	**Inspections** - (2) Inspections occur on the same frequencies as other construction projects. Controls are inspected along the construction site of 0.25 miles above and below each access point where a roadway, undisturbed right-of-way, or other similar feature intersects the construction site and allows access to the areas without compromising temporary or permanent stabilization; and - Comment: The requirement to inspect controls 0.25 miles above and below each access point seems extremely onerous for small utility projects.	1170	1066	The language in the draft regulations is language that is in the current regulations (please reference strike through language on line 1320). Additional clarification regarding this comment is needed.

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RAP Member/Rep.	Comment Topic/Issue	Regulatory Citation	Line Reference	Other Comments
M. Rolband	**Rainfall Data Analysis** - I had one of our staff prepare the attached rainfall analysis for Dulles Airport as an example – it shows that on average 0.25 inch storms or larger occur about once a week and 0.50 inch about every two weeks – so weekly inspections will get the small storms you are worried about without adding the rainfall driven inspection requirement.	1170	1074	Compliance with the CGP permit is based on the performance of designed plans being implemented and maintained properly in order to meet applicable water quality standards. The combination of proactive inspections on a regular basis and inspections immediately after storm events will enhance the operator's ability to find and correct problems before a discharge of pollutants occurs. The primary reason for proactive inspections is that erosion and sediment controls may become non-functional and ineffective as a result of the active construction occurring on site. As a result, it is important that inspections occur prior to rainfall events. The reasoning for requiring inspections after a rain event is that the rain event, itself, may cause the controls to become ineffective and require maintenance or repair prior to the next storm event.
M. Rolband	**Rainfall Data Analysis** - continued			DCR's decision to establish an inspection threshold of a 0.25-inch rainfall event established consistency with EPA's reasoning that storms with rainfall totals between 0.25 and 0.5 inches have the potential to produce discharges of stormwater that could lead to discharges of pollutants to surface waters, particularly if stormwater controls are not functioning effectively. Further, storms in this size range may compromise stormwater controls on the site. Thus, inspection after such events is important to meet the purposes of adopting a storm-based inspection schedule.

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M. Rolband	**Rainfall Data Analysis** - continued			The compliance schedule of 48-hours after a rainfall event of 0.25 inches and no longer than seven days between inspections is applicable only to those construction activities that meet the parameters for discharge into an impaired water segment, meet the threshold of the TMDL acreage or discharge to an exceptional water. All other construction activities retain the option to inspect either on a seven day schedule or within 48-hours of a 0.25 rain event and no longer than 14-days between inspections. Following an inspection resulting from a rain event that produced 0.25 inches or more, the permittee may reset the inspection so as to conduct the next inspection within no more than 7 or 14 calendar days, whichever is the requirement.
M. Rolband	**Inspection Requirements** - Add the concept that weekly inspections can be delayed for a holiday or for a sick day, as long as the inspection is made the next working day and that subsequent weekly inspections remain on the original seven day inspection schedule.	1170	1051	Comment addressed - changes made in draft regulations.
D. Beisch	**Inspection Requirements** - Inspect for evidence to the contrary that the erosion and sediment control plan is meeting the requirements of Section II A 2 b 4. Evidence to the contrary includes but is not limited to:… Comment: The use of this term in relation to the referenced section means that the presumption that ELGs are satisfied by the PLAN is incorrect….. Given the broader implications of this…. I think the list may need to be narrowed to those things that are unsuccessful in the plan (which require plan modifications)…..and, more practically, to more clearly state that any of these conditions will need to be resolved through modifications to the SWPPP with the explicit goal of satisfying the ELGs referenced in that section… I thought this was a trigger to modify the plan.	1170	1102	Comment addressed - change made in draft regulations.

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RAP Member/Rep.	Comment Topic/Issue	Regulatory Citation	Line Reference	Other Comments
D. Beisch	**Inspection Requirements** - Deposits of sediment in areas that drain to unprotected stormwater inlets or to catch basins that discharge to surface waters. Inlets and catch basins with failing sediments controls due to improper installation, lack of maintenance, or inadequate design are considered unprotected;...Comment: These two things are not problems with the PLAN….. they are problems with the implementation of the plan…. These are very routine things in an inspection….and require immediate attention…..but they should not trigger plan modifications, nor should they invalidate any presumptions that were previously held valid about the PLAN.	1170	1110	Comment addressed - change made in draft regulations.
D. Beisch	**Inspection Requirements** - Deposits of sediment from the construction activity on property outside of the construction activity covered by this permit;…Comment: Suggest that the language be kept more general…deleted "or any property (including public and private streets." This is similarly not an issue with the PLAN…… nor the presumption that the plan is accommodating the ELGs…. This is an issue of an unpermitted activity occurring….which is dealt with elsewhere.	1170	1114	Comment addressed - change made in draft regulations.
D. Beisch	**Inspection Requirements** - Land disturbance outside of the delineated area to be disturbed. Comment: Questionable whether this is a failure of the plan and presumptive level of effort to satisfy ELGs.. . This is often more a failure of implementation (not following the plan) . However, this one more clearly could be resolved by mods to the plan….whereas “d” above is outside the permit coverage.	1170	1122	Comment addressed - change made in draft regulations.

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RAP Member/Rep.	Comment Topic/Issue	Regulatory Citation	Line Reference	Other Comments
P. Sanner	**Corrective Actions** - Following modifications suggested to Section II: "If, at any time, the operator becomes aware that a discharge is not being controlled as necessary to meet applicable water quality standards, the operator must take appropriate corrective action. The VSMP authority, the department and the board may also impose additional corrective water quality-based limitations on a site-specific basis if information obtained indicates that discharges are not being controlled as necessary to meet applicable water quality standards, including as necessary to comply with a wasteload allocation of an approved TMDL."	1170		As currently written, the draft permit requires operators to perform routine inspections and identify as well as implement corrective actions necessary to maintain permit compliance (i.e. corrective actions necessary to maintain all applicable water quality standards). Therefore, no change has been made at this time. Please be aware that site-specific limitations are generally not imposed through general NPDES permit coverage and typically require the issuance of an individual permit.
M. Rolband	**Notification** - The operator may be required to remove accumulated sediment deposits located outside of the construction activity covered by this permit as soon as practicable in order to minimize environmental impact(s). The operator shall notify the department VSMP authority prior to the removal of sediments accumulated in surface waters including wetlands, and only do so after obtaining approval from all applicable local, state and federal agencies (i.e., VSMP Authority, DEQ, VMRC, U.S. Army Corps), and the affected property owner(s) if offsite properties are involved.	1170	1162	Comment addressed - changes made in draft regulations.
M. Rolband	**SWPPP** - It shall include: (f) Location of the on-site rain gauge, or a description of the methodology to identify run-off producing events with off-site representative rain gauges established in consultation with the VSMP authority used to identify a runoff producing event for inspection purposes; and	1170		Draft presented to RAP in November deleted the reference to off-site rain gauges.

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RAP Member/Rep.	Comment Topic/Issue	Regulatory Citation	Line Reference	Other Comments
Chesapeake Bay Foundation (M. Gerel)/Shenandoah and Potomac Riverkeepers (L. Szeptycki)	**SWPPP** - Based on our review of relevant law, the importance of the SWPPP in the current approach and the limited burden imposed on the regulated community, CBF strongly supports this provision as a reasonable and appropriate new requirement that should be maintained in the final general construction permit.	1170		The requirement related to public availability of the SWPPP has been amended. Numerous comments were received on this subject reflecting various viewpoints. Many strongly favored public availability of the SWPPP, while others strongly opposed it. In the end, language that is believed to achieve a compromise has been included in the General Permit. Under that language, the initial SWPPP developed for each site must be made publicly available. The developer will have a choice to either: (i) make the initial SWPPP available on an internet website and post the website address at the entrance to the construction site (or at a publicly accessible location for linear projects); or (ii) make a hard copy of the initial SWPPP available upon the receipt of a request from the public, at least once per month and during normal business hours.

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Verbal Comments Made at November 13, 2012 RAP Meeting

RAP Member	Comment Topic/Issue	Regulatory Citation	Line Reference	Other Comments
M. Toalson	**Authorization of Discharge -**Concerns that state is losing control of its own waters.	1130		As currently drafted, the general permit authorizes the discharge of stormwater associated with construction activities to surface waters of the Commonwealth of Virginia. This is consistent with other Virginia general discharge permits.
M. Toalson	**Discharges to Impaired Waters** - Concerns about maintaining consistency with general permit.	1170		Additional clarification needed regarding this comment.
M. Rolband	**Termination of State Permit Coverage** - change temporary to permanent - "temporary stabilization has been completed and the residence has been transferred to the homeowner."	1160	343	4VAC50-60-1100 seems to imply that temporary stabilization, including perimeter controls, are necessary for termination.
M. Toalson	**SWPPP Public Notification** - Objects to the following: Prior to the land disturbance, the operator shall post conspicuously near the main entrance of the construction activity;	1170	998	Additional clarification needed regarding this comment.